



## Yukon Conservation Society Comments, New Yukon Public Lands Act

May 30<sup>th</sup> 2022

### **Preface:**

Thank you for the opportunity to comment on the discussion paper for the New Yukon Public Lands Act.

The Yukon Conservation Society (YCS) is a grassroots environmental non-profit organization, established in 1968. Through a broad program of conservation education, input into public policy, and participating in project review processes, we strive to ensure that the Yukon's natural resources are managed wisely, and that development is informed by ecosystem wellness considerations.

YCS sees the development of a New Yukon Public Lands act as an ideal opportunity to place environmental stewardship at the heart of our legislation around the disposition of public lands.

Yukon lands and waters have supported uncounted generations of humans and their wild siblings, but as we regularly see, this legacy is at risk.

Lands are very important to Yukon people; it not a coincidence that for many years the negotiations towards the Final Agreements were called 'Land Claims'- that is until this colonial framing was discarded.

It is critical that decisions around public lands prioritize natural systems and indicators of ecosystem health, such as wetlands and caribou.

YCS is, however, puzzled and concerned that despite failure to live up to explicit and constitutional commitments to bring the Yukon Wildlife Act into conformance with the Final Agreements, Yukon has chosen instead to advance this arguably more complex and significant



legislation in what appears to be a very short time frame. In addition, Yukon has committed to re-writing the Quartz and Placer Mining Acts; this work is ongoing and difficult and,

importantly, absorbs much capacity in other governments, Boards and Councils and stakeholder groups. YCS is concerned that there will be insufficient resources available to address this hugely important legislation, especially given the extremely short time frame and limited consultation.

Given that Chapter 11 Land Use Planning is underway or planned for much of the Yukon, YCS sees far less urgency in a New Yukon Public Lands than in a New Quartz Mining Act, a New Placer Mining Act and a New Wildlife Act. Therefore, YCS suggests that this, the New Yukon Public Lands Act be shelved until the above legislations have been brought into force.

With these considerations in mind, we offer the following comments on the discussion document.

Caveat: YCS, like the vast majority of Yukoners, does not have expertise in drafting legislation, so these comments cannot be seen as final or complete. YCS looks forward to further engagement when something more substantial than a brief discussion document is available.

## #1: Introduction.

- It is jarring to see what appears to be an example of illegal use of ORVs gracing the introduction to a discussion document on a public lands act.
- It would be helpful to see the draft Yukon Public Lands Act, rather than a superficial discussion document.
- It would be helpful to the general public if the discussion document were to explain what the previous legislative regimes were, and what were the two categories of public lands that they managed. The following points are how YCS understands the previous Acts, and how the New Act would be different.



- The **Lands Act** is concerned with lands within in community boundaries.
- The **Territorial Lands (Yukon) Act** (TLYA) regulates lands outside of communities.
- Land Management Zones (LMZ)
  - LMZs are tool under the TLYA, used for where current regulations apply, e.g., Land Use Regulations apply to the whole Yukon; it is considered to be one big LMZ, while each ORVMA is a Land Management Zone, even if disjunct as in the Alpine ORVMA.
  - Kluane Wildlife Sanctuary could be an example of a LMZ that might be created under the New Act.
  - We are told that the New Act would incorporate ‘Enhanced Management Areas’, which would be able to have zoning applied to them, so the regulations would be more readily enforceable.
- We have been given to understand that the ORV Regulations will be under the new Act, as would be the yet to be adopted Resource Roads Regulations.
- Left unclear, unanswered are questions such as:
  - How will management directions mesh with existing plans?
  - Who will define the directives?
- We have been given to understand the New Act will provide a land management tool midway between a Special Management Area, as defined under Chapter Ten of the Final Agreements and un-regulated Commissioner’s Land. We do not have any indication about what these areas would be called, how they would be formed, how they would conform to the Final Agreements or how they would apply to areas without Final Agreements; and multiple other unaddressed issues.
- While it is narrowly true that only 0.06% of Yukon is privately held, it would be helpful to indicate that this does not mean that the other 99.94% is available for disposition. Left out of the discussion document is the area of land that is privately leased, tied up in land use permits or owned by governments, etc. As written and



presented, it appears that an underlying purpose of the new legislation is to facilitate the transfer of more lands from public to private hands. In the absence of completed Land Use Plans, YCS opposes the further privatization of Yukon's public lands.

#2: What are the most important goals or priorities that should be considered in the vision for the Yukon Public Lands Act?

There are three elements articulated in the goal (to develop a new Yukon Public Lands Act) as presented:

- management of surface land rights
- a cohesive approach to land management in the Yukon
- recognition of First Nation Final Agreements

Essentially, it appears that we are here being asked to craft a vision statement for Yukon public lands.

It is unusual to be presented with such an open-ended question in a survey, but, in the spirit of cooperation, YCS offers the following:

*Suggested Vision: Yukon public lands are a trust we hold for future generations: The wise use and disposition of public lands must respect this trust and be based in Regional Land Use Plans resulting from the implementation of Chapter 11 of the Final Agreements.*

The most important goal is that **future generations will be grateful to us for our foresight.**



The most important principle should be **equity** - public lands should be equally available for the enjoyment of all Yukoners. Historically, miners and the wealthy have had far more access to land dispositions than regular Yukon residents or than the Indigenous inhabitants of the land we now call the Yukon Territory.

### #3: Buying and Selling (in municipalities and communities).

- What future needs and opportunities need to be considered for managing lands in Yukon communities and municipalities?
  - The Act can be a central part of addressing the Yukon's **housing** crisis, however it must do this without exacerbating the climate and biodiversity crises.
  - Wise use of public lands provides an opportunity for Yukoners to engage in sustainable activities such as harvesting natural bounty.
  - Well considered land development will encourage instead of constraining opportunities for active and public transportation.
  - As lifestyles become increasingly urban, opportunities for outdoor recreation such as hiking and ski trails as well as public green spaces must be included.
- What role do public lands play in the economic, social, cultural and lifestyle health of you and your family in your community or municipality?
  - Public lands provide a free space for all Yukoners to gather in, play, and explore. Activities include hiking, biking and on-the-land learning.
  - Public spaces are used for a community/farmers' markets, local events, and for cultural events such as concerts and festivals.
  - Informal public assets such as neighbourhood lending libraries are often on a community green space.
- What other factors are important to consider when public lands are in discussion for sale or lease?



- The most important factor to consider is if the sale or lease is in the best interest of the local community and First Nation. This is best judged through Regional Land Use Plans, Official Community Plans or Local Area Plans. To be clear, YCS opposes any further disposition of Commissioner's Land outside of completed and ratified land use plans.
  
- The next most important factor to consider is the effect on the land itself, and on the original inhabitants of the land in question. For example, wetlands and Wildlife Key Areas and other important land forms such as riparian areas or Beringian Steppes should not be sold, leased or otherwise developed.
- The next most important factor to consider is the value of the ecosystem services of the land in its original condition. It is often the case that the long-term value of an intact landscape is of more value to the wider community than whatever private enterprise is to an individual or corporation.
- How can we encourage and support private and First Nation land development opportunities?
  - Assuming all the factors listed above indicate that land development is the best option, clearly designating land to be set aside for subdivision in planning documents is the best way to signal to private individuals and First Nations that development could take place.
  - It is critically important that zoning and planning for trails and access be done prior to any land disposition. This is important so that previously accessible lands are not alienated by private dispositions, a situation that is currently all too common.



#### #4: Sustainable land use for remote public lands

- What are the most important ways access to remote public land supports your lifestyle?
  - Access to remote places is important for harvesting, recreation and for sustaining our spirits. The Yukon is one of the few places left where we can still find places where we can see for tens of kilometers in every direction and not see the scars of human development.
  - YCS notes that access does not always mean the development of infrastructure such as roads, trails and airstrips; access can simply mean accessible- i.e., not made unavailable through having been disposed of to private or corporate interests. The ability to hunt is a case in point- there are serious ongoing concerns about how proliferating land dispositions is impacting the inherent right of Indigenous peoples to harvest on their traditional territories.
- What needs to be considered to make sure remote public lands can best serve your needs?
  - Remote public lands are the lungs of our world, and just like our own lungs, are best left unpolluted and unaltered.
  - The most recent report from the IPCC (<https://www.ipcc.ch/report/ar6/wg2/>) lays out the need to address the climate and biodiversity crises together. The Yukon and Canada have both committed to conserving at least 30% of our lands and waters. A new Yukon Public Lands Act must not only support these imperatives, but explicitly lay out how they will be accomplished in the legislation. YCS suggests that scope for a considerably higher level of conservation be provided for, in other words, language around setting aside lands for conservation in the Act should be enabling and not limiting.



- What needs to be considered to make sure remote public lands can continue to be accessible to all Yukoners?
  - The biggest threat to access to public lands is their alienation by wealthy interests, sometimes private but mostly corporate. Public lands outside communities with Official Community or Local Area Plans should only be disposed of in accordance with Chapter 11 of the Final agreements, and, in those parts of the Yukon not ceded by First Nations, or otherwise unplanned, only with full prior and informed consent of the affected First Nation. This should include not just permanent alienation through the transfer of title, but temporary disposition through leases and land use and mining land use permits.
- Do you have any concerns about how remote public lands are currently used or comments about how it should or should not be used?
  - Yes, many.
  - A major concern is that public lands are primarily used to generate wealth for foreign corporations instead of being cherished and stewarded for current and future generations of Yukoners.
  - This comes at the expense of iconic and culturally vital species such as caribou which require intact lands upon which to range as well as vital intact ecosystems.
- How do we support continued access to a wide variety of commercial and recreational uses on remote public land and manage conflict between adjacent land uses?
  - Through land use planning.
  - It must be understood that we cannot always have our cake and eat it too. Sometimes we have to choose. Some land uses are not compatible. Continuous growth on a finite planet is not feasible.





- Some current land users, notably some Big Game Outfitters and miners, view their permits as exclusionary; the Act must explicitly lay out the right of all Yukoners to access public lands.

## #5: Environmental and Heritage protection.

- What approaches could be considered to make sure that the Yukon's remote public lands are adequately protected from environmental impacts and accessed responsibly now and into the future?
  - Chapter 11 Land Use Planning.
  - Cumulative effects studies with legislated thresholds of disturbance.
  - An assessment and categorization of all wetlands in the Yukon to determine present condition and their future conservation and management.
  - An explicit goal of the quantum of land to be protected from industrial development and permanent disposition.
  - An acknowledgement in the Act that we are here as stewards of the land.
  - That we are here to demonstrate Canadian and Indigenous sovereignty over this territory that we call home. This will provide an alternate value to the land as a counterweight to the short-term goals of extraction-oriented corporations and governments.
  - An acknowledgment that we are handsomely compensated by Ottawa to be stewards of the Yukon and that we must be answerable to future generations.
  - An understanding, made explicit in the Act, that the devastation and extinctions we see whenever we fly or drive south are not to be contemplated here.
- Do you feel newly created roads in remote public lands are adequately managed to protect the environment? If not, are there solutions to address this issue?
  - Newly created roads in remote public lands are NOT adequately managed to protect the environment.



- Solutions to this could include the Resource Roads Regulations, however, they have not yet been completed or otherwise released, so we cannot tell if they will provide adequate management.
- Given that building new roads are universally acknowledged to be the single most destructive action that we can take, new permanent access routes should almost never be permitted in the Yukon.
- Temporary road permits associated with extractive industries, such as forestry and mining, should have strictly defined life spans and defined and enforceable closure and reclamation conditions, including adequate reclamation bonds.
- The Yukon has very weak ORV regulations; they are not legislation, they do not cover snowmachines, the barriers to setting up new ORV management areas are very steep. Some of these deficiencies could be addressed in a new Public Lands Act. This is a matter of equitable land use and should be guided by principles of cooperation and collaboration.
- What barriers do you see to protecting heritage resources on Yukon land?
  - Insufficient human capacity and logistical resources within First Nations, especially First Nations that have not ceded their Lands and Titles.
  - Careless and greedy operators of extractive industries such as the TV miner that was caught stealing an ancient copper arrowhead.

## #6: Submitting comments

- Will there be an opportunity for in-person dialogue between the public and government if we get to the stage of draft legislation?
- YCS hereby extends an invitation to sit down with us to discuss this important piece of legislation, once it has been drafted.



## Conclusion

YCS is concerned that the pace of the development of this Act is out of synch with the pace we have seen on equivalent pieces of legislation (Mining and Wildlife Acts) or policies (such as the Wetlands Policy).

YCS is concerned that the general public has not been adequately consulted.

YCS is left with substantial questions and concerns as this consultation concludes, including:

- Will there be opportunities for additional feed-back on the What We Heard Document and on drafts of the legislation?
- What is behind the urgency to have the Act passed by the summer of 2024?
- Will there be opportunities to participate in a workshop around developing a toolbox to manage land use?
- Will the Act allow conservation organizations to purchase or otherwise arrange easements for conservation?
- Given the pace of Regional Land Use Planning, it is unrealistic, even disingenuous to posit that LMZ designations will be in practice interim until LUPs are completed- In our experience, RLUP Commissions defer to facts on the ground.
- To be clear: designating LMZs (especially Enhanced Management Zones, complete with zoning regulations) in unplanned areas will pre-empt Chapter 11 Regional Land Use Plans. **YCS cannot support such an initiative.**
- How will Land Management Zones be designated? Will the process be more inclusive and less clunky and inefficient than that for designating ORVMAs?
  - Will there be opportunity to comment on the process?
- Will the Lands Act address the designation of Wetlands Of Special Importance?
- How will the Act address the effects of climate change and the associated ecosystem changes?
- Will any land dispositions or assignments under a new Act be reviewed by YESAB?



Thank you for the opportunity to comment, YCS looks forward to continuing engagement on this important issue.

Regards,

Should you have any questions, please contact the undersigned.

A handwritten signature in black ink that reads "Sebastian Jones". The script is cursive and fluid.

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