

GUIDE TO THE SPOT LAND APPLICATION PROCESS

OBJECTIVE

Lands Branch aims for a fair and consistent process for reviewing and making decisions on land applications.

PURPOSE

This guideline communicates key steps in land application reviews and decisions with applicants, Yukon government departments, local governments, First Nations, and the public.

BACKGROUND

The Lands Branch reviews applications and makes decisions based on the authority provided in the *Territorial Lands (Yukon) Act and Regulations*, and the *Lands Act and Regulations*. This process, though not legislated, ensures that the interests of the public, First Nations and the Yukon government are considered prior to a final decision on disposition of lands.

The land application review process consists of three stages: pre-screening, review, and documentation and monitoring. For applications that trigger an assessment under the *Yukon Environmental and Socio-Economic Assessment Act and Regulations*, a legislated process allows information and about proposed activities to be considered in land applications.

At any stage of the review process, any new or additional information may and should be provided by an applicant to the Lands Branch, if relevant. New information may require returning to an earlier stage in the review process.

DEFINITIONS

Area Development Regulations

Area Development Regulations are area-specific development controls that guide land use activities on private and public land. They are sometimes known as zoning regulations. A land use proposed in a land application must conform to the land use and development controls specified in the zoning regulations. If no zoning regulations exist, the parcel will be zoned upon disposition under the same classification that the land was applied for (e.g. rural residential, commercial, etc).

Spot Land Application

An application for Yukon land made to the Lands Branch under one of its land tenure policies. An application does not imply any current or future interest in land, or tenure over land unless approved through the land application review process.

Land Application Process

The land disposition process consists of three stages: pre-screening of applications, review and decisions of applications, and documentation and monitoring of approved applications. The process includes either a review and decision within the YESAA-legislated process for

environmental, social, and economic impacts, or a similar review of impacts and decision coordinated by the Yukon government.

Project Proposal

A submission made to a YESAA Designated Office for a review of its social, economic, and environmental effects. A project proposal is made if a land application triggers an assessment under the *YESAA Regulations*. Submissions to YESAA are the responsibility of applicants. Assessments under YESAA are conducted independent of the Yukon government.

Designated Office

The office located in one of six YESAA assessment districts throughout the Yukon. Projects are submitted to the appropriate Designated Office for assessment.

Decision Body

A term in the YESAA legislation that refers to the government responsible for regulating, authorizing, or funding a project. In the case of land applications, the Lands Branch is the delegated decision body because it authorizes land tenure under the *Territorial Lands (Yukon) Act* or the *Lands Act* for the proposed project.

Decision Document

A document issued by the decision body accepting, varying or rejecting the YESAA assessor's recommendation within a specified time period (30 days or 60 days of receiving the recommendation depending on the project size). A Lands Branch Decision Document will result in a land application proceeding or not, as outlined in "Final Decision Letter" below.

Land Application Summary Report

The Land Application Summary Report ("Summary Report") is produced by the Lands Branch to track and make public all comments received on a non-YESAA application. The Summary Report notes the application type and location, and includes comments received from Yukon and First Nation governments, federal agencies, municipal and local area governments, Renewable Resources Councils (RRCs), neighbours, trappers, outfitters and the general public. The Summary Report indicates how comments are addressed in the application review, (i.e. through regulations, policy or as information) and records the interim and final decisions. The report is posted on the EMR Lands Branch website (www.emr.gov.yk/lands/) and is available at Lands Branch and district offices.

Interim Decision Letter

The interim decision letter communicates the preliminary decision of the Lands Branch to the applicant and affected regulatory agencies (if the application has been approved) to allow refinement of terms and conditions that may be necessary to meet regulations and policy. The letter requests the applicant to confirm acceptance of specified terms and conditions such as set backs, parcel reconfiguration, zoning.

The interim decision letter is also copied to individuals who have submitted comments on the application and to applicable local area governments, First Nations and RRCs.

The interim decision may be to approve, conditionally approve, or defer the application for more information. The interim decision may also be to defer the application for consideration along with other applications in the area if there is high development pressure in that area. Comments from any party, including the applicant, on an interim decision letter will be considered by the Lands Branch prior to making a final decision on the application.

Final Decision Letter

The final decision letter communicates the final decision to the applicant and affected regulatory agencies in situations when applications have been given final approval or have been denied. If terms and conditions or a recommendation to approve (proposed in an interim decision letter) have been modified or changed, the final decision letter will outline the reasons for the change.

The final decision letter is sent to the applicant and affected regulatory agencies and is copied to individuals who have submitted comments on an application, applicable local area governments, First Nations and RRCs and is posted on the EMR Lands Branch web site (www.emr.gov.yk.ca/lands/).

The Yukon government may decide to:

Approve the application. No conditions outside the standard requirements are needed for the proposed land disposition or activity.

Conditionally Approve: Approval is subject to further action (for example survey), or is conditional on other regulatory approvals (for example re-zoning or subdivision approval).

Deny a land application.

Defer: Defer the review of a land application pending receipt of more information. Written correspondence with the applicant will outline next steps, timelines, and responsibilities. The letter will also outline the proposed date for review of the new information.

Applications may also be deferred or denied in order to:

- ✓ conduct a pre-planning process;
- ✓ group applications to consider the cumulative effects of multiple applications; or
- ✓ learn the outcomes of a planning process already underway.

Cumulative Effects

Changes of an environmental, social, or economic nature caused by the combination of past, existing, proposed, and reasonably foreseeable future development.

Grouping of Applications

If more than one application (of any type) exists in an area and have not yet received decisions, or if there are particular sensitivities in an area, applications may be grouped together in order to consider social, economic and environmental information and to ensure that consistent information is considered in each application.

Pre-planning Process

An interdepartmental / governmental process coordinated by the Lands Branch, Yukon Government, to assess an area for its suitability for development. A pre-planning process may consider social, economic, and environmental information in areas experiencing pressure, such as where multiple applications are received; where multiple sensitivities are identified through a land application review; or where planning is occurring or anticipated. A pre-planning process may result in Lands Branch closing off an area to applications, or deferring or denying applications pending more comprehensive review.

Spot Land Application Process

PRE-SCREENING STAGE

Step 1	<p>Pre-Screening</p> <p>Prior to accepting an application, Lands Branch reviews prospective applications to ensure they are complete and thorough. Lands Branch also checks for compliance with policies, legislation, local area plans, and zoning, and verifies that the land is not constrained by other tenure or instruments.</p> <p>The Lands Branch may assist applicants on their applications and make recommendations on various aspects, such as site suitability and topographic constraints. This service is discretionary since applicants are ultimately responsible for the completing their applications and any advice provided at this stage should NOT be interpreted as an endorsement or approval of the application.</p> <p>If interest has been expressed by more than one potential applicant in an area, Lands Branch may choose to conduct a pre-planning process in the area. The pre-planning process may result in a decision by Lands Branch to not accept applications in an area.</p>
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REVIEW STAGE

Step 2	<p>Policy Compliance Review</p> <p>In this stage, the Lands Branch:</p> <ol style="list-style-type: none"> 1. Reviews applications for completeness and compliance with policies, legislation, local area plans and zoning; 2. Determines the extent of consultation required in consideration of First Nations; 3. Determines if the application is subject to a YESAA assessment (in accordance with the requirements of the <i>Yukon Environmental and Socio-economic Assessment Act</i>), or not. <p>The initial review is completed in consultation with other departments within 5 days of receipt of application.</p>	
	<p>If application is not subject to YESAA</p> <p>Start NON-YESAA REVIEW PROCESS</p>	<p>If application is subject to YESAA</p> <p>START REVIEW PROCESS FOR YESAA-TRIGGERED APPLICATIONS</p>
Step 3	<p>Distribution of information</p>	
	<p>A letter is sent to the applicant advising that the Lands Branch will be coordinating the application review.</p>	<p>A letter is sent to the applicant advising that a YESAA assessment is required</p>
		<p>Applicant submits project proposal to the appropriate YESAB Designated Office</p>
	<p>A notice of receipt of the application is posted on the EMR website www.emr.gov.yk.ca/lands/, including the application number, name of applicant, class of land and timeline.</p>	<p>A notice of receipt of the application is posted on the EMR website www.emr.gov.yk.ca/lands/, including the application number, name of applicant, class of land and timeline.</p>
	<p>Copies of land application are sent with a request for comments to:</p> <ul style="list-style-type: none"> • Yukon government authorities (Environment, Community Services, Highways and Public Works, Environmental Health, Executive Council Office) with regulatory duties; • applicable local governments; • affected First Nations (with or without final agreements); • RRCs <p>Comments are to be received within 45 days.</p>	<p>Copies of land application are sent as an initial notice of the application to:</p> <ul style="list-style-type: none"> • Yukon government authorities (Environment, Community Services, Highways and Public Works, Environmental Health, Executive Council Office) with regulatory duties; • applicable local governments; • affected First Nations (with or without final agreements); • RRCs

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	A letter is sent to the Natural Resources Officer requesting an inspection 30 days are provided for inspection.	A letter is sent to the Natural Resources Officer requesting an inspection 30 days are provided for inspection.
	A letter is sent to trappers, outfitters and neighbours (within 1 km radius) requesting written comments 30 days are provided for receipt of comments.	A letter is sent to trappers, outfitters and neighbours (within 1 km radius) requesting written comments 30 days are provided for receipt of comments.
		YESAA Assessment is conducted and a recommendation is provided to the Decision Body (Lands Branch). Process and timing is followed according to YESAA and YESAB Rules
Step 4	Review of Comments / Recommendation	
	<p>Lands Branch reviews comments submitted and prepares a Land Application Summary Report.</p> <p>The Report tracks and makes public all comments received on an application. The Report includes the application type and location, and includes comments received from Yukon and First Nation governments, federal agencies, municipal and local area governments, Renewable Resources Councils (RRC's), neighbours, trappers, outfitters and the general public. The Report indicates how comments are addressed in the application review, (i.e. through regulations, policy or as information) and records the interim and final decisions. The report is posted on the EMR Lands Branch website www.emr.gov.yk/lands/ and is available at Lands Branch and district offices.</p> <p>Go to step 5.</p>	<p>YESAA issues a recommendation to Lands Branch within 42 days of confirming the project proposal review is complete, if the project is reviewed by a Designated Office. Project timelines can be extended and projects reviewed by the Executive Committee will take longer.</p> <p>The recommendation summarizes any public input into the proposal that has been submitted to the public registry.</p> <p>The recommendation is either that the project should proceed, or should not proceed, or should proceed with conditions.</p>
		<p>The Lands Branch issues a Decision Document. The Decision Document accepts, varies, or rejects the YESAA recommendation within either 30 days or 60 days from receiving the recommendation, depending on the size of the project. The result is either:</p> <p>The application can proceed: Go to Step 5</p> <p>OR</p> <p>The application cannot proceed: Go to Step 7</p>
Step 5	Lands Branch issues the Interim Decision Letter to applicant	
	<p>The interim decision letter communicates the preliminary decision of the Lands Branch to the applicant and affected regulatory agencies (when applications have been approved) to allow refinement of terms and conditions that may be necessary to meet regulations and policy.</p> <p>The interim decision may be to approve, conditionally approve, or defer the application. The letter requests the applicant to confirm acceptance of specified terms and conditions e.g. set backs, parcel reconfiguration, zoning.</p> <p>Applicant has 14 business days for Lands Branch to receive any comments on the interim decision. The applicant has the opportunity to provide any new or changed information about the land application. A significant change to the application may require a new application.</p>	

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	No comments are received: Go to Step 7 OR Comments are received: Go to Step 6	Comments on the interim decision are not distributed: Go to step 7 If an applicant provides new information about an application once a YESAA assessment and recommendation has been completed, a new application will be required.
Step 6	Distribution of comments	
	Comments are provided to other government departments.	
	Comments are provided to applicant for review and further comment The applicant has 14 business days for Lands Branch to receive comments on responses.	
Step 7	Final decision Letter	
	The final decision is sent to the applicant and affected regulatory agencies and is copied to individuals who have submitted comments on an application, applicable local area governments, First Nations and RRCs and is posted on the EMR Lands Branch website. The final decision letter either confirms the interim decision, or modifies it. Reasons for changes are outlined. If new information is received after the interim decision letter that changes the application significantly, a new application may be required.	
	A final decision may be one of the following:	
	<ol style="list-style-type: none"> 1. Approval. 2. Conditional Approval, subject to further action, such as survey, or subject to other regulatory approvals, such as re-zoning and subdivision. 3. Deferral. A land application may be deferred pending receipt of more information. The timelines associated with a deferral will be communicated to the applicant through written correspondence. This will outline what is required, timelines, and responsibilities for next steps. The letter will also outline the proposed date for review of the new information. If more than one application (of any type) exist in an area and have not yet received a decision, or if there are particular sensitivities in an area, applications may be deferred and grouped together to enable consideration of the cumulative effect of the applications, and to ensure that consistent information is considered in each application. Areas may be subject to a study or planning exercise to examine the suitability or feasibility of various types of development, including consideration of social, economic, and environmental information. If circumstances indicate a planning exercise will take place, all applications will be returned to applicants with a letter notifying them of the intended planning exercise. 4. Denial. 	

DOCUMENTATION AND MONITORING STAGE

Step 8	Meet Conditions Applicant is responsible for meeting all conditions of approval. These conditions might consist of actions or modifications recommended by the YESAA assessment body in order to mitigate impacts. They might also be regulatory approvals that are required prior to disposition, such as re-zoning under the Area Development Regulations, approval under the Subdivision Act, or road closure under the Highways Act. Obtaining other regulatory approvals often requires the involvement of other departments; however, it remains the applicant's responsibility to pursue these approvals with the appropriate branch.
Step 9	Documentation Upon completion of survey, Lands Branch initiates an agreement-for-sale. When all conditions of the agreement-for-sale are met and paid in full, Lands Branch initiates processing of title.
Step	Monitoring

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Leases and Licenses of Occupation are monitored for compliance with their terms and conditions. Titled properties are monitored for compliance with zoning (Area Development Regulations) by the Development Officers

AUTHORITIES/ACTS:

Area Development Act and Regulations

Environment Act and Regulations

Highways Act and Regulations

Lands Act and Regulations

Municipal Act and Regulations

Public Health and Safety Act

Territorial Lands (Yukon) Act and Regulations

Yukon Environmental & Socio-economic Assessment Act and Regulations