

# 1. Introduction

## 1.1. Mandate and Context

### 1.1.1. About the Umbrella Final Agreement and Regional Land-Use Planning

Under Chapter 11 of the Umbrella Final Agreement (“UFA”, 1993), the Peel Watershed Planning Commission (PWPC) is responsible for developing and recommending a regional land use plan for the Peel Watershed Planning Region – hereafter referred to as the Peel Watershed Regional Land Use Plan (PWRLUP). The PWPC is an arm’s-length, independent commission with members who are jointly nominated by the Yukon Government, Na-Cho Nyak Dun, Tr’ondëk Hwëch’in, Gwich’in Tribal Council, and Vuntut Gwitchin governments (“Parties to the Plan”). The Commission works under financial agreement with the Yukon Land Use Planning Council.

Figure 1.1 below shows the working relationships that were put in place under the Terms of Reference. These relationships provided administrative, technical, and policy level support as the Commission worked through the planning and consultation process with the Parties, the affected communities, and the general public.

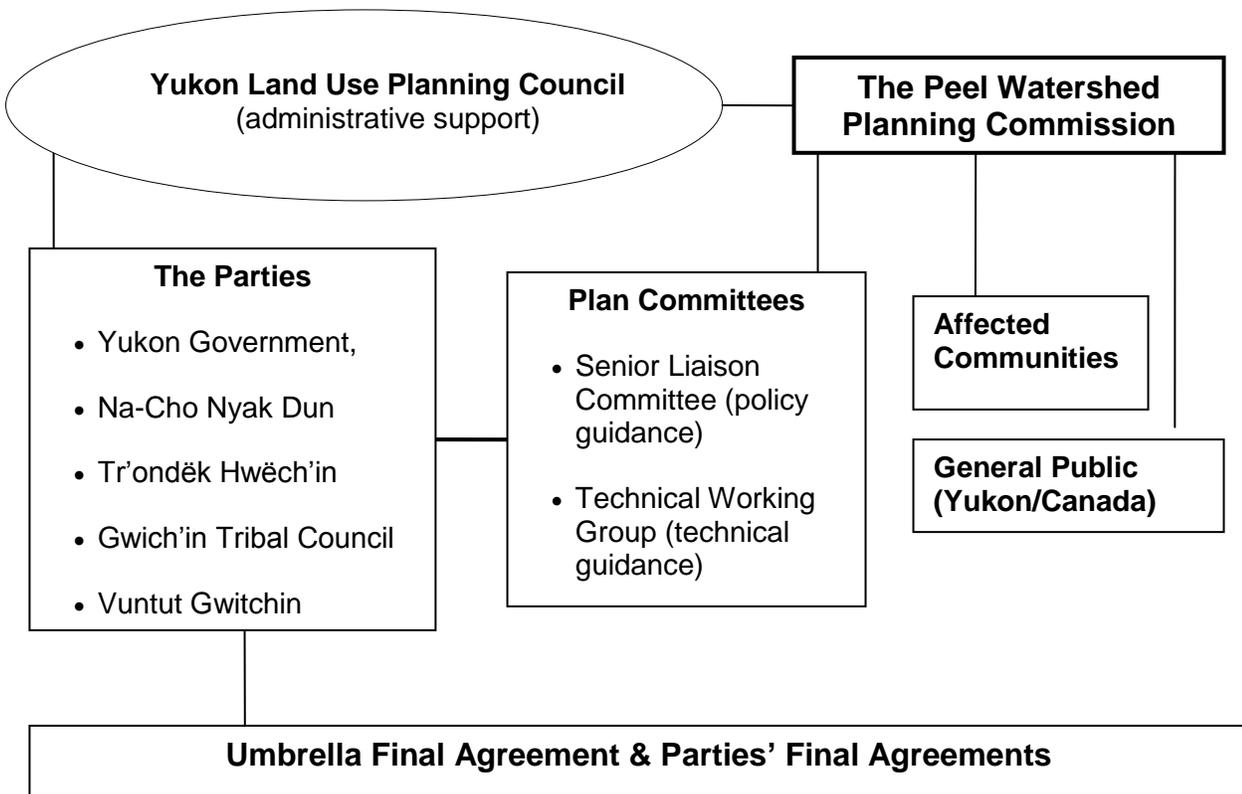


Figure 1.1: Working Relationships in Plan Development

The primary purpose of the Plan is to achieve sustainable development and provide a higher level of land-use certainty for all resource users. The Commission believes that this higher level of certainty does not exist under the current regime of site-specific, land-use management. Most importantly, the existing system does not necessarily consider the cumulative environmental and social effects created by multiple uses in a region.

The Plan will apply to all (settlement and non-settlement) lands in the planning region. The target period of application for the Plan is approximately 10-15 years, with at least one opportunity for review during this period. The Commission has also offered various recommendations for Plan implementation, including new special management area designations, supplementary environmental and socio-economic research, and enhanced decision-making mechanisms. Table 1.1 below shows how the UFA governs the functions of regional planning in the Yukon.

**Table 1.1: Regional Planning Functions in the Yukon**

Plan Components	Chapter 11 Linkages (UFA)
Commission Roles, Composition, and Plan Development	<ul style="list-style-type: none"> <li>• 11.4.0: specifies how members are appointed and how the Plan should be developed, including public participation, addressing land-use conflicts, integrating local and traditional knowledge, and promoting sustainable development and integrated resource management</li> <li>• 11.5.0 : outlines mandate of Commission to make land and resource use recommendations</li> <li>• 11.8.0: specifies terms of how YG and First Nations can develop sub-regional or district land-use plans in relation to the approved Plan</li> </ul>
Land-use Planning Process	<ul style="list-style-type: none"> <li>• 11.2.0: indicates minimum requirements for Plan content, process to be followed, what the process does not apply to, and conducting Plan review or amendment</li> </ul>
Setting of Plan Objectives	<ul style="list-style-type: none"> <li>• 11.1.0: indicates broad goals and purpose for planning</li> </ul>
Approval Process	<ul style="list-style-type: none"> <li>• 11.6.0: outlines how the Plan moves from Recommended Plan to Approved Regional Plan, including First Nation and public consultation</li> </ul>
Plan Implementation	<ul style="list-style-type: none"> <li>• 11.7.0: sets out what the YG and affected Yukon First Nations must do to conform with the Plan in exercising authority over resources on settlement and non-settlement lands</li> </ul>
Plan Monitoring for Compliance and Amendment	<ul style="list-style-type: none"> <li>• 11.2.1.3 – 6 incl, 11.4.5.10: indicates mandate and role of Commission in monitoring compliance with and assessing need for Plan amendment</li> </ul>

### 1.1.2 Terms of Reference/Objectives of the Commission

Terms of Reference with specific objectives were prepared by the Parties for the Commission to guide the development of the Plan. The clauses below and Table 1.1 indicate how these objectives were derived from the UFA.

- Promote the well-being of the affected First Nations, other residents of the planning region, the communities, and the Yukon as a whole, while having regard to the interest of other Canadians (UFA 11.4.5.7);
- Recommend measures to minimize actual or potential land-use conflicts throughout the planning region (UFA 11.4.5.4);

- Recognize and promote the cultural values of the affected First Nations and other affected Yukon Indian People (UFA 11.1.1.3);
- Ensure that social, cultural, economic, and environmental policies are applied to the management, protection, and use of land, water, and resources in an integrated and coordinated manner so as to ensure sustainable development (UFA 11.1.1.6);
- Promote sustainable development (UFA 11.4.5.9);
- Take into account that the management of land, water, and resources, including fish, wildlife, and their habitats, is to be integrated (UFA 11.4.5.8);
- Provide for enhanced opportunities to have ongoing co-operative land-use planning activities between the Peel Watershed Planning Commission and the Gwich'in Land Use Planning Board (7.1.3, GYTA). Any Regional Land Use Planning Commission (or other planning agency described in 7.1.1, GYTA), shall consult with the Gwich'in Land Use Planning Board about planning for the Peel River watershed carried out by the Mackenzie Delta Beaufort Sea Land Use Planning Commission, and to discuss ongoing co-operative land-use planning activities;
- Recognize all economic potential of the planning region, including but not limited to subsurface resources.

### **1.1.3. Scope of the Regional Land Use Plan**

It is important to understand both what a regional land use plan is and what it is not.

- A regional land use plan is a collective statement about how we want land and resources to be managed within a given area. It provides guidance for land and resource decision-making and helps us achieve the kind of future we want.
- The Peel Watershed Regional Land Use Plan, however, is not a legal document. It does not replace existing legislation. Neither does it affect First Nation rights as established by land claim agreements and constitutional law.
- The Plan applies only to the Peel Watershed Planning Region. It provides management direction for all Yukon non-settlement lands and all First Nation settlement lands within the planning region. The planning framework employed is not necessarily a template for land use plans in other regions of the Yukon

## **1.2. Vision, Statement of Intent, and Approach of the Planning Commission**

The Peel Watershed Planning Commission has made a concerted effort to solicit the widest possible range of input in creating its Recommended Plan. Since its formation in 2004, it has carried out various types of research and consultation with the Parties, the public, and directly affected communities. It had also conducted a thorough research and planning process to determine resource values, land-use activities, resource potentials, and environmental sensitivities.

The Commission gained insight through documenting traditional and local knowledge from people with history and experience in the planning region. With the aid of scientists, resource specialists, Elders, users of the land, and other informed people, a picture of the Peel region emerged during the first few years of the Commission's work. The Commission also learned about the region's ecosystem processes, its vegetation, animals, and fish, its landforms and waterways, its minerals, its human uses and activities,

and its heritage. Equally important, the Commission gained important understanding about certain limits or sensitivities concerning the land and waters of the Peel region. It also came to appreciate the major challenge of land-use conflicts among resource users (or their interactions with sensitive ecological values), in the past, present, and very likely in the future.

The result of the Commission’s early planning and research was the PWPC’s Statement of Intent, which was made public in the fall of 2005.

#### Statement of Intent

The goal of the Peel Watershed Regional Land Use Plan is to ensure wilderness<sup>1</sup> characteristics, wildlife and their habitats, cultural resources, and waters are maintained over time while managing resource use. These uses include, but are not limited to, traditional use, trapping, recreation, outfitting, wilderness tourism, subsistence harvesting, and the exploration and development of non-renewable resources. Achieving this goal requires managing development at a pace and scale that maintains ecological integrity<sup>2</sup>. The long-term objective is to return all lands to their natural state<sup>3</sup>.

Over the next three years, the Commission put considerable work into documenting as much resource value information about the region as possible (PWPC, 2008a & b). In fall 2008, with input from its advisory committees, stakeholder groups, and the public, the Commission developed land-use management scenarios (PWPC, 2009a). It based these scenarios on a set of criteria that was carefully designed to fulfill its terms of reference. In spring 2009 the Commission produced a Draft Plan that focused on ways to accommodate existing and future resource uses, while also considering potential land-use conflicts in specific areas or the region as a whole (PWPC, 2009b).

The Draft Plan attempted to create an “integrated land-use management plan” that employed the Yukon land-use planning framework. It included (i) specified access development corridors and core protection areas; (ii) a broad range of detailed management strategies to assist both renewable and non-renewable resource uses over time; and (iii) an emphasis on using results-based management indicators to monitor Plan implementation. In submitting its Draft Plan, the Commissioners said: *“We acknowledge the land as it is – a wild assembly of landscapes, ecosystems, wildlife, vegetation, and cultural history is infinitely valuable and should be maintained. We also acknowledge that humans have a place in this region and that somehow their uses should be accommodated – encouraged, even – but not at the permanent expense of the land as wild, ecologically intact country”* (PWPC, 2009b).

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<sup>1</sup> **Wilderness** is defined as any area in a largely natural condition in which ecosystem processes are largely unaltered by human activity or in which human activity has been limited to developments or activities that do not significantly modify the environment, and includes an area restored to a largely natural condition. (Yukon Environment Act)

<sup>2</sup> **Ecological integrity** is defined as a concept that expresses the degree to which the physical, chemical, and biological components (including composition, structure, and process) of an ecosystem and their relationships are present, functioning, and capable of self-renewal. Ecological integrity implies the presence of appropriate species, populations, and communities, and the occurrence of ecological processes at appropriate rates and scales, as well as the environmental conditions that support these taxa and processes. (U.S. National Park Service)

<sup>3</sup> **Natural state** in this context refers to terrestrial conditions and is elaborated in the surface disturbances discussion in Section 5.2.1. For example, a human-caused surface disturbance is considered recovered, or returned to its natural state, when it no longer facilitates travel or access by wildlife and people, when increased run-off and sediment loading is no longer significant, and when its contours roughly match the original contours.

During the review of the Draft Plan, a number of First Nations, government agencies, and members of the public challenged the conceptual framework. They did so on the grounds that it provided for surface access (e.g., winter roads) without adequate rationale, and that it provided for industrial subsurface development (although of existing claims, with strict conditions) without adequately considering whether these land uses were compatible in key areas. The Commission concluded that the Draft Plan approach of achieving a balance of resource use in the Peel region was unacceptable to most First Nations, many government agencies, and a large segment of the public. Its approach was criticized because:

- (a) The Plan did not propose enough area for immediate high-level preservation to support the integrated use of land for either First Nation traditional use or existing renewable uses;
- (b) The Plan’s designation of surface access corridors to assist in potential industrial development was seen as forever precluding the option of wilderness protection in existing roadless areas. The designation would require a high level of monitoring by government (compliance) or industry (self-regulation) to minimize land-use conflicts, or to prevent or mitigate effects.
- (c) The range of mitigation measures was considered too prescriptive, uneconomical, scientifically unfeasible, or unenforceable.
- (d) Not enough certainty or clarity was provided to enable long-term industrial development access, to protect First Nation resource values/uses, or to guide renewable resource activities and tenures.



**Figure 1.2: Developing scenarios with the Planning Commission (Photo: PWPC)**

Following this substantive review, the Commission concluded that it could not create a Recommended Plan that would satisfy all interests and all resource users at all times throughout the Peel region. The Commission could not justify emphasizing a “results-based working landscape” model that endeavours to accommodate all forms of the planning region through impact mitigation and regulatory compliance. Instead, the Commission focused upon an “ecosystem-based and compatible land use” approach that considers allowable uses and enabling an ongoing process of reviewing for Plan conformity. Further impetus for its approach is drawn from the Commission’s review of the UFA’s definition of sustainable development:

***“Sustainable Development” means beneficial socio-economic change that does not undermine the ecological and social systems upon which communities and societies are dependent.*** (Source: p 7, Chapter 1 – Definitions, Umbrella Final Agreement.)

**Sustain ecosystem integrity first.** Conserving the land, its living things, and its processes is the fundamental priority: lose this and all else crumbles. Ecosystem integrity involves maintaining a state of harmony between people and the land.

**Sustain communities and cultures next.** Preserving communities and cultures relies on achieving success with the first priority. Sustainable communities and sustainable ecosystems are intertwined.

**Foster sustainable economic activities third.** There are two kinds of sustainability here: activities that do not degrade the land or undermine communities and can be sustained indefinitely; and activities that deplete resources, but from which the land can recover. Not all economic activities fit in this region.

- A few other key directions informed the development of the Recommended Plan. These key directions flow from the Commission’s deliberations and its foundation documents, including its Terms of Reference (1.1.2), Statement of Intent (1.2.1), and Guiding Principles (1.3). A future Commission must monitor the integrity of the Plan and its core recommendations during implementation. It must evaluate conformity with the Plan, consider implications of a Plan amendment, and enable thorough periodic reviews.
- The Peel Watershed could sustain only a very limited “working landscape” that includes subsurface industrial development. It would still be subject to rigorous advance consultation with affected First Nations to identify area-specific concerns, along with appropriate management, monitoring, and restoration measures.
- The Commission considers that it is premature to permit new ground access routes for subsurface industrial activity where the economic viability of extracting the subsurface resource is undetermined. Such permits would foster uncertainty for surface resource users in the foreseeable future, and would foreclose management options for renewable and cultural uses.
- Certain key environments, such as riparian corridors, key wildlife habitats and wetlands, and culturally important areas require strong protection and clear land-use restrictions;
- Maintaining ecosystem integrity, conserving migratory species, keeping wilderness character, and respecting First Nation values, all requires large, adjoining special management areas, with appropriate regulatory tools to address land-use objectives;
- Existing mineral claims in special management areas will be respected. Subject to compliance with regulatory processes and relevant management conditions set out in this Plan, further exploration of these claims can continue using air access. However, since surface access is a

non-conforming use, any proposed development of those claims would require a Plan Amendment to determine whether or not a project can be brought into conformance.

- Certain areas should be immediately withdrawn from staking to provide a foundation for renewable resource use as well as conservation and protection objectives in core areas (e.g., wilderness or ecological preserve). In areas that are withdrawn from staking, any existing claims that are relinquished should be withdrawn from future staking.

In summary, the constant aim of the Commission has been to achieve its Statement of Intent and fulfill its Terms of Reference. The Commission believes that the Recommended Plan largely accomplishes this goal. It provides for sustainable regional economic development with emphasis on renewable resource industries, while seeking to preserve wilderness character throughout a large part of the planning region. The management regime the Commission is recommending places high priority on resource protection for the planning region. It also provides guidance for allowable resource use, with essential conditions for management in both Integrated Management Areas (IMAs), and Special Management Areas (SMAs). Within SMAs, the Commission has proposed a preferred regulatory designation(s) that it considers the most appropriate in achieving the desired future land-use state for each landscape unit. The Commission emphasizes its conviction that a cautious, conservative plan that preserves future options is most appropriate in a highly valuable, largely pristine landscape.

### 1.3. Goals and Principles of the Regional Plan

Through its deliberations, the Commission established three major goals to achieve the interrelated components of its Terms of Reference, its Statement of Intent, and its Principles and Plan Framework, as well as the Umbrella Final Agreement.

- Enable stewardship of Peel region ecosystems including aquatic, fish, wildlife, plant, and terrain resources.
- Provide for the social well-being of affected First Nations and other Yukoners through consideration of heritage, culture, employment, and quality of life objectives.
- Realize sustainable development opportunities while maintaining traditional First Nation livelihoods.

There are six guiding principles that underlie development and recommendations of the Peel Watershed Regional Land Use Plan:

#### **Independence and Impartiality**

As an independent, public agency appointed to represent the best interests of Yukon people, the Commission will carefully consider any and all information, advice, or recommendations provided to it by any government, agency, or the public in a balanced and neutral manner. The Commission will make use of such advice in preparing its Recommended Plan, consistent with its Terms of Reference and expectations of the UFA (11.4.0 to 11.7.0 incl.)

## **Sustainable Development**

The core principle that guides the Plan is sustainable development, as defined in the UFA: “Beneficial socio-economic change that does not undermine the ecological and social systems upon which communities and societies are dependent” (UFA, p.7, 11.4.5.9).

This includes a commitment to the practice of integrated resource management (UFA, 11.4.5.8, 11.2.1.2), so that the Plan “...ensures that social, cultural, economic and environmental policies are applied to the management, protection and use of land, water and resources in an integrated and coordinated manner so as to ensure sustainable development” (UFA, 11.1.1.6).

## **First Nations Traditional and Community Resource Use**

The Plan will promote the interests, rights, and responsibilities of the Tetlit Gwich'in, Na-Cho Nyak Dun, Tr'ondëk Hwëch'in, and Vuntut Gwitchin concerning the conservation and use of their traditional territories for country food harvest, promotion of a renewable resource economy, or other purpose as they may decide for settlement lands (UFA, 16.1.1.1, 5.4.9, 12.1.1.1).

## **Conservation**

The Plan proposes to manage fish and wildlife, their habitats, and water resources using the conservation principle as defined in the Umbrella Final Agreement: “*The management of Fish and Wildlife populations and habitats and the regulation of users to ensure the quality, diversity and Long Term Optimum Productivity of Fish and Wildlife populations, with the primary goal of ensuring a sustainable harvest and its proper utilization*” (UFA, p.1).

## **Adaptive Management**

The Plan is a living document. In accordance with UFA 11.2.1.3 – 11.2.1.5, the Plan will be reviewed, monitored, and updated in response to changing land use and/or environmental conditions, or as better information becomes available. Adaptive management means that those implementing the plan learn and adapt as their information improves.

## **Precautionary Principle**

The Plan recognizes that the Peel Watershed is an intact ecosystem. It recognizes the need to consider potential effects before making resource decisions – in particular, the need to recognize and enhance, as far as practicable, the livelihood of First Nations and their relationship to the wilderness environment (12.1.1.1). A lack of conclusive scientific evidence does not justify inaction on managing the environment, particularly when the consequences of inaction may be undesirable, or when the costs of action are negligible.

### ...some further elaboration on the Precautionary Principle:

*The Precautionary Principle has been accepted by the Rio Declaration of the United Nations and has certain commonly occurring themes): (1) a willingness to take action in advance of formal justification of proof; (2) proportionality of response; (3) a preparedness to provide ecological space and margins for error; (4) a recognition of the well-being and interests of non-human entities; (5) a shift in the onus of proof onto those who propose change; (6) a greater concern for impacts on future generations; and (7) a recognition of the need to address ecological debts.*

The rationale for the *Precautionary Principle* is fairly straightforward:

*Decisions to take action to restrict potentially dangerous activities are often taken after science has established a causal association between a substance or activity and a well-defined, singular adverse impact. Proving causality takes both extensive time and resources. During this research period, action to prevent potentially irreversible human and environmental harm is often delayed in the name of uncertainty and the harmful activity continues. For a variety of reasons, it may not even be possible to demonstrate a causal association in complex human/ecological systems.*

Raffensperger & Tickner, 1999 pp.2-3.24

## 1.4. Plan Consultations and Ongoing Relationships

### 1.4.1 Consultation Activities

Consultation activities have formed an integral part of the process in developing the Peel Regional Land Use Plan. This work began at the outset as the PWPC consulted with the Parties, public and affected communities during its Interests and Issues identification research in 2005. It was followed by presentations and meetings with public agencies and stakeholder organizations throughout the planning process. The most intensive engagement in consultation started in the fall of 2008 during the Scenarios Development, and lasted until the fall of 2009 as part of the Draft Plan preparation and review phase.

In Table 1.2, we highlight those consultation activities which were carried out in conformance with Chapter 11 provisions of the Umbrella Final Agreement. The Table outlines how the Commission believes it has fulfilled the requirements of its guiding documents (Statement of Intent, Terms of Reference, Principles, and Final Agreements) with links clearly made to UFA Chapter 11, Section 11.4.5.



Figure 1.3: Consultations in Mayo (left) and Dawson (right) (Photo: PWPC)

**Table 1.2: Linkage between Umbrella and FN Final Agreements and PWPC Consultation Activities**

Umbrella & FN Final Agreements		Recommended Plan
11.4.5.3	Shall ensure adequate opportunity for public participation	<ul style="list-style-type: none"> <li>• PWPC held numerous workshops, presentations and open houses during the planning process.</li> <li>• PWPC consulted widely on the Draft &amp; Rec Plan; comments have been incorporated into this document.</li> <li>• PWPC has solicited public input on numerous internal reports and technical products including Issues and Interests, CPAR, RAR</li> </ul>
11.4.5.4	Shall recommend measures to minimize actual and potential land-use conflicts throughout the planning region	<ul style="list-style-type: none"> <li>• PWPC examined various commissioned studies, independent industry reports, and developed future land-use scenarios to understand potential land-use conflicts.</li> <li>• PWPC recommended a number of tools and approaches to minimize land-use conflicts, including various forms of Land-use designation/management corridors (Special Mgt Areas, Integrated Management Areas and Dempster Hwy Sub-regional Plan)</li> </ul>
11.4.5.5	Shall use the knowledge and traditional experience of Yukon Indian People, and the knowledge and experience of other residents of the planning region	<ul style="list-style-type: none"> <li>• A number of heritage and traditional knowledge workshops were held during the planning process</li> <li>• Traditional knowledge was utilized equally with science-based knowledge (e.g., habitat suitability mapping).</li> <li>• Special meetings were held with Elder Councils and/or individual Elder representatives (TH, NND and TG)</li> </ul>
11.4.5.6	Shall take into account oral forms of communication and traditional land management practices of Yukon Indian People	<ul style="list-style-type: none"> <li>• Field reconnaissance trips were undertaken with Elder representatives (NND, TG) to identify land-use issues and resources</li> </ul>
11.4.5.7	Shall promote the well-being of Yukon Indian People, other residents for the planning region, the communities, and the Yukon as a whole, while having regard to the interests of other Canadians	<ul style="list-style-type: none"> <li>• The Plan conforms fairly closely to the expressed interests of the majority of public input;</li> <li>• The Plan is balanced and reflects the social and economic well-being of residents and Yukoners, both by providing for continued economic activity, sustaining resources for future use, undertaking ongoing environmental monitoring and restoration, and encouraging socio-economic studies.</li> <li>• Applies sustainability principles to ensure conservation, social, cultural and economic objectives can be achieved.</li> <li>• Interests and management regimes in adjacent jurisdictions have been considered.</li> </ul>
11.4.5.8	Shall take into account that the management of land, water and resources, including Fish, Wildlife and their habitats, is to be integrated	<ul style="list-style-type: none"> <li>• The tools and approaches of this Plan facilitate integrated management where deemed possible across the region</li> <li>• The Plan considers cumulative impacts to land and water from multiple land-use activities within Integrated Mgt Areas</li> </ul>
11.4.5.9	Shall promote Sustainable Development	<ul style="list-style-type: none"> <li>• The Plan addresses ecological, social and economic themes through understanding of ecosystem function and processes</li> <li>• The Plan recommends measures to manage cumulative impacts of multiple land-use activities.</li> </ul>
11.4.5.10	May monitor the implementation of the approved regional land-use plan, in order to monitor compliance with the plan and to assess the need for amendment of the plan	<ul style="list-style-type: none"> <li>• PWPC has recommended implementation tasks and methods for monitoring plan effectiveness</li> <li>• Potential processes and time-lines for revising the Plan have been suggested.</li> </ul>

### **1.4.2. Relationship to Existing Management Processes**

Various plan partners and agencies undertake resource monitoring and research activities according to responsibilities outlined in their mandates or business plans. Much of the information-sharing benefits the planning process by contributing new information on resource distribution, status, and/or trend. Additionally, new information can be used for updating/revising the Plan framework, and for applying an adaptive management approach.

There are important working relationships that can affect implementation of the Peel RLUP. These include but are not limited to government agencies (Territorial, Federal and First Nations), UFA advisory and regulatory Boards or Committees and the Yukon Land Use Planning Council. The handling of existing and new resource information may be managed through an on-line Resource Data Atlas being developed by YLUPC.

### **1.4.3. Anticipated Future Roles and Responsibilities**

#### **The Peel Watershed Planning Commission**

The PWPC has established the importance of having an independent body to consider a range of public policy, interests and objectives. With a growing demand on resources in the years to come, and potential new demands for land use, it is appropriate that an independent Commission can be called upon to fulfill its intended function for Plan implementation as articulated in the UFA – particularly as it relates to Plan project assessment and conformity evaluations as required by YESAB (12.17.0), and to conduct periodic Plan reviews. It does not imply, however, that there exists a permanently staffed Commission, but rather some capacity to convene and support this function.

Such Plan implementation functions are presented in Section 5 on Implementation. These roles are considered vital and appropriate for a public Commission to undertake. As a neutral body reporting to the Parties, it is in the best position to consider new resource information, review of public interests and conflicts of interests, consideration of all relevant sections of the UFA and individual FNFA's as well as inter-jurisdictional matters (i.e. down-stream impacts in transboundary waters or management issues flowing from the Gwich'in Comprehensive Land Claims Agreement per Schedule C, or a consideration under UFA 12.16.0).

#### **Role of Yukon Government**

The Yukon Government's role in plan implementation is identified under UFA/FNFA Sections 11.7.1 and 11.7.3, as they relate to Non-Settlement Lands, and in various sections of Schedule C Yukon Transboundary Agreement of the Gwich'in Comprehensive Land Claim Agreement (GCLCA) with respect to various consultation, recommending bodies and approval processes (e.g. Appendix C: 12.6.1, 8.2.5, 14.2.4)

#### **Na-Cho Nyak Dun, Tr'ondëk Hwëch'in, Gwich'in Tribal Council and Vuntut Gwitchin Governments**

The four affected government roles in plan implementation are identified under UFA/FNFA Sections 11.7.2 and 11.7.4, and Schedule C of GCLCA. Implementation activities which apply to R-blocks and S-Sites, and to Tetlit Gwich'in Fee Simple Lands, and to Primary

Use/Secondary Use areas, are also subject to the development of legislation to support resource management and planning activities on those lands.

### **Yukon Environmental & Socio-economic Assessment Board (YESAB)**

The YESAB role in plan implementation is identified under UFA/FNFA Section 12.17.0.

### **Canada**

The Federal Government role in plan implementation is per existing mandates and legislative requirements (e.g. Fisheries Act, National Parks Act, Migratory Birds Convention Act, Species at Risk Act, etc.).

## **1.5. Key Land-Use Management Issues in the Planning Region**

Affected First Nations and the general public expressed strong desire for a land use plan that will ensure a high level of environmental protection in the region, while allowing for future sustainable and compatible-use opportunities. Governments and industry asked for a plan that would ensure certainty and flexibility with respect to broad societal goals for sustainable development. This Plan aims to satisfy those desires by shaping land use in the region within a framework of ecosystem sustainability that protects valued cultural and ecological resources while facilitating some degree of new economic development activity in both renewable and non-renewable resource sectors.

Supporting the Final Agreements of the First Nations, and the Umbrella Final Agreement, this Plan makes an important contribution to ensuring that regional conservation measures are in place prior to permitting increased land-use activities. A number of existing economic development plans, land disposition systems (e.g., Yukon oil and gas disposition process), and the Territory's project assessment process (YESAB) will benefit from guidance provided by this Plan.

Land-use interests in the Peel region span a history from pre-contact to modern day. Research has shown that First Nations people of the Peel Watershed region have long utilized the water, wildlife, fish, and plant resources of the region and they continue to rely on these resources. They have also indicated that their culture and traditional economy in the future depends upon a healthy environment, ecologically intact landscapes, and people's connection with the land.

Renewable resource businesses have also long utilized the area for a range of tourism-related activities. This sector places special emphasis on maintaining the Peel's existing landscapes for their ecological, cultural, and aesthetic values, which many tourism industry representatives claim are essential to maintain both present, and long-term economic certainty. Similar perspectives have been expressed by the general public, recreational users, the conservation community and various government agencies and UFA-Boards who also regard a large part of the Peel region as a globally significant ecosystem with intrinsic value and function.

The non-renewable industry sector (oil & gas, mining) similarly regards the Peel from a landscape perspective – a working landscape - throughout which there is need to ensure access for resource exploration and development. The sector has expressed confidence this can be done through existing regulatory processes, and by applying best management practices in a way that does not compromise ecological, social, or cultural values. While this Plan does envision a

limited degree of sub-surface industrial use under strict *conditions*, it outlines the challenges faced in accommodating this concept. Based upon considerable consultations the Commission undertook with the public, First Nation, government, and stakeholder consultations, combining a working landscape with roadless wilderness was considered by the Commission to be irreconcilable land-use goals for this unique region. In fact, one of the Commission's greatest challenges has been to determine just how and where the ecological integrity of this landscape could accommodate industrial development based upon the information it has been presented.

In analyzing the consultation input along with specialized expertise across land-use sectors, the Commission has emphasized a *precautionary approach* in this Recommended Plan. Applying this principle takes into account current understanding of resource values, public interests, legal considerations, and capacity to accommodate a mix of renewable and non-renewable resource use.

Through its iterative process of planning and consultation, the Commission is confident that the proposed Land Use Plan framework (including the land-use designation/zoning system, land-use management units, management directions/strategies, and plan conformity system) provides an effective and objective foundation for enabling both ongoing land-use management and future Plan review/adaptation. Given the status of ecosystem knowledge (e.g., focal fish and wildlife species distributions, hydrology) and understanding of potential risk to key resource values, the Commission recognizes that the proposed results-based monitoring tools and indicators presented in this Plan will evolve and improve their utility for determining acceptable limits to change. Research and experience gained by monitoring development in adjacent areas (i.e. in the North Yukon Regional Plan's Eagle Plains area), has found that surface disturbance effects created by linear oil & gas development has limited applicability as a land management indicator when applied to the mountain and valley landscapes of the Peel region.

Plan partners and stakeholders identified six major planning issues of both short-term and long-term importance to the Peel Watershed Planning Region:

### **Land-use Environmental and Socio-Economic Risk Assessment**

While other regions of the Yukon may have a higher degree of resilience for adapting to change, the general body of research indicates that the Peel Watershed as an arctic border region has sensitive ecosystem features (hydrology, fish & wildlife habitats/corridors, terrain features) that must drive decisions about acceptable land-use change. These conclusions are held by experts from First Nations, government, and non-government sectors both within the Yukon, and beyond the Territory. Simply put, in scaling up from low-impact activities to industrial resource extraction, considerable due diligence for assessing risks and likely impacts would be required. This implies a thorough understanding of both local and landscape level ecosystem functions and features.

PWPC research indicates that considerable gaps of knowledge remain about key Peel resources that affect all sectors, including First Nation resource-use (e.g. hydrology, fish, terrain stability, wildlife populations). Much research remains to be done. Assessment methodologies currently

emphasize project site-level analysis, but the Commission has concluded that there is presently little experience or ability to consider potential long-term cumulative effects across a range of

inter-related social, cultural, ecological and economic values as called for in the UFA. Following the review of its Draft Plan, the PWPC was reluctant to place confidence in Results-Based Management which enables increasing land-use intensities in given resource regions. Perhaps, as resource development and access technologies evolve, along with assessment and field level monitoring capabilities, it may be possible that some LMU's may be able to accommodate increased industrial sub-surface resource use in an adaptive management regime. Such considerations would flow from YESAB, and through its relationship with a future Peel Regional Planning Commission or as a result of a periodic Plan Review.

### **Coordinated Management for Land-use Certainty**

A priority issue for land-use management in the planning region is lack of certainty for resource use. The Plan strives to provide this certainty, first in applying key planning concepts such as sustainable development and the precautionary principle, and then by recommending key regulatory tools, land-use management conditions, and criteria to evaluate Plan conformity. Future Plan reviews may also reveal new research, opportunities and other trends that may influence future regional land-use management and economic development. For example, a better understanding of costs and benefits of all major economic projects on local communities, various affected sectors, and the Yukon society in general, would profoundly affect future decisions about land use in the Peel region.

### **Management of Aquatic Resources**

The entire planning region is defined by the watershed boundary of the upper Peel River basin. Managing aquatic resources, therefore, became a priority issue and special emphasis was placed on protecting water quality and supply. Wetlands, lakes, rivers, and riparian environments are biologically productive areas that hold many of the heritage, cultural, and ecological values of the region, but the entire basin is characterized by low-flows. Future land-use activities, particularly industrial uses, require special management to minimize impacts on these values and to ensure maintenance of ecosystem function.

### **Management of Terrestrial Resources**

First Nation communities of the Peel region are particularly concerned about immediate and long-term conservation of the Porcupine Caribou Herd over its entire seasonal range, particularly in the light of the Herd's declining population and perceived changes to habitat from climate change. The Commission has been told that First Nations' culture, traditional values, and subsistence economies depend upon continued harvest of a healthy Porcupine Caribou Herd. Others have expressed concerns about northern mountain caribou species (Bonnet Plume, Hart River, and Red Stone populations), migratory fish, and other focal species that require special management. Addressing these issues requires effective and practical resource policies, land-use designations, and management strategies that are also consistent with the fish and wildlife management plans of all relevant governments, and agencies.

## Access Planning for Responsible Resource Development

Preserving the wilderness character and ecosystem integrity of the Peel Watershed requires thorough and effective planning to manage both existing access, and any designation of future access to surface and subsurface resources. Central to this issue is whether or not wilderness management intent and renewable resource use can be sustained with surface access. The Commission notes significantly that virtually all cases of wildlife population declines in the Yukon are linked to increased access. Significant information gaps exist with respect to engineering feasibility, ability to manage access-related environmental risks, and public/private cost assessment. Understanding of current public interests, and information gap analysis have combined to guide the Commission towards a high emphasis on the precautionary principle in considering future industrial land use throughout the Peel region.

### Current and Potential Economic Activity

Resource Assessments for the Peel region indicate significant economic flows from well-established renewable resource industries and non-renewable resource exploration. In addition, the region supports a subsistence economy for First Nations and other local resource harvesters. A key issue has been to determine how to manage the greatest possible range of commercial activity in an environmentally sustainable manner that supports existing business operations, considers legal interests of resource tenure, and provides some degree of certainty to capture potential economic benefits. Much remains to be learned about opportunities for economic benefits from the renewable resource sector, from potential Dempster Corridor development, and from various forms of environmental research and education programs in this remote northern region.

## 1.6. Linkages to Other Regional and Land Use Plans

Every effort has been made in the Plan to achieve consistency with the goals and objectives of other land use and resource management bodies which may have responsibility for resource use or management within the Peel region (Appendix C). These include the work of the North Yukon Planning Commission, the Mackenzie River Basin Board, the Gwich'in Planning Board, and certain UFA boards including the Porcupine Caribou Management Board, Renewable Resource Councils, and the Yukon Fish and Wildlife Management Board. The Commission has undertaken the following with respect to key plans:

- Reviewed the plan concepts and land-use designation framework developed in the North Yukon Regional Plan to achieve consistency in land-use management objectives and applicability of planning approaches and tools. This includes use of select cumulative-effects indicators for application in the Peel region (e.g., managing surface disturbance impacts on Porcupine caribou in the Richardson Mountains, Eagle Plains, Peel Plateau, and common land-use strategies in the Dempster Corridor).
- Reviewed the plan concepts and land-use designation framework used in the Gwich'in Land Use Plan and, based upon the advice of the Gwich'in Planning Board, proposed complementary zoning for linking shared-boundary landscape units:
  - Richardson Mountains link to Conservation Zones (James Creek-Vittrekwa River) for both Porcupine caribou, and critical fish habitat (char), respectively;

- Protected and conservation areas designation in the headwaters of the Snake River to complement the objectives for water quality protection, and sheep habitat management in the Arctic Red River Headwaters Special Management Zone;
- Designation of an Integrated Management Area (comparable to adjacent General Use Zone), which provides for a sustainable level of industrial activity, such as oil & gas exploration and drilling, and possible north access to the Crest iron-ore deposit.
- Reviewed the Yukon-Northwest Territories River Basin Transboundary Water Management Agreement and recommendations of the Peel River Watershed Advisory Committee and the Mackenzie Basin Board regarding land-use planning, transboundary water management, and special management of water resources. The Plan seeks to achieve consistency on water management indicators, including:
  - Support the role of Renewable Resource Boards and the federal Department of Fisheries and Oceans in undertaking traditional knowledge research of aquatic species and habitats, and in setting allowable harvests, licensing of sport and commercial fishers, and other studies of fish stocks;
  - Continued water monitoring for sustained flow and quality (to maintain natural conditions for sediment load and associated bound metals);
  - Support for Tet'it Gwich'in subsistence fish harvest, including char and Rat River Dolly Varden.



**Figure 1.4 Engaging Tr'ondëk Hwëch'in Elders in community resource interest mapping (Photo: PWPC)**

- Considered Tombstone Park Management Plan objectives and directions provided for lands bordering the Peel Region to emphasize community cultural-use priorities, access management controls for off-road vehicles along the Hart Winter Trail, and community development linkages to support Tr'ondëk Hwëch'in economic development objectives for tourism.
- Reviewed Silver Trail Region Tourism Plan (1998) with its goals to improve and expand regional tourism attractions, products, and services (adventure, cultural, and historical tourism) within the Silver Trail tourism region, which encompasses the Hart, Wind, Bonnet Plume, Snake, and Peel river watersheds, and includes involvement of the Na-Cho Nyak Dun, the Village of Mayo, and the communities of Elsa/Keno City and Stewart Crossing. Additional reference is made in the Klondike Region Tourism Marketing Strategy to wilderness and other fly-drive tourism opportunities within the Peel region, including the Dempster Highway.

## 1.7. Review Process for the Recommended Regional Land Use Plan

The review process for the Recommended Plan by the Parties is set out in 11.6.0 of the UFA as presented in the following text box. Providing the Plan is considered for modification and or approval, the current existing Peel Watershed Planning Commission will be reconvened to consider any and all proposed changes. This work will then lead to preparation of a Final Recommended Plan.

### Steps for Approval of a Recommended Regional Plan in the Umbrella Final Agreement

#### 11.6.0 Approval Process for Land Use Plans

**11.6.1** A Regional Land Use Planning Commission shall forward its recommended regional land use plan to Government and each affected Yukon First Nation.

**11.6.2** Government, after Consultation with any affected Yukon First Nation and any affected Yukon community, shall approve, reject or propose modifications to that part of the recommended regional land use plan applying on Non-Settlement Land.

**11.6.3** If Government rejects or proposes modifications to the recommended plan, it shall forward either the proposed modifications with written reasons, or written reasons for rejecting the recommended plan to the Regional Land Use Planning Commission, and thereupon:

**11.6.3.1** The Regional Land Use Planning Commission shall reconsider the plan and make a final recommendation for a regional land use plan to Government, with written reasons; and

**11.6.3.2** Government shall then approve, reject or modify that part of the plan recommended under 11.6.3.1 applying on Non-Settlement Land, after Consultation with any affected Yukon First Nation and any affected Yukon community.

**11.6.4** Each affected Yukon First Nation, after Consultation with Government, shall approve, reject or propose modifications to that part of the recommended regional land use plan applying to the Settlement Land of that Yukon First Nation.

**11.6.5** If an affected Yukon First Nation rejects or proposes modifications to the recommended plan, it shall forward either the proposed modifications with written reasons or written reasons for rejecting the recommended plan to the Regional Land Use Planning Commission, and thereupon:

**11.6.5.1** The Regional Land Use Planning Commission shall reconsider the plan and make a final recommendation for a regional land use plan to that affected Yukon First Nation, with written reasons; and

**11.6.5.2** The affected Yukon First Nation shall then approve, reject or modify the plan recommended under 11.6.5.1, after Consultation with Government.

## 1.8. Using the Peel Regional Land Use Plan

