

2.2 Land and location

plan. If C&TS review and accept your application, it will be referred to LARC. If it moves successfully through the LARC process, your application will go to C&TS planning division, and/or the appropriate municipality board where it is subject to the normal review processes. Once approved, C&TS will write an agreement for sale at appraised market value or a lease agreement at 10% of market value.

How long will it take?

Settlement Land

This process, including the municipal board review, usually takes about 9 months. Be sure to factor this time into your business planning.

Aboriginal rights

The total Settlement Land area for all Yukon First Nations is 41,592.21 sq km. Ownership and management of these lands will belong to the individual First Nation whose final agreement describes them. Some lands have been withdrawn from disposition by government pending conclusion of land claims.

Contact First Nations directly

Class A and Class B settlement lands (which will be the majority) have a special form of tenure or aboriginal rights. The First Nation has the power to make laws for the use and occupation of its lands, develop management programs, and collect fees. It can lease land, and provide other third party land rights that are less than full ownership, and it will retain aboriginal rights.

For more information

If you are interested in land owned by a First Nation, or simply plan to locate your operations within a First Nation's Traditional Territory, direct your inquiries early in the planning process to the administration of the appropriate First Nation. This should be done as a courtesy, whether or not you have a legal requirement to do so. As with other governments, First Nations have an interest in land value and the economic health of their community. Address your initial correspondence to the Chief and Council. (see Fact sheet 2.3 for contact information)

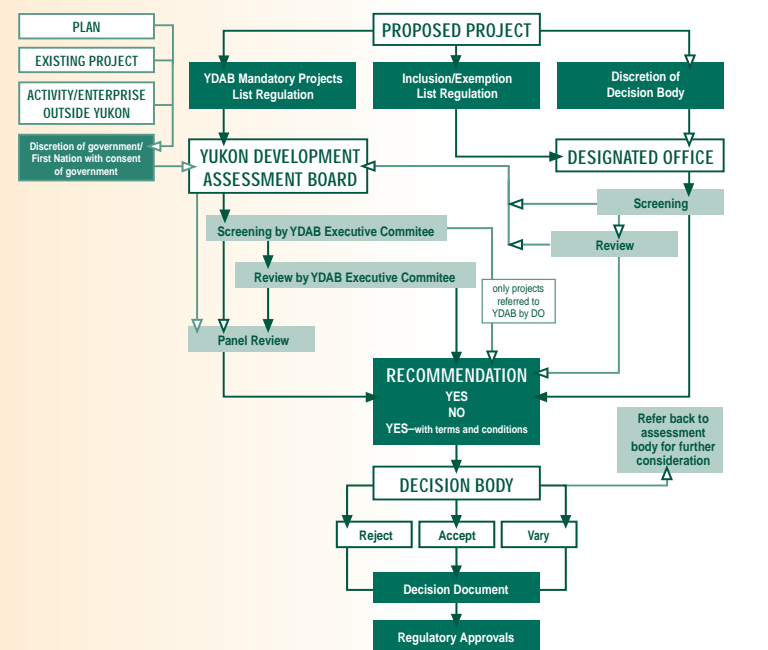
Other considerations

A good reference for more information is Understanding the Yukon Final Agreement, a Land Claim Settlement Information Package, available at the Tourism Information Resource Centre (867) 667-5449 or the Yukon Land Claim Secretariat, (867) 667-5878.

Planning boards do exist in a number of municipalities, and a formal development process is in place for certain communities. Make sure that you investigate any requirements this process may

Overview of the: Development Assessment Process

DAP is a new, universally applied assessment process that will affect Settlement and non-Settlement Land. It will apply to all projects, to determine whether or not the proposed activity or project will cause damage to the land, air, water, people or wildlife of the Yukon. It will also apply to proposals that will significantly change existing Yukon projects, and to outside projects which may impact the Yukon. There is some overlap with the Canadian Environmental Assessment Act.



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Location related to your market

WHERE YOU LOCATE YOUR BUSINESS will depend on the type of operation you are proposing and the customers you are trying to attract. Usually, it will be a key element of your business plan. Your choice will be directly related to your market. Your market research will help you make choices by establishing the necessary criteria for your location. In other words, your location will be market-driven.

Four important considerations

Many businesses can start up without having to acquire land, by simply renting or leasing available premises. This is particularly true in larger communities and for tourism businesses that require office or retail space. If you decide that you do need land, however, there are four things you should pay particular attention to:

- ¥ Services (water, septic/sewage, power, telephone) available at your chosen site. When choosing between serviced and unserviced lots, find out the current cost of the service infrastructure. These services can far outweigh the cost of the land.
- ¥ Access to your chosen location. This may well be tied to the cost of services, and is most certainly tied to financial (business) success. Access routes can vary greatly, but almost all of them will have some sort of impact, and regulations governing their construction and use. Do your research and take care of all matters of access restriction and conflict before you make a financial commitment to a property.
- ¥ Mineral rights and claims. If someone has an active mineral claim on the land you are interested in, he will have access and mineral extraction rights to the property as well as the right to erect certain structures.
- ¥ Special Management Area (SMA). Your location may be a candidate for a park, protected area or other SMA. This could have a significant impact on your plans.

Land ownership categories

When you've done your preliminary site research, identified the kind of land you need, developed your business and marketing plans and matched your needs to a location, you must go look for a piece of land. There's a lot of it in the Yukon and much of it is in an undeveloped, natural state. In fact, one of our main attractions—the pristine wilderness—is a large part of what we sell to tourists. But who actually owns it and how can you go about acquiring it? Ownership of Yukon land falls into four different categories:

1. Privately owned land (including that owned by municipalities). Also known as fee simple land, this includes all land for which someone holds a deed of ownership.
2. Crown land is federal land and includes all of the Yukon outside the boundary of First Nation settlement land, municipal boundaries and National Parks, close to 85% of the Yukon. It is regulated by the Department of Indian Affairs and Northern Development.
3. Commissioner's Land is territorial land, transferred to and administered by the Government of Yukon and includes municipalities, Yukon parks and privately owned land. About 1.5% of the Yukon is Commissioner's land.
4. Settlement Land belongs to a First Nation under its Final Agreement. There are three different categories of settlement land. When Final Agreements are complete, Yukon First Nations will own approximately 9% of Yukon lands.

Land issues in a state of flux

Ownership and administration of Yukon land in all but the first category is undergoing change, and new policies are currently under development. The way you plan to use the land is subject to laws and policies of both the federal and territorial governments, and First Nation Settlement lands are subject to the laws and administration of the First Nation governments. Make sure you have current information by calling DIAND's Land Resources Office at (867) 667-3241. For land claims information, call the Yukon Land Claim Secretariat at (867) 667-5878.

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Getting started

If you have a specific piece of land in mind, the first step is to find out who owns and administers it. The Land Resources Branch of DIAND, (867) 667-3100, in the Elijah Smith Building in Whitehorse can tell you the status of the land—whether it is private, federal, YTG or First Nation land—and if it is available for disposition. Most communities also have a DIAND Field Operations Office and the RMO (Resource Management Officer) will be able to help you identify your site on a map. The second step is to call the Mining Recorder for your area to check on active mining claims. In Dawson City call (867) 993-5343, Mayo (867) 996-2256, and Watson Lake (867) 536-7366. For Whitehorse and all other districts, call (867) 667-3190. The third step is to determine if your site is a candidate for a Park or Special Management Area. Call the Protected Areas Secretariat (867) 667-5261 for more information. The fourth and subsequent steps depend on which of the land categories listed below you have selected.

Consult with First Nation

Whether or not you will be operating on settlement land, it is always a good idea to consult early on with the First Nation upon whose traditional territory you are planning to locate your business. They will be consulted in the formal review process and their concerns will have a bearing on the outcome.

Privately Owned Land

The simplest and most direct way of acquiring land is to purchase or lease what is already privately owned (known as fee simple land). While this makes up only a small portion of the Yukon land base, it is generally in desirable commercial locations. Besides the newspaper ads and Real Estate agencies, research at the Lands Branch may find you a piece of privately owned property.

Check the zoning

Find out how easy or difficult it might be to change the zoning of your property, should it prove necessary for your business. This includes all properties in the Yukon, even those outside municipal boundaries, for land use must comply with YTG's Area Development Act and the Municipal Act.

Crown Land

How can you go about using crown land for your project? Start by contacting DIAND's Land Resources office where you'll be faced with several options. If you want to use the land on a short term basis, you need a Land Use Permit. This will allow you to operate over a specific period of time. The permit will also tell you what you must do to protect and restore the environment.

Purchase, lease or licence

If you need to occupy Crown land for a longer term, you must purchase, lease or licence it. If you purchase, you will have full rights like any other land owner. A lease will give you long-term rights, including the right to restrict others from using the land. A licence will allow you to construct and maintain certain services, like power lines or water systems. It won't necessarily restrict access by others. These lands are subject to The Territorial Lands Act, which regulates the use and/or occupancy of crown land, including activities such as camp establishments, road building, tree-cutting, quarrying, water use, mining, and fisheries.

Your application

DIAND administers surface rights on Crown lands, manages renewable resources (except wildlife), manages the federal government's proprietary interest in minerals and conducts environmental assessments of

resource development proposals. Your application for federal land will be subject to:

- ¥ review by a committee
- ¥ mining claims
- ¥ criteria for type of use
- ¥ land claims selections
- ¥ environmental screening

Note: applications will not be accepted if made on lands withdrawn from disposal.

Gather your information

Dig out the business, financial and marketing plans you've written, as well as a summary of your proposed access to the land. Include all this information with your application. You will also need a site development plan and map of the area, and you will need to flag the site on the ground.

What happens to your application

Applications are first checked by DIAND to make sure there is enough information to proceed. The Lands Branch gathers all the relevant information and concerns and forwards this with your application to the Federal-Territorial Lands Advisory Committee (FTLAC), who return a recommendation to the branch. The application may then be assessed under the Canadian Environment Assessment Act (CEAA). Your application can be approved, deferred or denied. If you are successful in your application for crown land, it will be sold to you at appraised market value, or leased at 10% of appraised value.

Factor enough time

This is a brief description of a lengthy process. If all goes well, you may be ready to call in the surveyors 12 months after you start the process. Factor enough time for this into your business plan.

Commissioner's Land

Most Commissioner's Land lies in and around the communities. The Yukon Lands Act regulates the sale of available Yukon lands. It classifies the lands, determines land parcel sizes, and sets out procedures for applying, reviewing and disposing of parcels for lease or sale.

Who manages it?

The Department of Community and Transportation Services (C&TS) manages Commissioner's Lands, and is responsible for receiving and processing land applications. It can be reached through its Lands and Property Assessment Branch at (867) 667-5232. The review process is informal, and is guided by policy statements. As such, it is changing as policy directives change.

The review process

The various guidelines and the Land Application Review Committee (LARC) terms of reference will tell you that the review process will consider:

- ¥ highest and best use
- ¥ existing zoning bylaws
- ¥ wildlife and fisheries values
- ¥ existing land users
- ¥ existing development regulations
- ¥ heritage/archaeological implications
- ¥ existing land use plans
- ¥ access

Submitting your application

Submit your commercial land application, including your research, and a well thought-out business plan. Indicate whether or not your application is privately funded, or receiving financial assistance from any government agency. Include as much information as possible with your application including your financial

Definitions

Canadian Environment Assessment Act (CEAA) Replaces EARP (Environmental Assessment Review Process). Under this act an environmental review is required prior to disposition of federal land, or issuance of federal permits. The environmental assessment determines the environmental effects of a project in accordance with CEAA and regulations. Projects which have few environmental impacts can be screened quickly.

Commissioner's Land Land which has been transferred to the Yukon Government and includes municipalities, territorial parks and

campgrounds and land which is privately owned. Commissioners land is administered by the Government of Yukon.

Crown Land Land which has not been transferred to a Yukon First Nation, the government of Yukon or disposed of otherwise. Crown land is managed and administered by Department of Indian Affairs and Northern Development.

Federal-Territorial Lands Advisory Committee (FTLAC) Reviews land applications to advise DIAND on their suitability. The applications are advertised, and open to public submissions, and the applicant may attend the review.

First Nation Settlement Land Land belonging to the First Nation identified in a First Nation Final Agreement. Category A lands include both surface and subsurface rights. Category B and fee simple (privately owned) lands include surface rights.

Land Application Review Committee (LARC) Forum for technical and interest-based review and discussion of land management matters in regard to land applications. It also provides advice to the Director of Land & Property Assessment Branch.

Land Set Aside Refers to lands which are not reserved under the Indian Act but which are noted in Canada's land records as set aside for

the use and benefit of Yukon Indian People. For instance, land has been set aside for housing and other uses.

Lands Withdrawn from Disposal Crown land withdrawn from disposal by privy council order.

Official Community Plan (OCP) Community plan defining specific areas for development.

Traditional Territory Area of the Yukon which members of a First Nation have identified as their traditional territory under the Umbrella Final Agreement.