

AN ASSESSMENT OF YESAB  
(YUKON ENVIRONMENTAL AND SOCIO-ECONOMIC ASSESSMENT BOARD):  
Implementing the Spirit and Intent of the Umbrella Final Agreement's Chapter 12, What  
Works, What Doesn't, and the Forces That Shape the Development Assessment Process

A Dissertation Submitted to the Committee on Graduate Studies in Partial Fulfillment  
of the Requirements for the Degree of Doctor of Philosophy in the Faculty of Arts and  
Science

TRENT UNIVERSITY  
Peterborough, Ontario, Canada  
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Canadian Studies Ph.D. Graduate Program  
September 2025

## **Abstract**

### **AN ASSESSMENT OF YESAB (YUKON ENVIRONMENTAL AND SOCIO-ECONOMIC ASSESSMENT BOARD): Implementing the Spirit and Intent of the Umbrella Final Agreement's Chapter 12, What Works, What Doesn't, and the Forces That Shape the Development Assessment Process**

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This is a community-based research project investigating the ability to meet a vision of co-governance. This dissertation investigates the effectiveness of the Yukon Environmental and Socio-economic Assessment Board (YESAB) as a treaty-implementing institution under Chapter 12 of the Umbrella Final Agreement (UFA). The UFA, a modern treaty between Yukon First Nations (YFNs), Canada, and the Yukon, outlines a vision for co-governance, environmental stewardship, and sustainable development. Established under the Yukon Environmental and Socio-economic Assessment Act (YESAA), YESAB was designed to operationalize this vision through a Development Assessment Process that integrates Indigenous participation and cultural values into decision-making on development projects.

Guided by three core research questions, the study assesses: (1) how well YESAB fulfills the spirit and intent of Chapter 12 of the UFA; (2) the strengths and weaknesses of its impact assessment processes, particularly in terms of inclusivity, responsiveness, and environmental integrity; and (3) the influence of other institutions and actors on YESAB's capacity to fulfill its treaty-mandated responsibilities. This study used a community-based participatory research framework and Constructive Grounded Theory methodology. Information was collected through a selected documentary analysis as well as interviews with 35 individuals with direct experience in Yukon's impact assessment system—including past/present YFN Self-Government officials, past/present YESAB staff, territorial regulators, Yukon-based NGOs, legal experts, and proponents.

The findings reveal that while YESAB has made procedural strides—such as improved transparency and research depth—it continues to face structural and epistemic challenges that limit its ability to meaningfully implement the UFA’s goals. These include inadequate incorporation of Traditional Knowledge, limited capacity and follow-up, and external interference from other regulatory bodies. Furthermore, participants emphasized that the Development Assessment Process is often constrained by outdated mining legislation, political pressures, and jurisdictional fragmentation.

This research contributes to scholarly and policy discussions on Indigenous governance, treaty implementation, and environmental justice in Canada. It recommends specific legislative and institutional reforms to enhance YESAB’s effectiveness and align its operations with the UFA’s original intent. Ultimately, the dissertation underscores the need for an impact assessment system that is co-governed, culturally grounded, and responsive to both ecological and Indigenous priorities in the Yukon.

**Keywords:** *Impact Assessment, treaty implementation, resource extraction, Yukon, Indigenous Rights, colonization, spirit and intent, Umbrella Final Agreement, Yukon Environmental and Socio-Economic Assessment Board, co-management, Traditional Knowledge*

## Foreword

This dissertation reflects on the words of a First Nation of Na-Cho Nyäk Dun Elder who, in considering the Indigenous Rights held under the Umbrella Final Agreement (UFA), loosely stated: “What is the point of having harvesting rights if there is nothing left to harvest?” This reflection resonates throughout the dissertation and underscores the central concern that treaty rights lose their meaning if the ecological foundations that sustain them are eroded.

At its heart, this dissertation examines the fragile balance between the promises of treaty implementation and the realities of resource extraction. From *Together Today for Our Children Tomorrow* through to the UFA, Yukon First Nations made clear their vision that harvesting rights and opportunities must be protected for generations to come. Yet the ongoing struggle to fully implement the UFA threatens this vision, as harvesting options continue to be affected by the legacies of past mining and the continuing harms of poorly regulated practices today.

This work is grounded in that tension: the enduring commitments to protect the land, water, and harvesting rights envisioned in the Final Agreements, and the pressing reality that without meaningful change, those commitments risk becoming hollow promises.

## **Disclaimer**

The views and interpretations expressed in this dissertation are solely those of the author and are informed by both my own experiences and the perspectives shared by the 35 participants in this study. They do not represent, reflect, or speak on behalf of any Yukon First Nation. This includes the four Yukon First Nations whose Traditional Territories the research was conducted within, specifically Tr'ondëk Hwëch'in and the First Nation of Na-Cho Nyäk Dun, with whom I hold formal research agreements and, in the case of the latter, current employment.

## Acknowledgments

I would like to begin by thanking my supervisor, Heather, for her guidance in navigating the often complex bureaucratic processes of Trent's PhD program. Her advice and direction in this regard were essential to moving this dissertation forward.

I owe special gratitude to my committee member Mark, who first suggested this topic and provided steady support throughout. His ability to keep me on track, combined with his deep understanding of the Yukon, the assessment process, and his invaluable connections, pushed this project forward in ways I could not have achieved alone.

I am also deeply grateful to Leslie, whose presence on my committee was a source of real joy. As with my Master's research, she once again gave her time and expertise generously. Her contributions were especially impactful in shaping the methods and methodologies chapter, where her knowledge of oral history provided invaluable guidance.

I would also like to thank Finis, who supported this work by introducing me to scholars whose research reflects the lived experiences unfolding through the development assessment process in the Yukon.

Finally, from my committee I wish to thank Gabrielle for her Yukon-related insightfulness, which enriched my analysis and broadened my perspective, and Kevin for his thoughtful feedback.

This research was made possible through the generous financial support of Trent University and the Wildlife Conservation Society.

I extend my sincere thanks to the four Yukon First Nations on whose Traditional Territories this research took place: Tr'ondëk Hwëch'in, Selkirk First Nation, Little Salmon Carmacks First Nation, and especially the First Nation of Na-Cho Nyäk Dun, on whose

Traditional Territory I have lived since 2021. With FNNND, I wish to thank my colleagues at the Government House. Adrienne, your support of finishing my schoolwork and your incredible knowledge base—particularly your detailed understanding of the UFA—were vital to both this research and my ability to carry it forward.

The community of Mayo has also been a great support throughout this journey, offering encouragement and connection that helped sustain me during this work. I have made amazing life-long friends here.

To the 35 participants who generously shared their stories and perspectives: you taught me deeply about the lived realities of how the development assessment process shapes the land, waters, and communities of the Yukon. Although I did not always agree with every perspective, being exposed to such a wide range of experiences was invaluable. These conversations profoundly shaped my understanding, and I have sought to reflect those diverse and sometimes contrasting viewpoints with honesty and respect in this dissertation.

I would like to thank my mum and dad, whose support has allowed me to follow a path that speaks true to me and has led me to where I am today. To my sister Erica, you have been both supportive and a true friend throughout this journey, and your presence in my life means the world to me. To my family as a whole, I cannot express enough how much I love and appreciate you—thank you for your patience, love, and unwavering belief in me. Your encouragement has carried me through the hardest moments.

And again, to Aurora, you were with me every day, whether you wanted to be or not. Your company continues to be always much appreciated.

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## List of Abbreviations

Acronym	Term
<b>CEAA</b>	<i>Canadian Environmental Assessment Act, 2012</i>
<b>CMI</b>	Compliance, Monitoring, and Inspections under Government of Yukon’s Energy, Mines and Resources (EMR)
<b>CYFN</b>	Council of Yukon First Nations (previously known as the Council of Yukon Indians)
<b>DFO</b>	Department of Fisheries and Oceans Canada
<b>DO</b>	District Office
<b>EMR</b>	Department of Energy, Mines, and Resources
<b>ER</b>	Evaluation Report/YESAB Recommendation
<b>FNNND/NND</b>	First Nation of Na-Cho Nyäk Dun
<b>LSCFN</b>	Little Salmon/Carmacks First Nation
<b>NGO</b>	Non-Governmental Organization
<b>NNDDC</b>	Nacho Nyäk Dun Development Corporation
<b>NRO</b>	Natural Resource Office(r)s, under Government of Yukon’s Compliance, Monitoring, and Inspections (CMI)
<b>OCAP</b>	Ownership, Control, Access, and Possession
<b>SFN</b>	Selkirk First Nation
<b>TH</b>	Tr’ondëk Hwëch’in
<b>TK</b>	Traditional Knowledge <sup>1</sup>
<b>Together Today</b>	Together Today for Our Children Tomorrow
<b>TCPS2</b>	Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans
<b>UFA</b>	Umbrella Final Agreement
<b>UNDRIP</b>	United Nations Declaration on Rights of Indigenous Peoples
<b>VESEC</b>	Valuable Environmental and Socio-Economic Component
<b>YESAA</b>	<i>Yukon Environmental and Socio-Economic Assessment Act, 2003</i>
<b>YESAB</b>	Yukon Environmental and Socio-Economic Assessment Board
<b>YFN</b>	Yukon First Nations
<b>YG</b>	Government of Yukon
<b>YOR</b>	YESAB Online Registry
<b>YWB</b>	Yukon Water Board

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<sup>1</sup> In this dissertation, I use the term *Traditional Knowledge* as it is the terminology employed within the Lands and Resources Department of the First Nation of Na-Cho Nyäk Dun; while there is a growing movement to use the broader term *knowledge* (as referenced in the objectives of Chapter 12), I have chosen to remain consistent with FNNND’s usage.

## Chapter 1: Introduction

This dissertation investigates Indigenous governance principles, environmental stewardship, and co-management<sup>2</sup> objectives in Canada’s territorial North. In particular, it examines how the Yukon Environmental and Socio-economic Assessment Board (YESAB) operates as a treaty-implementing institution under Chapter 12 of the Umbrella Final Agreement (UFA). Through legal analysis, institutional review, and interviews with Yukoners who have diverse experiences with the development assessment process, the study evaluates the extent to which YESAB’s practices align with Indigenous governance principles, environmental stewardship, and co-management objectives. This case contributes to global debates on Indigenous jurisdiction and environmental justice—especially as Canada moves to implement the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP) and support Indigenous-led governance under modern treaty law. The research contributes to broader efforts to decolonize impact assessment in Canada and uphold the transformative potential of modern treaties.

In keeping with this broader initiative, this study asks: To what extent has YESAB fulfilled the UFA’s intent to implement co-governance, cultural inclusivity, and sustainable development in Yukon’s regulatory landscape?

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<sup>2</sup> Although the terms *co-governance* or *co-management* are not explicitly used in the Umbrella Final Agreement (UFA), the spirit and intent of the treaty clearly envision a co-governance relationship between Yukon First Nations and Crown governments. This is evident in the objectives outlined throughout the UFA, which emphasize the need for Yukon First Nations to have meaningful participation in decisions that affect their lands, waters, and communities. The repeated emphasis on shared decision-making, collaboration, and the recognition of Indigenous rights and interests signals a foundational expectation that governance in the Yukon would evolve through partnership—anchored in respect, reciprocity, and joint stewardship.

## 1.1 Introduction

The Yukon Territory—rich in natural resources and shaped by a long and often extractive colonial history—offers a compelling context for exploring the intersection of impact assessment, Indigenous Rights<sup>3</sup>, and environmental governance. For generations, Indigenous Peoples have stewarded these lands, yet colonial development decisions historically proceeded with limited regard for their authority, values, or long-term wellbeing. The signing of the UFA in the 1990s marked a turning point: a modern treaty intended to redress colonial harms, affirm Indigenous self-determination, and institutionalize shared governance across Traditional Territories.

A central outcome of the UFA was the establishment of YESAB in 2003 under the *Yukon Environmental and Socio-economic Assessment Act (YESAA)*. Created to operationalize the vision of Chapter 12, YESAB was intended to embed Indigenous participation and environmental oversight into the territory’s development landscape. However, over time, its capacity to deliver on this promise has been questioned. Despite its treaty-based origins, *YESAA*’s outcomes remain contested—raising concerns about whether the regulatory frameworks in place truly reflect Indigenous values or serve broader goals of environmental and socio-economic sustainability.<sup>4</sup>

Chapter 12 of the UFA outlines a Development Assessment Process designed to incorporate Indigenous participation, protect cultural heritage, and promote socio-economic wellbeing. While YESAB is central to this process, it does not act alone. YESAB’s

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<sup>3</sup> In this dissertation, *Indigenous Rights* refers to both *Aboriginal Rights*, which arise from the historical occupation and use of traditional territories, and *Treaty Rights*, which are grounded in formal agreements between Indigenous nations and the Crown.

<sup>4</sup> J. Sabin. “Contested Colonialism: Responsible government and political development in Yukon.” *Canadian Journal of Political Science* 47 (2): 375-396.

recommendations are often shaped or sidelined by other institutions—including the Yukon Water Board (YWB), territorial and federal governments, and Yukon First Nations (YFNs) Self-Governments themselves. Accordingly, this dissertation analyzes not just YESAB in isolation, but its function within the broader Development Assessment Process ecosystem.

To ground this analysis, the research draws upon four interlocking theoretical frameworks. Paul Nadasdy's<sup>5</sup> critique of technocratic governance helps to interrogate how procedural inclusion can mask deeper exclusions of Indigenous authority. Glen Coulthard's<sup>6</sup> theory of recognition politics informs the study's assessment of state-led reconciliation efforts. The "Two-Eyed Seeing" approach—advanced by Mi'kmaq Elder Albert Marshall and Cheryl Bartlett—<sup>7</sup>guides the discussion of integration of Traditional Knowledge (TK) and Western science. Finally, the treaty interpretation principles of Harold Cardinal and Walter Hildebrandt<sup>8</sup> emphasize the relational, nation-to-nation obligations embedded in agreements like the UFA. In addition, Rob Nixon's concept of *slow violence*<sup>9</sup> highlights how incremental, often invisible harms from extractive industries accumulate over time, while Kyle Whyte's framing of *environmental justice*<sup>10</sup> underscores the intergenerational and relational impacts of these harms on Indigenous governance, knowledge systems, and community wellbeing. These frameworks provide a critical lens for examining YESAB's performance as both a recommendation body and

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<sup>5</sup> Paul Nadasdy, *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the Southwest Yukon* (Vancouver: University of British Columbia Press, 2003).

<sup>6</sup> Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota, 2009).

<sup>7</sup> Cheryl Bartlett, Murdena Marshall, and Albert Marshall, "Two-Eyed Seeing and Other Lessons Learned within a Co-Learning Journey of Bringing Together Indigenous and Mainstream Knowledges and Ways of Knowing," *Journal of Environmental Studies and Sciences* 2 (2012): 331–40.

<sup>8</sup> Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our Dream Is That Our Peoples Will One Day Be Clearly Recognized as Nations* (Calgary, Alberta: University of Calgary Press, 2013).

<sup>9</sup> Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Harvard University Press, 2011).

<sup>10</sup> Kyle Whyte, "Indigenous Experience, Environmental Justice and Settler Colonialism," in *Nature and Experience: Phenomenology and Teh Environment*, ed. Brian Bannon (2016), <https://papers.ssrn.com/abstract=2770058>.

a treaty-implementing institution. Together, these frameworks enable a critical assessment that moves beyond procedural evaluation to uncover the deeper structural and relational dynamics shaping the Development Assessment Process as it operates under the UFA.

This dissertation evaluates YESAB’s performance through the lens of the eight objectives established in Chapter 12 of the UFA. These objectives, which range from protecting heritage to avoiding procedural duplication, offer a comprehensive framework for examining whether the assessment process advances or undermines Indigenous self-determination. The analysis is anchored in interviews with 35 stakeholders—ranging from past/present YFNs Self-Government officials, past/present YESAB staff, past/present YWB staff, to legal experts, mining proponents, and Yukon-based environmental NGOs.

Ultimately, this study contributes to both academic and applied discussions about the future of impact assessment in Canada’s treaty territories. It proposes specific institutional and legislative reforms to better align YESAB’s operations with the UFA’s vision. In doing so, it seeks to support the development of more culturally grounded, legally faithful, and ecologically responsive models of co-governance.

### **1.1. Research Questions and Objectives**

This study is guided by three primary research questions.

1. To what extent does the YESAB fulfill the spirit and intent of the UFA, particularly the [objectives as outlined in Chapter 12](#), which governs the Development Assessment Process for managing environmental and socio-economic impacts within the Traditional Territories of the Tr’ondëk Hwëch’in and the Northern Tutchone Nations<sup>11</sup>?

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<sup>11</sup> Northern Tutchone Nations include: First Nation of Na-Cho Nyäk Dun, Selkirk First Nation, and Little Slamon Carmacks First Nation.

2. What are the key strengths and weaknesses of YESAB's impact assessment processes in terms of their comprehensiveness, inclusivity, and responsiveness to the needs and perspectives of both Indigenous and non-Indigenous Yukoners, particularly regarding environmental stewardship, cultural relevance, and community wellbeing?
3. How do other institutions and actors involved in the broader Development Assessment Process influence YESAB's capacity to fulfill its treaty-mandated responsibilities under the UFA?

These questions are pursued through a detailed examination of YESAB's approach to evaluating mining proposals, its integration within the larger regulatory and governance landscape described by the UFA, and its practical alignment with principles of co-management, environmental sustainability, and socio-economic equity. By addressing these objectives, this dissertation aspires to offer nuanced insights into the challenges and opportunities inherent in implementing modern treaties. In doing so, it contributes to broader conversations on how to meaningfully uphold Indigenous Rights, foster sustainable regional development, and realize the collaborative governance envisioned in the UFA.

## **1.2. Scope of the Study and Participation Selection**

The scope of this study is geographically focused on the Traditional Territories of the Tr'ondëk Hwëch'in and Northern Tutchone Nations, with particular attention to the YESAB Dawson and Mayo districts—two regions that have experienced the most intensive mining activity and therefore project development in the Yukon. Thematically, the research centers on the environmental and socio-economic assessment of mining projects, which constitute the majority of proposals reviewed through the Development Assessment Process and YESAB. Mining was selected as the focal point due to both its overwhelming presence in the Yukon's

regulatory landscape and its historical role in shaping the development of Chapter 12 of the UFA. That chapter, which outlines the legal framework for the Development Assessment Process, emerged in response to decades of unchecked mineral extraction that disproportionately impacted YFNs and their lands.

This study draws on 35 in-depth interviews with individuals directly involved in mining-related assessments within the Dawson and Mayo YESAB districts. Participants were selected through purposive and snowball sampling to capture a wide range of perspectives and institutional roles. The interview cohort included current and former YESAB staff, past and present YFN Lands Department employees, legal professionals, environmental consultants, territorial government officials, past and current members of the Yukon Water Board, representatives from environmental NGOs, and mining industry actors. Approximately one-third of participants identified as Indigenous, and their voices are central to the analysis, offering culturally grounded and place-based insights into the practice of impact assessment. All participants had direct experience with YESAB processes in the study regions, enabling a localized and contextually rich examination of how environmental governance and treaty implementation unfold in areas under significant extractive pressure.

### **1.3. Positionality**

Living and working in Yukon communities for over a decade has been profoundly transformative, both personally and professionally. I am non-Indigenous. Immersion in these communities has fundamentally shaped my understanding of the issues that matter most to those who live there and has significantly deepened my capacity to engage in community-based

participatory research<sup>12</sup> in authentic and meaningful ways. The relationships and friendships I’ve built over the years have enabled me to move beyond surface-level observations and develop a more nuanced understanding of the historical, cultural, and socio-economic contexts that inform daily life in Yukon. These connections have not only enriched my research but have also made it possible to collaboratively identify priorities that reflect the needs and aspirations of community members. As McCartney et al. emphasize, sustained engagement and respect for Indigenous governance and knowledge systems are critical to conducting ethical research in Indigenous contexts—a principle that has guided my approach throughout.<sup>13</sup>

When I first arrived in the Yukon in 2014 to live and work on the Traditional Territory of Selkirk First Nation (SFN), I could not have anticipated the profound impact the land and its people would have on me. Living in the Northern Tutchone community for three years offered invaluable exposure to the lived experiences, stories, and perspectives of YFNs. I vividly recall learning from SFN citizens about the forced relocations in the 1950s that followed the construction of the Klondike Highway. At the time, I only grasped fragments of these narratives. It was not until I pursued my MA at the University of Alaska Fairbanks—where I studied Indigenous–Crown relations in Canada and the Yukon—that I began to connect these stories to broader patterns of colonial policy and historical displacement. This academic grounding enabled me to fully appreciate the depth and ongoing impacts of these histories and how they continue to shape community realities today.

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<sup>12</sup> Arctic Institute of Community-Based Research, “Community-Based Research,” AICBR: For Northern Health and Well-Being, accessed November 15, 2023, <https://www.aicbr.ca/community-based-research>.

<sup>13</sup> Leslie McCartney et al., “Publishing Our Whole Gwich’in Way of Life Has Changed— Gwich’in K’yuu Gwiidandài’ Tthak Ejuk Gòonlih: Stories from the People of the Land after Two Decades of Decisions,” *The Oral History Review*, n.d.

Returning to the Yukon after completing my MA was a deliberate decision, rooted in a strong desire to remain connected to the region and its people. Teaching the course *History of Yukon First Nations and Self-Government* at Yukon University was especially rewarding, as it allowed me to share what I had learned while continuing to expand my own understanding of YFN governance and history. This period further solidified my commitment to conducting research that is academically rigorous, relationally accountable, and community-driven. When I began my doctoral studies at Trent University, I knew that my research focus would remain on the Yukon and that Community-Based Research would form the core of my methodological approach.

One of the most significant outcomes of this collaborative approach was the identification of YESAB as a central focus of inquiry. This direction emerged through conversations with both members of the First Nation of Na-Cho Nyäk Dun (FNNND) and longtime residents and researchers in the area, such as Mark O'Donoghue, who emphasized the need to critically assess YESAB's effectiveness. Accepting a position with YESAB in 2022 provided me with firsthand insight into the institution's operations, challenges, and internal pressures. My current role as an Impact Assessment Officer with FNNND has since given me an invaluable community-level perspective on how impact assessments are experienced by YFNs. This dual lens—spanning both institutional and community contexts—has been essential to my research, underscoring the value of community-based participatory research in exploring complex systems of environmental governance.

Ultimately, over a decade of living in Yukon communities has afforded me a rare opportunity to cultivate a deep and empathetic understanding of the region's socio-political and cultural landscapes. This immersion has been essential for building the trust and reciprocal

relationships that community-based participatory research requires. By embedding myself in the communities I study, I have been able to co-create knowledge with those most directly affected by the issues at hand. As McCartney et al. affirm, research rooted in respectful collaboration not only strengthens scholarly inquiry but also affirms the resilience, agency, and leadership of Indigenous communities.<sup>14</sup>

#### **1.4. Structure of the Dissertation**

Following this introduction, Chapter 2 presents a literature review discussing theoretical frameworks on Indigenous-Crown relations and treaty implementation as well as impact assessment in relation to resource extraction. Chapter 3 describes the methodology in greater detail, outlining the research questions, information collection methods, and analytical approaches. Chapter 4 provides the historical and contemporary context of mining and impact assessments in the Yukon, setting the stage for a deeper understanding of the issues at play. Chapter 5, 6 and 7 presents the results, analyzing participant perspectives on *YESAA*'s effectiveness and the impact of external influences. Each results chapter focuses on one of the research questions posed in this study. Chapter 8 critically evaluates *YESAB*'s alignment with the spirit and intent of the UFA—particularly Chapter 12—discussing systemic barriers, limited integration of Indigenous perspectives, and structural shortcomings within the broader Development Assessment Process that hinder its ability to uphold co-governance, sustainability, and treaty obligations in the Yukon. Finally, the dissertation concludes with Chapter 9: Conclusion with an overview of the findings, recommendations for *YESAB*'s improvement, suggested legal reforms, and proposed further studies.

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<sup>14</sup> McCartney et al., “Publishing Our Whole Gwich’in Way of Life Has Changed— Gwich’in K’yuu Gwiidandàì’ Tthak Ejuk Gòonlih: Stories from the People of the Land after Two Decades of Decisions.”

### *1.4.1 Chapter 2: Literature Review*

This extensive literature review sets out to map the theoretical landscape surrounding Indigenous Rights and Treaty implementations in Canada, with a specific focus on the Yukon and the Development Assessment Process. It scrutinizes different frameworks that evaluate the interactions between Indigenous communities and the state, particularly in light of the ongoing challenges of colonial structures. The chapter critically assesses the arguments presented by scholars such as Coulthard and Nadasdy, who argue that state-led recognition and co-management strategies often perpetuate colonial structures instead of dismantling them. It contrasts these views with those of Cardinal and Hildebrandt, who emphasize using treaty obligations to foster equitable resource sharing. Bartlett and Marshall's "Two-Eyed Seeing" framework suggests integrating Indigenous and Western knowledge systems to achieve fair governance.

The chapter also examines the role of impact assessment in resource extraction, focusing on its capacity to effectively initiate co-management with Indigenous Peoples and the challenges therein. Significant attention is paid to the theoretical and practical critiques of how impact assessment and other co-management processes often marginalize Indigenous epistemologies in favor of Western frameworks. The literature suggests that while impact assessments have evolved to include considerations of Indigenous Rights and TK, systemic barriers still hinder their effective integration. It highlights the academic discussion around the challenges in achieving genuine integration of Indigenous perspectives and Rights in colonial government frameworks, often due to systemic barriers and inadequate methodologies that fail to fully respect Indigenous epistemologies. Lastly, the review addresses the need for ongoing research in assessment processes to better understand how to reflect the principles of equity, sustainability, and reconciliation outlined in treaties and legal frameworks. This chapter not only reviews

existing theories but also identifies gaps in the literature, particularly relating to the unique contexts of the Yukon's Development Assessment Process in relation to mining, setting the stage for the empirical research that follows.

#### *1.4.2 Chapter 3: Methodology*

Chapter 3 outlines how this study adopts a multi-faceted, ethically grounded methodology rooted in Indigenous research principles and Constructive Grounded Theory to explore how YESAB aligns with Chapter 12 of the UFA. Constructive Grounded Theory provides a flexible, iterative, and co-constructed approach to information collection and analysis, emphasizing participant perspectives and researcher reflexivity throughout the process. Reflexivity played a central role, requiring me to continually examine my positionality, particularly given my long-term residence and work in Yukon communities.

This research was grounded in Indigenous research methodologies and ethical frameworks, including OCAP Principles, TCPS2, UNDRIP, Sámi protocols, and the Arctic Institute's community-based participatory research principles, emphasizing relational accountability, informed consent, and reciprocal engagement with Yukon First Nations (YFNs). Analysis combined community-validated transcriptions, NVivo-supported thematic coding, and document review to integrate both Indigenous and external perspectives within a rigorous, historically contextualized framework. Overall, this methodology reflects a commitment to making a theoretical contribution to the literature using community-driven, ethically responsible, and culturally informed research that centers Indigenous voices and seeks to produce meaningful, grounded insights into the Yukon's impact assessment regime.

### 1.4.3 Chapter 4: Context

Chapter 4 explores the historical and contemporary context of impact assessment in the Yukon, particularly as it relates to mining. It lays the foundation for understanding the perspectives shared by participants in later chapters by reviewing the evolution of mining practices, legislation, and assessment frameworks, along with the broader socio-political developments impacting YFNs.

Mining has been central to the Yukon's colonial identity and economy for over a century, bringing both economic development and significant environmental and social consequences.<sup>15</sup> While mining has spurred infrastructure and job creation, profits often flow to external companies, leaving local communities to manage the costs of environmental degradation and economic volatility. The 2024 Victoria Gold Mine Disaster<sup>16</sup> exemplifies regulatory and ecological vulnerabilities. Meanwhile, outdated mining legislation, such as the Quartz and Placer Mining Acts, remains misaligned with current priorities of Indigenous consultation and environmental sustainability.

The foundation of Indigenous resistance and governance in the Yukon began with *Together Today for Our Children Tomorrow* in 1973, a transformative document by the Council of Yukon Indians. It called for land rights, sustainability, and agency in development decisions, which culminated in the UFA of 1993. Chapter 12 of the UFA established the Development Assessment Process, later formalized as *YESAA* in 2003. The chapter's objectives outlined that

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<sup>15</sup> Kenneth Coates, *Best Left as Indians: Native-White Relations in the Yukon Territory, 1840-1973* (Quebec City: McGill-Queen's University Press, 1991).

<sup>16</sup> The *Victoria Gold Disaster* refers to a major tailings pond failure and toxic wastewater spill at the Eagle Gold Mine near Mayo, Yukon, operated by Victoria Gold Corp. The incident raised serious concerns about regulatory oversight, environmental protection, and the long-term impacts of mining on local ecosystems and nearby First Nations communities, particularly the FNNND.

development projects are to be evaluated for their potential impacts on the environment, people, and communities, with meaningful participation from YFNs and other stakeholders.

YESAB, the body responsible for impact assessment in the Yukon, emerged to ensure co-managed, regionally tailored evaluations. It replaced federal assessment regimes like Environmental Assessment Review Process and Canadian Environmental Assessment Act. Certain legal cases relating to impact assessment in the Yukon underscore the ongoing need for stronger treaty compliance, meaningful consultation, and environmental protection. Together, these historical and legal developments underscore the deep entanglement of mining, governance, and Indigenous rights in the Yukon, setting the stage for a critical examination of how impact assessment is practiced—and contested—on the ground today.

#### *1.4.4 Chapter 5, 6, and 7: Results*

The findings of this dissertation are presented across three results chapters—Chapters 5, 6, and 7—each aligned with one of the central research questions and grounded in in-depth interviews with 35 participants who have direct experience with YESAB and the broader Development Assessment Process in the Yukon.

- **Chapter 5** examines the extent to which YESAB fulfills the *spirit and intent of the UFA*, particularly Chapter 12, which outlines the Development Assessment Process. Drawing from participant reflections, this chapter explores how well the assessment system upholds foundational treaty values such as co-governance, meaningful Indigenous participation, and environmental protection.
- **Chapter 6** shifts focus to the second research question and critically assesses the *strengths and weaknesses of YESAB's impact assessment processes*. The chapter

investigates how comprehensive, inclusive, and responsive the system is to the needs of Yukoners and YFNs. Participants recognize key improvements and systemic gaps.

- **Chapter 7** responds to the third research question by analyzing how *external institutions and actors influence YESAB's capacity* to fulfill its mandate. Participants emphasize that YESAB does not operate in isolation; its effectiveness is shaped by the mandates and actions of decision bodies such as the YWB, territorial and federal governments, and YFNs themselves. The chapter unpacks how political pressure, jurisdictional overlap, and legislative gaps affect YESAB's ability to implement Chapter 12 in full alignment with its treaty commitments.

Together, these three chapters offer a comprehensive, multi-perspective analysis of YESAB's role within the Yukon's development landscape. They trace both institutional progress and persistent structural barriers, setting the stage for the broader discussion in Chapter 8.

#### *1.4.5 Chapter 8: Discussion*

Chapter 8 explores how YESAB aligns with the spirit and intent of the UFA, with a specific focus on the objectives outlined in Chapter 12. It also evaluates the strengths and limitations of YESAB's impact assessment processes in terms of inclusivity, responsiveness, and comprehensiveness—especially for YFNs. Grounded in the interviews outlined in the previous chapters and interpreted through four theoretical frameworks—Nadasdy's critique of technocracy, Coulthard's emphasis on Indigenous resurgence, Two-Eyed Seeing, and Cardinal & Hildebrandt's treaty lens—the chapter critically examines how governance, power, and knowledge shape the Development Assessment Process. In addition, Nixon's concept of *slow violence* illuminates how long-term, cumulative ecological harms often remain obscured within assessment processes, while Whyte's framing of *environmental justice* emphasizes the

disproportionate and intergenerational impacts of such harms on Indigenous peoples and their governance systems.

Organized around the eight objectives of UFA Chapter 12.1.1, the chapter evaluates YESAB's performance and its role within the broader Development Assessment Process.

#### *1.4.6 Chapter 9: Conclusion*

This dissertation concludes by situating YESAB within the broader struggle for treaty implementation, Indigenous Rights, and environmental justice. It reaffirms the importance of Chapter 12 of the UFA as a legal and ethical framework for co-governance in development assessment. The conclusion reflects on how the findings outline how that despite its co-governance intent, the YESAB process often marginalizes Indigenous perspectives through symbolic consultation, narrow technical focus, and structural barriers, highlighting the urgent need for substantive reforms to uphold treaty commitments and foster more just, inclusive, and ecologically responsible impact assessments in the Yukon. It also identifies areas where YESAB's current structure and legislative mandate limit its ability to advance Indigenous jurisdiction, cumulative impact recognition, and cultural inclusion. In response, the dissertation presents a series of forward-looking institutional and legislative reforms aimed at realigning YESAB with the UFA's original intent. Finally, it calls for a paradigm shift—toward models of environmental governance grounded in Indigenous law, cultural continuity, and land-based responsibility. The future of YESAB, it argues, will reflect the broader trajectory of reconciliation and treaty fulfillment in Canada. Despite its co-governance intent, the YESAB process often marginalizes Indigenous perspectives through symbolic consultation, narrow technical focus, and structural barriers, highlighting the urgent need for substantive reforms to

uphold treaty commitments and foster more just, inclusive, and ecologically responsible impact assessments in the Yukon.

## Chapter 2: Literature Review

### 2.1 Introduction to Theoretical Framework

A comprehensive analysis of Indigenous-Crown relationships and treaty implementation requires a theoretical framework that considers both historical injustices and potential avenues for equitable governance. Coulthard<sup>17</sup> critiques state-led recognition — such as the government's formal acknowledgment of Indigenous Rights, cultures, or self-governance — for perpetuating colonial power dynamics, while Nadasdy<sup>18</sup> asserts that co-management often undermines Indigenous autonomy by embedding it within state-centric structures. Differing perspectives are presented by Cardinal and Hildebrandt<sup>19</sup> who emphasize the importance of fulfilling treaty obligations and ensuring equitable resource sharing while Bartlett and Marshall's "Two-Eyed Seeing" framework<sup>20</sup> further supports the value of integrating Indigenous and Western knowledge systems to achieve fair and inclusive governance. Although Coulthard and Nadasdy advocate for solutions that operate outside colonial frameworks, Cardinal, Hildebrandt as well as Bartlett and Marshall focus on decolonization through partnership models and shared authority. Together, these perspectives critique existing colonial hierarchies in resource and land management while offering alternative frameworks aimed at sustainable and equitable collaboration.

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<sup>17</sup> Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. Coulthard's work is also complimented by Lorenzo Veracini, *Settler colonialism: A Theoretical Overview* (New York: Palgrave Macmillan, 2010). Veracini's analysis of settler colonialism as a structure of ongoing domination complements Coulthard's critique of recognition politics by showing how state-led gestures of inclusion often sustain, rather than dismantle, the very colonial frameworks that Indigenous resurgence seeks to resist.

<sup>18</sup> Nadasdy, *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the Southwest Yukon*.

<sup>19</sup> Harold Cardinal and Walter Hildebrandt, *Treaty Elders of Saskatchewan: Our Dream Is That Our Peoples Will One Day Be Clearly Recognized as Nations* (Calgary, Alberta: University of Calgary Press, 2013).

<sup>20</sup> Bartlett, Marshall, and Marshall, "Two-Eyed Seeing and Other Lessons Learned within a Co-Learning Journey of Bringing Together Indigenous and Mainstream Knowledges and Ways of Knowing."

The recent literature around Indigenous Rights has called for resurgence and intersectionality that recognizes on-going colonization through state-led actions. These concepts have been foregrounded by Coulthard, who critiques the “politics of recognition,” where settler states recognize Indigenous Rights and identities through legal and institutional frameworks. He argues that the approach of recognizing the state reinforces colonial structures rather than dismantling them.<sup>21</sup> Nadasdy also adds to this through his critiques of how Indigenous Knowledge and governance systems are integrated into settler bureaucracies, often reshaping them to fit colonial norms and undermining Indigenous autonomy. His work explores the interplay between Indigenous resource management and state-driven environmental governance while analyzing how co-management agreements alter Indigenous practices, values, and power dynamics while also marginalizing Indigenous epistemologies in favor of Western frameworks.<sup>22</sup> Both Coulthard and Nadasdy emphasize the structural and epistemological impacts of settler colonialism, offering complementary critiques of how Indigenous Rights and Knowledge are shaped, constrained, or co-opted by state mechanisms. The Coulthard/Nadasdy framework underscores the need for transformative approaches in the Yukon’s land management that genuinely prioritize Indigenous sovereignty and worldviews, moving beyond recognition and bureaucratic constraints. The framework reveals the potential gap between the spirit and intent of modern treaties such as the Umbrella Final Agreement (UFA) in the Yukon—centered on sovereignty and reconciliation—and their implementation, which may reproduce colonial structures. Coulthard /Nadasdy seek to work outside of the current systems offered by the state to

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<sup>21</sup> Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*.

<sup>22</sup> Nadasdy, *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the Southwest Yukon*.

Indigenous Peoples to rectify power imbalances and assert Indigenous perspectives on relationships with the land and water.

In contrast, some scholars look for solutions within the colonial system, strongly emphasizing implementation of treaty promises. Cardinal and Hildebrandt<sup>23</sup> specifically focus on the Crown's obligations to honor the economic promises embedded in treaties that would facilitate resource sharing and economic reconciliation. They stress that treaties reflect a spirit of partnership rooted in mutual respect, where economic sharing was intended as a cornerstone. This framework underscores the importance of fulfilling the economic commitments outlined in treaty agreements and advancing reconciliation through equitable resource sharing and economic empowerment of Indigenous Nations. The Two-Eyed Seeing approach was developed first by Bartlett and Marshall,<sup>24</sup> who described the concept as a need for the integration of Indigenous and Western knowledge systems to achieve equitable outcomes that would in turn promote respect for diverse epistemologies in decision-making. This concept can be broadened to include shared authority in other areas, such as decision-making power that is equally distributed between Indigenous Governments and the Crown through mechanisms such as equal representation in boards, joint veto powers, and consensus-driven decisions. It can even be applied to legal pluralism that would recognize Indigenous legal traditions alongside Canadian common law as valid and coexisting systems of governance to ensure that resource management respects Indigenous laws, customs, and practices. By centering equality, shared authority, and respect for Traditional Knowledge (TK) and governance, this framework provides a foundation for creating equitable and sustainable co-management systems.

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<sup>23</sup> Cardinal and Hildebrandt, *Treaty Elders of Saskatchewan: Our Dream Is That Our Peoples Will One Day Be Clearly Recognized as Nations*.

<sup>24</sup> Bartlett, Marshall, and Marshall, "Two-Eyed Seeing and Other Lessons Learned within a Co-Learning Journey of Bringing Together Indigenous and Mainstream Knowledges and Ways of Knowing."

Like the Coulthard/Nadasdy theoretical framework described above, the Cardinal/Hildebrandt/Bartlett et al. framework seeks to challenge colonial hierarchies that marginalize Indigenous voices in resource and land management through equitable agency in the decision-making process that would in turn facilitate equal benefits. The Cardinal/Hildebrandt/Bartlett et al. framework is grounded in the principles articulated by Treaty Elders, emphasizing that treaties were not mere land transactions, but sacred nation-to-nation agreements rooted in mutual respect, ongoing relationship, and shared stewardship of the land. It promotes a vision of decolonization that centers Indigenous legal traditions and knowledge systems while fostering partnership and mutual recognition between First Nations and non-Indigenous governments. These frameworks contradict each other in that the Cardinal/Hildebrandt/Bartlett et al. framework emphasizes decolonization and partnership as essential to achieving meaningful collaboration between First Nations and non-Indigenous stakeholders. Coulthard and Nadasdy do not focus on partnership and instead look for methods outside of the colonial system to achieve better assertion of sovereignty that would benefit Indigenous Nations.

## **2.2 Indigenous Rights within the Modern Treaties Era**

Scholars have discussed extensively the evolution of Indigenous Rights in Canada that have been shaped by historical struggles, legal developments, and systemic marginalization. Slattery<sup>25</sup> situates Indigenous Rights as foundational to Canada's legal structure, rooted in pre-existing Indigenous legal systems and historical relationships with colonial powers. He argues that these rights were not granted by colonial governments but recognized as inherent and

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<sup>25</sup> Brian Slattery, "The Legal Basis of Aboriginal Title," *Canadian Bar Review* 61, no. 2 (1984): 260–92.

established prior to European settlement. Despite this foundational recognition, McNab<sup>26</sup> explores how colonial policies, such as the *Indian Act* and residential schools, systematically denied these rights. These mechanisms suppressed Indigenous sovereignty, cultures, and economies, creating structural inequalities that persist in modern Canada and shaping the context for ongoing struggles for recognition and justice.

### 2.2.1 *Legal Precedents and the Rise of Modern Treaty Processes*

Amid systemic barriers, Indigenous leaders and allies have turned to legal challenges to affirm Indigenous rights. Sanders<sup>27</sup> asserts the pivotal effects of the *Calder v. Attorney-General of British Columbia* (1973) case, which affirmed the existence of Aboriginal title rooted in Indigenous Peoples' historical occupancy of the land. The *Calder* decision, while not unanimous, marked a significant moment in Canadian jurisprudence, pressuring the federal government to establish the Office of Native Claims in 1974 to address unresolved grievances and begin modern treaty processes. These legal shifts laid the groundwork for further advancements in Indigenous Rights but also exposed tensions between recognition and reconciliation. In this context, the concept of "Citizens-Plus" played a significant role in reshaping policy and public discourse. Introduced in the *Hawthorn Report* (1967) and later expanded by Cairns in *Citizens Plus: Aboriginal Peoples and the Canadian State*,<sup>28</sup> the term reflects the idea that Indigenous Peoples should retain their cultural identities and traditional rights while also benefiting from the full rights of Canadian citizenship. Cairns emphasizes that this framework rejects the assimilationist policies of the past, advocating for a model that acknowledges Indigenous

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<sup>26</sup> David T. McNab, *No Place for Fairness: Indigenous Land Rights and Policy in the Bear Island Case and Beyond* (Montreal, Quebec: McGill-Queen's University Press, 2009).

<sup>27</sup> Baker Sanders Douglas E., "The Indian Act and the Future of Aboriginal Self-Government," *Canadian Bar Review* 68, no. 2 (1990): 190–211.

<sup>28</sup> Alan C. Cairns, *Citizens Plus: Aboriginal Peoples and the Canadian State* (UBC Press, 2000).

sovereignty and self-determination within the Canadian state. Cairns critiques the limited implementation of the *Hawthorn Report's* recommendations, noting that settler institutions often resisted the structural changes needed to achieve genuine equity.

### 2.2.2 *Critiques of State-Centric Reconciliation and Legalism*

Simultaneously, scholars have critiqued the broader political and legal frameworks within which Indigenous Rights have been negotiated. Blackburn<sup>29</sup> critically examines reconciliation processes, arguing that they are often structured to reflect state-centered priorities, whereby Indigenous claims are constrained within existing colonial legal and political structures. She highlights how these processes, though framed as progressive or benevolent, frequently reproduce systemic inequities by legitimizing the state's sovereignty over contested territories, thereby maintaining colonial control while projecting an image of fairness and inclusion. Rather than enabling genuine self-determination, such frameworks often co-opt Indigenous participation without redistributing power or authority. Asch<sup>30</sup> complements this critique by asserting that treaties should be interpreted not as historical relics or legalistic obligations but as enduring agreements premised on mutual benefit, recognition, and coexistence. He contends that the original intent of treaties was to establish ongoing relationships between sovereign nations, and thus, modern treaty processes should reflect this foundational principle by affirming Indigenous Peoples as equal partners in governance, environmental stewardship, and cultural resurgence. Both scholars advocate for a transformative shift away from assimilative policy models toward frameworks that honor Indigenous legal orders and knowledge systems.

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<sup>29</sup> Carole Blackburn, "The Treaty Relationship and Settler Colonialism in Canada," in *Shifting Forms of Continental Colonialism: Unfinished Struggles and Tensions*, ed. D. MacDonald and T. Bruno (Singapore: Springer, 2019), 253–70.

<sup>30</sup> Michael Asch, *On Being Here to Stay: Treaties and Aboriginal Rights in Canada* (Toronto: University of Toronto Press, 2014).

This shift is embodied in the Two-Eyed Seeing approach, which calls for the respectful co-existence of Indigenous and Western knowledge systems. Two-Eyed Seeing encourages seeing the world from one eye with the strengths of Indigenous knowledges and from the other with the strengths of Western scientific perspectives, using both eyes together for the benefit of all. Within the context of governance, reconciliation, and resource management, this approach resists the dominance of either system by promoting mutual respect, relational accountability, and co-learning. It supports the kind of partnership envisioned by Asch, where Indigenous Peoples are not merely stakeholders but co-governors with distinct and legitimate knowledge traditions. In this way, Two-Eyed Seeing offers a practical and philosophical framework for realizing the kind of equity and collaboration that state-centric reconciliation processes, as critiqued by Blackburn, too often fail to achieve.

Cairns and Asch advocate that while legal victories like *Calder* have established critical precedents, the incorporation of Indigenous perspectives reveals ongoing tensions between state-led frameworks and the pursuit of true self-determination. Scholars like Slattery and McNab underscore the historical and structural roots of Indigenous marginalization, while critiques from Blackburn and Pasternak<sup>31</sup> emphasize the limitations of existing reconciliation models. Together, these works assert the importance of moving beyond recognition-based frameworks toward decolonized governance that prioritizes Indigenous sovereignty and equity.

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<sup>31</sup> Shiri Pasternak, *Grounded Authority: The Algonquins of Barriere Lake Against the State* (Minneapolis: University of Minnesota Press, 2017).

### 2.2.3 *Indigenous Wellbeing*

Tsuji et al.<sup>32</sup> explore the multifaceted concept of wellbeing as understood by Indigenous Peoples in Canada, emphasizing the integral relationship between health, culture, and the land. The study asserts that for Indigenous communities, wellbeing is not merely a matter of physical health but encompasses mental, emotional, spiritual, and cultural dimensions—each deeply interwoven with land-based practices and relationships. Through perspectives gathered from Indigenous participants across Canada, the authors illustrate how the land is viewed as a “lifeline” and “bloodline,” central to sustaining cultural identity, spiritual connection, and intergenerational continuity. Activities such as hunting, fishing, and foraging are not only subsistence strategies but also culturally meaningful practices that transmit Traditional Knowledge, reinforce community cohesion, and nurture responsibility toward the land.

The research underscores that colonial disruptions—via resource extraction, displacement, and policy control—have deeply undermined these relationships, negatively impacting Indigenous health and collective wellbeing. These insights align with the Coulthard/Nadasdy framework by challenging the colonial state’s framing of land as a commodity and affirming land as a relational, living presence central to Indigenous sovereignty and identity. Tsuji et al.’s call to recognize land as foundational to health and culture echoes the push to reject settler-centric models in favor of Indigenous understandings of territory, authority, and governance.

At the same time, the research connects with the Cardinal/Hildebrandt/Bartlett et al. framework by pointing to the need for collaborative, policy-level integration of Indigenous

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<sup>32</sup> Stephen R. J. Tsuji et al., “What Is Wellbeing, and What Is Important for Wellbeing? Indigenous Voices from across Canada,” *International Journal of Environmental Research and Public Health* 20, no. 17 (2023): 6656–, <https://doi.org/10.3390/ijerph20176656>.

worldviews. The emphasis on rebuilding land-based practices and health systems through mutual respect and institutional partnership reflects a treaty-based approach that encourages reconciliation through shared responsibility and co-developed solutions. Tsuji et al.'s advocacy for policy change is grounded in the idea that Indigenous Peoples must be active agents in shaping systems that affect their lives and lands.

Furthermore, the study reflects the ethos of Two-Eyed Seeing through its implicit support for weaving together Indigenous knowledge and Western scientific frameworks. By acknowledging the holistic nature of Indigenous health perspectives and advocating for their inclusion in public health and environmental governance, the research supports a balanced, pluralistic approach to sustainability. It demonstrates how bringing together multiple ways of knowing—without subsuming one under the other—can lead to more effective, equitable, and culturally respectful policies that promote collective wellbeing for all communities.

Turner<sup>33</sup> furthers this discussion by arguing the importance of Indigenous voices in environmental governance, emphasizing how Indigenous philosophies and practices of land stewardship are critical for creating sustainable environmental frameworks. Central to this idea is the recognition that TK systems are rooted in millennia of interaction with specific ecosystems, resulting in a deep understanding of ecological balance, biodiversity, and sustainable resource management. Turner's emphasis on Indigenous participation in environmental governance aligns with the concept of Two-Eyed Seeing, that advocates for integrating Indigenous and Western knowledge systems to achieve more comprehensive and equitable solutions to environmental challenges. Nadasdy also supports this view, demonstrating how Indigenous land management practices can enhance conservation outcomes and resist unsustainable exploitation. By centering

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<sup>33</sup> Dale Turner, *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy* (Toronto: University of Toronto Press, 2006).

Indigenous voices in environmental governance, Turner advocates for a transformative shift that prioritizes sustainability, respects diverse epistemologies, and addresses the legacies of colonialism in environmental decision-making.

Pasternak<sup>34</sup> also adds to the conversation the intrinsic connection between Indigenous Rights and environmental protection, introducing the concept of “grounded authority,” which describes the Algonquin of Barriere Lake’s sovereignty as rooted in their intimate connection to the land and their governance practices based on Indigenous legal traditions. These practices are rooted in balance and reciprocity, offering solutions to broader environmental crises caused by colonial exploitation. Securing land rights, Pasternak argues, is essential for both justice and ecological integrity. Coulthard’s critique of the “politics of recognition” aligns with Pasternak’s perspective, illustrating how state-led land claims processes often uphold colonial hierarchies, limiting Indigenous sovereignty and prioritizing resource exploitation over ecological values. Coulthard’s call for land-based resurgence supports Pasternak’s assertion that environmental protection requires Indigenous-led frameworks. Similarly, Nadasdy critiques co-management systems for embedding Indigenous governance into colonial bureaucracies, often marginalizing Indigenous perspectives. Pasternak echoes this concern, arguing that true sustainability demands Indigenous autonomy and self-determination. Together, Pasternak, Coulthard, and Nadasdy advocate for transformative governance frameworks that prioritize Indigenous stewardship and challenge extractive colonial models. Their work underscores the need for land rights and Indigenous-led practices to ensure ecological balance, cultural preservation, and long-term sustainability.

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<sup>34</sup> Pasternak, *Grounded Authority: The Algonquins of Barriere Lake Against the State*.

This critical intersection of Indigenous Rights and environmental stewardship, as outlined by Pasternak, Coulthard, and Nadasdy, provides a foundational lens for understanding how modern agreements like the UFA signify a departure from colonial assimilation policies by embedding principles of Indigenous self-determination and ecological sustainability into governance frameworks. Similar to Pasternak, Alcantara<sup>35</sup> examines land as central to the exercise of Indigenous sovereignty and as a site of tension in Indigenous-state relations. Also similar to Pasternak, Alcantara critiques the systemic power imbalances between the colonial state and Indigenous communities, but he specifically focuses on the negotiation process of land claims in the Yukon. He discusses how the UFA negotiation process required extensive collaboration between YFNs and federal/territorial governments and were marked by efforts to build trust and work toward mutually beneficial outcomes, despite the inherent power imbalances. He points out that although the UFA set a precedent for other agreements in Canada as it allowed YFNs to achieve Self-Government, the implementation of the treaty has been complex and uneven, citing issues such as power imbalances, funding issues, and jurisdictional complexities. Alcantara identifies the UFA as a model for other comprehensive land claims agreements, emphasizing its potential to provide clarity and structure in complex negotiations. He also notes, however, that its success depends on the willingness of all parties to uphold the spirit of the agreement and address implementation barriers.

Building on Alcantara's analysis of the UFA as both a precedent-setting agreement and a reflection of ongoing power imbalances, the prolonged Yukon treaty negotiations of the 1970s and 1980s provide further insight into how YFNs resisted colonial treaty-making frameworks, challenging the asymmetrical dynamics critiqued by scholars like Coulthard and Nadasdy.

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<sup>35</sup> Christopher Alcantara, *Negotiating the Deal: Comprehensive Land Claims Agreements in Canada* (Toronto/Buffalo/London: University of Toronto Press, 2013).

Baranik<sup>36</sup> explores the delays and eventual breakthroughs in these negotiations, attributing setbacks to YFNs rejection of colonial treaty-making approaches. YFNs opposed extinguishment clauses, insufficient recognition of subsistence harvesting, limited land selection, and the exclusion of non-Status Indians. These grievances underscore broader critiques by Coulthard and Nadasdy of how treaties often serve as instruments of colonial control rather than tools for equity and self-determination. Coulthard's critique of the "politics of recognition" reveals how state-led acknowledgment of Indigenous Rights frequently perpetuates colonial hierarchies. In this view, the recognition offered by the state is conditional, requiring Indigenous Peoples to relinquish their sovereignty in exchange for limited, state-defined rights. The prolonged Yukon negotiations, characterized by resistance to these asymmetrical power dynamics, illustrate YFN's refusal to accept such conditions.

Nadasdy's analysis of co-management further illuminates the challenges of integrating Indigenous governance into state-dominated systems. He critiques how resource management frameworks often marginalize Indigenous autonomy by embedding their knowledge within bureaucratic structures that prioritize Western norms. The eventual success of the Yukon negotiations, which secured land title, co-management rights, and self-government, reflects an effort to counter these tendencies. YFN's insistence on rejecting expedited settlements, such as those seen in the James Bay and Northern Quebec Final Agreement, ensured that their treaties better represented their long-term visions for self-determination.<sup>37</sup> Baranik emphasizes that the delayed negotiations allowed YFN to capitalize on shifting legal and societal understandings of Indigenous Rights in Canada during the 1970s and 1980s. These changes were influenced by

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<sup>36</sup> Lauren A. Baranik, "Indigenous-Crown Relations in Canada and the Yukon: Peel Watershed Case, 2017" (University of Alaska Fairbanks, n.d.).

<sup>37</sup> Baranik, "Indigenous-Crown Relations in Canada and the Yukon: Peel Watershed Case, 2017."

broader movements advocating for Indigenous sovereignty and environmental stewardship. Aligning with Coulthard's and Nadasdy's critiques of colonial structures, much of the literature suggests that the UFA represents a moment where Indigenous persistence challenged entrenched frameworks. The agreement reflects principles of land stewardship, shared governance, and cultural preservation, providing a model for equitable and sustainable Crown-Indigenous partnerships.

### 2.3 Co-Management

Co-management, as defined by Carlsson and Berkes,<sup>38</sup> represents a collaborative governance model that balances power and responsibility between government entities and local resource users. This framework emphasizes mutual trust, equity, and meaningful collaboration, with the inclusion of TK and Indigenous perspectives playing a critical role in decision-making processes. Co-management, when effectively implemented, goes beyond formal partnerships by fostering mutual respect and cooperation, which are essential for creating equitable and sustainable resource management systems.

Natcher et al.,<sup>39</sup> as well as Clark and Joe-Strack,<sup>40</sup> assert the importance of interpersonal relationships in co-management settings, such as the Yukon boards established under the UFA. These scholars argue that positive relationships and trust among stakeholders are often more critical to the long-term success of co-management initiatives than narrow resource-focused objectives. Natcher et al. emphasize that trust-building and collaboration create a foundation for

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<sup>38</sup> Lars Carlsson and Fikret Berkes, "Co-Management: Concepts and Methodological Implications," *Journal of Environmental Management* (Oxford) 75, no. 1 (2005): 65–76, <https://doi.org/10.1016/j.jenvman.2004.11.008>.

<sup>39</sup> David C. Natcher and Susan Davis, "Rethinking Devolution: Challenges for Aboriginal Resource Management in the Yukon Territory," *Society and Natural Resources* 20, no. 3 (2007): 271–79, <https://doi.org/10.1080/08941920601117405>.

<sup>40</sup> Douglas Clark and Jocelyn Joe-Strack, "Keeping the 'Co' in the Co-Management of Northern Resources," *Northern Public Affairs*, 2017.

achieving sustainable outcomes by ensuring that all parties feel respected and included in decision-making processes. Clark and Joe-Strack build on this by stressing that co-management in the Yukon must actively respect Indigenous sovereignty and integrate TK into governance systems. They advocate for a balanced approach that prioritizes Indigenous participation and sustainable stewardship practices. This requires state powers to cede space for Indigenous agency in resource governance, moving beyond colonial power structures.

In this context, Indigenous sovereignty must be understood through an Indigenous lens, not simply as jurisdictional control or state-like autonomy, but as a living expression of Indigenous laws, relationships, and responsibilities to land and community. As Borrows<sup>41</sup> explains, sovereignty is deeply rooted in Indigenous legal orders and is practiced through “relationships with the land, waters, and all living things” rather than merely through legal codification or territorial control. It reflects a holistic worldview where governance is inseparable from ecological stewardship, spirituality, and cultural continuity. This form of sovereignty is not about replacing colonial systems with parallel Indigenous governments but about reclaiming and revitalizing Indigenous systems of governance that have always existed—systems grounded in place-based knowledge, interdependence, and care.

Recognizing and affirming this form of sovereignty within co-management settings requires more than inclusion—it demands structural transformation that respects Indigenous Peoples as self-determining nations with distinct legal and ethical traditions. Synthesizing these perspectives, successful co-management not only aligns ecological and economic goals but also fosters reconciliation by creating equitable systems that center Indigenous voices,

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<sup>41</sup> J. Borrows, “Revitalizing Canada’s Indigenous Constitution: Two Challenges,” in *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*, ed. J. Borrows (Waterloo, Ontario: Centre for International Governance Innovation, 2017), 29–39.

responsibilities, and TK. This approach reflects a deeper understanding of resource stewardship as inherently relational, requiring collaboration rooted in trust, shared purpose, and mutual recognition of governance authority.

The principles of co-management, as discussed by Carlsson, Berkes, Natcher, and Clark and Joe-Strack,<sup>42</sup> align with critiques from Coulthard and Nadasdy regarding colonial power dynamics in governance frameworks. Co-management emphasizes trust, collaboration, and the inclusion of TK, providing a potential pathway for equitable resource management. However, Coulthard critiques this “politics of recognition,” asserting that state-led acknowledgment of Indigenous Rights often reinforces colonial structures. In co-management settings, this occurs when Indigenous participation is granted without genuine power-sharing, limiting sovereignty and autonomy. Coulthard’s call for land-based resurgence underscores the need for co-management to address systemic imbalances. Nadasdy’s work critiques how co-management frameworks often reinterpret Indigenous governance within colonial bureaucracies, diluting the transformative potential of TK. While relationship-building and trust, as emphasized by Natcher and Clark, are critical for co-management success, Nadasdy argues that structural barriers often marginalize Indigenous autonomy. To align with Coulthard and Nadasdy’s visions of decolonization, co-management must prioritize Indigenous leadership, ensure meaningful decision-making power, and fully integrate TK without subordination. Such changes would enable co-management to promote sustainability, equity, and decolonized governance frameworks.

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<sup>42</sup> Carlsson and Berkes, “Co-Management”; David C. Natcher et al., “Co-Management: Managing Relationships, Not Resources,” *Human Organization* 64, no. 3 (2005): 240–50, <https://doi.org/10.17730/humo.64.3.23yfnkrl2ylapjxw>; Clark and Joe-Strack, “Keeping the ‘Co’ in the Co-Management of Northern Resources.”

The principles of co-management reflect the frameworks of Cardinal/Hildebrandt and Two-Eyed Seeing by emphasizing equitable governance, the integration of TK, and trust-based collaboration. Cardinal/Hildebrandt argue that treaties are sacred agreements requiring shared responsibility and respect for Indigenous sovereignty. Co-management frameworks align with this vision by distributing power between Indigenous communities and state entities, as asserted by Clark and Joe-Strack's call for integrating TK into governance and respecting Indigenous agency. Natcher et al.'s emphasis on trust and interpersonal relationships further supports Cardinal and Hildebrandt's focus on respectful treaty-based partnerships. The Two-Eyed Seeing framework advocates for integrating Indigenous and Western knowledge systems to create holistic solutions. Co-management embodies this principle by prioritizing TK alongside scientific approaches, fostering collaboration that balances diverse perspectives. By focusing on reconciliation, co-management supports both frameworks' goals of equitable partnerships and sustainable stewardship. Ultimately, co-management operationalizes Cardinal/Hildebrandt and Two-Eyed Seeing principles, ensuring resource governance is decolonized, equitable, and rooted in Indigenous sovereignty and epistemologies. Co-management, as defined by Carlsson and Berkes, represents a collaborative governance framework that balances power and responsibility, emphasizing trust, equity, and the integration of TK in decision-making. Their approach aligns with critiques by Coulthard and Nadasdy, as well as the frameworks of Cardinal/Hildebrandt and Two-Eyed Seeing, by prioritizing Indigenous sovereignty, reconciliation, and sustainable stewardship through meaningful collaboration and shared governance.

### *2.3.1 Benefits of Co-Management*

Many scholars suggest that co-management is a framework that has potentially offered benefits to Indigenous Peoples. The efficacy of co-management on Indigenous wellbeing has not been

explored specifically in the Yukon, however. Jamie <sup>43</sup>, for example, examine the impact of wildlife co-management on Indigenous communities' health and wellbeing. They find that co-management, when implemented equitably, enhances social cohesion and cultural continuity, suggesting that environmental stewardship is directly tied to community wellbeing.<sup>44</sup> They argue that the recognition of Indigenous Rights and traditional practices (that can be shared through co-management boards) fosters a powerful form of resistance to colonial systems, fostering Indigenous resilience and identity in a contemporary context. <sup>45</sup> asserts that the co-management boards that originated out of land claims in the North have offered Indigenous communities a level of self-governance and environmental oversight that they were not privy to before signing onto a modern land claim.

Rodon<sup>46</sup> argues that co-management boards, like those established under the UFA in the Yukon, represent a significant step toward Indigenous self-determination by granting Indigenous Peoples a meaningful role in resource and land governance. These boards empower Indigenous communities to assert sovereignty through active participation in decision-making processes, ensuring their perspectives and TK are integrated into governance frameworks. Rodon asserts that co-management boards shift power from state-dominated systems to shared governance models, fostering collaboration and enabling policies aligned with Indigenous priorities, such as environmental stewardship and cultural preservation. Despite challenges, these boards symbolize progress in reclaiming Indigenous Rights and responsibilities. They have given Indigenous

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<sup>43</sup> Snook Jamie et al., "The Connection between Wildlife Co-Management and Indigenous Well-Being: What Does the Academic Literature Reveal," *Wellbeing, Space, and Society* 3 (2022).

<sup>44</sup> Taiaiake Alfred and Jeff Corntassel, "Being Indigenous: Resurgences against Contemporary Colonialism," *Government and Opposition* 40, no. 4 (2005): 597–614, <https://doi.org/10.1111/j.1477-7053.2005.00166.x>.

<sup>45</sup> Graham White, *Indigenous Empowerment through Co-Management: Land Claims Boards, Wildlife Management, and Environment Regulation* (Vancouver, British Columbia; UBC Press, 2020), <https://doi.org/10.59962/9780774863049>.

<sup>46</sup> Thierry Rodon, "Land-Use Co-Management in Canada: A Mixed Experience," *Research Gate*, August 2021.

communities the ability to influence policies, specifically with wildlife management. McGrath<sup>47</sup> supplements this information, arguing that the voice these boards give YFNs can provide for enhanced environmental stewardship, respect for Indigenous cultural values, and improved resource management through collaborative decision-making processes.

Scholars also suggest that co-management has also provided benefits to society overall by enabling more effective decision-making and land management through inclusive and equitable collaboration between Indigenous government and various stakeholders. This concept is outlined by Borrini et al.,<sup>48</sup> who explain that these systems are particularly effective because they integrate local knowledge (both TK and non-Indigenous) and preferences, which are crucial for sustainable management practices. They argue that co-management allows for a flexible and adaptive approach to governance that can respond dynamically to ecological, legal, and socio-economic changes, ensuring that management practices remain relevant and effective over time. Furthermore, as asserted by Cronkleton et al.,<sup>49</sup> the shared decision-making framework of co-management not only fosters greater community involvement but also promotes fairness in the management of resources. By engaging multiple social actors, co-management can mitigate power imbalances, giving a voice to traditionally marginalized groups, which leads to more equitable resource management outcomes. For Conkleton et al., this inclusive approach also facilitates learning and adaptation, which are essential for addressing complex environmental challenges and enhancing the resilience of communities and ecosystems.

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<sup>47</sup> Neil McGrath, “Indigenous Knowledge in Environmental Co-Management in the Yukon” (Victoria, British Columbia, Royal Roads University, 2018).

<sup>48</sup> Grazia Borrini et al., *Sharing Power: Learning-by-Doing in Co-Management of Natural Resources throughout the World* (IUCN, 2004), <https://portals.iucn.org/library/node/8547>.

<sup>49</sup> Peter Cronkleton, Juan M Pulhin, and Sushil Saigal, “Co-Management in Community Forestry: How the Partial Devolution of Management Rights Creates Challenges for Forest Communities,” *Conservation and Society* 10, no. 2 (2012): 91, <https://doi.org/10.4103/0972-4923.97481>.

Co-management frameworks, as asserted by scholars like Jamie et al.<sup>50</sup> and Rodon,<sup>51</sup> offer significant potential benefits to Indigenous communities by fostering resilience, identity, and sovereignty through collaborative governance. These frameworks provide Indigenous Peoples with a meaningful role in land and resource management. Rodon emphasizes that co-management boards established through agreements like the UFA in the Yukon represent a tangible step toward Indigenous self-determination, empowering communities to influence policies on wildlife management, environmental stewardship, and cultural preservation. Similarly, Alfred and Corntassel<sup>52</sup> argue that such governance systems foster resistance to colonial systems while promoting cultural continuity and wellbeing. However, Coulthard's critique of the "politics of recognition" asserts a key challenge: co-management risks reinforcing colonial hierarchies if Indigenous participation is symbolic rather than substantive. Rodon and McGrath counter this by showing how co-management frameworks, when equitably implemented, can enhance environmental stewardship and ensure Indigenous agency in governance. Beyond Indigenous benefits, Borrini et al. and Cronkleton et al. argue that co-management also enhances societal outcomes by creating adaptive governance systems that address complex environmental challenges while fostering inclusivity and fairness.

Building on these discussions of co-management's potential to empower Indigenous communities and enhance environmental governance, the works of Moore,<sup>53</sup> Rusnak,<sup>54</sup> and

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<sup>50</sup> Jamie et al., "The Connection between Wildlife Co-Management and Indigenous Well-Being: What Does the Academic Literature Reveal?"

<sup>51</sup> Rodon, "Land-Use Co-Management in Canada: A Mixed Experience."

<sup>52</sup> Alfred and Corntassel, "Being Indigenous."

<sup>53</sup> Miriam Moore, "Decolonizing Park Management: A Framework for The Co-Management of National Parks and Protected Areas" (Master of Public Policy, Victoria, British Columbia, University of Victoria, 2016).

<sup>54</sup> Gerrett Rusnak, "Co-Management of Natural Resources in Canada: A Review of Concepts and Case Studies" (International Development Research Centre, August 1997).

Spielmann & Unger<sup>55</sup> further illustrate the practical challenges and opportunities of implementing such frameworks within Canadian parks and protected areas. Moose highlights co-management as a means to integrate Indigenous stewardship and governance into park management, emphasizing the importance of equitable power-sharing and the incorporation of Indigenous ecological knowledge. However, Moose also identifies significant challenges, including unequal access to resources and conflicting priorities between stakeholders, which can impede the success of these initiatives. Rusnak provides a broader review of co-management agreements, discussing their potential to promote shared decision-making and ecological sustainability. Despite this potential, Rusnak critiques ongoing power imbalances and a lack of trust between Indigenous communities and government actors, which often hinder effective collaboration. Spielmann and Unger focus on co-management in Ontario provincial parks, illustrating how including Indigenous perspectives in park management can address community-specific concerns such as land use and cultural preservation. Yet, they also emphasize the need for clearer frameworks and stronger governmental commitments to support meaningful partnerships. Collectively, these studies highlight the promise of co-management in advancing reconciliation and sustainable governance while revealing persistent structural barriers to achieving these goals.

The literature on co-management generally supports the principles articulated by Cardinal and Hildebrandt and the Two-Eyed Seeing framework by emphasizing collaboration, respect for Indigenous knowledge, and equitable governance. Cardinal and Hildebrandt position treaties as sacred agreements grounded in mutual recognition and shared responsibility—principles that align with co-management’s intended shift away from unilateral state authority toward shared

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<sup>55</sup> Roger Spielman and Marina Unger, “Towards a Model of Co-Management of Provincial Parks in Ontario,” *The Canadian Journal of Native Studies* 2 (2000): 455–86.

decision-making structures. Scholars such as Rodon and Alfred and Corntassel argue that when implemented effectively, co-management boards enable Indigenous communities to exercise self-determination, protect cultural practices, and engage in environmental stewardship. These outcomes reflect Cardinal and Hildebrandt's vision of restoring treaty relationships that center Indigenous sovereignty and relational governance.

Similarly, the Two-Eyed Seeing framework is visible in co-management's efforts to integrate Traditional Knowledge with Western science. As Cronkleton et al. note, the blending of knowledge systems enhances policy relevance, fosters cross-cultural respect, and supports adaptive and sustainable environmental management. This epistemological partnership reflects the spirit of Two-Eyed Seeing, which values the coexistence of distinct worldviews without subordination.

### *2.3.2 Challenges of Co-Management*

While much of the literature affirms the transformative potential of co-management, it also reveals structural barriers—such as resource inequities, limited Indigenous authority, and inconsistent state commitment—that can undermine the realization of treaty-based relationships or balanced knowledge integration. Thus, while co-management frameworks *aspire* to reflect the values of Cardinal/Hildebrandt and Two-Eyed Seeing, their success in doing so depends heavily on political will, institutional design, and the degree to which Indigenous agency is substantively embedded in governance processes.

Some scholars, including Coulthard, challenge whether co-management consistently lives up to these ideals. His critique of the “politics of recognition” warns that without genuine power-sharing, co-management risks becoming a symbolic gesture that upholds colonial hierarchies

under the guise of inclusion, White<sup>56</sup> states that co-management boards have offered Indigenous communities a measure of decision-making powers, but they have also come with ongoing tensions around power-sharing and state oversight. Feit and Spaeder<sup>57</sup> as well as Roden<sup>58</sup> support White's findings, adding that Indigenous communities have faced historical challenges in establishing equitable co-management frameworks, arguing that boards can both empower and constrain Indigenous Rights, depending on state commitments to genuine power-sharing.

Capacity for First Nations can also be an issue, as Clark and Joe-Strack<sup>59</sup> observe. They suggest that successful co-management depends heavily on the commitment of both Indigenous and government partners to share governance and culturally respectful practices. This is dependent, as Darling et al.<sup>60</sup> point out, on capacity and funding to allow for fulsome participation and assertion of rights by Indigenous communities. The literature around co-management boards in the North, and specifically the Yukon focus on the power dynamics and governance challenges that seem to overshadow the benefits.

Nadasdy's<sup>61</sup> critique of co-management frameworks asserts how the institutionalization and bureaucratization of TK within colonial systems can undermine the very empowerment objectives they aim to achieve. He argues that by embedding TK into Western governance structures, these frameworks often reframe and regulate it in ways that prioritize state or

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<sup>56</sup> White, *Indigenous Empowerment through Co-Management*.

<sup>57</sup> Joseph J. Spaeder and Harvey A. Feit, "Co-Management and Indigenous Communities: Barriers and Bridges to Decentralized Resource Management: Introduction," *Anthropologica* 47, no. 2 (2005): 147–54, <https://doi.org/10.2307/25606232>.

<sup>58</sup> Rodon, "Land-Use Co-Management in Canada: A Mixed Experience."

<sup>59</sup> Clark and Joe-Strack, "Keeping the 'Co' in the Co-Management of Northern Resources."

<sup>60</sup> Samantha Darling et al., "On the Individual and Organizational Capacities Supporting Impact Assessment: The Case of the Yukon Environmental and Socio-Economic Assessment Board," *Facets* 7, no. Unep 2018 (2022): 674–700, <https://doi.org/10.1139/FACETS-2021-0118>.

<sup>61</sup> Paul Nadasdy, "The Anti-Politics of TEK: The Institutionalization of Co-Management Discourse and Practice," *Anthropologica* 47, no. 2 (2005): 215–32.

industrial goals over Indigenous autonomy. This process can reinforce existing power imbalances, as TK becomes constrained by bureaucratic requirements that do not reflect the relational and contextual nature of TK. Through the case study of the Ruby Range Sheep Steering Committee, Nadasdy illustrates how such bureaucratic constraints limit the transformative potential of co-management. In this instance, the state's governance structures dictated how Indigenous perspectives were included and utilized, reducing their effectiveness in advocating for sustainable practices grounded in Indigenous worldviews. Instead of enabling local and Indigenous communities to lead and innovate in resource management, these systems often co-opt Indigenous participation into state-defined processes, restricting meaningful self-determination.

Nadasdy's work underscores the tension between the aspirations of co-management—to empower Indigenous communities and incorporate their knowledge—and the reality of its implementation within colonial frameworks. He calls for transformative changes that prioritize Indigenous sovereignty and dismantle the bureaucratic structures that marginalize TK. The literature suggests that when equitably implemented, co-management has the potential to move beyond its colonial origins and function as a mechanism for genuine empowerment, enabling Indigenous communities to lead in resource management and environmental stewardship.

White<sup>62</sup> evaluates the operational structures, decision-making processes, and independence of these boards from governmental influence, providing case studies to illustrate both successes and limitations in these governance frameworks. He argues that while these boards offer significant opportunities for Indigenous involvement, there are constraints that affect their overall impact (e.g., legal and structural, funding and resources, bureaucratic process, influence

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<sup>62</sup> White, *Indigenous Empowerment through Co-Management*.

and independence). Despite these challenges, he states that the boards play a critical role in the evolution of treaty federalism in Canada, influencing both policy and practice in northern governance.

## **2.4 Traditional Knowledge**

The inclusion of TK in impact assessment offers a way to address the ecological, social, and cultural complexities of development projects. Berkes<sup>63</sup> describes TK as providing long-term and localized ecological insights, often surpassing the scope of conventional Western science, particularly in capturing cumulative impacts and changes over time. TK encompasses relational understandings of ecosystems, where human activity is viewed as part of an interconnected whole. Scholars like Usher<sup>64</sup> argue that TK provides more than just environmental information by incorporating cultural and spiritual dimensions, which are essential for understanding Indigenous relationships with the land. This perspective asserts how TK serves as a holistic framework, blending ecological insights with the values, traditions, and practices that shape Indigenous identity and governance. By integrating TK into impact assessment, decision-makers can address not only the physical implications of development but also the profound cultural and spiritual connections that Indigenous communities maintain with their territories. Whyte<sup>65</sup> argues that Indigenous knowledge systems are not merely alternative epistemologies but are deeply tied to sovereignty and self-determination, framing TK as a pathway to reclaiming agency in environmental decision-making. This aligns with Berkes' characterization of TK as a source of localized and relational ecological insights, extending beyond Western scientific methodologies.

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<sup>63</sup> Fikret Berkes, *Sacred Ecology* (New York, New York: Routledge, 2012).

<sup>64</sup> Peter Usher, "Traditional Ecological Knowledge in Environmental Assessment and Management," *Arctic* 53, no. 2 (2000): 183–93.

<sup>65</sup> Whyte, "Indigenous Experience, Environmental Justice and Settler Colonialism."

According to Whyte, TK reflects a holistic worldview that resists the compartmentalization typical of settler governance structures, offering a comprehensive approach to ecological sustainability that includes cultural, spiritual, and social dimensions.

Christian et al.<sup>66</sup> argue that co-management boards offer a critical opportunity for Indigenous Peoples to share their TK in ways that ensure it is respected and valued within governance systems. These boards can serve as a bridge between Indigenous and Western knowledge systems, creating an environment where both perspectives are integrated equally to inform sustainable decision-making. Christian et al., assert that by fostering trust and mutual respect, co-management boards empower Indigenous communities to contribute their knowledge without fear of marginalization or misinterpretation, thus enhancing the legitimacy and effectiveness of resource management strategies.

Most scholars agree that the Mackenzie Valley Pipeline Inquiry (*The Berger Report*, 1977) is a landmark event in the history of environmental governance in Canada, particularly for its integration of TK into impact assessment processes. The Berger Report's influence has been extensively analyzed by scholars. Booth and Skelton<sup>67</sup> argue that the inquiry fundamentally reshaped environmental governance by demonstrating how participatory processes focused on TK could challenge and revise resource development policies. Indigenous contributions during the inquiry provided a comprehensive understanding of the pipeline's impacts, blending

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<sup>66</sup> Vern Christensen, Graham White, and Alan Ehrlich, "Involving Canada's Indigenous Peoples in Environmental Impact Assessment: Co-Management through The Mackenzie Valley Environmental Impact Review Board" (27th Annual Conference of the International Association for Impact Assessment, Seoul, Korea, 2007).

<sup>67</sup> Annie L. Booth and Norman W. Skelton, "'There's a Conflict Right There': Integrating Indigenous Community Values into Commercial Forestry in the Tl'azt'en First Nation," *Society & Natural Resources* (Philadelphia) 24, no. 4 (2011): 368–83, <https://doi.org/10.1080/08941920902755390>.

ecological and cultural considerations. Similarly, Gibson<sup>68</sup> asserts the Berger Inquiry's long-term impact in establishing TK as an integral component of impact assessment, showing how TK could identify risks and propose culturally appropriate solutions.

The lessons of the Berger Inquiry have shaped subsequent legislation, including the *Canadian Environmental Assessment Act (CEAA, 2012)* and the *Impact Assessment Act, 2019*. Noble and Hanna<sup>69</sup> emphasize that these laws marked significant progress by mandating the integration of TK into federal impact assessment processes. The *CEAA* explicitly acknowledged the role of TK systems in assessing the broad impacts of development projects, while impact assessment further strengthened requirements for Indigenous engagement. Noble and Hanna note that these legislative advancements were influenced by the Berger Inquiry, which asserted the necessity of integrating diverse knowledge systems for equitable and sustainable decision-making. Further case studies illustrate the ongoing relevance of TK in impact assessment. Ellis<sup>70</sup> examines mining projects in Northern Canada, showing how TK offers critical insights into the long-term ecological impacts of resource extraction. By addressing issues overlooked by conventional assessments, TK contributes to more adaptive and sustainable management strategies. Armitage et al.<sup>71</sup> explore how co-management frameworks in Northern Canada have used TK to navigate complex ecological and socio-economic challenges. Their work asserts the

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<sup>68</sup> Robert G. Gibson, "In Full Retreat: The Canadian Government's New Environmental Assessment Law Undoes Decades of Progress," *Impact Assessment and Project Appraisal* 30, no. 3 (2012): 179–88, <https://doi.org/10.1080/14615517.2012.720417>.

<sup>69</sup> Bram Nobel et al., "Northern Environmental Assessment: A Gap Analysis and Research Agenda," in *Resources and Sustainable Development in the Arctic*, ed. Chris Southcott et al. (Routledge, 2019).

<sup>70</sup> Stephen C. Ellis, "Meaningful Consideration? A Review of Traditional Knowledge in Environmental Decision Making," *Arctic* 58, no. 1 (2005): 66–77.

<sup>71</sup> Derek R. Armitage et al., "Adaptive Co-Management for Social-Ecological Complexity," *Frontiers in Ecology and the Environment* 7, no. 2 (2009): 95–102, <https://doi.org/10.1890/070089>.

importance of collaborative governance structures in respecting and incorporating TK into impact assessment processes.

Wilson et al.<sup>72</sup> and Staples<sup>73</sup> research with the Tr'ondëk Hwëch'in provide critical insights into how the Two-Eyed Seeing framework, that relies on fulsome incorporation of TK, can be effectively applied to land and water management in the Yukon. Wilson et al. examine how Two-Eyed Seeing allows Indigenous perspectives to inform land-use planning and resource management, providing a nuanced understanding of ecological systems. Their findings demonstrate that TK, with its emphasis on relational accountability and ecological balance, complements Western scientific approaches, which often focus on empirical data and predictive modeling. Similarly, Staples' work with the Tr'ondëk Hwëch'in reinforces the importance of Two-Eyed Seeing in fostering inclusive and adaptive decision-making processes. Staples asserts how this approach enables Indigenous communities to articulate their unique relationships with the land and water, ensuring these perspectives are central to governance and resource management frameworks. The Tr'ondëk Hwëch'in's involvement in land-use planning showcases how Two-Eyed Seeing can create a collaborative space where traditional practices, such as seasonal land use and conservation ethics, are integrated with scientific methodologies. Both studies underline that the holistic nature of Two-Eyed Seeing not only enhances ecological sustainability but also respects the cultural and spiritual values embedded in Indigenous knowledge systems. They suggest that by creating an equitable platform for Indigenous voices in

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<sup>72</sup> Emma Wilson, "What Is Benefit Sharing? Respecting Indigenous Rights and Addressing Inequities in Arctic Resource Projects," *Resources* 8, no. 2 (2019), <https://doi.org/10.3390/resources8020074>.

<sup>73</sup> Kiri Staples, "Addressing Cumulative Effects in the Context of Sustainability and Co-Governance in Tr'ondëk Hwëch'in Traditional Territory, Yukon" (PhD in Social and Ecological Sustainability, Waterloo, Ontario, University of Waterloo, 2022).

decision-making, Two-Eyed Seeing addresses power imbalances in governance and promotes reconciliation through shared stewardship of natural resources.

Spak<sup>74</sup>, however, notes that while TK is increasingly acknowledged in impact assessment, it is often misunderstood or misinterpreted. She argues that state institutions tend to prioritize Western scientific frameworks, relegating TK to a supplementary role rather than treating it as an equal and integral component. This marginalization risks erasing the holistic and relational aspects of TK, undermining its ability to inform sustainable and culturally appropriate assessments. Epistemological differences between TK and Western science present another challenge. Usher and Spak both note that TK is contextual and relational, emphasizing interconnections between ecosystems, culture, and spirituality, while Western science tends to prioritize empirical, quantifiable data. This disparity can lead to misunderstandings and marginalization of TK in impact assessment processes, particularly when assessments prioritize economic development over cultural preservation. As Houde<sup>75</sup> explains, the lack of standardized methods for incorporating TK further complicates its meaningful inclusion, often leaving it underutilized or tokenized in impact assessment practices. Capacity and funding constraints also hinder the effective integration of TK.

Within this context, Coulthard and Nadasdy's works offers a critical framework for understanding the dynamics outlined in the discussion of TK in impact assessment and governance. Coulthard's critique of the "politics of recognition" is particularly relevant in analyzing how TK is often acknowledged by state systems without granting Indigenous Peoples true sovereignty or agency and has influenced how others view the process. For example, Spak

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<sup>74</sup> Stella Spak, "The Position of Indigenous Knowledge in Canadian Co-Management Organizations," *Anthropologica* 47, no. 2 (2005): 233–46.

<sup>75</sup> Nicolas Houde, "The Six Faces of Traditional Ecological Knowledge: Challenges and Opportunities for Canadian Co-Management Arrangements," *Ecology and Society* 12, no. 2 (2007), <https://www.jstor.org/stable/26267900>.

asserts the marginalization of TK when state-led impact assessment processes relegate it to a supplementary role rather than integrating it as an equal and holistic knowledge system, and in this sense speaks to Coulthard's argument that the state's recognition of Indigenous contributions frequently serves to reinforce colonial hierarchies rather than dismantle them, maintaining control within Western frameworks. Similarly, Nadasdy's critique of co-management governance further aligns with the issues raised. He emphasizes that embedding TK into bureaucratic structures often institutionalizes it in ways that strip it of its relational and cultural contexts. This is evident in Christian et al.'s findings that co-management boards enable TK sharing but require trust and mutual respect. They assert there is potential for such structures to marginalize TK under Western frameworks unless power imbalances are addressed. Similarly, Usher and Houde argue that the integration of TK often fails to capture its spiritual and cultural dimensions, echoing Nadasdy's concerns about bureaucratic limitations.

The Two-Eyed Seeing framework, as applied by Wilson et al. and Staples with the Tr'ondëk Hwëch'in, offers an alternative approach to the critics of Coulthard and Nadasdy. It centers Indigenous epistemologies alongside Western knowledge, ensuring that TK's holistic and relational nature informs governance equally. However, as Coulthard and Nadasdy suggest, for frameworks like Two-Eyed Seeing to succeed, they must resist colonial institutional norms and prioritize Indigenous sovereignty and leadership in impact assessment and co-management practices. The persistence of structural power imbalances, as critiqued by these scholars, underscores the need for transformative approaches that go beyond tokenistic recognition to create equitable, decolonized governance systems.

## 2.5 YESAB: Contemporary Impact Assessment Strengths and Challenges

The discussion around impact assessments in literature reveals a gradual evolution shaped by social, environmental, and legislative developments; however, persistent challenges remain.

While Canadian impact assessments have advanced in certain areas, significant issues such as cumulative effects, meaningful Indigenous involvement, and effective long-term monitoring continue to be inadequately addressed. Fuggle<sup>76</sup> notes that many have become “disillusioned” and “skeptical” about the impact assessment process’s capacity to deliver improved outcomes. Nobel<sup>77</sup> emphasizes the need for stronger consideration of Cumulative effects and regional assessments, including Land Use Planning, as key areas for improvement. Literature focused specifically on YESAB remains limited, particularly in evaluating its alignment with the UFA, which mandates Indigenous consultation. Nonetheless, the challenges faced by YESAB reflect broader systemic issues in Canadian impact assessment processes.

### 2.5.1 *Assessing Capacity and Knowledge Pluralism in Impact Assessment*

Darling et al.<sup>78</sup> provide a crucial contribution by examining YESAB’s effectiveness through the lens of “research capacity”—defined as the ability of assessors and organizations to engage with, interpret, and apply diverse knowledge systems. Their study demonstrates that while financial and infrastructural supports exist, YESAB faces ongoing difficulties with internal knowledge management, mentorship consistency, contextual understanding, and integrating non-technical

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<sup>76</sup> Richard Fuggle, “Have Impact Assessments Passed Their ‘Sell By’ Date?,” *IAlA*, January 2005.

<sup>77</sup> Bram Nobel, *Introduction to Environmental Impact Assessment: A Guide to Principles and Practice*, Fourth (Oxford University Press, 2020).

<sup>78</sup> Darling et al., “On the Individual and Organizational Capacities Supporting Impact Assessment: The Case of the Yukon Environmental and Socio-Economic Assessment Board.”

knowledge, including TK. The authors argue that these limitations constrain the realization of pluralism and inclusive governance—core tenets of the UFA and effective impact assessments.

Coulthard and Nadasdy’s critiques of state-led processes and colonial power structures are especially relevant here, especially Coulthard’s discussion of the “politics of recognition” highlights how state-defined participatory mechanisms often re-inscribe colonial authority by limiting Indigenous agency. This resonates with Darling et al.’s findings that TK within YESAB is frequently constrained by bureaucratic processes and assessors’ limited capacity to engage with it meaningfully. Nadasdy’s critique of co-management and institutionalization of TK is echoed in YESAB’s challenges with assessor turnover, inadequate documentation, and a reliance on outdated assessments rather than proactive knowledge generation or culturally grounded engagement.

In addition, Fraser’s<sup>79</sup> assessment of structural barriers to effective land use planning under Chapter 11 of the UFA. Similar to Darling et al.’s, Fraser sees gaps in contextual understanding and community relationship-building, while scholars like Sinclair and Diduck,<sup>80</sup> as well as Booth and Skelton<sup>81</sup> emphasize the importance of participatory, equity-oriented impact assessment frameworks. Meanwhile, scholars such as Lahiri-Dutt<sup>82</sup> and Hanna<sup>83</sup> advocate for the integration of gender and disaster risk management in impact assessments, aligning with Darling et al.’s emphasis on the need for more diverse and interdisciplinary assessor competencies.

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<sup>79</sup> Katie Fraser, “Finding Common Ground: Exploring the Relationship between Regional LUP and Dev. Assessment in the Yukon” (Master of Arts, University of Saskatchewan, 2021).

<sup>80</sup> John A. Sinclair and Alan Diduck, “Reconceptualizing Public Participation in Environmental Assessment as EA Civics,” *Environmental Impact Assessment Review* 62 (2017): 174–82.

<sup>81</sup> Booth and Skelton, “There’s a Conflict Right There.”

<sup>82</sup> Kuntala Lahiri-Dutt, *The Feminization of Mining* (Cambridge: Cambridge University Press, 2012).

<sup>83</sup> Kevin Hanna, ed., *Environmental Impact Assessment: Practice and Participation*, Fourth (New York: Oxford University Press, 2020).

Ultimately, the literature asserts that while impact assessments in Canada have progressed, they remain bound by systemic issues rooted in colonial governance structures. The findings of Darling et al. reinforce the argument that both individual and organizational capacities must evolve—through mentorship, embeddedness in community, and knowledge pluralism—to enable more responsive, equitable, and decolonized approaches to environmental governance in the Yukon and beyond.

### *2.5.2 Cumulative Effects and Land Use Planning*

Cumulative effects in impact assessments have become a critical area of study and practice, particularly with reference to regions experiencing multiple overlapping projects and environmental stresses, such as the Yukon. As Gunn and Nobel<sup>84</sup> state, cumulative effects refer to the combined, incremental impacts of multiple activities or projects over time on the environment, ecosystems, or communities, often amplifying effects that may be minor individually but significant collectively. They add that adequately assessing cumulative effects provides a broader perspective on environmental impacts, acknowledging that the additive or interactive effects of multiple projects may produce more significant or different impacts than a single project alone. Nobel and Hanna<sup>85</sup> argue, furthermore, for robust frameworks to address cumulative effects holistically.

Regional land use planning impacts impact assessments in the Yukon as outlined by Fraser<sup>86</sup> who explores the complexities of implementing the UFA's Chapter 11: Land Use

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<sup>84</sup> Jill A.E. Gunn and Bram F. Nobel, "Conceptual and Methodological Challenges to Integrating SEA and Cumulative Effects Assessment," *Environmental Impact Assessment Review* 31 (n.d.): 154–60.

<sup>85</sup> Nobel et al., "Northern Environmental Assessment: A Gap Analysis and Research Agenda."

<sup>86</sup> Fraser, "Finding Common Ground: Exploring the Relationship between Regional LUP and Dev. Assessment in the Yukon."

Planning. She asserts the importance of a collaborative approach between the Government of Yukon and YFN for sustainable resource management and outlines the interconnected roles of the Yukon Land Use Planning Council and YESAB in shaping land use plans and development assessments, emphasizing the need for the integration of TK and perspectives. According to Fraser, regional land use plans provide essential context and guidance for development assessments by identifying community values, ecological priorities, and acceptable land uses in advance. She argues that when effectively integrated, these plans enhance the legitimacy, efficiency, and cultural responsiveness of the YESAB assessment process by aligning proposed developments with collaboratively established regional priorities.

Staples et al.<sup>87</sup> analyze land use planning as a foundational governance mechanism that significantly influences impact assessment, particularly in regions like the Peel Watershed—an area of immense ecological and cultural importance in the Yukon. They highlight how land use planning provides a critical framework for negotiating competing interests between conservationists, Indigenous communities, and proponents of resource development. By establishing clear regional priorities, planning processes can inform and guide development assessments, helping to evaluate proposals against collaboratively defined values and acceptable land uses. A central theme in their analysis is the integration of Indigenous perspectives, which frame the Peel Watershed not merely as a resource, but as a living cultural landscape rich in Traditional Knowledge. This underscores the importance of embedding Indigenous stewardship, worldviews, and rights into land use planning, which, in turn, enhances the cultural relevance and legitimacy of subsequent impact assessments.

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<sup>87</sup> Kiri Staples et al., “Fixing Land Use Planning in the Yukon Before It Really Breaks: A Case Study of the Peel Watershed,” *Northern Review*, no. 37 (October 2013): 37, <https://thenorthernreview.ca/index.php/nr/article/view/278>.

In addition to these cultural dimensions, Staples et al. also point to the procedural and institutional challenges in aligning land use planning with impact assessments. Achieving consensus among stakeholders with divergent visions—such as environmental protection versus industrial development—often results in protracted negotiations, which can delay or complicate the assessment process. They argue that innovative governance tools like co-management boards are essential for bridging these divides and ensuring that planning decisions are inclusive and equitable. Ultimately, their study positions land use planning as a necessary foundation for effective impact assessment, especially in addressing cumulative effects. Without robust, inclusive planning processes that reflect Indigenous priorities and regional ecological realities, impact assessments risk remaining fragmented and reactive, rather than proactive and holistic.

## **2.6 Public Participation and Broader Issues**

A large body of literature suggests that public involvement is seen as vital for credible impact assessments. For instance, Sinclair and Diduck<sup>88</sup> argue that public participation enhances the legitimacy of impact assessments by providing a platform for affected individuals to contribute to decision-making. They emphasize that inclusive public involvement reduces conflicts by incorporating local knowledge and addressing stakeholder concerns early in the process. Similarly, Petts<sup>89</sup> asserts the importance of designing participatory processes that are accessible and meaningful. She notes that effective participation requires more than just consultation; it involves empowering communities to influence decisions through structured

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<sup>88</sup> A. John Sinclair and Alan Diduck, “Public Involvement in EA in Canada: A Transformative Learning Perspective,” *Environmental Impact Assessment Review* 21 (2001).

<sup>89</sup> Judith Petts, “Barriers to Deliberative Participation in Eia: Learning from Waste Policies, Plans and Projects,” *Journal of Environmental Assessment Policy and Management* 5, no. 3 (2003): 269–93.

mechanisms for dialogue and negotiation. Doelle and Sinclair<sup>90</sup> examine Canada's environmental assessment processes. They emphasize that public involvement fosters accountability and helps align project objectives with broader social and environmental sustainability goals. They also critique traditional approaches that marginalize public input, advocating for reforms that prioritize community voices in decision-making. Scholars like Booth and Skelton<sup>91</sup> highlight the inherent conflicts between Indigenous cultural values, which prioritize ecological sustainability and spiritual connections to the land, and the profit-driven demands of industrial forestry. Public participation emerges as a critical theme, emphasizing the necessity of involving community members in decision-making processes to ensure that forestry operations align with traditional practices and community priorities. The article emphasizes that meaningful public participation in forestry management requires not only consulting Indigenous communities but actively incorporating their values, knowledge, and decision-making authority into governance structures, ensuring that resource management reflects the priorities and cultural frameworks of the Tl'azt'en First Nation.

### *2.6.1 Adaptive Management and Compliance Monitoring*

The literature criticizing impact assessments notes the finality in their decision-making that provide little opportunity to revisit the project to assess the efficacy of mitigations and address any new issues that have arisen as the project progresses. Clementino<sup>92</sup> explores the role of adaptive management in environmental assessments, advocating for compliance monitoring to

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<sup>90</sup> Meinhard Doelle and A. John Sinclair, "The New Federal Impact Assessment Act in Canada: Delivering on Reform Expectations?" (SSRN Electronic Journal, 2018), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3290255](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3290255).

<sup>91</sup> Booth and Skelton, "There's a Conflict Right There."

<sup>92</sup> Louisa M. Clementino, "A Critical Examination of Sustainability Considerations in Yukon Environmental Assessment - Past and Present" (Bachelor of Arts, Waterloo, Ontario, Wilfred Laurier University, 2008).

address long-term sustainability. He contends that monitoring data should feed back into the decision-making process, allowing for adjustments to maintain environmental and community health. Fitzpatrick and Williams<sup>93</sup> as well as Diduck et al.<sup>94</sup> support Clementino’s findings, arguing for adaptive frameworks that allow feedback mechanisms, adjustments made on real-time monitoring, and stakeholder engagement, especially in sensitive areas like Northern Canada. Wilson also adds that compliance monitoring that reflects Indigenous priorities, can enhance local oversight of environmental resources. This focus on adaptive management and compliance monitoring in impact assessment aligns with broader discussions in disaster risk management, such as those by Kleman et al.,<sup>95</sup> Henstra et al.,<sup>96</sup> Johnston et al.,<sup>97</sup> Haavisto and Levesque,<sup>98</sup> and Perrin,<sup>99</sup> who emphasize the importance of integrating dynamic, feedback-driven approaches to address evolving risks and ensure long-term resilience in both environmental and disaster contexts.

Kleman et al. emphasize the growing risks posed by climate change and the need to integrate climate adaptation into disaster risk reduction strategies, focusing on environmental and climatic drivers of disasters. Compared to other scholars—such as Henstra et al. on policy tracking, Johnston et al. on technical risk mapping, Haavisto and Levesque on regulatory

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<sup>93</sup> Patricia Fitzpatrick and Byron Williams, “Building the System: Follow-up, Monitoring & Adaptive Management,” n.d.

<sup>94</sup> Alan Diduck, Patricia Fitzpatrick, and Jim Robson, “Guidance from Adaptive Environmental Management, Monitoring and Independent Oversight.”

<sup>95</sup> Anna Kleman, “Climate Change and Disaster Risk Reduction,” *Environmental Hazards* 19, no. 3 (2018): 245–62.

<sup>96</sup> Daniel Henstra, Daniel S. Thistlewaite, and Sarah Andrey, “Assessing Canada’s Disaster Baselines and Projections under the Sendai Framework for Disaster Risk Reduction,” *International Journal of Disaster Risk Reduction* 41 (2019).

<sup>97</sup> Lisa Johnston and Mike Wontton, “Mapping Wildfire Hazard, Vulnerability, and Risk to Canadian Communities,” *International Journal of Wildland Fire* 29, no. 10 (2020): 863–78.

<sup>98</sup> Peter Haavisto and Marie Levesque, “Technological Disasters and Risk Management: Lessons from the Lac-Mégantic Rail Disaster,” *Canadian Public Administration* 61, no. 3 (2018): 412–31.

<sup>99</sup> Perrin Jean-Luc, “Critical Infrastructure Resilience and Disaster Risk Management in Canada,” *Journal of Contingencies and Crisis Management* 28, no. 2 (2020): 123–35.

failures, and Perrin on infrastructure resilience—Kleman et al. provide a broader, climate-centered perspective, underscoring the importance of systemic, long-term approaches for managing increasing hazards, especially in vulnerable regions like Canada’s North.

## **2.7 Impact Assessment and Resource Development in the North**

The resource wealth of the Canadian Arctic has drawn significant international attention due to increasing accessibility caused by climate change. Rising temperatures have led to the retreat of sea ice and permafrost degradation, extending field seasons and enabling easier access to previously unreachable reserves of oil, gas, and minerals. Scholars such as Huebert<sup>100</sup> highlight the Arctic’s emergence as a strategic frontier, where melting ice has triggered new waves of interest from both Arctic and non-Arctic states seeking to assert claims over valuable resources and maritime routes. Coates and Holroyd<sup>101</sup> further underscore the geopolitical implications of this shift, noting that Canada's North has become a focal point for economic development and national sovereignty, framed within a broader discourse of global competition and energy security. Meanwhile, scholars like Lackenbauer and Lalonde<sup>102</sup> examine how expanding infrastructure and increased extraction activities raise concerns about environmental sustainability and Indigenous rights, especially in regions where governance capacity is limited. These scholars collectively emphasize that the Canadian Arctic is not only a site of resource opportunity but also a complex arena of environmental vulnerability, Indigenous political struggle, and international strategic interest.

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<sup>100</sup> Rob Heubert, “Arctic 2030: What Are the Consequences of Climate Change? The Canadian Response,” *Bulletin of the Atomic Scientists* 68, no. 4 (2012): 14–25.

<sup>101</sup> Kenneth S. Coates and Carin Holroyd, “The Palgrave Handbook of Arctic Policy and Politics,” 2017.

<sup>102</sup> P. Whitney Lackenbauer and Suzanne Lalonde, “Searching for Common Ground in Evolving Canadian and EU Arctic Strategies,” in *Canada and the European Union: Facing the Multifaceted Challenges of the 21st Century*, ed. Crina Viju and Pierre-Olivier Lechasseur (Brussels: P.I.E. Peter Lang, 2011), 105–33.

Moreover, this surge in interest has significant implications for Arctic governance, with competing claims over territorial boundaries and resource rights creating tensions among Arctic nations and Indigenous communities. Keskitalo et al.<sup>103</sup> stress the need for collaborative, multi-stakeholder approaches to ensure that resource extraction is balanced with environmental stewardship and respect for Indigenous sovereignty, reflecting the complex interplay between development, conservation, and global politics in the Arctic. This discourse underscores the region's pivotal role in shaping future geopolitical and environmental landscapes.

The social impacts of Arctic resource development profoundly affect Indigenous communities, whose livelihoods and cultural identities are deeply tied to traditional land-use practices. Nuttall discusses how resource extraction often disrupts Indigenous ways of life, altering migration patterns of key species such as caribou and fish, which are essential for subsistence and cultural traditions. Furthermore, these activities often lead to ecosystem degradation and pollution, compromising traditional hunting, fishing, and foraging grounds that are vital for food security and cultural continuity. Economically, Arctic resource development presents both opportunities and challenges. Southcott et al.<sup>104</sup> delve into the boom-and-bust cycles commonly associated with resource exploitation. While resource projects can provide significant short-term economic gains through employment and infrastructure investments, these benefits are often short-lived, leading to long-term socio-economic instability. The rapid influx of economic activity followed by sudden declines often leaves communities grappling with underdeveloped infrastructure and limited diversified economic opportunities, creating dependency on external markets.

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<sup>103</sup> E. Keskitalo and H. Carina, *The Politics of Arctic Resources: Change and Continuity in the "Old North" of Northern Europe* (Routledge, n.d.).

<sup>104</sup> Chris Southcott et al., eds., *Resources and Sustainable Development in the Arctic* (Routledge, 2019).

## 2.8 Slow Violence and Environmental Justice in Impact Assessment

Nixon's<sup>105</sup> seminal concept of "slow violence" has proved influential in revealing how environmental harms that are incremental and dispersed in time are frequently overlooked by legal and institutional structures that demand immediacy, visibility, and quantifiability. In contrast to spectacular environmental disasters, slow violence unfolds over decades, manifesting in eroded ecosystems, contaminated water bodies, and degraded food systems. This form of violence is particularly relevant in contexts of extractive development, where industrial activities generate impacts that may not fully manifest for years—often long after the closure of a mine or the signing of a development agreement. Nixon's critique is especially salient in northern Canada, where colonial histories and frontier economies have long privileged extraction over sustainability, and where Indigenous Peoples bear the brunt of this long-term harm.

In the Yukon, scholars have drawn on this concept to interrogate the role of impact assessments and their capacity—or lack thereof—to account for slow, cumulative harms. Parson and Ray<sup>106</sup> argue that environmental and socio-economic assessments under YESAB continue to prioritize immediate, project-level impacts, and often fail to address systemic and long-term changes in land use, ecosystem integrity, and cultural continuity. This narrow scope has implications for Indigenous wellbeing, particularly for communities whose cultural and physical survival depends on the health of the land. These limitations are not only technical but political, revealing how dominant assessment frameworks maintain colonial relations of power by failing to recognize Indigenous knowledge systems and decision-making authorities.

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<sup>105</sup> Rob Nixon, *Slow Violence and the Environmentalism of the Poor* (Cambridge, MA: Harvard University Press, 2011).

<sup>106</sup> Sean Parson and Natalie Ray, "Displacement and Extraction: Environmental Justice in Canada's North.," *Canadian Journal of Environmental Education* 25 (2020): 74–89.

Environmental justice literature expands on these critiques by foregrounding the structural inequalities embedded in environmental governance. Schlosberg<sup>107</sup> defines environmental justice as encompassing three dimensions: distributional equity (who bears the burdens and receives the benefits), procedural justice (who has a voice in decision-making), and recognitional justice (whose knowledge and values are respected). In the context of Yukon impact assessments, these dimensions are often imbalanced. While YESAB formally incorporates consultation and participation mechanisms, critiques suggest that these mechanisms are often tokenistic or procedural, with limited influence over final decisions.<sup>108</sup> The persistence of extractive priorities in territorial planning and federal economic policy further undermines the potential for truly equitable and community-driven development.

The failure to adequately recognize and engage with Indigenous knowledge systems - particularly TK - is a recurring theme in the literature on environmental governance in the North. Nadasdy demonstrates how co-management boards and assessment agencies often incorporate TK in ways that decontextualize or instrumentalize it, reducing complex worldviews to data points that can be folded into Euro-Canadian management frameworks. This form of epistemic violence is a key feature of slow violence, as it erodes the conditions necessary for Indigenous resurgence and self-determination while purporting to be inclusive. The impact assessment process, in this sense, becomes a mechanism for the containment of Indigenous difference within the structures of settler colonial governance.

Whyte<sup>109</sup> has deepened this analysis by linking slow violence to the intergenerational effects of environmental degradation on Indigenous communities. He argues that climate change

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<sup>107</sup> David Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature* (Oxford: Otago University Press, 2007).

<sup>108</sup> Booth and Skelton, "There's a Conflict Right There."

<sup>109</sup> Whyte, "Indigenous Experience, Environmental Justice and Settler Colonialism."

and industrial extraction contribute to what he terms “cumulative intergenerational environmental violence”—a process whereby the capacities of Indigenous communities to maintain land-based practices, pass on cultural knowledge, and govern their territories are incrementally undermined. For Whyte, environmental justice must therefore be situated within broader decolonial and treaty-based frameworks, which acknowledge Indigenous Peoples not merely as stakeholders but as sovereign nations with the right to refuse or redefine development.

The work of McGregor<sup>110</sup> further emphasizes that Indigenous conceptions of health and land are relational and holistic, making them difficult to reconcile with Eurocentric, biophysical metrics typically used in environmental assessments. She highlights that Indigenous environmental justice is grounded not only in the equitable distribution of environmental benefits and harms but also in the recognition of Indigenous legal traditions and responsibilities to the land. In a similar vein, Moore<sup>111</sup> has written about the limitations of current environmental regulatory frameworks, noting that they systematically fail to acknowledge Indigenous epistemologies and the deep cultural meaning attached to place.

Taken together, the literature on slow violence and environmental justice reveals the inadequacies of conventional impact assessment frameworks in the Yukon and beyond. These frameworks are often ill-equipped to account for long-term, intergenerational harms; they struggle to engage with Indigenous knowledge systems in respectful and meaningful ways; and they operate within institutional structures that prioritize resource development over ecological integrity and community wellbeing. As Nixon and Whyte have emphasized, addressing slow

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<sup>110</sup> Deborah McGregor, “Mino-Mnaamodzawin: Achieving Indigenous Environmental Justice in Canada,” *Environment and Society* 9, no. 1 (2018): 7–24.

<sup>111</sup> Patrick Moore, “Disrupting Settler Colonialism through Indigenous Environmental Justice: A Literature Review.,” *Decolonization: Indigeneity, Education & Society* 6, no. 1 (2017): 34–58.

violence requires more than technocratic reforms—it demands a fundamental rethinking of the relationship between people, land, and governance.

## **2.9 Resource Dependence and “Resource Curse”**

Auty<sup>112</sup> and Sachs and Warner<sup>113</sup> were among the earliest to articulate the concept of the “resource curse,” highlighting how an abundance of natural resources can paradoxically hinder long-term economic development by fostering dependency, rent-seeking behaviour, and weakened institutional capacity. In the context of Canada’s Arctic, these dynamics are particularly evident. Southcott et al.<sup>114</sup> argue that resource dependence in the North has consistently failed to generate sustained benefits for Indigenous and local communities. They highlight the enduring reliance of Arctic regions on extractive industries such as mining, oil, and gas, which, while generating short-term economic activity, often do not lead to enduring improvements in community wellbeing or infrastructure.

The Arctic Resilience Report<sup>115</sup> further reinforces these concerns, emphasizing that the socio-economic benefits of Arctic resource development are unevenly distributed and often bypass Indigenous populations. The report identifies key “resilience risks,” including economic overdependence on volatile resource markets and governance structures that prioritize external investment over community-led development. These findings suggest that without deliberate efforts to center Indigenous priorities and build long-term capacity, resource wealth may

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<sup>112</sup> Richard Auty, *Sustaining Development in Mineral Economics: The Resource Curse Thesis* (Routledge, 1993).

<sup>113</sup> Jeffery Sachs and Andrew Warner, “Natural Resource Abundance and Economic Growth” (Cambridge: National Bureau of Economic Research, 1995).

<sup>114</sup> Southcott et al., *Resources and Sustainable Development in the Arctic*.

<sup>115</sup> “Arctic Resilience Report 2016” (Stockholm: Stockholm Environment Institute and Stockholm Resilience Centre, 2016).

continue to reinforce existing vulnerabilities rather than support sustainable, resilient futures for Arctic communities.

Resource dependency in the Arctic exacerbates social inequalities, disproportionately affecting Indigenous communities. For example, Southcott et al. highlight that the economic benefits of resource development often favor external corporations and governments, while local populations experience limited job opportunities and insufficient revenue sharing. Stammer and Wilson<sup>116</sup> emphasize the transient nature of resource industry workforces, which rarely integrate into Indigenous communities, disrupting social cohesion and hindering long-term socio-economic stability. Parlee and Furgal<sup>117</sup> argue that resource dependency erodes traditional ways of life, as industrial activities encroach on Indigenous lands, undermining food sovereignty and cultural practices. This dual burden—losing access to traditional livelihoods while being excluded from meaningful economic participation in resource industries—further marginalizes Arctic communities. Additionally, inequitable economic returns exacerbate poverty, inadequate healthcare, and education gaps in already vulnerable regions. Stammer and Wilson<sup>118</sup> note that while resource projects generate employment and revenue, Indigenous communities often receive disproportionately small benefits compared to multinational corporations and distant governments.

The cumulative effects of resource extraction, including environmental degradation, economic volatility, and the erosion of cultural traditions, significantly weaken Indigenous resilience and adaptive capacity. Parlee and Furgal emphasize that disrupted ecosystems

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<sup>116</sup> Emma Wilson and Florian Stammer, “Beyond Extractivism and Alternative Cosmologies: Arctic Communities and Extractive Industries in Uncertain Times,” *The Extractive Industries and Society* 3, no. 1 (2016): 1–8, <https://doi.org/10.1016/j.exis.2015.12.001>.

<sup>117</sup> Brenda Parlee and Chris Furgal, “Well-Being and Environmental Change in the Arctic,” *Climatic Change* 115, no. 1 (2012): 13–34.

<sup>118</sup> Wilson and Stammer, “Beyond Extractivism and Alternative Cosmologies.”

compromise food security and sever cultural and spiritual ties to the land. Moreover, boom-and-bust resource cycles aggravate social inequities and diminish the sustainability of Indigenous livelihoods. This complex interplay of environmental, economic, and cultural impacts challenges community cohesion and undermines the potential for self-determination and sustainable development.

Rodon and Levesque<sup>119</sup> also discuss the boom and bust, emphasizing the nuanced and place-based nature of these impacts, as different regions and communities experience mining differently depending on factors such as governance structures, Indigenous involvement, and company-community relationships. The authors discuss how resource booms can lead to cycles of prosperity followed by busts, often leaving communities with environmental degradation, social disruptions, and unmet economic expectations. Auty<sup>120</sup> argues that resource-rich regions often suffer from weak governance structures, which exacerbate the negative impacts of resource dependence. In the Arctic, governance challenges are compounded by the region's remote location, jurisdictional complexities, and historical legacies of colonialism. Southcott et al.<sup>121</sup> and Rodon<sup>122</sup> assert the inadequacies of revenue-sharing agreements between governments and Indigenous communities. These agreements often fail to address the socio-economic needs of local populations, perpetuating inequality and dependency. Indeed, McCrank<sup>123</sup> when investigating the Land and Water Boards of the Mackenzie River Valley, critiques the lack of

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<sup>119</sup> Thierry Rodon and Francis Levesque, "From Narrative to Evidence: Socio-Economic Impacts of Mining in Northern Canada," in *Resources and Sustainable Development in the Arctic*, ed. Chris Southcott et al. (New York: Routledge, 2019), 88–106.

<sup>120</sup> Auty, *Sustaining Development in Mineral Economics: The Resource Curse Thesis*.

<sup>121</sup> Southcott et al., *Resources and Sustainable Development in the Arctic*.

<sup>122</sup> Rodon, "Land-Use Co-Management in Canada: A Mixed Experience."

<sup>123</sup> Neil McCrank, "Road to Improvement: Review of the Regulatory Systems across the North" (Ottawa: Minister of Public Works and Government Services Canada, May 2008).

local control over resource management decisions, which frequently prioritize external economic interests over community wellbeing.

The socio-economic effects of resource development in Canada's North have been a focal point of extensive research. Scholars have consistently asserted that Impact Assessments (impact assessments) often fail to provide comprehensive evaluations of both the positive and negative socio-economic implications of development projects. According to Gibson and Klinck (2005), the influx of non-local labor and the resultant boom-and-bust economic cycles pose significant challenges to local and Indigenous communities. These cycles—driven by fluctuating global demand for commodities like oil, gas, and minerals—typically begin with rapid economic expansion, increased employment opportunities, and temporary infrastructure investment. However, once market conditions shift or projects reach the end of their life span, communities are often left with rising unemployment, abandoned infrastructure, and minimal long-term benefits. This pattern fosters economic dependency and volatility, undermining efforts to build stable, self-sufficient economies in the North.

One critical issue identified by Andrachuk and Smitis (2012) is the strain placed on local infrastructure by rapid industrial activity. The sudden arrival of transient, non-local workforces frequently overwhelms housing, healthcare services, transportation systems, and other public resources, placing long-term burdens on communities that lack the fiscal and administrative capacity to adapt. In many cases, this temporary development fails to translate into lasting improvements, leaving communities to absorb the environmental and social costs once companies withdraw.

Sandlos and Keeling (2016) further illuminate the multifaceted impacts of extractive industries on northern Canadian communities. Their work explores not only the environmental

degradation and socio-economic inequalities caused by mining but also the cultural disruptions and political marginalization experienced by Indigenous populations. They emphasize the historical continuity of these extractive relationships and call attention to how the legacy of colonialism continues to shape development outcomes. At the same time, their study highlights community resistance, resilience, and the growing influence of Indigenous voices in advocating for more just and sustainable resource governance. The inclusion of historical memory and Indigenous perspectives, they argue, is crucial for reshaping development frameworks in ways that prioritize long-term wellbeing over short-term profit.

To add to this, the intersection of mining and the Missing and Murdered Indigenous Women, Girls, and Two-Spirit (MMIWG2S) crisis has increasingly gained attention in scholarly literature. Hoogeveen<sup>124</sup> explores the gendered impacts of mining projects through the lens of social impact assessments. The author highlights how large-scale resource developments often neglect to address the disproportionate risks faced by Indigenous women and girls, including increased exposure to violence, displacement, and economic marginalization. Hoogeveen argues that integrating gender-responsive policies, such as women’s employment and safety measures, as part of mining project approvals, is essential to mitigating these impacts. Oxedine<sup>125</sup> provides a case study of the Lumbee Tribe, focusing on how industrial activities like mining contribute to systemic violence and perpetuate the MMIWG2S crisis. The article underscores the underreporting of such cases in Indigenous communities and highlights the structural barriers,

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<sup>124</sup> D. Hoogeveen, “Integrating Gender and Intersectionality into Social Impact Assessments: Indigenous Women, Mining, and Safety,” in *Handbook on Environmental Social Impact Assessment*, ed. Fiona Haines (Cheltenham: Edward Elgar Publishing, 2024), 321–38.

<sup>125</sup> D. Oxedine, “Underreporting and the Missing and Murdered Indigenous Women, Girls, and Two-Spirit (MMIWG2S) Crisis: Resource Extraction and Systemic Violence,” *Journal of Indigenous Studies and Resources* 23, no. 1 (2024): 45–63.

including jurisdictional gaps and lack of accountability, that exacerbate the crisis. This research adds a critical perspective on how resource extraction industries intersect with colonial legacies to amplify risks for Indigenous women, girls, and Two-Spirit individuals.

Walsh<sup>126</sup> analyzes the socio-economic and environmental impacts of tar sands mining in Alberta, focusing on the ways these developments amplify vulnerabilities for Indigenous women, girls, and Two-Spirit individuals. Walsh discusses how the influx of non-local male workers into remote communities creates conditions for increased violence and exploitation. Furthermore, the destruction of land and resources central to Indigenous livelihoods disrupts cultural and social structures, leaving Indigenous populations, particularly women, girls, and Two-Spirit individuals, disproportionately exposed to harm. King and Hodwitz<sup>127</sup> take a broader approach, analyzing strategies for expanding the discourse surrounding MMIWG2S in North America. They explore the intersection of Indigenous government jurisdiction, gender, and resource extraction, noting the limitations of existing legal frameworks in addressing violence linked to mining projects. Their study emphasizes the importance of Indigenous-led governance and the inclusion of gender-sensitive approaches in resource development policies.

Despite socio-economic challenges, resource development has also brought certain benefits to northern communities. Job creation, training programs, and infrastructure improvements are frequently cited as positive outcomes. But, as Parlee<sup>128</sup> notes, these benefits are often evaluated in isolation rather than as part of an integrated socio-economic analysis. Parlee critiques the tendency of impact assessments to focus narrowly on individual socio-economic aspects without

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<sup>126</sup> K. Walsh, “Tar Sands Mining and Indigenous Vulnerability: Socio-Economic and Environmental Perspectives,” *Environmental Justice Journal* 11, no. 3 (2018): 121–34.

<sup>127</sup> S. King and O. Hodwitz, “Expanding the Dialogue on MMIWG2: Tribal Jurisdiction, Resource Extraction, and Gendered Violence.,” *Critical Criminology* 28, no. 4 (2020): 345–65.

<sup>128</sup> Brenda Parlee, “Resource Development and Well-Being in Northern Canada,” in *Resource and Sustainable Development in the Arctic* (New York, New York: Routledge, 2020).

considering their cumulative impact on community wellbeing. She advocates for a shift toward a holistic approach that prioritizes overall wellbeing, encompassing economic, cultural, and social dimensions.

## **2.10 Conclusion**

Scholars such as Coulthard and Nadasdy critique state-led frameworks—such as recognition-based politics and co-management regimes—for entrenching colonial hierarchies and limiting Indigenous self-determination. These structures often embed Indigenous governance within state bureaucracies, restricting the transformative potential of Indigenous knowledge and prioritizing state and industrial interests. Both scholars call for decolonized, land-based approaches that challenge state authority and assert Indigenous jurisdiction outside colonial frameworks.

In contrast, thinkers like Cardinal, Hildebrandt, and Bartlett et al. propose partnership-based models rooted in treaty fulfillment and shared governance. Cardinal and Hildebrandt, drawing from the oral histories of Treaty Elders, emphasize that treaties are not simply legal contracts but sacred covenants between sovereign nations. Their work reframes treaties as enduring relationships based on mutual respect, ethical obligations, and relational accountability. They argue that honoring the spirit and intent of treaties involves recognizing Indigenous legal orders and actively including Indigenous Nations as equal partners in governance and resource management. This relational interpretation disrupts the dominant extractive paradigm and demands a reorientation toward reconciliation grounded in reciprocity and sovereignty.

Similarly, Bartlett and Marshall's Two-Eyed Seeing framework provides a philosophical and practical model for integrative governance. Rooted in Mi'kmaw teachings, it encourages seeing with one eye through Indigenous knowledge and with the other through Western science—using both together for the collective good. This approach resists the subordination of

Indigenous perspectives by calling for parallel respect, co-learning, and collaboration across knowledge systems. In environmental assessment contexts, Two-Eyed Seeing affirms the legitimacy of Indigenous epistemologies and supports pluralistic governance that is holistic, culturally grounded, and sustainable. Together, these frameworks offer transformative alternatives to colonial impact assessment structures by emphasizing collaboration, epistemic respect, and Indigenous-led decision-making that goes beyond mere consultation.

While a growing body of literature explores how impact assessments in northern Canada have evolved to incorporate TK and Indigenous perspectives—especially within co-management systems—persistent challenges remain. These include enduring power imbalances, limited capacity, superficial consultation, and insufficient mechanisms for addressing cumulative effects and implementing strategic assessments. Scholars have emphasized the need for adaptive management, robust compliance monitoring, and genuine public participation to support an impact assessment process that is equitable, credible, and capable of advancing sustainable outcomes.

Notably, there remains a striking lack of Yukon-specific scholarship on the performance of YESAB and the implementation of Chapter 12 of the UFA. The most comprehensive contribution to date is Darling et al.,<sup>129</sup> who examine the individual and organizational capacities of YESAB assessors. Their findings reveal that while financial resources and legislative legitimacy are in place, deeper systemic issues persist—particularly in contextual understanding, knowledge mobilization, and the integration of Indigenous and non-technical knowledge systems. These gaps raise critical questions about the ability of YESAB to fulfill its mandate in a way that is responsive to both the intent of the UFA and the lived realities of YFNs.

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<sup>129</sup> Darling et al., “On the Individual and Organizational Capacities Supporting Impact Assessment: The Case of the Yukon Environmental and Socio-Economic Assessment Board.”

Ultimately, this review underscores an urgent need for further Yukon-focused research to evaluate how impact assessment processes function in practice and whether they genuinely support Indigenous stewardship, environmental protection, and pluralistic governance amid growing extractive pressures in the territory. While limited literature exists on YESAB's performance, Darling et al. offer the most comprehensive analysis to date, highlighting significant gaps in contextual understanding, knowledge integration, and institutional support that hinder the realization of inclusive, effective assessment processes. This dissertation responds directly to that gap by examining how well YESAB fulfills the objectives outlined in Chapter 12 of the Umbrella Final Agreement—specifically its commitments to meaningful Indigenous participation, sustainability, and equitable environmental governance in the Yukon.

## Chapter 3: Methodology and Methods

### 3.1 Introduction to Methodology and Methods

The academic literature outlined in Chapter 2: Literature Review on treaty fulfillment and Indigenous-Crown relations within Canada highlights the progress and persistent challenges which can be applied to the Yukon's impact assessment and co-management frameworks.

However, while there is substantial analysis of treaty implementation in general, specific gaps exist concerning the Yukon region, particularly the development assessment process. This lack of focused analysis leaves room for critical inquiry into how the current Yukon Development Assessment Process aligns with reconciliation principles, advances Indigenous sovereignty, and fulfills treaty-mandated consultation and collaboration in the region and within Canada more generally. This dissertation explores these gaps. Its focus is on fulfillment of Chapter 12:

Development Assessment Process of the Umbrella Final Agreement (UFA) that led to the *Yukon Environmental and Socio-Economic Assessment Act (YESAA)*, and the formulation of the Yukon Environmental and Socio-Economic Assessment Board (YESAB) and seeks to answer the following research questions: 1. To what extent does the YESAB fulfill the spirit and intent of the UFA, particularly Chapter 12, which governs the Development Assessment Process for managing environmental and socio-economic impacts within the Traditional Territories of the Tr'ondëk Hwëch'in and the Northern Tutchone Nations? 2. What are the key strengths and weaknesses of YESAB's impact assessment processes in terms of their comprehensiveness, inclusivity, and responsiveness to the needs and perspectives of both Indigenous and non-Indigenous Yukoners, particularly regarding environmental stewardship, cultural relevance, and community wellbeing? 3. How do other institutions and actors involved in the broader

Development Assessment Process influence YESAB's capacity to fulfill its treaty-mandated responsibilities under the UFA?

The research relied on an historical and contemporary analysis to provide context regarding the Yukon's relationship with mining and development assessment, as well as 35 interviews with Yukoners who have experience either working with, for, or to create YESAB, to gather information. Constructive Grounded Theory and Documents Analysis methods were combined with Indigenous research methods that included a community-based research approach. The methodology emphasized depth over breadth, and aimed to uncover meanings, contexts, and perspectives surrounding the fulfilment of the UFA's Chapter 12 in not only *YESAA*, but the overall Development Assessment Process. I conducted semi-structured, open-ended interviews/conversations to gather detailed insights from 35 participants about their experiences, opinions, and feelings towards YESAB and the overall Development Assessment Process. I also lived and worked in the community of Mayo where I was able to engage in participatory observations of people in their environments to gain a more comprehensive understanding of YESAB's role in the Yukon. Lastly, I conducted document analysis to examine written materials to uncover supplementary information to support findings.

The methodological framework<sup>130</sup> and the methods<sup>131</sup> for this study are discussed below, in the following order: scope, Indigenous Research, Constructive Grounded Theory, Document Analysis Methodology, Community Based Participatory Research, Research

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<sup>130</sup> For this paper, methodological framework refers to: the systematic framework or theoretical analysis that underpins a particular approach to research. It involves the principles, theories, and philosophical underpinnings that guide the selection and application of research methods to achieve the study's objectives. John Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, 4th ed. (Thousand Oaks, California: Sage Publications, 2014).

<sup>131</sup> For this paper, methods refers to: the specific techniques, tools, or procedures used in the process of collecting and analyzing data during a research project. These are the practical steps or instruments researchers use to implement their study. C.R. Kothari, *Research Methodology: Methods and Techniques*, 2nd ed. (New Delhi, India: New Age International Publishers, n.d.).

Licences/Agreements in the Yukon, Institutional Review Board with Trent University, Interviews, Transcripts, NVivo, and Document Analysis Methods.

### *3.1.1 Scope*

I focused my participant list on those who have experience with YESAB assessment in the Mayo and Dawson districts (see map below). This would include the Traditional Territories of Tr'ondëk Hwëch'in and the Northern Tutchone Nations of the First Nation of Na-Cho Nyäk Dun, Selkirk First Nation, and Little Salmon/Carmacks First Nation. The reason for focusing on these areas was because these two districts have experienced the highest degree of mining projects which were the focus of the interviews. Concentrating on these two districts and mining projects helped to narrow down the overall scope of this dissertation. Some of the Yukon First Nations (YFNs) participants who were interviewed had Traditional Territories outside of these districts, but all had experience working with YESAB in these two districts and with either Tr'ondëk Hwëch'in or Northern Tutchone Nations Self-Governments.

Living and working in two of the NTN's Traditional Territories was useful in this process, and to some extent I was a participant observer in some of the processes described. My on-going experience working in the Department of Lands and Resources at the FNNND helped facilitate relationships and encouraged me to focus on this area and to explore mining activities, as that was a topic of interest for YFN Self-Governments. Most of the comments I provided to YESAB as an Impact Assessment Officer were for mining projects, broadening my experience with this industry, its impacts, as well as the overall Development Assessment Process.

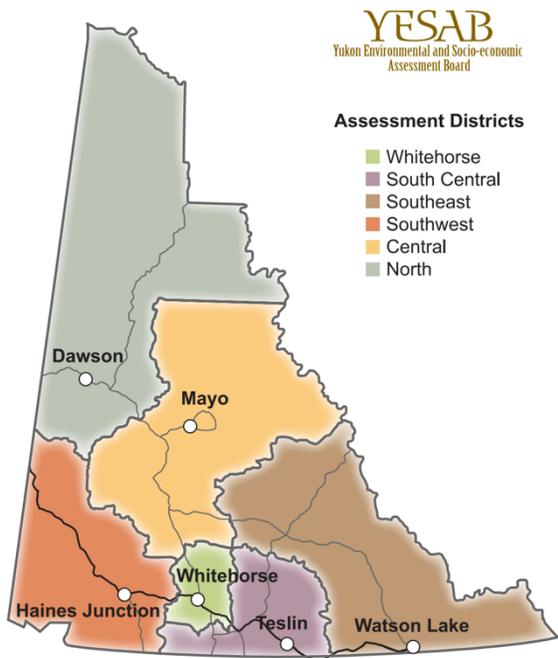


Figure 1: YESAB Assessment Districts, Map by YESAB, n.d.

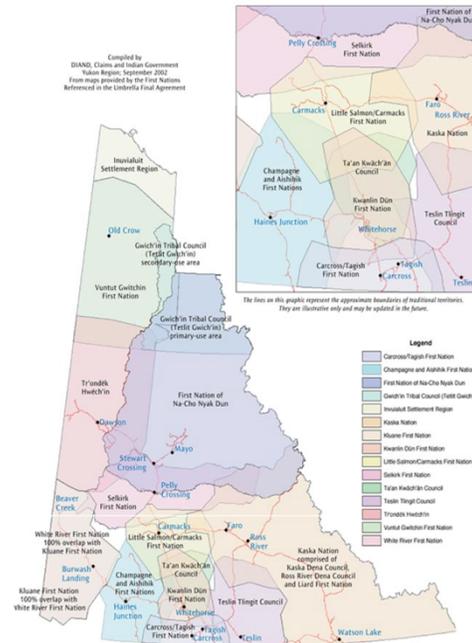


Figure 2: YFNs' Traditional Territories, Map by Government of Canada, 2010

### 3.2 Methodological Frameworks

#### 3.2.1 Indigenous Research

This dissertation relied on the generosity of shared knowledge from many YFNs. The intricate relationship that the Yukon overall (government, culture, history, etc.) has with the UFA and YFN cannot be denied or ignored. Therefore, although not all of the people I spoke to were YFN citizens, their experiences with YESAB were greatly influenced by Indigenous-Crown relations. As a result, my research is led by research etiquettes and ethical principles, as listed below, that are rooted within Indigenous research methodologies. These research methods represent a distinct and holistic approach to knowledge gathering that fundamentally differs from Western

<sup>132</sup> Government of Canada, CIRNAC, “Archived - Yukon Land Claims and Self-Government Agreements - Tri-Annual Report 2004-2007,” report, Government of Canada, March 25, 2010, <https://www.rcaanc-cirnac.gc.ca/eng/1100100030610/1542809362878>.

<sup>133</sup> YESAB: Assessment Districts (Whitehorse: YESAB, n.d.).

research paradigms.<sup>134</sup> Indigenous research should be guided by a relational, holistic, and self-reflective approach that acknowledges both personal and collective responsibilities, as outlined by Kathy Absolon.<sup>135</sup> Knowledge is not merely acquired but revealed through meaningful connections, ceremonies, and storytelling, deeply rooted in spiritual and land-based relationships. Bartlett and Marshall's framework of Two-Eyed Seeing<sup>136</sup> encourages researchers to draw upon the strengths of both Indigenous and Western knowledge systems, while maintaining the integrity and distinctiveness of Indigenous ways of knowing. R. Datta<sup>137</sup> highlights the need to decolonize both the researcher and the research process through relational accountability, reciprocity, and the co-creation of knowledge with Indigenous communities. Collectively, these approaches promote ethical, participatory methodologies grounded in Indigenous worldviews—emphasizing respect, relationships, and responsibility—and ensure that research benefits Indigenous communities while honoring their cultural protocols and knowledge systems.

One of the most significant frameworks in Canadian Indigenous research is the OCAP® principles, which stands for Ownership, Control, Access, and Possession. OCAP is a methodological framework that ensures that research involving Indigenous communities is conducted ethically and in alignment with their sovereignty, rights, and knowledge systems. These principles establish fundamental rights and protocols for how Indigenous experiences and information should be collected, protected, used, and shared. Under OCAP®:

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<sup>134</sup> Linda Tuhiwai-Smith, *Decolonizing Methodologies: Research and Indigenous Peoples*, 2nd ed. (Dunedin: Otago University Press, 2012); Shawn Wilson, *Research Is Ceremony: Indigenous Research Methods* (Black Point, Nova Scotia: Fernwood Publishing, 2009).

<sup>135</sup> Kathleen Absolon, *Kaandossiwin: How We Come to Know: Indigenous Re-Search Methodologies*, 2nd ed. (Winnipeg, Manitoba: Fernwood Publishing, 2022).

<sup>136</sup> D.H. Martin, *Two-Eyed Seeing: A Framework for Understanding Indigenous and Non-Indigenous Approaches to Indigenous Health Research* (Edmonton: University of Alberta Press, 2012).

<sup>137</sup> R. Datta, *Decolonizing Both Researcher and Research and Its Effectiveness in Indigenous Research* (Edmonton, Alberta: University of Alberta Press, 2018).

- Ownership: Indigenous Peoples collectively own their cultural knowledge and information
- Control: Indigenous communities have the right to control all aspects of research affecting them
- Access: Indigenous Peoples must have access to information about themselves
- Possession: Indigenous communities should physically possess and protect their experiences and information<sup>3</sup>

As this research was situated on the Traditional Territories of four YFNs and involved eleven participants who are YFN, I took the time and effort to build relationships with the communities and reached out to four YFNs Self-Governments to communicate the overall project either through conversations or through Research Agreements (as outlined further below). I built relationships with community members whenever possible, using networking and mutual connections to establish trust and create open lines of communication. This approach ensured that people in the area knew who I was and could easily reach out to me with any questions or concerns about the work I was doing. OCAP states that researchers must engage with communities in a way that acknowledges and respects this ownership, often through formal agreements that outline information use and stewardship. It also emphasizes the importance of ensuring that information is shared transparently with participants and communities and that findings are presented in accessible formats, such as oral presentations or translated summaries.

The Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (TCPS2)<sup>138</sup> similarly underscores the ethical obligations researchers have when engaging with

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<sup>138</sup> Interagency Advisory Panel on Research Ethics Government of Canada, “Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans – TCPS 2 (2022),” January 11, 2023, [https://ethics.gc.ca/eng/policy-politique\\_tcps2-eptc2\\_2022.html](https://ethics.gc.ca/eng/policy-politique_tcps2-eptc2_2022.html).

Indigenous Peoples. Chapter 9 of TCPS2<sup>139</sup> outlines a framework for research involving First Nations, Inuit, and Métis Peoples of Canada, emphasizing the principles of respect, collaboration, and reciprocity. These guidelines stress the need for community involvement in all stages of research, from planning to dissemination, ensuring that research aligns with community values and priorities. Building on OCAP principles, TCPS2 calls for the respectful negotiation of agreements that address information ownership, control, access, and possession. For this study, my communication and collaboration with YFN Self-Governments adhered to these principles, ensuring mutual understanding and consent at all stages of the project. I was very transparent about my work and had signs up in the communities of Dawson and Mayo to communicate what I was doing.

The Ethical Guidelines for Research Involving the Sámi People in Finland,<sup>140</sup> released by the University of Oulu, also emphasize the importance of relationship building and collaboration in research with Indigenous Peoples. These guidelines were chosen as they have circumpolar relevance, similar to the scope of the research in this study. Similarly, OCAP and TCPS2 align with these guidelines by requiring meaningful engagement and fostering trust. These principles call for researchers to acknowledge the lived realities of Indigenous communities, respect their cultural practices, and ensure that research benefits the community. As recommended by these ethical guidelines, my approach involved open dialogue and continuous engagement with the YFN communities to foster trust and reciprocity. This was most evident in that I have lived in worked in the Yukon for over a decade. I have built relationships with community members from the four YFNs, understanding the community dynamics, that allowed me to navigate my research

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<sup>139</sup> Government of Canada, “Tri-Council Policy Statement.”

<sup>140</sup> “Ethical Guidelines for Research Involving the Sámi People in Finland Released | University of Oulu,” accessed December 25, 2024, <https://www oulu.fi/en/news/ethical-guidelines-for-research-involving-sami-people-finland-released>.

in a way that was not cumbersome or disrespectful to the YFNs communities. By living here, I was a constant, well-known presence, and not just a drop-in researcher, but a member of the Mayo community.

In line with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP),<sup>141</sup> OCAP ensures that research supports Indigenous self-determination and protects Traditional Knowledge (TK). UNDRIP explicitly recognizes Indigenous Peoples' rights to participate in decision-making processes that affect them, including research. By embedding OCAP principles into this study, I sought to ensure that YFN participants maintained agency over the research process and that the outcomes were aligned with their priorities. Additionally, respecting UNDRIP's emphasis on giving back to Indigenous communities, I have secured funding through the Wildlife Conservation Society to host community meetings upon the completion of this dissertation. These meetings will include oral presentations and the distribution of easy-to-understand, summarized pamphlets to ensure accessibility of findings.

The Oral History Association's Principles and Best Practices also emphasize trust, relationship building, and the importance of giving back to communities. These practices advocate for transparency in how interviews and oral histories are collected, analyzed, and shared. Echoing Oral History Association's focus on collaborative practices, my research design prioritized community involvement throughout the process. In the spirit of giving back, my commitment to presenting findings in accessible formats and holding community meetings ensures that this research contributes to the wellbeing and knowledge base of YFN communities.

By integrating the ethical principles of OCAP, the Sámi Research Guidelines, TCPS2, UNDRIP, and Oral History Association's Principles and Best Practices, this study was designed

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<sup>141</sup> "United Nations Declaration on Rights of Indigenous Peoples," S.C. 2021 c.14 § (n.d.).

to build trust, foster equitable partnerships, and ensure that the research findings are meaningful, actionable, and beneficial to the Indigenous communities involved. These frameworks collectively serve to guide ethical, respectful, and reciprocal research that upholds the sovereignty and rights of Indigenous peoples.

### *3.2.2 Constructive Grounded Theory and Reflexivity*

Constructive Grounded Theory and reflexivity are foundational methodologies in qualitative research, providing a rigorous and flexible framework for investigating complex social phenomena. For this dissertation, I employed both Constructive Grounded Theory and reflexivity to explore the multifaceted role of the YESAB within remote communities. These approaches complemented one another, with Constructive Grounded Theory focusing on co-construction of knowledge and iterative analysis, and reflexivity emphasizing critical self-awareness and ethical accountability throughout the research process.

Constructive Grounded Theory originates from the grounded theory methodology developed by Barney Glaser and Anselm Strauss in 1967,<sup>142</sup> which was designed to generate theories directly from experiences rather than test pre-existing hypotheses. Over time, grounded theory evolved into distinct schools of thought, including Glaserian grounded theory, Straussian grounded theory, situational analysis, and Constructive Grounded Theory. Kathy Charmaz advanced Constructive Grounded Theory in the 1990s, critiquing the positivist assumptions of earlier grounded theory models. Charmaz argued that research is inherently influenced by the researcher's positionality and socio-historical context, and she emphasized co-creation of

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<sup>142</sup> Anselm Strauss and Barney Glaser, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Chicago, Illinois: Aldine Publishing, 1967).

knowledge between researchers and participants.<sup>143</sup> Constructive Grounded Theory's iterative nature involves continuous cycles of testimonial collection, analysis, and interpretation, ensuring that findings remain grounded in participants' experiences while adapting to the dynamic nature of social inquiry.

Reflexivity complements Constructive Grounded Theory by fostering critical self-awareness and ensuring transparency in the research process. As conceptualized by Victor Turner<sup>144</sup> and Barbara Myerhoff,<sup>145</sup> reflexivity involves turning back on oneself to critically analyze how personal biases, cultural contexts, and power dynamics shape the research. Turner viewed reflexivity as a tool for navigating the liminal spaces of social inquiry, questioning established norms and boundaries. Myerhoff emphasized the dual role of researchers as both observers and participants, urging them to critically evaluate their positionality and how it influences interactions with participants and interpretations of experiences. Reflexivity ensures that research is ethically engaged and methodologically rigorous, prompting continuous examination of assumptions and positionality throughout the research process.

The integration of Constructive Grounded Theory and reflexivity was particularly effective for my study of the Development Assessment Process. Living and working within these communities allowed me to adopt an emic, that is, an insider's perspective, which allowed me to engage deeply with participants and grounding my findings in their lived experiences. This insider perspective fostered trust and collaboration, essential for capturing the richness and

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<sup>143</sup> Kathy Charmaz, *Constructing Grounded Theory*, 2nd ed. (Sage Publications, 2014).

<sup>144</sup> Victor Turner, *Dramas, Fields, and Metaphors: Symbolic Action in Human Society* (Ithaca, New York: Cornell University Press, 1974.).

<sup>145</sup> Barbara Myerhoff, *Number Our Days: A Triumph of Continuity and Culture Among Jewish Old People in an Urban Ghetto* (New York, New York: Touchstone, 1978.). Barbara Myerhoff and Jay Ruby, "Introduction," in *A Crack in the Mirror. Reflexive Perspectives in Anthropology*, ed. Jay Ruby (Philadelphia: University of Pennsylvania Press, 1982).

diversity of participants' viewpoints. Reflexivity enabled me to critically examine my positionality as an Impact Assessment Officer with FNNND, considering how my professional background influenced my understanding of YESAB and my interactions with participants. This dual approach, combining emic and etic perspectives, ensured that my analysis was both contextually grounded and analytically rigorous.

Constructive Grounded Theory's iterative process further supported the integration of emic and etic, that is, an outsider's perspective, approaches. Unlike traditional methodologies, Constructive Grounded Theory involves continuous refinement of findings through cycles of information gathering, analysis, and interpretation (refer to NVivo discussion in s. 3.3.5). This iterative approach allowed me to revisit participants' perspectives over time, incorporating new insights and ensuring that my research remained responsive to the evolving socio-political context of YESAB. Reflexivity enriched this process by prompting ongoing self-awareness and critical reflection, ensuring that the research process was transparent and ethically accountable.

The combination of Constructive Grounded Theory and reflexivity highlights the value of integrating emic and etic research methods in qualitative inquiry. Emic approaches prioritize participants' lived experiences and cultural frameworks, providing authentic and meaningful insights. Etic approaches, by contrast, situate participants' perspectives within broader theoretical frameworks, enhancing analytical depth. Reflexivity bridges these approaches by encouraging researchers to critically evaluate their positionality and assumptions, ensuring that findings are both contextually specific and theoretically robust. This integration was crucial in my study, enabling me to navigate the complexities of YESAB's socio-political role while maintaining ethical engagement with community members. Constructive Grounded Theory and reflexivity each bring distinct strengths to qualitative research. Constructive Grounded Theory's emphasis

on co-construction and iteration allows researchers to uncover nuanced insights into social phenomena, while reflexivity ensures transparency and ethical accountability. Together, these methodologies create a powerful framework for exploring dynamic and complex issues. In my research, Constructive Grounded Theory provided the methodological structure for generating grounded insights, while reflexivity ensured that the research process was critically examined and ethically sound. This combination allowed me to produce findings that were both meaningful to participants and situated within a broader socio-political framework.

Historically, Constructive Grounded Theory emerged as a response to the limitations of traditional grounded theory, which was rooted in positivist assumptions of objectivity and generalizability. Charmaz's constructivist approach challenged these assumptions, prioritizing critical questioning of information and situating research within its socio-historical contexts.<sup>146</sup> Reflexivity further enhances Constructive Grounded Theory by fostering ethical engagement and methodological rigor. Turner and Myerhoff's perspectives on reflexivity provided valuable guidance in my study, helping me navigate the complexities of balancing insider and outsider perspectives. By continuously reflecting on my dual role as both an observer and participant, and as an insider and outsider, I ensured that my analysis remained ethically grounded and methodologically transparent.

The application of Constructive Grounded Theory and reflexivity to my study of YESAB demonstrated their value as complementary tools in qualitative research. YESAB operates at the intersection of environmental, socio-economic, and cultural considerations, making it a complex and dynamic subject of study. Constructive Grounded Theory's iterative approach allowed me to engage deeply with participants' perspectives, uncovering the nuanced interplay between

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<sup>146</sup> Charmaz, *Constructing Grounded Theory*.

YESAB's socio-political role and the lived realities of Yukon communities. Reflexivity further enriched this exploration by ensuring that my positionality as an impact assessment practitioner was critically examined and accounted for in the research process.

In conclusion, Constructive Grounded Theory and reflexivity are essential methodologies in qualitative research, offering complementary tools for exploring complex social phenomena with rigor and ethical integrity. Constructive Grounded Theory provides a structured yet flexible framework for generating theories grounded in participants' experiences, while reflexivity fosters critical self-awareness and accountability. Together, these methodologies facilitate the integration of emic and etic perspectives, ensuring that findings are both contextually meaningful and theoretically informed. In my study, Constructive Grounded Theory facilitated the co-construction of knowledge with participants, ensuring that their voices shaped the findings, while reflexivity provided critical self-awareness and transparency. This combination allowed me to navigate the intricacies of YESAB, producing insights that were both meaningful and analytically robust. Through their integration, Constructive Grounded Theory and reflexivity underscore the importance of balancing insider and outsider perspectives in qualitative research, particularly in culturally and socially diverse contexts.

### 3.2.3 *Document Analysis Methodology*

In the context of qualitative research, Bowen<sup>147</sup> emphasizes the role of document analysis as both a primary and supplementary information collection tool. His work distinguishes document analysis from traditional content analysis, highlighting its broader applicability for contextual understanding and thematic exploration. Bowen also outlines practical steps for

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<sup>147</sup> Glenn A. Bowen, "Document Analysis as a Qualitative Research Method," *Qualitative Research Journal* 9, no. 2 (2009): 27–40.

identifying, analyzing, and interpreting documents systematically. For instance, thematic analysis within document analysis is useful for extracting narratives or insights aligned with research questions, while triangulating document information with interviews can provide a multi-dimensional understanding of complex phenomena.

Document analysis is a systematic and versatile methodology in qualitative research, involving the examination of textual, visual, or digital content to extract insights about social, historical, or organizational phenomena. This approach relies on analyzing existing documents such as government reports, meeting minutes, letters, emails, policy statements, media articles, and other artifacts. Researchers employ document analysis to explore patterns, themes, and relationships within and across documents, offering both standalone insights and complementary information to other qualitative methods like interviews or ethnography. The process begins with selecting documents relevant to the research questions or theoretical frameworks. These documents are then organized and classified systematically to enable rigorous analysis. An inductive approach in research allows themes and patterns to emerge naturally from the narratives without relying on predetermined frameworks or hypotheses.<sup>148</sup> This method fosters a deeper understanding of participants' perspectives by grounding the analysis directly in their experiences. By prioritizing the organic development of insights, researchers can construct contextually rich and nuanced findings.<sup>149</sup>

A significant advantage of document analysis lies in its efficiency and accessibility. Unlike interviews or ethnography, it does not require direct interaction with participants. This makes it especially valuable for historical, policy-oriented, or longitudinal research, as

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<sup>148</sup> David Thomas, "A General Inductive Approach for Analyzing Qualitative Evaluation Data," *American Journal of Evaluation* 27, no. 2 (n.d.): 237–46.

<sup>149</sup> Bryman, *Social Research Methods*, 5th Canadian, 2019.

documents often provide insight into experiences across different timeframes and contexts. For example, historical documents or archival materials can construct narratives that illuminate policy evolution, organizational decision-making, or societal shifts. Furthermore, combining document analysis with other methods allows researchers to triangulate findings, enhancing the reliability and depth of their interpretations. Nevertheless, document analysis comes with limitations. The content of documents may reflect the biases or agendas of their authors, particularly in institutional or political contexts. Additionally, fragmented documents can lack context, making interpretation challenging. Ensuring the authenticity and credibility of documents is another potential obstacle. Researchers must critically assess their sources, cross-referencing with other information to mitigate these risks.

### **3.3 Methods**

#### *3.3.1 Community Based Participatory Research*

Community-based participatory research is a collaborative approach to research that actively involves community members, leaders, and stakeholders throughout the research process. It is rooted in the principles of respect, co-creation, reciprocity, and equity, ensuring that the research is conducted with the community rather than on the community. This approach prioritizes the community's self-determination, knowledge systems, and lived experiences, making them central to the research design, implementation, and dissemination of findings. community-based participatory research seeks to address community-identified needs, empower participants, and produce outcomes that are meaningful and actionable for the community. This approach fosters mutual trust, supports local capacity-building, and ensures that research benefits are distributed fairly. For Indigenous methodologies, community-based participatory research aligns closely

with traditional values of collective decision-making, relational accountability, and honoring the knowledge and rights of Indigenous peoples.

In my research, I followed the principles outlined by the Arctic Institute of Community-Based Research: For Northern Health and Well-being,<sup>150</sup> ensuring that the work respected community agency, incorporated culturally relevant methodologies, and prioritized outcomes that would directly benefit the communities involved. The Institute’s focus on collaborative research design and implementation strongly reflects the foundational values of community-based participatory research, particularly its commitment to co-developing research questions, goals, and outcomes with Indigenous partners. This approach also underscores the importance of integrating oral history methods within Indigenous knowledge systems, recognizing them as valid and essential forms of evidence. These principles are further supported by McCartney et al., who highlight how deeply embedded relationships, rooted in trust and reciprocity, are foundational to meaningful and sustainable research partnerships in northern and Indigenous contexts.<sup>151</sup>

The core principle of community-based participatory research —treating communities as equal partners in the research process—has shaped my work from the outset of this project. Early in my doctoral studies, I began building a relationship with the FNNND. I made a conscious effort to listen and learn from the community, ensuring that my research was shaped by their needs and priorities. This relationship grew stronger when I relocated to the community to serve as Education Manager. Living and working there allowed me to strengthen relationships and hear directly from community members about what mattered most to them. It also gave me a deeper

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<sup>150</sup> Arctic Institute of Community-Based Research, “Community-Based Research.”

<sup>151</sup> McCartney et al., “Publishing Our Whole Gwich’in Way of Life Has Changed— Gwich’in K’yuu Gwiidandà’ Tthak Ejuk Gòonlih: Stories from the People of the Land after Two Decades of Decisions.”

understanding of everyday life in the community and how governance and development decisions directly affected their lived experiences.

### *3.3.2 Research Licence in the Yukon*

The Government of Yukon offers a Research Licence<sup>152</sup> application for individuals intending to conduct scientific research within the territory. This application is forwarded to the YFN whose Traditional Territory the research will take place in, allowing them an opportunity to review the project before the licence is granted. Since I am a resident of the Yukon and my research was focused on social sciences, it did not require a Scientists and Explorers Act Licence. However, I reached out to Tr'ondëk Hwëch'in and collaborated with my employer, the FNNND, to finalize a Research Agreement with these Yukon First Nations. While Little Salmon/Carmacks First Nation and Selkirk First Nation do not have formal research agreement processes, I made an effort to contact their Self-Governments to inform them about the research and notify them that interviews would be conducted within their Traditional Territories, potentially involving their citizens.

### *3.3.3 Institutional Review Board with Trent University*

At Trent University, the Institutional Review Board (IRB) serves to ensure that all research involving human participants complies with ethical standards and legal requirements, safeguarding the rights, welfare, and dignity of participants. For research involving Indigenous communities, the university emphasizes its commitment to fostering respectful and equitable relationships through its Indigenous IRB processes. This specialized framework integrates TK systems, prioritizes community engagement, and ensures that research methodologies align with

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<sup>152</sup> “Apply for a Scientists and Explorers Act License,” October 17, 2019, <https://yukon.ca/en/science-and-natural-resources/research-and-monitoring/apply-scientists-and-explorers-act-licence>.

principles of mutual respect, collaboration, and benefit-sharing. This ensured that the research I did adhered to the principles of the Tri-Council Policy Statement (TCPS2), particularly Chapter 9, which governs research with Indigenous Peoples in Canada. My research number with the IRB is #28989.

### 3.3.4 Interviews

To gain a comprehensive understanding of YESAB's role and its impacts within the communities and beyond, I conducted 35 semi-structured open-ended interviews with a variety of Yukoners. Participants were given the option to be named in the study or to remain anonymous, identified only by their experience with YESAB. Of the 35 participants, 69 percent chose to remain anonymous, reflecting their preferences for privacy while still sharing valuable insights. The participants who chose to remain anonymous were given an androgenous alias, so as to provide further anonymity while also avoid gendered stereotyping.<sup>153</sup>

All interviews were audio-recorded with participants' consent. One participant opted to not be recorded, and instead notes were taken. Once the research is complete, all audio recordings will be deleted, along with the transcripts. Transcripts were created (please see the follow section for more details on how they were created) from these recordings for thorough analysis. These transcriptions were then uploaded to NVivo, a qualitative information analysis software (more details of this program are provided below), which allowed me to code and categorize the emerging themes. These interviews became the cornerstone of my research,

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<sup>153</sup> This study investigated gender bias in student evaluations by having an instructor teach online under both a male and female identity. Results revealed that students consistently rated the "male" identity higher in all teaching dimensions, despite identical course content and performance, highlighting implicit gender bias in academic assessments. Lillian MacNell, Adam Driscoll, and Hunt, "What's in a Name: Exposing Gender Bias in Student Ratings of Teaching," *Innovative Higher Education* 40 (2015): 291–303.

offering diverse perspectives on YESAB's successes, challenges, and overall effectiveness in fulfilling its mandate under Chapter 12 of the UFA.

Chapter 12 of the UFA emphasizes that one objective of the Development Assessment Process is to “protect and promote the wellbeing of Yukon Indian people and of their communities and of other Yukon residents and the interests of other Canadians.” This directive highlighted the necessity of interviewing a wide range of participants to ensure that multiple voices and lived experiences were represented in the study. I sought to capture the perspectives of various Yukoners with experience with YESAB, from current and former YESAB employees to YFN Lands staff, Government of Yukon employees, lawyers familiar with the UFA, mining industry personnel, and NGO staff who had engaged with the assessment process.

The development of the Interview Guide (Appendix C) was a meticulous process aimed at fostering open dialogue while aligning with the research objectives. The opening question, “What has been your experience with YESAB?” was intentionally broad, serving as a conversational icebreaker that encouraged participants to share their thoughts freely. Subsequent questions delved deeper into participants' understanding of YESAB's role as defined by the UFA and their observations of changes in its operations and effectiveness. Although the questions served as a framework, I ensured that the interviews remained flexible, and participant driven. I emphasized that the questions were merely conversation starters, allowing participants to share their unique perspectives and experiences without feeling constrained by predefined topics. This approach aligns closely with the principles and best practices outlined by the Oral History Association. The Oral History Association stresses the importance of fostering trust, prioritizing participants' autonomy, and creating a dialogue that respects their lived realities. By allowing participants to guide the conversation, I minimized the risk of imposing my biases or

assumptions onto their narratives. This method honored the authenticity of participants' experiences and ensured that the information collected was a true reflection of their perspectives. The themes that emerged from these interviews were generated inductively, arising organically from patterns and commonalities in participants' responses. This inductive approach ensured that the analysis remained grounded in the participants' voices, rather than being shaped by pre-existing frameworks or the researcher's positionality. The Oral History Association advocates for active listening and ethical engagement, emphasizing the importance of respecting participants' narratives and refraining from imposing interpretations during interviews and other information collections. These principles informed my approach, guiding me to actively listen and allow participants to share their stories on their own terms.

My initial four or five participants were chosen using referrals from experts living within the region.<sup>154</sup> This initial sample was expanded using a snowball sampling method, where interviewees suggested others who could provide valuable insights. This iterative sampling approach significantly broadened my participant pool, resulting in a larger and more varied group than initially planned. The diverse range of voices was crucial for understanding the multifaceted impacts of YESAB and its role within Yukon's socio-political framework.

The participants involved in this project represent a diverse range of YESAB affiliations, including government agencies, YFN Self-Governments, NGOs, mining industry officials, and legal professionals. For the graph below, some participants held multiple affiliations. The current or previous YFN Lands Department employees that are outlined below have worked or do work at one of the four YFNs that fall under the scope of this study. The participants who are part of

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<sup>154</sup> These were recommended by Mark O'Donoghue, a biologist with over 30 years of experience working in Yukon and a member of my dissertation committee.

the mining industry have experience working in the Mayo and Dawson YESAB districts. The graph below outlines participant affiliation to impact assessment in the Yukon. Some participants hold multiple affiliations and are represented on the following graph:

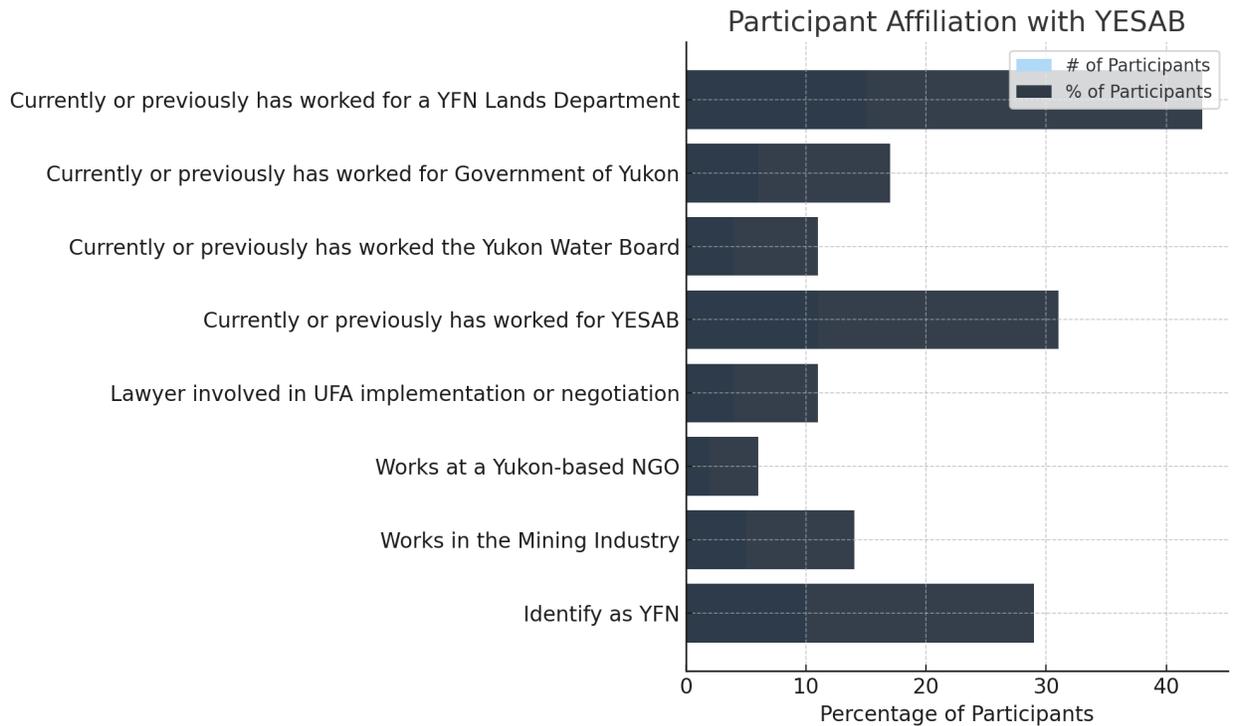


Figure 3: Outline of Participants' Affiliation with YESAB

The interviews varied in length, lasting between 30 minutes and two hours, depending on how much the participant chose to share. Most interviews (68 percent) were conducted via Zoom, while others took place in person in Yukon communities, including Mayo, Pelly Crossing, Carmacks, and Whitehorse. Each interview was conducted in English and audio-recorded with the participants' consent. These recordings were transcribed into Word documents for subsequent analysis (discussed in more detail below). In the one case where a participant declined to be recorded and I took detailed notes to document the key points shared, no direct quotes were available from this interview.

Transparency and ethical engagement were foundational to my research process. At the start of each interview, I clearly communicated the study's objectives and explained how the information from the narratives would be used. Participants were contacted primarily via email (Appendix A), which included the Interview Consent Form (Appendix B) and a list of Interview Guide (Appendix C). I assured participants that they could ask questions about the study at any time and outlined their rights, including the option to withdraw or amend their contributions at any stage. After the interviews, I emailed the transcriptions back to the participants, allowing them to review, amend, or elaborate on their responses. Allowing participants to review, amend, or elaborate on their transcriptions aligns with Teresa Bergen's principles of ethical and collaborative oral history, emphasizing participant ownership and agency. This process ensures authenticity, accuracy, and transparency, fostering trust between the researcher and participants by allowing them to refine their narratives to reflect their intended meanings. It also honors Bergen's emphasis on respectful and participatory practices, ensuring that participants remain active collaborators in how their voices are represented.<sup>155</sup> Once the dissertation was finalized, participants received a copy of the dissertation, providing them with another opportunity to review and provide feedback. This transparent and iterative process reflects the Oral History Association's commitment to ethical practices, emphasizing the importance of participant agency and rights throughout the research journey.

This participant-driven approach allowed me to collect rich, nuanced experiences that authentically represented the perspectives of a diverse group of Yukoners with differentiated perspectives of the Development Assessment Process. By framing the interviews as open-ended discussions, I ensured that participants' voices shaped the direction of the research. This method

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<sup>155</sup> Teresa Bergen, *Transcribing Oral History* (Routledge, 2018).

minimized the influence of my own biases and ensured that the themes emerged organically from the interviews, providing a grounded and contextually sensitive understanding of YESAB's role and its impacts on Yukon communities. One of the key benefits of this approach was its ability to foster trust and rapport with participants. Living and working in Yukon communities enabled me to engage with participants on a deeper level, creating an environment where they felt comfortable sharing their insights and experiences. This relational aspect of the research process was particularly important given the sensitive nature of the topic and the historical and socio-political dynamics surrounding YESAB's operations. Building trust was not only essential for gathering authentic narratives but also for ensuring that participants felt respected and valued throughout the research process.

The iterative nature of the interviews further enhanced the depth and quality of the findings. As I conducted more interviews, I revisited earlier conversations and reflected on emerging themes. This process allowed me to refine my understanding of YESAB's role and adapt my analysis to incorporate new insights. By continually revisiting and reanalyzing the information, I ensured that my findings remained grounded in participants' experiences while capturing the dynamic and multifaceted nature of the development assessment process. My approach to information analysis was also informed by the Oral History Association's best practices, which emphasize the importance of ethical interpretation and methodological transparency. As I analyzed the transcripts, I reflected on how my positionality and professional background as a researcher and Impact Assessment Officer might influence my interpretations. This reflexive practice enabled me to critically evaluate my assumptions and biases, ensuring that the analysis remained true to the participants' perspectives.

In summary, my methodological approach was guided by the principles of open dialogue, ethical engagement, and respect for participants' voices, as outlined by the Oral History Association. By conducting participant-driven, open-ended interviews, I was able to generate themes that authentically reflected the lived experiences of Yukoners while adhering to rigorous ethical and methodological standards. This approach not only enriched the depth and quality of the findings but also ensured that the research process was transparent, ethical, and rooted in the realities of the communities it sought to represent. Through this research, I gained valuable insights into YESAB's role within the Development Assessment Process and the Yukon, its impacts on YFN communities, and its broader significance in the socio-political landscape. The integration of diverse perspectives, the emphasis on participant agency, and the commitment to ethical engagement all contributed to a robust and meaningful exploration of the Development Assessment Process in Yukon. This approach underscores the importance of centering participants' voices in qualitative research, particularly in contexts that involve complex social, cultural, and political dynamics. By adhering to these principles, my research offers a nuanced and authentic understanding of YESAB's role and its impact on Yukon's communities, providing a foundation for future studies and policy discussions.

#### 1.1.1.1 Transcripts

The transcription process for this research involved converting audio from Zoom or in-person interviews into written text, contingent upon participants' consent. This method was crucial as it enabled the inclusion of direct participant quotes, reducing misinterpretation and preserving the integrity of the shared narratives. Bergen emphasizes that transcripts are invaluable for transforming oral accounts into text while safeguarding the narrator's original

voice and intent.<sup>156</sup> Similarly, Freund in *From .wav to .txt* highlights the technical and interpretive nuances of transcription, stressing that transcription is not a neutral act but an interpretive process that shapes the meaning of oral narratives.<sup>157</sup> This aligns with my practice of offering participants the opportunity to review, edit, and add to their transcripts, ensuring not only accuracy but also providing them with agency and ownership in the research process. This collaborative approach bridges the gap between oral and textual mediums, maintaining fidelity to participants' voices while fostering ethical engagement.

The transcription process is as diverse as the transcriptionists who create them, with various types tailored to different purposes. These include keyword-focused transcripts, summarized versions, verbatim transcripts that capture every word, and those incorporating symbols to convey emotions or pauses in speech. When designing the transcription approach for this research, I carefully weighed the pros and cons of each type, considering their respective utility for analysis. Ultimately, I chose intelligent verbatim transcription, which balances capturing the essence of what was said without unnecessary filler words, for its alignment with the goals of this research. This approach allowed for maintaining the integrity of participants' narratives while ensuring clarity and usability for subsequent analysis, making it particularly well-suited for preserving meaning while supporting a structured examination of the information.

Intelligent verbatim transcription omits filler words and irrelevant pauses while preserving the essential meaning and flow of the conversation. As outlined by Maze, intelligent verbatim balances fidelity to the speaker's intent with readability, making the content accessible without diluting its original essence.<sup>158</sup> Audio quality for most interviews was reported to be

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<sup>156</sup> Bergen, *Transcribing Oral History*.

<sup>157</sup> Alexander Freund, "From .Wav to .Txt: Why Transcribe? Oral History and Its Double Nature" 12, no. 1 (2011).

<sup>158</sup> Maze Elinor, "The Uneasy Page Transcribing and Editing," in *History of Oral History*, ed. Thomas Charlton, Lois Myers, and Rebecca Sharpless (New York, New York: Altamira Press, 2007).

clear and easy to interpret, which likely aided in producing accurate transcriptions. Initially, timestamps were added every minute but were later adjusted to every 30 seconds to facilitate more granular referencing. This decision reflects Bergen's recommendation to adapt transcription practices to the research's analytical needs, underscoring the flexibility required in oral history projects.<sup>159</sup> The timestamping facilitated cross-referencing between audio and text, enhancing reliability and transparency. All interviews were conducted in English, obviating the need for translation. Bergen's work highlights the complexities of multilingual transcription, such as potential loss of cultural nuance during translation; thus, conducting interviews in a single language streamlined the process while avoiding such challenges.<sup>160</sup> The importance of preserving cultural and linguistic integrity in research is echoed by McCartney et al., who note, "Language is integral to the stories we tell and the way we understand our relationship to the land and each other."<sup>161</sup> This underscores the need for methodological choices that safeguard the authenticity of narratives while avoiding potential distortions during the transcription process.

Intelligent verbatim transcription is a laborious and time-consuming task. While I began the transcription work independently, increasing workloads necessitated outsourcing the task to a professional transcription service, Transcript Heroes. This company provided a Non-Disclosure Agreement (Appendix D), ensuring confidentiality—a vital aspect of ethical research practices. Bergen notes that protecting participants' privacy is paramount when dealing with sensitive oral histories, as breaches can undermine trust and harm relationships with the community.<sup>162</sup> The outsourcing process was designed to anonymize participant identities by labeling files with

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<sup>159</sup> Bergen, *Transcribing Oral History*.

<sup>160</sup> Bergen, *Transcribing Oral History*.

<sup>161</sup> McCartney et al., "Publishing Our Whole Gwich'in Way of Life Has Changed— Gwich'in K'yuu Gwiidandai' Tthak Ejuk Gòonlih: Stories from the People of the Land after Two Decades of Decisions."

<sup>162</sup> Bergen, *Transcribing Oral History*.

generic identifiers such as “Audio # (Interview number).” This approach resonates with Bergen’s advocacy for de-identification in transcription, which minimizes risks of inadvertent disclosure while maintaining the research’s integrity.<sup>163</sup>

This transcription methodology reflects a balance of rigor, ethical responsibility, and practical adaptability, critical for any qualitative research. It ensured that participant voices were faithfully represented while maintaining confidentiality and clarity in the research narrative. As Bergen elaborates, the act of transcription is not merely technical but a critical interpretive step that transforms spoken words into enduring artifacts of research.<sup>164</sup> By adhering to these principles, this study effectively documented and utilized oral histories as a cornerstone of its methods.

### 3.3.5 *NVivo*

Using NVivo to code interview transcripts aligns with best practices in qualitative research, as discussed by academic literature. Houghton et al.<sup>165</sup> emphasize that qualitative information analysis software like NVivo enhances rigor by providing transparency and traceability in the coding process. Similarly, Bazeley and Jackson<sup>166</sup> assert the software’s capacity to support inductive coding while enabling researchers to maintain an organized and systematic approach to information management. In particular, NVivo’s ability to create and manage nodes (codes) and link them to specific excerpts of information facilitates a clear audit trail, as recommended in qualitative research standards.

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<sup>163</sup> Bergen, *Transcribing Oral History*.

<sup>164</sup> Bergen, *Transcribing Oral History*.

<sup>165</sup> Catherine Houghton et al., “Rigour in Qualitative Case-Study Research,” *Nurse Researcher (through 2013)* 20, no. 4 (March 2013): 12–17.

<sup>166</sup> Kristi Jackson and Pat Bazeley, *Qualitative Data Analysis with NVivo*, 3. edition (Los Angeles London New Delhi Singapore Washington, DC Melbourne: Sage, 2019).

The research process involved three stages of coding: open coding, axial coding, and selective coding. Open coding allowed me to break down the participants' narratives into distinct themes/codes identifying key themes from interview transcripts and notes. Axial coding followed, where I established relationships between these categories to understand connections and patterns in the information. Finally, selective coding helped refine the analysis by focusing on core categories that encapsulated the central phenomena under investigation. This then allowed for the emergence of theoretical insights that are deeply grounded in qualitative information collected from the interviews I conducted. I utilized NVivo, a qualitative information analysis software widely used by researchers for its ability to manage and analyze text-rich, qualitative material. NVivo enabled me to efficiently organize, analyze, and interpret the unstructured or semi-structured information gathered through interviews. It also supports various forms of qualitative information, including focus group transcripts, documents, images, audio, video, and social media content. NVivo facilitates coding, thematic analysis, and information visualization, allowing researchers to identify patterns, relationships, and insights across their information-sets. Elliot-Mainwaring evaluated the use of NVivo software as a tool for inductive coding during a thematic narrative synthesis. This synthesis focused on analyzing staff voices and power dynamics in maternity services. NVivo was utilized to organize, code, and interpret qualitative information from literature, supporting an iterative, subjective idealist approach to knowledge creation. She describes NVivo as a valuable resource for inductive coding, enabling the thematic organization of experiences. It allowed for in-depth exploration of themes while maintaining the integrity of qualitative research methodologies. The findings underline NVivo's potential in enhancing qualitative research through its robust coding, organizational features, and

capacity for synthesizing complex information into cohesive themes.<sup>167</sup> I relied on NVivo to help me organize the interview information, gathering quotes from participants under themes.

Using NVivo software for coding and organizing interview transcripts facilitates a systematic approach to qualitative information analysis, particularly through open coding and axial coding methods. In this process, open coding was employed to develop codes directly from the interview responses, ensuring an inductive analysis aligned with the research questions. Open coding, as defined above, involves segmenting the qualitative information into discrete parts and assigning labels to represent concepts, categories, or themes that emerge naturally. This method emphasizes the discovery of patterns and meanings within the information without relying on pre-existing frameworks or assumptions, allowing for a grounded exploration of participant responses.<sup>168</sup>

By using open coding in NVivo, I was able to encapsulate the essential elements of the interviews, identifying repeated ideas or meaningful phrases that reflected the study's core focus. This process not only highlighted recurring patterns but also allowed for flexibility, ensuring that the emerging codes/themes authentically represented the nuances of the information being shared. Following open coding, axial coding was utilized to refine and organize the initial codes into broader categories or themes. Axial coding involves identifying relationships among the codes, linking them based on context, causal relationships, or shared meanings. NVivo's visualization and query tools greatly facilitated this step by enabling the grouping of codes under overarching headings. For instance, codes relating to similar concepts could be clustered, such as

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<sup>167</sup> Helen Elliott-Mainwaring, "Exploring Using NVivo Software to Facilitate Inductive Coding for Thematic Narrative Synthesis," *British Journal of Midwifery* 29, no. 11 (November 2021): 628–32, <https://doi.org/10.12968/bjom.2021.29.11.628>.

<sup>168</sup> Michael Williams and Tami Moser, "The Art of Coding and Thematic Exploration in Qualitative Research," *International Management Review* 15, no. 1 (2019): 45–55.

those addressing specific challenges, perspectives, or experiences discussed by interview participants. This process of organizing the codes provided a structured framework for understanding the key themes and subthemes within the interviews.

Once the coding structure was established, NVivo was instrumental in retrieving and analyzing the information efficiently. I collected and categorized participant quotes under each theme, creating themes/codes as I progressed and repeated topics were identified by participants. This step enabled the integration of individual voices within the overarching narrative, ensuring that the analysis captured diverse perspectives on specific topics while also recognizing commonalities. I did find that I needed to go through all the interviews to organize the codes efficiently and then go through the interviews again, grouping codes under one heading or subheading to reduce redundancy. The ability to cross-reference and compile related responses in NVivo provided a holistic understanding of the interviews, which was crucial for identifying both convergent and divergent viewpoints.

The combination of open and axial coding using NVivo allowed for a thorough examination of the interview information, supporting the emergence of a cohesive framework grounded in participant experiences. This structured approach not only enhanced the depth of analysis but also ensured that the findings remained rooted in the evidence provided by the interviews.

This study employed NVivo software to support a Constructive Grounded Theory approach, enabling a systematic, iterative analysis of interview transcripts to derive normative insights grounded in participants' lived experiences. Through open, axial, and selective coding, NVivo facilitated the identification of emergent themes, the mapping of relationships between them, and the refinement of central categories, ensuring that ethical and value-based

interpretations remained firmly rooted in the information gathered from interviews and reflective of community perspectives.

### 3.3.6 *Document Analysis Methods*

Document analysis—guided by qualitative content analysis—was fundamental to the development of Chapter 4: *Context*, which provides the necessary background to interpret the interview responses presented later in this dissertation. This chapter draws on a targeted review of key legal cases, policy documents, the UFA, *Together Today for Our Children Tomorrow*, the YESAA, YESAB evaluation reports and bulletins, and a range of Government of Yukon (YG) mining reports. In particular, the analysis of legal cases was critical in revealing how recent court decisions are shaping the environmental and socio-economic assessment process in the Yukon. These cases highlighted evolving interpretations of consultation obligations, cumulative effects, and the role of Indigenous governments in decision-making—factors that directly influence how assessments are conducted and contested today.

Additionally, the YG mining reports allowed for a historical tracing of how regulatory frameworks have shifted over time, illustrating broader trends in Yukon’s approach to resource governance. This dual focus—on legal precedents and policy evolution—provided a nuanced understanding of the structural forces that inform participants’ experiences and perspectives. Chapter 4: *Context* is not intended to be a comprehensive legal or policy history, but rather to offer the necessary historical and contemporary contextual grounding for interpreting the interviews that follow. By integrating document analysis into the research design, this chapter serves as a critical foundation for understanding how governance processes and power relations have developed—and continue to evolve—through both legislation and litigation.

### 3.4 Conclusion

In conclusion, this chapter reflects the integrated methodologies and approaches that underpin this research, emphasizing the ethical, collaborative, and rigorous frameworks employed. By combining Constructive Grounded Theory, reflexivity, community-based participatory research, and Indigenous research methods, this study seeks to address the nuanced and complex nature of YESAB's role in fulfilling the objectives of Chapter 12 of the UFA. Each methodology and method employed reflects the commitment to understanding YESAB's operational framework and its impacts on YFN communities. The use of qualitative approaches, such as open-ended interviews and document analysis, enabled a comprehensive exploration of participant narratives and institutional processes, providing a foundation for informed and contextually sensitive findings.

This chapter highlights the importance of centering Indigenous perspectives, ethical engagement, and collaborative practices in qualitative research. By adhering to principles such as OCAP, TCPS2, and UNDRIP, this research has sought to align itself with frameworks that respect and uphold Indigenous sovereignty, cultural knowledge, and community agency. The integration of NVivo software, intelligent verbatim transcription, and iterative coding techniques demonstrates the study's commitment to methodological rigour and transparency. Through these efforts, the chapter lays a robust foundation for subsequent analysis, ensuring that the voices and experiences of participants are authentically represented and that the research contributes meaningfully to the discourse on reconciliation, governance, and the socio-political dynamics of development assessment in the Yukon. This commitment to ethical and participatory research is fundamental to achieving outcomes that are both academically significant and beneficial to the communities involved.



## Chapter 4: Context

### 4.1 Introduction to Context

This chapter examines the historical and contemporary context of impact assessment as it relates to the Development Assessment Process for mining projects in the Yukon. The background provided here is essential for understanding the perspectives and responses of participants, which are analyzed in subsequent chapters. Specifically, the chapter traces the historical development of the mining industry in the Yukon, the evolution of mining legislation, and the industry's deep-rooted influence on the territory's environmental and socio-economic landscape. It also explores the progression of impact assessment in the Yukon, focusing on legislative changes, pivotal legal cases, political dynamics surrounding Yukon Environmental and Socio-Economic Assessment Board (YESAB), and an overview of the current YESAB assessment framework. A brief overview of Chapter 12 of the Umbrella Final Agreement (UFA) is also included to provide foundational context for the institutional framework under which YESAB operates.

In 1973, the Council of Yukon Indians delivered the landmark document *Together Today for Our Children Tomorrow (Together Today)* to Prime Minister Pierre Trudeau. This submission was made in response to the federal government's recent commitment to negotiate modern treaties with Indigenous Peoples whose Traditional Territories lay outside the scope of the Numbered Treaties and the Peace and Friendship Treaties that covered much of Canada. Although this was Canada's first formal request to begin a modern land claim process, it would not be the first to reach a final agreement; the James Bay and Northern Quebec Agreement of 1975 preceded the Yukon in signing. However, unlike the James Bay Cree, whose negotiations were driven by the urgency of a major state-led development project, Yukon First Nations were not under the same pressure to settle quickly. As noted by one participant who was present

during the negotiation period, the absence of immediate external development pressures allowed the Council of Yukon Indians to take more time and negotiate with greater autonomy. While the political landscape evolved over the three decades it took to finalize the UFA, *Together Today* remained the foundation of the Yukon First Nations' land claim vision, offering an unfiltered expression of Indigenous perspectives, values, and priorities throughout the negotiation process.

*Together Today*, created in 1973, is a transformative document and the first comprehensive Indigenous land claim in Canada. Compiled by Yukon Indigenous Peoples, it detailed the profound and lasting impacts of colonial development on their communities and ecosystems while presenting a visionary framework for a future based on self-determination, cultural preservation, and sustainability. This seminal work became a cornerstone of Indigenous advocacy, influencing movements nationwide. The document vividly illustrated the consequences of unregulated colonial expansion, including the loss of ancestral lands, depletion of resources, and ecological disruption. It also addressed the erosion of Indigenous cultures through forced assimilation policies and residential schools. Embedded within *Together Today* were personal accounts that highlighted the resilience of Yukon Indigenous Peoples as they endured these challenges. It advocated for critical changes, including land rights, resource-sharing agreements, and investments in education, healthcare, and governance systems rooted in Indigenous values. *Together Today* envisioned a future where Indigenous communities not only survived but thrived.

A key strength of the document was its holistic approach, recognizing the interconnectedness of human and environmental systems. By linking Indigenous Rights to sustainable governance and development, *Together Today* emphasized the need for environmental stewardship as a foundation for the Yukon's future. This perspective guided

landmark achievements such as the UFA which enabled Yukon First Nations (YFN) to reclaim sovereignty over their lands and lives. *Together Today*'s insights and principles remain relevant, inspiring justice, reconciliation, and sustainable governance. The personal perspectives of the colonial impacts—from the fur trade and Gold Rush to resource extraction industries—underscored the enduring resilience of Yukon Indigenous Peoples, shaping the dialogue leading to the UFA from 1973 to 1993.<sup>169</sup>

Of specific importance was the formation of Chapter 12: Development Assessment Process of the UFA because of both the Yukon's history around colonial development as well as what Yukon Indigenous Peoples were witnessing throughout Canada and worldwide. It is clear from *Together Today* that Yukon Indigenous Peoples did not expect mining and oil extraction to end any time soon. What they wanted was agency over their participation of both their people and their Traditional Territories in the resource extraction economy. They wanted their communities to engage in the Development Assessment Process to not only help protect the environment for future generations, but also to gain control over their engagement with potential socio-economic benefits and independence that non-Indigenous peoples had enjoyed. What Yukon Indigenous Peoples had been experiencing was instead seeing the socio-economic benefits awarded to non-Indigenous peoples for the most part at the expense of their communities and Traditional Territories.<sup>170</sup>

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<sup>169</sup> Baranik, "Indigenous-Crown Relations in Canada and the Yukon: Peel Watershed Case, 2017."

<sup>170</sup> Yukon Indian People, "Together Today for Our Children Tomorrow" (Whitehorse: Council of Yukon Indians, 1973).

## 4.2 Mining in the Yukon

Mining projects on average make up the majority of project proposals submitted to YESAB and the overall Development Assessment Process in the Yukon. Mining has profoundly shaped the Yukon's economy, culture, and identity for over a century. While it has brought economic benefits such as employment, infrastructure development, and industrial diversification, it has also left behind a legacy of environmental degradation, abandoned mine sites, and socio-economic challenges. Yukoners hold diverse and often conflicting perspectives on mining, reflecting its complex and far-reaching impacts. Although mining continues to contribute to the territory's economic resilience, a significant portion of its profits are extracted by external corporations, leaving local communities to bear the environmental and social costs.

Mining in the Yukon is generally divided into two main types: quartz mining and placer mining. Quartz mining involves the extraction of hard rock minerals such as gold, silver, copper, and other metals, often requiring intensive operations like drilling, blasting, and open-pit or underground mining. In contrast, placer mining targets loose, unconsolidated materials—typically gold—found in riverbeds or alluvial deposits. Techniques like sluicing, dredging, and panning are commonly used.

Mining operations in the Yukon are regulated under a four-tier classification system. Class 1 activities involve minimal surface disturbance and do not require an environmental assessment through the YESAB. Class 2 through 4 reflect escalating levels of environmental risk and operational intensity, necessitating regulatory oversight, YESAB review, public consultation, and permitting. These classifications aim to scale environmental scrutiny according to the potential impact of a given project. This section critically examines the multifaceted relationship between Yukoners and the mining industry by evaluating its historical evolution, economic significance,

environmental and social impacts, and the urgent need for a more equitable, sustainable, and community-centered approach to resource development.

#### *4.2.1 Costs and Benefits of Mining in the Yukon*

A cost-benefit analysis provides a critical, structured framework for evaluating the full range of impacts associated with mining in the Yukon—particularly the long-term and often invisible harms experienced by Yukon First Nations. While mining is frequently framed in terms of economic growth, employment, and investment, a comprehensive cost-benefit analysis reveals a more complete picture. It allows for the inclusion of ecological degradation, cultural disruption, and social dislocation alongside financial returns. This broader perspective is essential for identifying how the benefits of mining are often concentrated among companies and governments, while the costs—such as water contamination, habitat loss, and the erosion of Indigenous land rights—are disproportionately borne by Indigenous communities. As such, cost-benefit analysis is not only a tool for economic evaluation but also a means of exposing the structural inequities and intergenerational harms that define environmental injustice in the Yukon.

Mining has long shaped Yukon’s cultural and economic identity. From the iconic image of the Klondike prospector to the ongoing presence of exploration across vast traditional territories, resource extraction has been both celebrated and contested. While many view mining as a cornerstone of development—bringing infrastructure, services, and investment—others see it as a force of disruption, marking landscapes with environmental damage and challenging Indigenous governance. The history of mining in the Yukon reflects a cycle of boom and bust,

beginning with the Klondike Gold Rush,<sup>171</sup> followed by waves of silver extraction in the Keno-Galena Hills,<sup>172</sup> and eventually expanding to new mineral frontiers enabled by technological advances. Each phase brought not only economic activity but also severe ecological impacts and long-term social costs.<sup>173</sup>

The post–World War II era added new complexities. Mechanization increased efficiency but reduced the demand for labor, leaving many communities economically vulnerable. Global commodity prices dictated local economic stability, making communities susceptible to market shocks.<sup>174</sup> In the 1960s, renewed mineral interest coincided with growing Indigenous political movements and environmental consciousness. Yukon First Nations, such as the Tr’ondëk Hwëch’in, began asserting authority over their traditional territories, calling for genuine consultation, accountability, and equitable participation in resource governance.<sup>175</sup>

This shift marked a new era in mineral governance, but as scholars like Avango have noted, Yukon’s experience reflects broader Arctic and sub-Arctic trends—where extractive development frequently collides with ecological sensitivity and Indigenous resurgence. Despite the emergence of sustainability policies, impact assessment frameworks, and Indigenous engagement protocols, mining continues to produce economic and ecological volatility.<sup>176</sup>

The economic benefits of mining are tangible: jobs, infrastructure, and investment in local services. In some cases, it has supported Indigenous economic development. The Nacho Nyäk

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<sup>171</sup> Dawson City is in the Traditional Territory of the Tr’ondëk Hwëch’in.

<sup>172</sup> The Keno-Galena Hills is in the Traditional Territory of the First Nation of Na-Cho Nyäk Dun.

<sup>173</sup> Peter Mitham, “History of the Book in Yukon: A Discussion Paper,” *The Northern Review* 21 (2000): 57–71.

<sup>174</sup> W.D. Sinclair and G.W. Gilbert, “Mineral Industry Report: 1973” (Ottawa, Ontario: Indian and Northern Affairs Canada, 1973).

<sup>175</sup> Heather Green, “The Tr’ondëk Hwëch’in and the Great Upheaval: Mining, Colonialism, and Environmental Change in the Klondike, 1890-1940” (Dissertation, University of Alberta, 2018), <https://doi.org/10.7939/R3DN40B80>.

<sup>176</sup> Dag Avango, “Imprints on the Resource Landscape: The Long History of Mining in the Arctic,” *Journal of Northern Studies* 14, no. 2 (2020): 67–82.

Dun Development Corporation, for instance, has leveraged resource partnerships to invest in exploration, aviation, and service contracts. However, the distribution of these benefits is often uneven, and the economic risks are substantial. The 2024 closure of the Victoria Gold Mine, following a major environmental disaster, resulted in hundreds of job losses and \$9.3 million in unpaid contracts to the development corporation.<sup>177</sup> These immediate financial losses rippled through the local economy, affecting contractors, suppliers, and community well-being—exposing the instability of a mining-dependent development model.<sup>178</sup>

Environmental costs are just as significant. Mining operations have long been associated with land degradation, water pollution, and biodiversity loss. Although reclamation policies were introduced in the 1970s, enforcement has been inconsistent, and financial securities often fall short of covering actual remediation needs. Abandoned mine sites—some of which require billions in public funds to stabilize—are stark reminders of the disparity between regulatory promises and operational realities. Tools such as mine closure plans and bonding mechanisms exist, but are often undermined by poor cost estimates, regulatory loopholes, or emergency closures that shift the financial burden to taxpayers.<sup>179</sup>

The social and cultural impacts on Indigenous communities are equally profound. Mining activities interfere with traditional land uses, damage culturally significant sites, and reduce

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<sup>177</sup> Na Cho Nyak Dun Development Corporation, “Annual Report: FY24” (Whitehorse: NNDDC, 2024).

<sup>178</sup> “Victoria Gold Owes Millions to First Nation of Na-Cho Nyäk Dun Businesses, Report Says,” Indigenous Watchdog, accessed April 20, 2025, <https://www.indigenouswatchdog.org/update/victoria-gold-owes-millions-to-first-nation-of-na-cho-nyäk-dun-businesses-report-says/>.

<sup>179</sup> Government of Canada; Crown-Indigenous Relations and Northern Affairs Canada, “Northern Abandoned Mine Reclamation Program,” organizational description, August 16, 2019, <https://www.rcaanc-cirnac.gc.ca/eng/1565968579558/1565968604553>.

access to country foods. These disruptions erode cultural continuity, weaken community ties, and diminish Indigenous Peoples' ability to practice self-determination on their own lands.<sup>180</sup>

The cost of managing mining is also significant for the territorial government. The Department of Energy, Mines and Resources allocated \$110 million in its 2023–2024 budget—up from \$82 million the previous year—reflecting the administrative and regulatory demands of overseeing mining activity.<sup>181</sup> These expenditures, which include permitting, inspection, reclamation, and enforcement, must be part of any honest assessment of mining's value to the Yukon.

For all these reasons, a comprehensive cost-benefit analysis is essential. Such an analysis must weigh not only immediate economic gains but also long-term and cumulative effects, including the social, cultural, and environmental burdens borne by Indigenous communities. It must evaluate whether tools like environmental bonding, revenue-sharing agreements, and current regulatory oversight are effective, and it must examine alternative development paths that prioritize sustainability, Indigenous governance, and long-term resilience.

A comprehensive cost-benefit analysis would significantly enhance the development assessment process by providing a more holistic and transparent evaluation of proposed mining projects. Rather than focusing narrowly on economic outputs or technical feasibility, such an analysis would require assessors to weigh long-term environmental, cultural, social, and economic impacts—both positive and negative. It would ensure that the true costs of development, including potential harm to Indigenous communities, ecological degradation, and future public liabilities, are accounted for alongside potential benefits. By embedding this broader perspective into the assessment framework, decision-makers would be better equipped to

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<sup>180</sup> Peifang Yang and Graham A. Davis, “Why Don't Environmental Bonds Fully Cover Reclamation Costs?,” *Energy Policy* 152 (May 2021): 112187, <https://doi.org/10.1016/j.enpol.2021.112187>.

<sup>181</sup> Yukon Bureau of Statistics, Government of Yukon Department of Finance, “Gross Domestic Product by Industry (GDP), 2023 (Preliminary Estimates)” (Whitehorse: Government of Canada, January 5, 2024).

evaluate trade-offs, ensure accountability, and promote more equitable and sustainable outcomes. Ultimately, a cost-benefit analysis would help shift the development assessment process toward one that aligns more closely with treaty obligations, Indigenous rights, and intergenerational environmental stewardship.

#### 4.2.2 *Mining Legislation*

Yukon’s mining laws—rooted in early 20th-century priorities—have struggled to keep pace with contemporary values of sustainability, Indigenous rights, and environmental protection. Both the *Quartz Mining Act* and *Placer Mining Act*, introduced in 1906,<sup>182</sup> were modeled after free-entry regimes that prioritized access and development. While minor amendments occurred in the decades following, these statutes remained largely unchanged until after the Yukon Northern Affairs Program Devolution Transfer Agreement, 2003.<sup>183</sup>

Devolution granted the Government of Yukon (YG) authority over land, water, and resource management, including responsibility for reclamation of post-2003 abandoned mines. In 2005, the Yukon Placer Mining Regime was introduced to align mining with fish habitat protection and water quality standards. The 2012 *Ross River Dena Council v. Yukon* decision further clarified that the Crown must consult YFN Self-Governments prior to recording claims, challenging the core assumptions of the free-entry system.

Despite some reforms—including mandatory consultation and increased oversight—the current legislative framework remains outdated. The Yukon Mineral Development Strategy and

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<sup>182</sup> Government of Yukon, “Yukon Quartz Mining Act,” S.Y. 2003 c. 14 § (2003); Government of Yukon, “Yukon Placer Mining Act,” S.Y. 2003 c.13 § (2003).

<sup>183</sup> Government of Canada; Crown-Indigenous Relations and Northern Affairs Canada, “Yukon Devolution,” fact sheet; promotional material; resource list, November 9, 2012, <https://www.rcaanc-cirnac.gc.ca/eng/1352470994098/1535467403471>.

Recommendations, 2021<sup>184</sup> calls for a full overhaul of both acts, recommending new legislation that aligns with principles of reconciliation, environmental stewardship, and equitable economic participation. Progress has been slow. By late 2024, no significant legislative changes had been enacted. The delay reflects ongoing tension between economic imperatives, Indigenous sovereignty, and environmental responsibility. Addressing this imbalance is essential to ensure that future mining development is aligned with Yukoners' values and sustainable development goals.

#### 4.2.3 *Mine Reclamation and Abandonment*

Mine reclamation is central to managing the long-term effects of mining in the Yukon. Its goal is to return mined lands to a stable, productive, and environmentally safe condition. However, for much of Yukon's mining history—particularly before the 1960s—reclamation was neither required nor practiced.<sup>185</sup> As a result, the territory inherited numerous abandoned sites, including Faro, Keno Hill, and Clinton Creek, which remain among the most contaminated areas in Canada.

Responsibility for mines abandoned before the 2003 Devolution Transfer Agreement lies with the federal government. Since devolution, Yukon Government is responsible for newly abandoned sites, significantly increasing its regulatory and financial burdens. Most quartz mines

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<sup>184</sup> Government of Yukon, "Yukon Mineral Development Strategy and Recommendations" (Whitehorse, Yukon: Government of Yukon, Energy Mines and Resources, n.d.).

<sup>185</sup> The specific claim that mining companies in the Yukon before the 1960s did not have remediation plans is a general observation about historical mining practices and may not be directly stated. However, works like Sandlos and Keeling explore the historical context of mining in northern Canada, including its environmental and social impacts, which aligns with the discussion of pre-1960s practices and the absence of remediation standards. Also the significant revision to the Placer Mining Act (that are discussed below) indicate the shift at this time to a focus on environmental protections, not just extraction. Arn Keeling and John Sandlos, eds., *Mining and Communities in Northern Canada: History, Politics, and Memory* (Calgary: University of Calgary Press, 2015), <https://press.ucalgary.ca/books/9781552388044/>.

have not undergone successful closure and remediation.<sup>186</sup> While the Brewery Creek Mine offers one of the few examples of attempted reclamation and reuse, it remains an exception (discussed in more detail below). Companies often sell assets before a site is remediated, avoiding long-term responsibility. Security bonds—meant to cover reclamation costs<sup>187</sup>—are frequently under-assessed.<sup>188</sup> Although the 2013 Yukon Mine Site Reclamation and Closure Policy<sup>189</sup> established technical standards and financial protocols, implementation has been inconsistent. The 2021 Yukon Mineral Development Strategy calls for stronger enforcement, better cost estimates, and alignment with international best practices.

#### 1.1.1.2 Overview of Key Abandoned Quartz Mines Mentioned in the Interviews

This overview is not intended to be comprehensive; it focuses only on mine sites that were most frequently mentioned during the interview process. The purpose of this section is to provide essential background information that contextualizes participants' responses. It does not aim to offer a full environmental or socio-economic impact assessment of each site. The mines most commonly referenced within the spatial scope of this study include Faro Mine, Brewery Creek, and the Eagle Gold Mine, formerly operated by Victoria Gold Corp.

Faro Mine, located in central Yukon, was once among the largest open-pit lead-zinc mines in the world. Operations began in 1969 under Cyprus Anvil Mining Corporation and continued until the mine's closure in 1998. Throughout its lifespan, the mine changed ownership

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<sup>186</sup> “Find out How the Government Manages Type II Abandoned Mines Sites,” October 23, 2023, <https://yukon.ca/en/type-ii-mines>.

<sup>187</sup> “See How Much Security We Hold for Mining and Exploration Projects,” June 13, 2024, <https://yukon.ca/en/doing-business/funding-and-supports-business/see-how-much-security-we-hold-mining-and-exploration>.

<sup>188</sup> Yang and Davis, “Why Don't Environmental Bonds Fully Cover Reclamation Costs?”

<sup>189</sup> Government of Yukon Energy Mines and Resources, “Yukon Mine Site and Reclamation Closure Policy: Financial and Technical Guidelines” (Whitehorse, Yukon: Government of Yukon, September 2013).

multiple times and experienced persistent financial instability, ultimately resulting in abandonment. The closure left behind severe environmental damage, including acid rock drainage and widespread heavy metal contamination, making Faro one of the most contaminated sites in Canada. Remediation of the site is currently being undertaken by the federal government as part of a long-term project to mitigate risks to surrounding ecosystems and communities. The Faro Mine Remediation Project was recently assessed by the Executive Committee of the YESAB and was frequently cited by interview participants as an example of more progressive assessment practices. This is discussed in greater detail in subsequent chapters.<sup>190</sup>

Brewery Creek Mine, located near Dawson City in the Traditional Territory of Tr'ondëk Hwëch'in , represents one of the few quartz mining operations in the Yukon to undergo a partial closure and formal remediation. Operated as an open-pit, heap leach gold mine from 1996 to 2002, it became one of the territory's earliest sites to enter reclamation under a structured closure plan. Minimal reclamation was conducted during active operations, and meaningful planning only began after the mine ceased production. In 1999, YG approved a reclamation plan that included land contouring, sediment control, and water treatment, with initial site stabilization, grading, and reseeded efforts beginning in 2000. These were funded primarily by Brewery Creek Mining Ltd., supported by a \$1.4 million security bond held by the territorial government. However, following the company's bankruptcy in 2002, YG assumed responsibility for continued remediation between 2003 and 2004. The \$1.4 million bond was eventually depleted, necessitating further public funding to continue cleanup activities, including contaminated material removal, additional revegetation, and long-term environmental monitoring.

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<sup>190</sup> Government of Canada; Crown-Indigenous Relations and Northern Affairs Canada, "Faro Mine Remediation Project: Yukon," report, November 24, 2016, <https://www.rcaanc-cirnac.gc.ca/eng/1480019546952/1537554989037>.

By 2006, major reclamation activities were largely complete at the Brewery Creek Mine, and from 2007 onward, the government maintained oversight through sustained monitoring. Despite these efforts, the site changed ownership multiple times, and its recent acquisition by Victoria Gold Corp.—which has proposed reopening the mine—has reignited concerns over the adequacy and permanence of earlier remediation. Brewery Creek is both a rare example of attempted mine closure and a cautionary tale highlighting regulatory gaps, the fragility of reclamation success, and the critical need for enforceable bonding and robust oversight throughout the mine lifecycle.<sup>191</sup>

Eagle Gold Mine, also known as the Victoria Gold Mine, is a modern open-pit heap leach gold operation located in the Mayo region of the Yukon. Owned and operated by Victoria Gold Corp., it began commercial production in 2019 and quickly became the largest gold mine in Yukon’s history, producing approximately 200,000 ounces of gold annually. The mine is situated within the Traditional Territory of the First Nation of Na-Cho Nyäk Dun (FNNND), and its development involved formal consultation and agreements with the First Nation. As of 2024, the mine is in receivership and undergoing regulatory and operational changes aimed at mitigating further environmental harm.

On June 24, 2024, the Victoria Gold Mine Disaster—a catastrophic heap leach pad failure—occurred following a landslide that compromised the containment structure. This incident resulted in the release of cyanide-laced water into the surrounding environment, contaminating local water bodies and posing immediate and long-term risks to ecosystems and the FNNND community. The FNNND took a leading role in responding to the crisis, calling for a public inquiry and advocating for urgent government intervention. The First Nation was the

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<sup>191</sup> Government of Yukon, Energy Mines and Resources, “Case Study of Brewery Creek” (Whitehorse: Government of Yukon, March 2024).

first to request a comprehensive downstream effects monitoring program, encompassing water quality testing, fish and fish habitat assessments, and toxicological studies. Despite these efforts, the FNNND has continued to press both the Yukon and federal governments to implement more stringent and effective mitigation measures.

The disaster also revealed critical lapses in Yukon Government oversight, including the failure to enforce key conditions of the Water Use Licence and operating permits—most notably, the requirement that Victoria Gold have functional cyanide-destruction capabilities in place prior to beginning operations. These oversights went beyond administrative shortcomings, representing serious regulatory failures that contributed to the environmental harm and undermined public trust in the territory’s mining governance. In 2022, the Yukon Water Board (YWB) ordered the company to provide \$105 million in security following its review of the Reclamation and Closure Plan. Victoria Gold appealed the decision, arguing that the YWB had breached procedural fairness by failing to disclose key expert materials—known as the “Northland Documents”—used in determining the security amount. The Supreme Court of Yukon agreed, ruling that the Water Board had indeed failed to provide Victoria Gold with a fair opportunity to respond to adverse information. The court reaffirmed the principle that procedural fairness demands disclosure of material facts and a chance to respond, regardless of the source of those facts.

The heap leach failure and resulting environmental contamination exacerbated Victoria Gold’s financial troubles, ultimately leading to its collapse and court-appointed receivership in August 2024. Although the appeal became moot due to the company’s insolvency, the court’s ruling highlighted systemic weaknesses in the Yukon’s regulatory regime—particularly the lack of public interest representation in critical oversight processes. The court emphasized that YG, as

both regulator and representative of the public interest, should have played a more active role in the proceedings. Concerns remain about the potential for a secondary heap leach failure, which could cause further environmental harm. While emergency response efforts have addressed immediate risks, the incident has underscored the urgent need for enhanced regulatory safeguards, stricter environmental controls, and improved mine safety protocols to prevent future disasters.

The Victoria Gold Mine Disaster was a prominent and highly salient issue during the interview period, having occurred just months prior to many of the interviews. Its environmental, legal, and socio-economic implications were top-of-mind for participants and served as a focal point in many discussions about mining governance, corporate accountability, and regulatory reform.

#### *4.2.4 4.2.4 Conclusion of Mining in the Yukon*

Mining remains one of the most significant drivers of the Yukon's economy and development, contributing to employment, infrastructure expansion, and territorial revenue. However, its legacy of environmental degradation, socio-economic disruption, and regulatory shortcomings continues to generate debate and scrutiny. Importantly, mining projects make up the majority of assessments conducted by the YESAB, highlighting the sector's central role in shaping how development is reviewed, approved, and monitored. Given its prominence, mining will serve as a focal point in this dissertation, not only due to its socio-economic and environmental impacts, but because of its instrumental role in influencing the evolution, challenges, and implementation of the development assessment process in the Yukon.

## 4.3 Impact Assessment in the Yukon

### 4.3.1 Environmental Assessment Review Process

In 1974, the Environmental Assessment Review Process came into effect under federal legislation. As discussed in [Chapter 2: Literature Review](#), the inception of this body responsible for reviewing projects in Canada, was spurred by growing public awareness of environmental degradation because of unregulated development. Project reviewal in the Yukon before the implementation of YESAB relied on the federal Environmental Assessment Review Process. Prior to the 1970s, there was limited environmental and socio-economic oversight of events such as the Klondike Gold Rush of the late 1890's, the Alaska Highway in the 1940s, and Faro Mine of 1969. Overall, resource extraction was prioritized over environmental or social considerations.<sup>192</sup> The introduction of the Environmental Assessment Review Process marked a significant shift in project development by establishing environmental protection policies in response to growing concerns over the unchecked environmental degradation caused by earlier resource development. In the Yukon, one of the first major projects to undergo assessment under the Environmental Assessment Review Process was the Alaska Highway pipeline project in 1979. However, the process faced significant criticism from local communities, Indigenous groups, and environmental organizations, who raised concerns about limited public participation, challenges in implementing mitigation measures, and the failure to adequately address cumulative and social impacts.<sup>193</sup> The early criticisms of the Environmental Assessment Review Process in the Yukon reflected broader challenges in balancing resource development with

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<sup>192</sup> Audrey Armour, "Integrating Impact Assessment in the Planning Process: From Rhetoric to Reality," *Impact Assessment* 8, no. 1–2 (June 1990): 1–14, <https://doi.org/10.1080/07349165.1990.9726024>.

<sup>193</sup> Bram F. Nobel, "Environmental Impact Assessment," in *The Canadian Encyclopedia* (Historica Canada, March 2, 2011), <https://www.thecanadianencyclopedia.ca/en/article/environmental-impact-assessment>. Robert B. Gibson, "From Wreck Cove to Voisey's Bay: The Evolution of Federal Environmental Assessment in Canada," *Impact Assessment and Project Appraisal* 20, no. 3 (n.d.).

environmental and social considerations. These challenges were further explored in landmark inquiries like the Berger Report and the Lysyk Inquiry, which set important precedents for environmental governance and Indigenous engagement in Canada, particularly in the context of large-scale resource projects in northern territories. Despite its intent to introduce environmental safeguards, the Environmental Assessment Review Process was widely seen as limited in scope and enforcement power, particularly in addressing the concerns of Indigenous communities and cumulative environmental effects. In the Yukon, its effectiveness was constrained by a lack of regional context, minimal community engagement, and its dependence on federal priorities, ultimately reinforcing the need for a more localized and inclusive assessment system like YESAB.

#### *4.3.2 Impacts of Berger Report and Lysyk Inquiry*

The Berger Report<sup>194</sup> and the Lysyk Inquiry<sup>195</sup> represent significant milestones in environmental governance and Indigenous relations in Canada, addressing the impacts of resource development in northern territories. Justice Thomas Berger's inquiry into the Mackenzie Valley Pipeline, conducted in the 1970s, stands as a groundbreaking example of environmental and social impact assessment, that was the first to include Indigenous voices/stories in their own language and on their own Traditional Territories. The project proposed constructing a pipeline through Indigenous lands in the Yukon, starting from the North Slope in Alaska, through to the Northwest Territories to transport Arctic natural gas to southern markets, aiming to meet growing energy demands in Canada and the United States. The pipeline was seen as a way to capitalize on the vast natural gas reserves in the Arctic, driving economic growth and ensuring energy security

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<sup>194</sup> Jack C. Stabler and Thomas R. Berger, "Northern Frontier - Northern Homeland," 1978.

<sup>195</sup> K Lysyk, E Bohmer, and W Phelps, "Alaska Highway Pipeline Inquiry" (Whitehorse: Minister of Supply and Services Canada, 1977).

during a time of increasing global energy concerns. Berger prioritized inclusive public hearings, with Indigenous voices forming the core of the process, after he had heard from the business sector, government, social workers, and anthropologists. He highlighted concerns over potential disruptions to traditional lifestyles, ecological systems, and unresolved Indigenous land claims.

The report concluded with a recommendation to delay the project for ten years to allow for the resolution of Indigenous claims and a more thoughtful approach to resource development and extraction. Berger's emphasis on safeguarding cultural integrity and ecological stability reshaped how major infrastructure projects were evaluated, paving the way for integrating Indigenous perspectives in decision-making processes. Berger later reflected that the hearings were not merely about the pipeline but about the future of northern Canada and Indigenous Peoples, emphasizing the government's responsibility to listen to Indigenous voices and address historical injustice.<sup>196</sup>

The Lysyk Inquiry of 1977, chaired by Justice Kenneth Lysyk, reviewed the Alaska Highway Pipeline project, proposed as an alternative route for Arctic natural gas to southern markets. This route was intended to avoid the environmental and social challenges associated with other proposed pathways, such as those through the Mackenzie Valley. The pipeline aimed to capitalize on the vast natural gas reserves in the Arctic, providing a reliable energy supply to meet growing demands in Canada and the United States. Additionally, it was seen as a way to stimulate economic development in northern regions while addressing global energy security concerns during the 1970s energy crisis. Lysyk's findings echoed many of Berger's concerns but focused on additional socio-economic issues. The inquiry identified the strain that such large-

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<sup>196</sup> Thomas R. Berger, "The Mackenzie Valley Pipeline Inquiry," *Osgoode Hall Law Journal* 16, no. 3 (November 1, 1978): 639–47, <https://doi.org/10.60082/2817-5069.2078>.

scale developments would place on northern communities, including inadequate infrastructure and public services, potential displacement of Indigenous Peoples, and unequal economic benefits. Lysyk underscored the lack of effective policy frameworks to protect Indigenous land rights and distribute the socio-economic benefits of resource development equitably.

This inquiry also highlighted cumulative environmental effects and gaps in long-term regional planning. It recommended stronger community involvement, resolution of land claims prior to project approval, and improved public service systems to support the influx of workers and families. Lysyk's work added depth to the broader understanding of how resource projects impact local and Indigenous communities and set precedents for incorporating socio-economic assessments in environmental policies.<sup>197</sup>

Both reports laid the foundation for reforms in Canadian impact assessment legislation and Indigenous consultation protocols. They emphasized resolving Indigenous land claims as a prerequisite for development and promoted community-centric governance models. Berger's reflections reinforced that large-scale projects are not just technical endeavors but ethical and political decisions that should prioritize Indigenous sovereignty and long-term ecological stewardship.<sup>198</sup> Lysyk's findings added critical insights into socio-economic impacts, underlining the need for equitable policies that address both immediate and long-term community needs. Together, the Berger and Lysyk inquiries reshaped Canada's resource management policies, influencing the future development of the Yukon Environmental and Socio-Economic Assessment Act (*YESAA*) and other regulatory frameworks.<sup>199</sup> They remain enduring examples

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<sup>197</sup> J. C. Stabler and M. R. Olfert, "Gaslight Follies: The Political Economy of the Western Arctic," *Canadian Public Policy / Analyse de Politiques* 6, no. 2 (1980): 374–88, <https://doi.org/10.2307/3550006>.

<sup>198</sup> Stephen Goudge, "The Berger Inquiry in Retrospect: Its Legacy," *Canadian Journal of Women and Law* 28, no. 2 (2016): 393–407.

<sup>199</sup> Mark Nuttall, *Pipeline Dreams: People, Environment, and the Arctic Energy Frontier*, IWGIA Document 126 (Copenhagen: International Work Group for Indigenous Affairs, 2010).

of how inclusive, forward-looking governance can address complex socio-environmental challenges while respecting Indigenous and community rights. The Berger and Lysyk inquiries highlighted the importance of robust, inclusive frameworks for addressing the environmental, social, and political dimensions of resource development. However, while these inquiries influenced policy reforms, the Environmental Assessment Review Process remained limited in its effectiveness due to its lack of legislative authority. This gap eventually led to the creation of the *Canadian Environmental Assessment Act (CEAA)* in 1992, which sought to address the shortcomings of the Environmental Assessment Review Process and establish a stronger legal foundation for environmental assessments.

#### 4.3.3 *Canadian Environmental Assessment Act (CEAA)*

The main issue with the Environmental Assessment Review Process was that it was solely policy-based and lacked legislative authority. This led to inconsistencies in application.<sup>200</sup> By providing a clear legal framework, the *CEAA* sought to standardize federal environmental assessments, ensuring they were enforceable and transparent. Its introduction represented a crucial step toward strengthening the integrity and accountability of environmental decision-making processes in Canada.

In 1999, a five-year review of the *CEAA* was undertaken, reflecting a commitment to continuous improvement and adaptation. This review identified several areas where the *CEAA* could be refined to better meet evolving needs. Amendments were subsequently introduced to improve the efficiency of the assessment process, minimizing redundancies and reducing duplication between federal and provincial processes. These changes were aimed at streamlining

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<sup>200</sup> Peter Jacobs and Barry Sadler, “Sustainable Development and Environmental Assessment Perspectives on Planning for a Common Future,” *Canadian Environmental Assessment Research Council*, 1990.

operations while maintaining the thoroughness of environmental evaluations. The amendments also emphasized the importance of public participation, recognizing the value of community input in enhancing the credibility and inclusivity of assessments. Additionally, the revised *CEAA* expanded its scope to ensure more comprehensive consideration of environmental, social, and economic impacts, aligning with the principles of sustainable development. Over time, the *CEAA* underwent multiple revisions to adapt to changing environmental and regulatory landscapes. However, its influence in the Yukon was effectively supplanted in 2003 by the establishment of YESAB. The aim was that the Board would introduce a region-specific framework that replaced federal impact assessment in the territory, reflecting the unique environmental, cultural, and economic contexts of the Yukon. This shift demonstrated a move toward localized governance, emphasizing tailored approaches to environmental and socio-economic assessments that better met the needs of the region and its people.<sup>201</sup>

#### *4.3.4 Chapter 12: Development Assessment Process of the UFA*

Following decades of evolving environmental governance—shaped by the limitations of the Environmental Assessment Review Process, the landmark insights of the Berger and Lysyk Inquiries, and the eventual enactment of the *CEAA*—a new chapter in the Yukon’s Development Assessment Process emerged through the UFA. Chapter 12 of the UFA established a comprehensive framework for co-governance of environmental and socio-economic assessments in the Yukon, grounded in the recognition of YFN’s rights and responsibilities. Developed as part of the land claims settlement process, Chapter 12 was designed to address the historical exclusion of Indigenous voices from decision-making and to ensure that development projects in

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<sup>201</sup> Nobel, “Environmental Impact Assessment.”

the territory are evaluated with full consideration of ecological, cultural, and community impacts. This framework was later formalized through the *YESAA*, which created the YESAB and provided legislative authority to implement the principles set out in the UFA.

The UFA is the foundational modern treaty signed in 1993 between Yukon First Nations, the Government of Canada, and the Government of Yukon. It contains 28 chapters (Appendix F) that establish the framework for Final and Self-Government Agreements, outlining rights and responsibilities in areas such as land, resources, water, heritage, and governance. The UFA's central purpose is to provide the legal and political foundation for co-management and shared decision-making in the Yukon, ensuring that development, resource use, and governance reflect both Crown and First Nation authority. In practice, the UFA functions as the blueprint for implementing Indigenous land claims and self-government across the territory.

Out of the UFA, [Chapter 12 of the UFA outlines objectives](#) that go beyond conventional environmental assessment by emphasizing the protection of Yukon Indian People's traditional economies and their special relationship with the wilderness environment. It ensures their guaranteed participation and the incorporation of their knowledge in assessments, promotes the wellbeing of all Yukon residents, protects heritage resources, and reinforces the principle of sustainable development. These objectives reflect a hybrid approach that blends Indigenous worldviews with mainstream environmental governance, centering procedural fairness, cultural integrity, and intergenerational responsibility.

Chapter 12 requires the governments of Canada, Yukon, and YFNs to jointly develop Development Assessment Legislation consistent with the chapter's objectives. In cases where consensus on legislative drafting is not reached, the government must consult with Council of Yukon Indians (now the Council of Yukon First Nations). The legislation was to be introduced

within two years of the settlement legislation coming into effect, with necessary amendments to federal statutes—such as the *Quartz Mining Act* and *Placer Mining Act*—to ensure consistency with the new framework.

The scope of the Development Assessment Process as outlined in Chapter 12 is expansive. It applies to all new projects, significant modifications to existing ones, transboundary developments with effects in the Yukon, project shutdowns and decommissions, and development-related research, including cumulative effects studies. The process is not limited to biophysical impacts but also explicitly includes socio-economic and cultural dimensions, recognizing the holistic relationship that Indigenous Peoples have with their lands and waters.

The chapter also outlines the Yukon Development Assessment Board's responsibilities for administering the Yukon Development Assessment Process (a detailed outline of how this has been realized in YESAA is provided below). Chapter 12 also provides guidance for the Development Assessment Process after the initial assessment, stating that although Decision Bodies are not bound to conform to YDAB's recommendations, they must provide written justification if they depart from them. This introduces a degree of accountability, even within jurisdictions where federal authority supersedes territorial legislation.

Monitoring and enforcement mechanisms are addressed by empowering Yukon Development Assessment Board to recommend project audits, ongoing monitoring, and public hearings in response to potential violations. While the UFA leaves detailed enforcement mechanisms to YESAA, it ensures that oversight continues after project approval and that assessment bodies are informed by real-time environmental and socio-economic information.

The chapter further anticipates and addresses the complexities of cross-border development. It mandates that governments pursue agreements with neighbouring jurisdictions—such as British Columbia, Alberta, Alaska, and the Northwest Territories—to assess transboundary projects that may affect Yukon. It also ensures that regional land use planning is integrated with project assessments. Where a project is proposed in an area with an approved land use plan, YESAB must assess whether the project conforms with that plan. If not, the project may still proceed, but only with legal authorization and clear rationale.

To support the assessment regime, Chapter 12 includes funding provisions. District Offices (DOs) are tasked with preparing annual budgets in consultation with affected YFNs. These are consolidated by YDAB and submitted to the federal government for funding, ensuring the financial independence and operational stability of assessment bodies. Implementation is further supported by a requirement for an implementation plan to be developed in consultation with YFNs, and a mandatory five-year review of the assessment process to ensure its continued effectiveness.

The principles and processes outlined in Chapter 12 of the UFA laid the legal and philosophical groundwork for the establishment of a regionally tailored assessment regime in the Yukon. To implement this co-governance framework, the *YESAA* was introduced in 2003, institutionalizing the commitments made under the UFA. The following section examines the structure, function, and evolution of *YESAA* and the YESAB, including the five-year review and subsequent legislative amendments, as outlined below.

#### *4.3.5 Yukon Environmental and Socio-Economic Assessment Act*

*YESAA*, 2003 was enacted as part of implementation of the UFA, specifically Chapter 12: Development Assessment Process. It replaced federal and territorial impact assessment

processes. Funding for YESAB is provided by Crown-Indigenous Relations and Northern Affairs.<sup>202</sup> The Act aimed to establish a regionally tailored process for evaluating the environmental, socio-economic, and cultural impacts of development projects in the Yukon. It created the independent YESAB and mandates meaningful participation by YFN, particularly under Chapter 12 of the UFA. It is important to note that in s. 4 of *YESAA*, it states that “In the event of an inconsistency or conflict between this Act and a final agreement, the final agreement prevails to the extent of the inconsistency or conflict.” The Act, following what is outlined in the UFA, ensures assessments are transparent, inclusive, and legally enforceable, with provisions for monitoring, transboundary cooperation, and periodic legislative review. The structure and organization of YESAB reflect its mandate to balance diverse interests and ensure effective impact assessments across the Yukon. However, as the implementation of *YESAA* progressed, challenges and concerns emerged, prompting the legislated five-year review to evaluate its effectiveness and address issues.

According to YESAB’s Annual Reports,<sup>203</sup> between 2021 and 2023, in the years prior to the Victoria Gold Mine Disaster, YESAB received just over 190 project submissions annually. During this period, placer mining accounted for the majority of proposals, representing approximately 28 percent of all projects reviewed (55 out of 196 total submissions). Quartz mining also made up a substantial portion of submissions, ranging from 13 to 25 projects each year. The remaining assessments reflected a diverse mix of activities, including land development, utilities, infrastructure, and agricultural projects. This breakdown underscores the predominance of placer and quartz mining in Yukon’s assessment regime, while also highlighting

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<sup>202</sup> Government of Canada. “Yukon Environmental and Socio-Economic Assessment Act Five-Year Review.” <https://www.rcaanc-cirnac.gc.ca/eng/1388169378921/1618311392300>.

<sup>203</sup> Yukon Environmental and Socio-Economic Assessment Board (YESAB), “Annual Reports.” <https://yesab.ca/annual-reports>.

YESAB's responsibility to review a wide variety of project types across the territory. Also within this timeframe, 0 percent of the projects that went through YESAB process were rejected, all either were accepted or varied.

#### *4.3.6 The Five-Year Review of the Yukon Environmental and Socio-Economic Act*

The five-year review of *YESAA* was a legislated requirement to assess the effectiveness and implementation of the Act. It aimed to ensure the framework remained relevant, efficient, and aligned with the needs of stakeholders, including governments, First Nations, industry, and Yukoners. As Bill<sup>204</sup> points out in his interview, both the federal and territorial governments wanted to delay the review, but YFNs pushed for it to start to address issues they were experiencing. The review was conducted by SENES Consultants Limited. SENES Consultants Limited was a Canadian environmental consulting firm specializing in environmental assessment, risk analysis, and sustainable development. The first phase of the review involved gathering feedback from stakeholders, including YFNs, governments, businesses, NGOs, and the public. A final report was compiled titled *YESAA Five-Year Review Issues Scoping Report, 2009*.<sup>205</sup> and it compiled concerns and suggestions raised during 78 meetings and through 71 written submissions.

Key findings highlighted broad issues, such as inadequate cumulative effects assessments, the lack of regional land use plans, and inconsistent implementation among designated offices. Participants raised concerns over funding and capacity, particularly for First Nations, whose envisioned substantive role in assessments has not been fully realized. Criticisms

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<sup>204</sup> Bill Slater is a consultant with the First Nation of Na-Cho Nyäk Dun with extensive experience with the development assessment process in the Yukon and was one of the participants in the interviews for this research.

<sup>205</sup> SENES Consultants Ltd., "*YESAA Five-Year Review Issues Scoping Report*" (Yellowknife, NWT: *YESAA Five-year Review Steering Committee*, n.d.).

included the need for better integration of traditional knowledge and a lack of support for socio-economic impact evaluations. Stakeholders also identified administrative challenges, such as variable decision-making processes, overly rigid timelines, and inconsistent mitigation measures. Issues with YESAB governance and public engagement were noted, including concerns about the qualifications and impartiality of YESAB staff.

Positive remarks emphasized the transparency and accessibility of the *YESAA* process, improved public participation via the online registry, and the independence of assessors from governments and proponents. The report consolidates this input to guide future reforms, aiming to enhance the effectiveness, fairness, and inclusivity of the *YESAA* framework while addressing long-standing gaps.

As Bill Slater highlights, both the federal and territorial government reiterated the message to YFNs throughout the initial stages of the review that they were not interested in changing *YESAA*. The federal and territorial governments, however, bi-laterally and secretly compiled their own amendments and submitted them under Bill S-6, titled *An Act to amend The Yukon Environmental and Socio-Economic Assessment Act and the Nunavut Waters and Nunavut Surface Rights Tribunal Act*. The federal and territorial governments' unilateral approach to proposing amendments through Bill S-6 marked a significant shift in the review process, bypassing meaningful consultation with YFNs. Introduced in 2014, Bill S-6 brought forward several controversial changes to *YESAA*, sparking debates over the balance between streamlining assessments and respecting Indigenous rights and regional governance.

#### 1.1.1.3 Bill S-6 and Proposed Amendments to YESAA

Bill S-6 was introduced to the Senate on June 3, 2014, and the House of Commons completed its first reading on October 21, 2014. Amendments under Bill S-6 included five changes to *YESAA*.

The first was the introduction of time limits for assessments, which mandated the DOs take no longer than nine months to complete their review and the Executive Committee takes no longer than 34 months. The bill also gave the federal Minister of Aboriginal and Northern Affairs Development<sup>206</sup> authority to issue binding policy directions to the YESAB. Supporters of the bill claimed this measure aimed to ensure consistency and clarity in the assessment process.

The third amendment allowed the federal minister to delegate certain powers, duties, or functions under *YESAA* to the territorial minister, facilitating more localized decision-making. The fourth amendment reduced the need for reassessment of projects when authorizations were renewed or amended, provided there were no significant changes to the original project. This change aimed to streamline the process for ongoing projects. Lastly, a cost-recovery mechanism was introduced, enabling the government to recover costs associated with assessments from project proponents, aligning with practices in other jurisdictions.<sup>207</sup>

Four of these amendments were strongly opposed by YFNs, who travelled to Ottawa in December of 2014 to meet with federal officials to voice their concerns over this bilateral move that violated the collaborative spirit and intent of the UFA. Firstly, it was argued that the timelines proposed could compromise the assessment thoroughness and reduce the time available for First Nations' review, ultimately weakening engagement and consultation effectiveness. The Council of Yukon First Nations (CYFN) also pointed out that the *YESAA* process had fixed timelines already. For ministerial policy direction, CYFN argued that this amendment would weaken the Board and DOs independence. They also pointed out that the federal Minister had no requirement to consult with YFNs in this amended process. The lack of the duty to consult was

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<sup>206</sup> The department was called then, today known as Crown-Indigenous Relations and Northern Affairs

<sup>207</sup> "An Act to Amend the Yukon Environmental and Socioeconomic Assessment Act and the Nunavut Waters and Nunavut Surface Rights Tribunal Act," Pub. L. No. S-6, (2014).

also a concern with the delegation of powers amendment, that would only involve territorial and federal directions. For project amendments and renewals, CYFN pointed out that this could potentially negate the efficacy of YESABs currently functioning process.<sup>208</sup> In 2016, the newly elected Liberal government fulfilled its commitment to repeal the controversial provisions of Bill S-6, acknowledging the legitimacy of Yukon First Nations’ concerns. However, while some internal organizational reforms were subsequently introduced within YESAB, no comprehensive legislative amendments have been enacted to codify these changes or to address the underlying issues that gave rise to the conflict. As a result, the historical tensions surrounding YESAA’s governance—particularly those involving federal authority, consultation obligations, and the balance of power between decision bodies and Indigenous governments—remain unresolved in law, leaving the system vulnerable to future disputes and undermining the long-term stability and collaborative intent of the UFA.

#### *4.3.7 Legal Cases impacting the YESAB*

The evolving legal landscape of resource development in Canada emphasizes the importance of Indigenous consultation, treaty obligations, and environmental stewardship. Recent court cases in the Yukon and across Canada highlight the need to balance economic development with protecting Indigenous rights and traditional territories. These legal precedents significantly impact YESAB, requiring it to strengthen its assessments by addressing cumulative impacts, aligning with land-use plans, and ensuring meaningful Indigenous participation. As a key decision-making body, YESAB must adapt its processes to uphold treaty obligations and support responsible, inclusive governance in resource management. The impact of these legal precedents

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<sup>208</sup> Council of Yukon First Nations, “Opinion Editorial Regarding Bill S-6, Yukon and Nunavut Regulatory Improvement Act” (Council of Yukon First Nations, December 11, 2014).

is evident in recent cases, such as the *Metallic Minerals case* (2024) the on-going *Michelle Creek case*, *Ross River Class 1 case* (2013), the *Yukon Water Board case* (2019) and the *Blueberry First Nation case* (2021).

*First Nation of Na-Cho Nyäk Dun v. Yukon (Government of)*<sup>209</sup> (also known as the *Metallic Minerals case*) evolved around a mineral exploration project proposed by Metallic Minerals Corp. within the Traditional Territory of the FNNND. This case raised significant questions regarding YG's duty to consult Indigenous Peoples under the UFA. At the heart of the dispute was the balance between promoting development and ensuring meaningful Indigenous participation in land and resource management decisions. In February 2021, YG approved the project under the *YESAA*, even though a subregional Beaver River Land Use Plan was still under development for the area. The First Nation subsequently filed a petition in March 2021, arguing that consultation was inadequate and breached treaty obligations. The Yukon Supreme Court ruled in favor of FNNND in January 2023, concluding that the government failed to fulfill its duty to consult and accommodate. The case was appealed, and, in April 2024, the Yukon Court of Appeal upheld the earlier decision on consultation inadequacy while modifying some declaratory orders. The Court found that YG failed to engage deeply enough with the First Nation, disregarding requests for broader community consultation, which breached constitutional obligations. Additionally, the approval of the project undermined the ongoing Beaver River Land Use Plan process, a key element of the FNNND's treaty rights. The Court criticized the government for not meaningfully integrating land-use considerations and failing to respect the collaborative spirit of treaty obligations. While some of the Yukon Supreme Court's declaratory

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<sup>209</sup> *First Nation of Na-Cho Nyäk Dun v. Yukon (Government of)*, 2024, No. YKCA 5 (Court of Appeal of Yukon April 9, 2024).

orders were set aside by the Court of Appeal, both courts reinforced the Yukon’s obligations under the UFA to involve Indigenous communities in decisions affecting their lands.

*Yukon (Government of) v. Yukon Environmental and Socio-Economic Assessment Board*<sup>210</sup> (also known as the *Michelle Creek case*), which is ongoing, concerns a judicial review of a decision by the YESAB regarding a mineral exploration project proposed by Silver47 Exploration Corp. in the Peel Regional Land Use Plan area. The project, located within the Traditional Territories of Tr’ondëk Hwëch’in and FNNND was assessed by YESAB in 2023, marking the first project reviewed under the Peel Regional Land Use Plan since its adoption in 2019. In its recommendation issued in late 2023, YESAB identified significant adverse impacts, including irreversible effects on wildlife, First Nations’ wellness, water resources, heritage sites, and wilderness experiences. The assessment also found that essential baseline data required under the Peel Regional Land Use Plan were insufficient, influencing its recommendation to not approve the project. In 2024, YG petitioned the Supreme Court of Yukon to quash YESAB’s recommendation, alleging procedural unfairness. The government argued that Silver47 was not notified about the elevated baseline data requirements mandated by the Peel Regional Land Use Plan and contested YESAB’s findings linking data deficiencies to project non-conformity with the regional plan. The court admitted the Attorney General of Canada as a respondent, reflecting federal treaty obligations under the UFA, which established YESAB’s governance framework.

*The Yukon Water Board v. Government of Yukon*<sup>211</sup> case further highlights the challenges of balancing resource development with Indigenous rights and environmental stewardship. In this case, the YWB challenged the Yukon government’s decision to issue a water license for a

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<sup>210</sup> Yukon (Government of) v. Yukon Environmental and Socio-economic Assessment Board, No. YKSC 11 (Yukon Supreme Court, 2024).

<sup>211</sup> Yukon Water Board v. Yukon (Government of), No. YKSC 15 (Yukon Supreme Court, 2015).

mining project without adequately considering the board’s recommendations or the broader implications for water management and Indigenous rights. The Yukon Supreme Court ruled in 2020 that the government had overstepped its authority by failing to respect the independent role of the YWB in regulating water use and ensuring compliance with environmental and treaty obligations. This decision reinforced the importance of independent regulatory bodies like the YWB and YESAB in upholding environmental standards and Indigenous rights, emphasizing that government decisions must align with established frameworks and processes.

Both the *Ross River Dena Council v. Government of Yukon*<sup>212</sup> (also known as the *Ross River Class 1 case*) and *Yahey v. British Columbia*<sup>213</sup> (or *Blueberry First Nations case*) cases provide critical context for understanding the evolving legal landscape surrounding Indigenous consultation and resource development in Canada. In *Ross River Class 1 case*, the Yukon Court of Appeal ruled that the government has a constitutional duty to consult Indigenous groups before recording quartz mining claims under the *Quartz Mining Act*. This decision challenged the “free entry” system, which allowed miners to stake claims without prior consultation or government oversight, and required YG to amend its legislation to ensure consultation occurs before claims are recorded. The case was pivotal in establishing that even preliminary exploration activities could adversely affect Indigenous rights, reinforcing the need for meaningful consultation and accommodation.

Similarly, the *Blueberry First Nations case* addressed the cumulative impacts of industrial development on Indigenous treaty rights. The British Columbia Supreme Court found that the province had breached Treaty 8 by allowing extensive resource development that

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<sup>212</sup> *Ross River Dene Council v. Canada (Attorney General)*, No. 11-YU693 (Yukon Supreme Court May 9, 2013).

<sup>213</sup> *Yahey v. British Columbia*, 2021 (Supreme Court of British Columbia June 29, 2021).

significantly impaired the Blueberry River First Nations' ability to exercise their treaty rights, such as hunting, fishing, and trapping. The court emphasized the importance of cumulative impact assessments and meaningful consultation to protect Indigenous rights. This landmark decision has had far-reaching implications for resource development across Canada, including the Yukon, underscoring the need for governments to balance economic development with the protection of Indigenous Rights and Traditional Territories. It also emphasized the need for impact assessments to consider Cumulative Effects, something YESAB struggles with.

Both the Metallic Minerals and Michelle Creek cases underscore the complexities and evolving dynamics of resource development in the Yukon, emphasizing the critical need for robust consultation with Indigenous communities and adherence to established land-use and environmental frameworks. These cases highlight the tension between advancing economic development and safeguarding Indigenous rights, treaty obligations, and environmental sustainability. The Metallic Minerals case demonstrates the consequences of insufficient consultation and the importance of respecting collaborative treaty frameworks like the UFA, while the Michelle Creek case underscores the necessity of comprehensive baseline data and alignment with regional land-use plans to ensure responsible development. Together, these decisions set significant precedents, affirming the need for transparent, inclusive governance and policies that balance development priorities with ecological and cultural preservation. The rulings in *Ross River Dena Council, Yahey, Yukon Water Board v. Yukon*, and other cases further emphasize that effective land-use planning, cumulative impact assessments, and meaningful Indigenous participation are indispensable for fostering equitable and sustainable development in the Yukon and beyond. Building on these legal precedents, it is essential to understand how they have shaped YESAB's approach to assessments—reinforcing the need for thorough consultation,

cumulative effects analysis, and alignment with land-use plans—as the following section outlines the structure and functioning of the overall assessment process.

#### *4.3.8 Outline of YESAB's Role in the Development Assessment Process*

YESAB is organized with a Board, an executive committee (for larger projects), six designated offices (for regular projects), and administrative support. The Board is comprised of seven members, including the Chair and two additional members who form the Executive Committee, responsible for overseeing major project assessments. Board members are meant to represent a balance of interests, with nominations from the Council of Yukon First Nations and the federal and territorial governments. There are currently six YESAB DOs in the Yukon representing six districts ([see map on page 54](#)). The exact number of DOs was not outlined in the UFA.<sup>214</sup>

The Development Assessment Process in the Yukon begins with project submission to the YESAB. This will involve a proponent or an agent on behalf of a proponent submitting a detailed project proposal, outlining the scope, location, project activities, and potential impacts of the project. If the project is extensive, it will be assigned to the Executive Committee to address the broad implications of the project. If the project is a more limited in scope, it will be assigned to a Designated Office (DO), usually the DO that is responsible for the region within which the project is set to take place. Sometimes, however, due to capacity issues discussed in future chapters, the project will be assigned to another DO.

Following the project submission and assignment, the project will enter Adequacy Review, during which YESAB ensures the proposal contains sufficient information for assessment. If there is any information that YESAB questions, they will issue an Information

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<sup>214</sup> Yukon Environmental and Socio-Economic Assessment Board, “YESAB 101: For Public,” Whitehorse, 2024, 1, <https://yesab.ca/wp-content/uploads/2024/01/YESAB-101-for-Public-.pdf>.

Request to the Proponent to ensure clarity. Public and stakeholder engagement is then conducted during the Seeking Views and Information stage to gather input from the public, First Nations, and stakeholders to identify concerns and potential impacts. Again, if there is more outstanding information needed, another Information Request can be issued to the proponent. YESAB then evaluates the environmental, socio-economic, and cultural impacts of the project. Finally, YESAB will then issue a recommendation or Evaluation Report (ER) containing suggested mitigations and conditions to relevant decision bodies (e.g., YG, Federal Government, or YFNs (if on Settlement Lands)). These decision bodies review the recommendations, which they may accept, modify, or reject based on their mandate and jurisdiction, and subsequently issue a decision document that determines the project's next steps. All of the information related to the project (project proposal, Information Requests, comments gathered during seeking views and information, and the ER) are posted on the YESAB Online Registry (YOR). Information related to Traditional Knowledge that a YFN has requested be kept confidential will be omitted from the YOR.<sup>215</sup>

For projects involving water use (which would include a Class 4 and above mining licence) or activities impacting water resources, proponents must also apply to the YWB for water licenses and, if necessary, land-use permits. The YWB evaluates applications by considering YESAB's recommendations, technical assessments, and compliance with relevant regulations, including the territorial *Waters Act*. Public hearings or consultations may be held during this stage. Once the YWB completes its review, it issues water licenses and permits with specific terms and conditions.

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<sup>215</sup> Yukon Environmental and Socio-Economic Assessment Board, "YESAB 101: For Public."

With approvals in place, the project moves to implementation, where compliance with conditions set by YESAB, decision bodies, and the YWB is monitored by regulatory agencies. This structured process ensures a balance between environmental stewardship, socio-economic considerations, and resource development, while also respecting the rights and concerns of YFN and other stakeholders.<sup>216</sup>

#### 4.4 Conclusion

This chapter has provided critical context for understanding the perspectives shared by participants in this study. By tracing the historical trajectory of the mining industry, the development of environmental and socio-economic assessment processes, and the evolution of treaty relationships in the Yukon, it has highlighted the complex and evolving interplay between resource extraction, Indigenous self-determination, and environmental stewardship. The deep-rooted reliance on mining, shaped by events such as the Klondike Gold Rush and bolstered through economic cycles, has left an indelible imprint on the territory's identity and infrastructure. Yet, as this chapter has demonstrated, mining's legacy is one of dualities: significant economic gains have often come at the expense of environmental integrity and Indigenous land and cultural rights. The impacts of major projects like Faro and the recent Victoria Gold Mine disaster underscore the risks of inadequate oversight, weak regulatory enforcement, and insufficient reclamation planning—issues that continue to resonate across Yukon communities.

The introduction of *Together Today* and the negotiation of the UFA marked a foundational shift in governance, anchoring Indigenous Peoples' aspirations for sovereignty,

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<sup>216</sup> "Yukon Water Board," accessed January 8, 2025, <https://yukonwaterboard.ca/>.

sustainability, and equitable participation in land and resource decisions. Chapter 12 of the UFA, which established the Development Assessment Process, reflects these aspirations by embedding Indigenous values and environmental safeguards into project review mechanisms. However, the enduring influence of colonial-era legislation, such as the Quartz and Placer Mining Acts, alongside the sluggish pace of reform, has hindered the realization of these objectives. Recent legal decisions—including those in the Michelle Creek, Metallic Minerals, and Ross River Dena Council cases—highlight how the courts have increasingly affirmed the constitutional duty to consult Indigenous Peoples and to consider cumulative impacts, yet these rulings also expose the persistent gaps between legal intent and policy implementation.

Ultimately, the relationship between mining, impact assessment, and treaty implementation in the Yukon underscores broader tensions between economic development and environmental protection, colonial legacies and future aspirations. As the following chapter illustrates, these tensions are acutely felt by those with direct experience of the YESAB and the broader Development Assessment Process. The interview responses offer valuable insight into how Yukoners—particularly those engaged in or affected by assessments—perceive, navigate, and evaluate the current system. Their reflections go beyond critiques of procedural implementation to question whether the process genuinely reflects the spirit and intent of Chapter 12 of the Umbrella Final Agreement, with its commitments to co-governance, meaningful participation, and sustainable development. These perspectives form a critical foundation for assessing both the strengths and shortcomings of the current framework.

## **Chapter 5: Results - Interpreting the Spirit and Intent of the UFA in the Development Assessment Process**

### **5.1 Introduction to Results**

This chapter and the next two present the responses given in the 35 open-ended, semi-structured interviews that focus on participants' perspectives regarding the three key research questions of this study.

- Chapter 5 will focus on the first research question that evaluates participant perspectives of how effectively the Yukon Environmental and Socio-Economic Assessment Board (YESAB) adheres to the spirit and intent of the Umbrella Final Agreement (UFA).
- Chapter 6 will look at the second research question that explores participant perspectives of the strengths and weaknesses of YESAB's impact assessment processes, emphasizing their comprehensiveness, inclusivity, and responsiveness to the needs of Yukoners and Indigenous communities, as well as their commitment to environmental stewardship and overall wellbeing.
- Chapter 7 will consider the third research question that examines participant perspectives of how other institutions and actors involved in the broader development assessment process influence YESAB's capacity to fulfill its treaty-mandated responsibilities under the UFA.

The results presented in this chapter and the following two consist of selected quotes that effectively represent the sentiments of participants' perspectives. While quantification in the form of percentages was utilized where possible, exact numbers were often avoided. This

decision stemmed from the realization that incorporating numerical data tended to oversimplify the richness of participants' responses. Each participant has unique reasoning, and merely categorizing their views fails to capture this complexity. A more effective method for quantifying opinions might involve a survey with specific yes or no responses; however, this approach was intentionally avoided in favour of open-ended interviews that allowed for deeper exploration of relevant issues and the development of a narrative around them. Survey questions could potentially omit significant reasoning behind participants' answers.

The interviews conducted specifically targeted Yukoners from diverse backgrounds to gather nuanced perspectives. Grouping the responses risks detracting from individual explanations, which may lead to misrepresentation. For instance, stating that “two mining participants think Traditional Knowledge (TK) is addressed in YESAB assessments adequately, while four YESAB employees do not” could be misleading. Those two miners may view TK as an issue overall but might not have considered the topic deeply or may not perceive it in strictly binary terms. Quantifying all participants' responses could undermine their voices and fail to contribute meaningfully to the study's objectives. As the interpretation of responses can be subjective, this approach helps mitigate my subjective interpretation of responses, striving to minimize any potential biases in the study.

Instances where participant percentages are outlined at the beginning of a section, illustrate how many participants brought up that particular subject. Because the interviews were open-ended, participants had the opportunity to focus on issues they considered relevant, resulting in varying subject matter coverage. For example, some participants focused on TK, while others did not mention it. Given the diverse range of topics addressed, these percentages do not suggest a consensus on any specific subject.

The affiliations of the participants are disclosed to provide readers with insight into individual participant's connection to YESAB. Additionally, the List of Participants (Appendix E) identifies those interviewees who requested anonymity based on their preferences indicated in the consent form. In such cases, an androgenous alias has been assigned to preserve the narrative aspect of this chapter.

Drawing from interview narratives, Chapter 5 considers participants' views on how the current system engages with the spirit and intent of Chapter 12, including the broader treaty landscape and Indigenous worldviews embedded in foundational documents like *Together Today for Our Children Tomorrow*. These narratives also address the interconnectedness of UFA chapters—particularly those related to land use planning, self-government, and environmental stewardship—and highlight how fragmented implementation undermines the original vision of the treaty. Participants repeatedly emphasized the gap between legal compliance and moral commitment, and this chapter presents those tensions as central to understanding how the Development Assessment Process is perceived by those with lived experience of the system. In doing so, it directly engages with the core research question: how effectively YESAB adheres to the spirit and intent of the UFA, particularly as it relates to co-governance, meaningful participation, and sustainable development.

## **5.2 The Spirit and Intent of Chapter 12 of the UFA**

Most participants, accounting for 68 percent (24 of 35), highlighted the challenge of fulfilling the spirit and intent of the UFA in relation to YESAB. Among those, 74 percent (11 of 15) of individuals who currently work or have worked for YFN Lands Departments elaborated on this issue. Additionally, 81 percent (9 of 11) of participants with experience at YESAB discussed it as well. All the lawyers interviewed touched on this topic, while only one out of the four participants from the mining industry provided in-depth insights. Responses to the central question posed to participants—**does the YESAB fulfill the spirit and intent of the Umbrella**

**Final Agreement (UFA)?** —reveal some of the complexities and challenges of treaty implementation in the Yukon. The UFA was conceived as a response to historical injustices and aimed to address long-standing inequalities through frameworks for co-governance, sustainable development, and shared management. Participants' reflections on YESAB and the UFA provide a nuanced exploration of these themes, highlighting the intertwined historical injustices, treaty interpretations, and governance challenges that shape their implementation.

Understanding the historical context is essential to grasp the intent behind the UFA and its implementation mechanisms like YESAB. Participants recounted the adverse impacts of historical events, emphasizing the lack of First Nations' inclusion in decision-making processes that significantly affected their lives. As Alex states:

Our people were not included within those events. Like the construction of the Alaska Highway. The Gold Rush occurred without our consent. The influx of people into the Yukon Territory, 30,000 people coming up for the Gold Rush, and killing caribou and fishing and cutting down trees to be able to keep warm, to build cabins. All of that was very, very ad hoc. And then, of course, there was big mining projects like Faro at that point in time as well. And all of it was without any involvement by Yukon First Nations. We were, of course, we were shell shocked, I think, is the term, because the bombs that had landed, like the Gold Rush, like the construction of the Alaska Highway, like the Second World War. They were huge. I mean, they were life changing circumstances. And through it all, between 1927 and 1951, our people could not vote. We did not get the right to vote till 1960. [We] could not own land. All of our kids between the ages of seven and 16 had to go to res[idential] school. There was a statutory requirement for that. We could not get government jobs, unless we gave up our Indian status. And our economy, our subsistence economy as we knew it, had pretty much dried up. Because a lot of the game was gone due to the exploitation of the people that came from the Gold Rush, and the construction of the Alaska Highway ... There was no attempt by Canada to make sure that we were protected from those impacts ... And of course, we were powerless in law to stop those events. We did not have the legal rights that we have now. We did not have any constitutional rights, per se, to the extent that we had any constitutional power.

According to those who were around during negotiations, First Nations aimed to create a framework ensuring sustainable development, prioritizing the wellbeing of Yukon Indian people and respecting their cultural and traditional ties to the land. As stated by Alex:

And so, all of that was happening back then. And so, when we had proposed it, one of the big things was land use planning, and the impacts of development, ad hoc development in our territories, through mining claims, placer claims, the Alaska Highway, talk of the construction of a natural gas pipeline from the

Alaskan North Slope through Canada in 1976 with the Berger Inquiry, first of all, through the Northwest Territories. Then in 1977 with the Alaska Highway Natural Gas Pipeline Inquiry, as it was then called. And our objections over all of that, saying no, nothing's going to happen in the Yukon Territory, unless or until we get a settlement.

Alex also highlighted s. 12.1.1.3 of the UFA which states as an objective:

Protects and promotes the wellbeing of Yukon Indian people and of their communities, and of other Yukon residents.

Alex also pointed out that the incorporation of the objectives at the start of each chapter were:

To make sure that they could be used as an interpretive tool going forward.

From the UFA's inception, its effectiveness was understood to rely on a holistic interpretation of its chapters. Participants emphasized the interconnected nature of the chapters and the challenges posed by fragmented implementation. There was a strong message by those who work with the document on a regular basis that the spirit and intent of the treaty can only be realized when viewed holistically, with an understanding that each chapter builds and supports the other chapters, enabling a more comprehensive understanding of effective implementation. As Tony recalled a YFN Elder explaining:

You cannot understand Chapter 22, unless you look at Chapter 6, Chapter 11, Chapter 12, and Chapter 26, because they're all connected. It's all part of a seamless web.

Robin added that:

I feel like if you made the UFA, it would definitely need to be a web ... And I've been told over and over, and I think people know this whenever, whatever provision you're looking at in the UFA, is that that document is not a Chapter 1 to 25, you need to read it back and forth and around in circles, because it's so interconnected.

Tim added:

They're, all wrapped up together and it's hard to just analyze one without looking at the bigger picture.

Participants consistently reiterated that there was also the understanding that Chapter 11: Land Use Planning would be implemented before Chapter 12: Development Assessment Process. As Robin recalled a YFN Elder explaining to them that:

Chapter 11 was this top-down piece. It was supposed to be really high level, and it helped everything else that came after, and we've done the opposite. So, he [the Elder] kind of explained, Chapter 11 was the 35,000-foot view down, and then you had forestry plans, and then you had Special Management Area Plans, and then you had all these other, like caribou plans and things that all came under that. And then interacted with YESAB based on the values that were identified that way. But instead, we've gone the other way.

Peyton noted that:

Without a functional land use planning process, or without an effective assessment process, the whole agreement is off kilter.

This interconnectedness is particularly evident in the relationship between Chapters 11 (Land Use Planning) and 12 (Development Assessment Process), which participants noted must be implemented together to achieve the treaty's objectives. The impact that the lack of implementation of Chapter 11 in the Traditional Territories of Tr'ondëk Hwëch'in and the Northern Tutchone Nations on the effective implementation of Chapter 12 is discussed in more detail later in this chapter.

Beyond understanding the UFA as a whole, participants pointed to insufficient collaboration among the three UFA governance parties—YFNs, the Government of Yukon (YG), and Federal Government of Canada—as a critical barrier to fulfilling the spirit and intent of the treaty. Robin recalled an Elder asserting the importance to them of the spirit and intent of the UFA's "shared management." As Rowan states:

We should be working together; we're all boards and committees. How do we support each other? All of you [the three signing parties] were mentioned in Chapter 12, so Chapter 12 is basically married to Chapter 11 with commission. Because it's mentioned all over the place in Chapter 12 that YESAB will be looking to Yukon land use planning. But it's also mentioned basically about the Fish and Wildlife, Chapter 16, Chapter 13 for heritage resources for the geological place. All of those things, RRCs [Renewable Resource Councils]<sup>217</sup> and Water Board, it's all under Chapter 12. So we should be looking at how we implement or not implement but work together with all those other chapters and the other boards and committees.

Morgan added:

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<sup>217</sup> Renewable Resource Councils (RRCs) in the Yukon are co-management bodies established under the UFA that serve as the primary instruments for local input into the management of fish, wildlife, forests, and other renewable resources within Traditional Territories, ensuring that both Indigenous knowledge and scientific expertise inform sustainable decision-making.

That spirit and intent of actually working together collaboratively as three governments, I think that's non-existent right now. I think that may play a bigger role, I think, maybe YESAB has its terms of reference, and tries to identify the spirit and intent of that.

Quinn also stated that YG or Government of Canada:

...didn't make actual space for true implementation of in our day-to-day for people like you and me there's no real space for actual co-management and co-decision making as had been contemplated.

Katie added:

All UFA boards and committees and First Nation governments are working towards these bigger objectives and goals. If we all stay siloed, and we all just stick to our individual roles and never think outside of that, then we're never going to get there. We just won't.

Peyton added that it is important to ensure that:

...the licensing process, the granting of mineral rights and so forth, is a collaborative process to the extent we can fit that in or make it consistent with the framework of Canadian law and the Umbrella Final Agreement.

Peyton also pointed out the fact that:

...the one thing that of course resonates with *YESAA* and the reason why it's so incredibly important, and it's been recognized even by the Supreme Court of Canada in an NND<sup>218</sup> case dealing with land use planning, is it's really key to the whole UFA bargain, right? Why would First Nations ever accept a deal with less than nine per cent of the landmass being retained by First Nations in the Yukon Part of that was, OK, you get this landmass as Category A or Category B settlement land.<sup>219</sup> But in addition to that, you get some substantive input into land resource management on non-settlement land through YESAA and through land use planning.

Morgan reiterated this same call for co-management stating:

This is our consolation. So, what I mean by a consolation is that, through our whole land claims process, we surrendered our title rights to all our Traditional Territory. And in lieu of that, these boards and committees were established to voice our concerns and what needs or concerns we have will be addressed through these boards and committees such as the Water Board, YESAB,

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<sup>218</sup> NND or FNNND is in reference to the First Nation of Na-Cho Nyäk Dun.

<sup>219</sup> **Category A Settlement Land** gives Yukon First Nations ownership of both surface and subsurface rights, while **Category B Settlement Land** provides ownership of surface rights only, with subsurface rights retained by the Crown.

dispute resolution board, various boards that are established through the final agreements.

Alex emphasized the need for collaboration between the UFA signatories as well as between Yukoners, stating:

We can do better, and instead of making that statement, let's look at ways in which we can more constructively advance, collectively as a people, as opposed to us on one side of the fence, having to employ the courts all the time, to keep the Crown honourable, with respect to their actions in our territory, and allowing proponents free reign within our lands, in a fashion that violates the essence of the values that we retain as a people.

Participants noted that fostering collaboration is central to realizing the treaty's vision but remains inadequately addressed in practice.

Participants also discussed the role of legalistic interpretations and the challenges they pose in aligning YESAB's processes with the UFA's spirit. While YESAB is a key implementation tool, its structure and operations often reflect colonial frameworks. As Katie stated:

You took this treaty, and you boiled it down to very word-specific provisions, because you kind of had to. I get it. But in that you lost part of the spirit and intent, to be honest. When you boiled it down you kind of lost the purpose.

Kirsten corroborated this statement, saying:

The broad consideration, if it all gets boiled down to these very black-and-white legal provisions, then I think we lose a lot of the meaningfulness.

Unlike the UFA, Together Today for Our Children Tomorrow (*Together Today*) was not negotiated and was written by YFNs. As Robin noted, *Together Today* was:

Written as intended, it's a very clear, concise document.

Katie stated that the UFA negotiations:

Seemed to emulate a process that had a very different overall objective than what they were supposed to be doing. Our development assessment process and land use planning come specifically from First Nation treaties which comes directly from Together Today for our Children Tomorrow. We lost that connection. We just lost the linkage and now we're trying to get it back.

Robin added:

It was just a compromise every step of the way, which is what negotiation is. So I now view it as like, I read a provision and I'm like, 'Why would we agree to that?' And that there's an underlying story as to why it went there, and it probably was never what anybody really wanted. And I think you can

see that reflected in the fact that the whole thing kind of fell apart the first time<sup>220</sup>... I find it [the UFA] inaccessible, because it is so legal and there's a secret meaning in each provision that unless you were there it feels like it's hard to know.

This challenge is noted by Sage who stated:

I think you have a colonial system trying to marry with or support the spirit and intent of the UFA and they're very different things.

Michael added:

Canadians, we as a country wanting to move and recognize that we are a nation that has been built on a power structure that favoured non-Indigenous decision-making, that there was clearly a colonial share of the power that was held and assumed to be real and owned by a group of people. And YESAB well, the Act, YESAA is an early demonstration in Canadian lawmaking. That structured an attempt to decolonize, to share power and decision-making within a construct that was colonial. So, there is a bias to the structure that was held by the Crown from a colonial perspective. And at the same time, was attempting to create a governing body that allowed for shared decision-making and push against the powers that have been resident within the Crown for, since Canada was Canada.

A lack of public understanding about the UFA and its objectives further complicates efforts to realize its spirit and intent as participants stressed. Katie noted the need for education to bridge gaps between the “negotiation generation” and the “implementation generation.”

Lee reiterated this statement, saying:

That's why I think if we really want to get to the root of it, we really need to use people that were there with the original intention... we've got this divide right now of those of us who are trying – those practitioners that are trying to do the things under the UFA are missing the mark and it's because there is a huge disconnect...

Robin added:

I also think that's been a gap too, is just the education from when they came into existence to now ... the story of how a negotiation happened almost seems

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<sup>220</sup> The 1984 Agreement-in-Principle (AIP) for Yukon treaty negotiations collapsed due to insufficient land allocation (2.5 percent of traditional territory), lack of meaningful self-governance, inadequate protection of Indigenous rights, and limited consultation with all First Nations. Federal and territorial overreach, coupled with historical injustices, eroded trust in the process. The AIP prioritized government and industry interests over Indigenous needs, failing to align with First Nations' vision for sustainable development. Its failure highlighted the need for equitable and inclusive negotiations, ultimately leading to the more comprehensive 1993 Umbrella Final Agreement, which emphasized co-management, self-governance, and sustainable resource stewardship.

as important because if you just read Chapter 12 out of nowhere, it's very legalese.

Robin also lamented the absence of education regarding the UFA, stating:

I didn't grow up fully in the Yukon, but I never learned about any of that at school.

But things may be changing. Recalling a town meeting from the 1980s, Peyton stated that they "were really ugly" and suggested looking at a short film segment put out by the Council of Yukon First Nations, specifically Part Three – From Yesterday to Tomorrow,<sup>221</sup> where it is clear there is a great divide among YFN and other Yukoners' and a lot of anger resulting from that. But Peyton went on to explain that the understanding of treaty relationships is getting better as they recalled a more recent experience within the last decade, where they witnessed a positive response from a Yukon town hall meeting when a YFN person proclaimed that:

This land claim agreement is not just between Aboriginal People of Yukon and Canada and YG.<sup>222</sup> It's your agreement too. You sit on our boards and committees... It regulates your lands and resources. It regulates our environment. It ensures that we have an environment for the long term for the benefit of all Yukoners. But try to find some balance.

Kirsten also notes that all Yukoners have shared interests that the UFA can help protect, stating:

Most of the final agreements have in their preamble an acknowledgement of the special relationship between Indigenous People and their Traditional Territories. And I think that's in large part the role of YESAB is to kind of find ways and to allow development to happen while respecting that as well as communities. I mean it's not specific to just First Nation people. I think in the Yukon as well, there's a strong kind of community association or people who live there that have an understanding, acknowledgement and appreciation of the land.

Rowan also discusses the need for a better public understanding around the relationship between YESAA and the UFA, adding that we need to:

Realize that if there's anything that's in Chapter 12 that's not in YESAA, that the UFA takes precedence because it's constitutionally protected.

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<sup>221</sup> *Part Three - From Yesterday to Tomorrow* (Whitehorse: Northern Native Broadcasting Yukon, n.d.), [https://vimeo.com/123680728?autoplay=1&muted=1&stream\\_id=Y2xpcHN8Mzg2MjkyMTF8aWQ6ZGVzY3x7InJlbW92ZV92b2RfdG10bGVzIjpmYWxzZX0percent3D](https://vimeo.com/123680728?autoplay=1&muted=1&stream_id=Y2xpcHN8Mzg2MjkyMTF8aWQ6ZGVzY3x7InJlbW92ZV92b2RfdG10bGVzIjpmYWxzZX0percent3D).

<sup>222</sup> YG is in reference to YG

They go on to explain the importance of learning the spirit and intent of the UFA and not relying on YESAA only:

Because it [YESAA] was built mostly by non-native, legal people and Canada had a big role to play because it's their Act, I think it's lost a lot of the intention behind Chapter 12 just the way it's worded. Even though they put the wording, they have separate wording for each section that lays it out in each section. And I think they put it in in the colonized way that they think but not the way that the UFA was meant to be. And so that's the whole thing about the UFA and saying they're not implementing the agreements in the way they were supposed to.

Some participants advocated revisiting the UFA's framework to address shortcomings and adapt to evolving realities, including the integration of modern treaty principles such as those articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). As Robin noted:

I think when the agreements were being negotiated between the 70s and the 90s, versus now, it just, we signed a final agreement that didn't evolve. And now in Canada, we're seeing the more modern treaties are leaning towards these more periodic reviews and not being so final, final ... you have to have that evolution, and I think, fundamentally our UFA, it's stuck a little bit behind now.

Stephen explained that changes to YESAA that are meant to reflect the UFA are difficult, stating:

It's just that there are issues with constantly trying to understand and improve. And maybe in some cases, the mechanism to be able to do reviewing and constant improvement is a cumbersome one. So, it's hard to bring significant improvements in, or it can be.

Both Robin and Stephen sentiments are reiterated by Alex who stated:

I think we need a territorial Yukon First Nation rethink. A revisit to Chapter 12, and the YESAB process, and say, here's what we imagined back then, here is the statutory process outlined by YESAA, the YESA Act. How do we feel about that now, and are there things that we could change within the system? Because it's awfully difficult to amend a final agreement.

Alex also added:

We should also begin to have conversations with the Crown, with Canada, saying, this is a great process, but like everything in life, this could be improved upon. What have you heard, Canada? And begin to have that frank exchange with the Crown and proponents of this process and say, are there things that we can do? Does it need a major overhaul? Does it need a systematic overhaul? Do we re-examine the statute itself? Are there things that we can do to

streamline the process? Are there things that we can bring in the two Crown actors, Yukon and Canada, and all of the Yukon First Nations, and say, are there things that we can improve upon? And I think the answer will be, yes, we can. Here's based upon our experience, so we can improve it. And I think we should do that. There's, a need for that. And thirdly, I would say, are there ways in which moving forward, that we could supplement the objectives that we can't currently have in Chapter 12, because they're designed to be broad in purpose, through the development, evolution of the common law, on principles of the Honour of the Crown. UNDRIP [United Nations Declaration on Rights of Indigenous Peoples] principles could be of assistance. Because Canada did pass their bill back in June of 2021, and I'm certain it was not intended to be a vacuous exercise, a statutory exercise by Canada. I think there's ways in which we can use that device as well and see if we can move forward. But I don't think the answer is, oh, this is too hard. Let's walk away from it and let's revert back to the Crown taking care of all of the applications that come under. And we have the consent authority only on our treaty lands, and the rest can fall subjectively to whatever the Crown wants to do within our territories. I don't think that's an answer as well.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants familiar with the UFA discussed YESAB's role within the UFA framework.
- The UFA was designed to:
  - Address historical injustices.
  - Create a foundation for sustainable development and co-governance in the Yukon.
- The interconnected nature of the UFA's chapters was emphasized, asserting that its spirit and intent can only be fully realized through holistic implementation.
- Challenges to effective implementation include:
  - Outdated legislation.
  - Fragmented collaboration among governance parties.
  - Lack of public understanding regarding the UFA.
- Addressing these barriers requires:
  - Educational initiatives to raise awareness.
  - Fostering collaboration among stakeholders.
  - Modernizing the UFA framework to meet contemporary governance needs.
- Incorporating principles from the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) could enhance the UFA's relevance.

*5.2.1 Crown and Duty to Consult and Accommodate*

Three participants spoke of the specific challenge around the Crown's struggle to fulfil its fiduciary duty to consult and accommodate. As described above, participants highlighted persistent challenges in fulsome realization of treaty implementation in the Yukon. Central to the

discussion is the enduring question, decades after the agreements were signed: “Who is the Crown?” For a handful of participants, this question is not merely theoretical; it reflects real challenges in determining which Crown entity is responsible for consulting and accommodating YFNs during impact assessment. As Quinn noted, multiple agencies, including the Water Board, federal departments, and territorial entities, often operate without clear accountability, leading to confusion. For example, as Quinn noted, during consultations on a mining project proposal, a YFN Self-Government engaged with various bodies, including YESAB’s Executive Committee, the Water Board, and federal agencies, yet no one clearly assumed responsibility for ensuring consultation obligations were met.

Quinn also noted that the Duty to Consult is further complicated by the way projects are proposed and assessed. Federal agencies like Fisheries and Oceans Canada (DFO) often determine their consultation responsibilities based on the information provided by project proponents. This creates opportunities for proponents to strategically withhold information, potentially bypassing agencies with stricter oversight. As Quinn explained:

The way a proponent writes their project proposal will determine whether they [DFO] need to be on the decision document.

This tactic often leaves YG as the sole body fulfilling consultation duties, relying heavily on the YESAB process. However, Quinn pointed out, this reliance shifts the burden onto YFNs to navigate an imperfect system that frequently overlooks their concerns. As Quinn lamented:

YG is left with a duty to consult but all they do is tell us, ‘Well, we’ve relied on the YESAA process.’

A recurring theme for four participants who have experience working for YFNs, was the Crown’s failure to honor its fiduciary duty to consult with YFNs. The Crown’s constitutional responsibility is grounded in its obligation to protect the interests of Indigenous peoples, yet participants observed that development often takes precedence over environmental and cultural preservation. To address these failures, some participants suggested that First Nations take greater control over environmental assessment legislation. Quinn argued that Indigenous self-governments have the inherent right to create such legislation because they own the land, unlike YG, which can make laws but does not own the land. Quinn emphasized:

If you’re going to assume that parental and patriarchy over – just overtaking an entire country, then you have an obligation to protect it on behalf of who you said you would.

During the interviews, participants also highlighted the limitations of the YESAB process in fulfilling the Crown's constitutional obligations. While YESAB fulfills its statutory role by objectively assessing projects, it is not designed to replace the Crown's duty to consult and accommodate. As Alex noted:

The YESAB board is not the Crown. They're a statutory creation and they fulfill their statutory requirements pursuant to that Federal law. There's also the requirement of the Crown to consult and accommodate with respect to that particular process.

This distinction has significant legal implications, as it ensures that YFN can challenge projects in court if the Crown fails to meet its obligations. Alex mentioned the Little Salmon/Carmacks case<sup>223</sup> as an example as it reaffirmed that consultation remains a constitutional requirement, regardless of YESAB's recommendations.

Alex also emphasized the need for concurrent processes to ensure that consultation and accommodation occur alongside statutory assessments. Alex highlighted that the issuance of YESAB recommendations do not absolve the Crown of its responsibilities. Alex explained:

Simply the issuance by YESAB is not a blank cheque at that point in time for the proponent ... There's a requirement on the Crown, before they issue that permit, to ensure that they fulfill their constitutional duty to consult and accommodate.

Alex gave examples of possible accommodation that can take various forms, from financial support for monitoring projects to employment requirements and resource-sharing agreements. Alex also asserted that if these accommodations are deemed insufficient, YFNs retain the right to seek judicial review, holding the Crown accountable. Alex also introduced another dimension of this issue, which is the potential influence of the UNDRIP on Canadian law. Alex explained:

It [UNDRIP] could become another requirement if the courts hold that UNDRIP is part of the positive law of Canada, which they've said in court cases so far.

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<sup>223</sup> The *Little Salmon/Carmacks First Nation v. Yukon* case (2010) affirmed that the Crown's duty to consult Indigenous peoples exists even within modern treaty frameworks. The Supreme Court ruled that treaties, like the Umbrella Final Agreement, do not negate the constitutional obligation to consult, rooted in the honour of the Crown. This decision emphasized that modern treaties must align with reconciliation principles, ensuring Indigenous voices are heard in decisions affecting their traditional territories, even when permitted under treaty provisions.

In addition, Alex mentioned that Community Benefit Agreements also play a role in the consultation and accommodation process, though they are not a substitute for the Crown's constitutional obligations. They explained that Community Benefit Agreements, often negotiated directly between proponents and First Nations, can provide financial benefits, employment opportunities, and other resources. However, these agreements must be viewed as supplementary to, not replacements for, Crown responsibilities. Alex went on to clarify:

A CBA [Community Benefits Agreement] agreement does not alleviate ... the requirement of the Crown to also consult and accommodate.

This distinction ensures that First Nations' rights are protected through formal, enforceable processes rather than ad hoc agreements. Lastly, Alex also called for greater awareness of YFNs' legal rights and the tools available to enforce them. Participants emphasized the importance of triggering judicial reviews when the Crown fails to meet its obligations. They stated:

We have to become more aware of the need to trigger the honour of the Crown in an objective assessment by the courts.

Participants elaborated that this proactive approach could counteract systemic shortcomings and ensure that YFNs' interests are prioritized in development decisions.

**To sum up the overall points raised by participants as outlined in this section:**

- During the interviews it was emphasized ongoing challenges related to treaty implementation.
- Four interview participants specifically focused on the Crown's duty to consult and accommodate.
- Key concerns highlighted included:
  - The Crown's inconsistent fulfillment of its constitutional duties.
  - The reliance of YFNs on legal challenges to protect their interests.
- Two participants discussed the potential impact of the UNDRIP on treaty implementations, such as impact assessments, in the future.
- Participants called for:
  - Increased clarity regarding which representatives within colonial governments are responsible for fulfilling the Crown's duty to consult.

*5.2.2 YESAB's Legal Interpretations of its Role*

Nine participants highlighted the challenges in realizing the spirit and intent of the UFA within the YESAA framework, attributing these issues to YESAB's cautious approach to assessments.

Out of the nine, four of the participants were current/previous employees of YFN Lands Department and three were current/previous YESAB employees. Someone from the mining industry and a lawyer also touched on this topic. The participants noted that YESAB's risk-averse nature, heavily influenced by its legal counsel, has hindered its ability to fully integrate the UFA's intended principles and to position itself as a global leader in assessment processes.

For example, Riley stated:

I think it's just that YESAB has adopted a very narrow view of what it means to consider something, and I don't think that YESAB's interpretation is true to the spirit and intent of Chapter 12, and of the treaty more broadly.

Similarly, Casey observed:

Their lawyers in particular. And depending on the perspective that they have on the interpretations of what they can and cannot do affects the assessment more than anyone else.

Katie also noted:

YESAB does take a pretty conservative look at what's their obligation. Again, their current consideration of how to assess impacts to Aboriginal and Final Agreement Rights is a perfect example.

Participants hypothesized why YESAB maintains such a risk-averse approach. Sage pointed out:

That makes sense, like boards tend to be conservative because they make decisions as a group and it's consensus most of the time. So it's lowest risk, unless you have a very brave board, or something. They're just humans and they want to get along with each other.

This tendency to avoid risk appears to stem, in part, from a fear of legal challenges also. As

Rowan stated:

Because it's so risk-averse about being taken to court and about those kinds of things.

Kirsten expanded:

Certainly, after all these court cases which some of them are coming from industry and some of them are coming from the government. I think there's, maybe fear is too strong of a word, but a deep sort of concern and sometimes backing down or sometimes just being very conservative in following processes.

The effects of this legal caution have been significant for some participants who noted how it has limited YESAB's effectiveness and potential. Bill remarked:

I do think that YESAB has been legally cautious. And that may have been part of the reason why they've not been a leading organization. They've been reluctant to take risk. And I think that's been driven by their legal advisors. Largely. I think they've had very cautious legal advisors ... so, , I think that's really affected how YESAB's been implemented.

Casey echoed this, noting:

Protectionism. YESAB is constantly challenged from everybody ... so I understand the perspective. But that's sometimes also what limits the change to actually take place because the precedent doesn't become made.

Some participants expressed hope that external factors might push YESAB to adopt more progressive approaches. Parker stated:

I don't know if YESAB's legal opinions have changed all that much, to be honest internally, but the context outside have and we have to adapt to that.

Participants also emphasized the importance of innovation and the potential for YESAB to take a more enabling and leadership-driven approach to its assessments. Katie remarked:

And I think that's a good shift, to be like you don't have to look at YESAA as this really strict word-by-word Act...If we start to think about it more holistically ... you will start to see a shift in assessments better capturing impacts and the general interests of the public.

Similarly, Alanna stated:

In terms of realizing its own potential, instead of looking at the most conservative way YESAB can interpret it [YESAA], what is the most potential, enabling way that YESAB could look at it? And taking the risk and opening up conversations and really taking a leadership role because I feel like it could be more than just – I feel it's like a paper pusher instead of – what the analogy could be in terms of what it could be.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants emphasized the tension between:
  - YESAB's cautious and risk-averse approach.
  - The ability to fully realize the spirit and intent of the UFA.
- This legal conservatism, influenced by legal advisors, is viewed by three participants as:
  - Limiting YESAB's potential to lead in progressive assessment practices.
  - Restricting the embrace of the principles outlined in Chapter 12.
- The cautious stance aims to minimize conflict but:

- Constrains innovation.
- Fails to meet the evolving demands of assessments.
- Participants expressed optimism for change, advocating for:
  - A more holistic and enabling approach from YESAB.
  - Bridging colonial and Indigenous perspectives.
  - Fostering leadership and fulfilling foundational objectives.

### 5.3 Before YESAB

Just over a quarter of participants spoke to the conditions of the development assessment process prior to YESAB. The objectives outlined in Chapter 12 of the UFA reflected the hope for a transformative shift in how development projects were to be assessed in the Yukon, as mentioned by Alex above. This vision was rooted in the recognition that previous mechanisms, such as the Environmental Assessment Review Process, were fundamentally inadequate. Participants familiar with the assessment process before YESAB highlighted several critical areas for improvement. They emphasized the importance of addressing the lack of localization, the exclusion of Indigenous voices, the omission of cumulative effects and socio-economic considerations, and the inefficiency and complexity of the existing framework. In addition, they pointed to global influences, particularly the growing awareness around sustainable development, as further motivation for change.

A key concern with the pre-YESAB processes, was the lack of integration of community-centered values and localized input into the decision-making process for development projects. As Taylor noted:

...at the time we had all this mirror legislation, we had The Northern Inland Waters Act, and we had the CEA, The Canadian Environmental Assessment Act. So the Canadian Environmental Assessment Act was what drove Canada, still drives Canada. And so the conversation was, how do we create a Yukon-specific CEA, that takes into account the First Nation co-governance and First Nation interests?

Ed also noted that the previous assessment process was a:

...bureaucratic exercise, interdepartmental agencies sitting down together hashing over someone's application to do something, and the afterthought would always be, 'well, I wonder what the local community thinks? ... contributions were usually nullified in advance by the bureaucracy who was either for or against something going forward.

As Alex added:

...before YESAA was around, the federal government was essentially doing self-assessments of projects. There were some federal guidelines in Ottawa that were approved by the federal cabinet, but there was no real clear legislation, you could see the CEA legislation was kind of applying to the Yukon.

Sam corroborated this frustration stating that:

...the processes that were in place before, in which Canada effectively called the shots for all major projects, there was no need for them to consult with the impacted Yukon First Nations.

Stephen also commented that the pre-YESAB assessment bodies:

...none of them were independent, and they all seemed to be, it's hard to know if it's a rubber stamp.

Tim supplemented this information stating that their sense was that the:

Environmental Assessment Review Process was that it was just kind of a rubber stamp especially for anything related to industrial development.

Rowan also added that:

...when we were under Canada, Canada basically was a self-regulatory and would just say yes to basically anything.

Reflecting on the hopes for a more localized development assessment process, Ed stated that:

We knew that if we had a development assessment process for the Yukon it has got to be community centered. The community is the first one to know...

Ed continued that District Offices (DOs) were meant to help rectify the disenfranchisement among affected communities, including YFNs. As Ed stated:

...in the past where I live here [in a community], I drive to Whitehorse make my application in Whitehorse and no one here ever sees it until it's way down the train... That's why we wanted the District Offices in the communities. So, applications made in that community, they're the very first ones to know.

Ed also highlights the desire for the eradication of governments' self-assessment, stating:

We wanted a more independent, non-government entity... So, it was designed to be a process where the assessment of someone's proposal was done at arm's length from government including ourselves.

Peyton added that YFNs wanted:

...legislation that recognized treaty rights, that pushed Canadian Environmental Assessment Act out of the Yukon and ensured that YFN did have unique federal legislation that governed approval of proposed projects, dealing with land and resource management.

Tony stated that the hope for YESAB was:

the idea that we're going to respect both the environment and the economy. And that we're going to give everybody a voice, and that we're going to have small, efficient structures supported by expert technical advice, but only as we need them.

Participants also noted that pre-YESAB development assessment processes lacked consideration of cumulative and socio-economic effects. As Ed noted that during development of YESAA:

The best we could get was, 'Okay, we'll make sure that this new process has a strong feature for assessing cumulative effects'...

Ed elaborates that in addition to cumulative effects, social effects were also a concern. He explains that YFNs wanted to:

...make certain too that other values were considered in the assessment. What I mean by other values is the non-cash values ... for example, if we were to have a treaty, which we didn't at the time that we were working on this chapter, we knew that in other chapters like the Fish and Wildlife chapter, Land-Use Planning, the Water chapter, the Forestry chapter, all the different land chapters had little pieces, inherent rights as Indigenous People. Things that we value. Which don't necessarily translate into monetary value.

Ed also adds that the Yukon:

...thought we'd become a world-class leader as a region by doing that [adding socio-economic effects], making sure that was a strong feature in the assessment process.

Sam corroborated this statement, saying:

then the fact that socioeconomic impacts also came in as well as just environmental. Because before everything was really just focused on environmental and mitigations. And the Yukon was the first to really bring in the socioeconomic.

Another transformative aspiration of a new development assessment process was its "one window" Yukon-based approach. Many participants had hoped that by streamlining development

approvals, it would eliminate the redundancy of requiring multiple assessments under different jurisdictions and shorten timelines. Reflecting on the previous system, Peyton stated that:

...before you would go to under this legislation or that legislation, or you'd have to sometimes go through different assessment processes for different licences in the Yukon. It was really wacky.

Taylor added:

Whatever your permits are, water licences, land use permits, whatever, it is one trip in and one thing out. And prior to that, like in the '90s, oh, my God, like there were so many ways into anything and you needed to talk about multiple things. You needed an assessment for this and assessment for that and assessment for the other thing...It was crazy. So this whole one funnel in was brilliant.

Participants noted that the convoluted Environmental Assessment Review Process process led to frustrations around efficiency and was a timely affair. As Peyton stated:

...there was a lot of duplication, there was sometimes multiple assessments, people had to go through in order to complete a project, which made no sense. So just having one assessment made a lot of sense. And having it made in Yukon, not worrying about Environmental Assessment Review Process or CEA or anything else and just having YESAA.

Taylor added that:

...the reason we did the timelines is people were like, OK, well if we only have one funnel in, we only have one window, it's going to bottleneck. So how do we make sure it doesn't bottleneck? So we make sure it doesn't bottleneck by putting in timelines.

The goals of a Yukon development assessment process were also shaped by global influences, particularly the concepts of sustainable development articulated in the United Nations'

Brundtland Report. As Tony noted:

Gro Harlem Brundtland, the former Prime Minister of Norway, also a Social Democrat, but she was by training an obstetrician, had led a United Nation Commission on the economy and the environment which invented for the first time the word sustainability. And that value really resonated with not just the Indigenous People but the non-Indigenous people in the NDP caucus.

**To sum up the overall points raised by participants as outlined in this section:**

- It was anticipated that YESAB would address the inadequacies of previous frameworks, such as the Environmental Assessment Review Process (Environmental Assessment Review Process).

- The new assessment process, rooted in Chapter 12 of the UFA, aimed to:
  - Integrate localized decision-making.
  - Respect Indigenous voices.
  - Consider cumulative and socio-economic effects along with environmental impacts.
- Participants emphasized the need for:
  - An independent, community-centered, and streamlined process.
  - Influence from global principles of sustainable development.
- These aspirations were intended to establish a new standard for fair and effective resource management in the Yukon.

## **5.4 Conclusion**

The findings presented in this chapter underscore the complex and evolving relationship between the YESAB, the UFA, and the broader goals of reconciliation, co-governance, and sustainable development in the Yukon. Participants consistently emphasized that while YESAB was established as a treaty-embedded response to historical injustices and colonial governance, its implementation has been hampered by fragmented coordination among UFA signatories, and narrow legal interpretations.

Several core challenges emerged from participants' reflections: the limited integration of interconnected UFA chapters, insufficient collaboration between governments, and a general lack of public understanding about the treaty and YESAB's role within it. Additionally, YESAB's conservative interpretation of its mandate, often influenced by legal risk aversion and institutional inertia, was seen to limit its transformative potential. Nonetheless, participants also expressed optimism that YESAB could evolve into a more innovative, responsive, and enabling institution—one that better supports Indigenous worldviews, treaty rights, and long-term ecological resilience.

## **Chapter 6: Results – Assessing YESAB’s Strengths and Limitations**

This chapter explores participant reflections on the Yukon Environmental and Socio-Economic Assessment Board (YESAB), with particular attention to both the positive contributions and enduring challenges associated with its mandate, structure, and operations. As the body created under Chapter 12 of the Umbrella Final Agreement (UFA), YESAB was designed to promote transparent, independent, and inclusive environmental and socio-economic assessments in the Yukon.

This chapter addresses the second of three guiding research questions: What are the strengths and weaknesses of YESAB’s impact assessment processes, emphasizing their comprehensiveness, inclusivity, and responsiveness to the needs of Yukoners and Indigenous communities, as well as their commitment to environmental stewardship and overall wellbeing? Drawing from participant experiences, this chapter highlights areas where YESAB has made progress, as well as areas where critical improvements are needed.

This discussion builds upon the previous chapter, which examined the first research question around how well the current assessment system aligns with the spirit and intent of the UFA.

### **6.1 Issues with YESAB**

YESAB has been operational for approximately 20 years, during which it has undergone numerous changes. Participants shared their experiences with YESAB throughout the years, noting the difficulties it faces in effectively performing its duties.

#### *6.1.1 Putting the ‘YES’ in YESAB*

Eight participants pointed out that YESAB frequently approves projects, typically relying on mitigation measures to mitigate potential negative environmental and socio-economic impacts. Among these participants, 74 percent (6 of 8) are affiliated with YFN Lands Departments, while

the other two are from a Non-Governmental Organization (NGO) and the mining industry. They noted that project rejections are extremely rare, even in instances where there is significant opposition to the proposed development. Ed expressed frustration, stating:

They always come up with a reason why they can infringe on that right and find a mitigation or proposed mitigation.

This statement reflects dissatisfaction with YESAB's inclination to facilitate development rather than reject problematic projects outright. When asked whether they had anticipated during the negotiation of the UFA that the Development Assessment Body would approve so many projects, Ed admitted they had not. Many perceive YESAB as overly optimistic about the ability of their recommendations to mitigate negative impacts. Jordon observed:

It felt like no matter what was being brought up, that somebody suggested a way to mitigate things.

This highlights a pattern where potential issues are minimized through proposed solutions, allowing projects to progress. Although Jordon acknowledged that identifying mitigations is part of YESAB's role, they expressed concern that, at times:

The decision [to proceed or not] was made before anybody even applied.

Echoing this sentiment, Chrystal emphasized that:

Not everything can be mitigated. You can't mitigate all negative consequences.

She underscored the importance of adopting a more cautious approach to development.

When YESAB does recommend that a project not proceed, it often leads to political tensions. Robin noted:

When it is denied, there seems to be some sort of ... tension politically, because of, yeah, proponents' relationship with the government.

This dynamic is compounded by criticisms of the legislation governing YESAB, which some believe is inherently biased toward approving projects. As Robin explained:

The legislation in itself...couches a project in a way that everything is mitigable...

suggesting that the framework assumes feasibility rather than evaluating projects objectively.

The concern with YESAB's decision-making process is palpable among some interviewees.

Morgan shared their experience, stating:

It was frustrating on our part in regard to even at times when we get our consultants to review the application ... and we internally make our own assessment to say that this is a flawed application. It's not going to work. It comes up shy with a lot of required questions or information we're requesting. But then it becomes frustrating that this project will proceed.

Recently, however, there has been a noticeable increase in YESAB issuing “do not proceed” recommendations. Jamie suggested this shift may be influenced by broader legal and social trends, explaining:

The more court precedents there are with First Nations winning to oppose or halt a project, and the more complexity of submissions and the more recognition of things like...relationship of land and cumulative effects...then that all tied into the possibility of making do not proceed recommendations.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants expressed frustration with YESAB’s tendency to:
  - Approve almost all projects primarily by relying on mitigation measures.
  - Downplay significant environmental and socio-economic concerns.
- There is a perception that:
  - Few projects are rejected, even when there is strong opposition.
  - This indicates a systemic inclination toward facilitating development.
- Recent trends suggest a shift in YESAB’s approach, as it:
  - Is increasingly issuing “do not proceed” recommendations.
  - Is influenced by legal precedents, Indigenous rights, and recognition of cumulative impacts.

*6.1.2 Recommendation Body vs. Decision Body*

A total of 60 percent of participants discussed YESAB’s role as a recommending body in the overall Development Assessment Process. Ten of these participants worked for or have worked for a YFN Lands Department, while five were affiliated with YESAB, three were lawyers and two were in the mining industry. Those affiliated with YESAB and one participant in the mining industry highlighted that YESAB’s role is often misunderstood as being a final Decision Body, not just a recommending body. The lawyers, as well as one participant in the mining industry, and those affiliated with a YFN Lands Department for the most part expressed frustration with the frequency with which Decision Bodies alter terms and conditions. YESAB’s status as a recommending body rather than a decision-making authority has sparked considerable debate, as seen in 21 of the interviews. Many YFN Self-Governments view this limitation as a significant

constraint that hampers YESAB's ability to affect meaningful change and influence decisions. The structure permits government Decision Bodies to accept, modify, or outright reject YESAB's recommendations, which has led to widespread frustration and questioning of the overall efficacy of the recommendations YESAB provides.

YESAB's role is clearly limited to providing recommendations, with no obligation on Decision Bodies to follow them. As Bailey explained:

YESAB's not a licensing body. [YESAB's] not a regulator. They don't do permitting. They don't monitor performance of projects. They do that assessment, they make recommendations to Decision Bodies, and then they [Decision Bodies] take that recommendation and do what they do with it. And I don't think that's clear to most parties.

Kendall emphasized the importance of the recommendations but reiterated YESAB's limited authority, stating that YESAB primarily serves as a recommendation body rather than a decision-making entity; however, their influence is significant as they can provide the first draft of permitting requirements for development projects, including mining and agriculture. However, Stephen noted a significant concern, explaining:

The fact that Decision Bodies vary significant terms and conditions, or a number, a large number of them, especially on mining, and that is problematic. The fact that the – like I think that that's an issue.

For some project proposal commenters, having to submit comments multiple times for different stages in the development assessment process creates unnecessary redundancy. The current process forces YFN Self-Governments to repeatedly restate how project impacts affect Indigenous Rights, because different agencies (YESAB, YG) consider values and rights separately rather than holistically. Katie highlighted this issue, explaining:

A Decision Body will use an assessment in their consultation... but it requires us to go back to the drawing board and then make the linkages again. What we would have submitted to YESAB would say, here are our impacts to rights in this project and the values, and then YESAB says, here are the impacts to values. And then we go to [Government of Yukon], and they say, what are the impacts to your rights? And then we say, here are the impacts to our rights based on those values. It just makes the conversation really disjointed because, really, what we're talking about is impacts to rights.

Decision Bodies frequently alter YESAB's recommendations, which, as participants who work for or have worked for YFNs pointed out, diminishes their impact and creates inconsistencies between the assessment process and final project approvals. As Taylor observed:

You've got an assessment document that says [a project] shouldn't go forward or should go forward with these mitigations. Got a decision document that says, sure, it can go forward, and you don't have to do all those mitigations. That's where it fails. Far more success happens when the Decision Body can't mess with an assessment.

Such alterations frustrate both assessors and commentators, undermining the integrity of the assessment process and devaluing the work of assessors. As Drew described:

They [assessors] get a decision document back... and they see all the language changed. And that's really frustrating.

The limitations of YESAB's authority also discourage assessors. As Drew noted:

I think [YESAB] often attracts people to work for them as assessors who are a bit younger, newer in their careers. They have values, and they're attracted to the job.

However, the lack of binding authority can disillusion assessors when their recommendations are ignored or altered. Drew continued:

Sometimes that's hard to see when you're trying to either protect the environment or make things better... and you don't really see that in terms of the reality of what's going on in terms of resource management in the territory.

Indigenous communities have also expressed frustration with the process, noting that their concerns are often sidelined. Robin highlighted these challenges:

YFNs are putting a lot of effort into trying to affect [the] outcome, and there's barriers every step of the way.

This sentiment was echoed by Kirsten, who remarked:

The reality of how the Decision Bodies influence the final determination of projects proceeding or not renders YESAB's good work up until that point somewhat ineffective.

In some cases, Decision Bodies must modify YESAB's recommendations due to legislative constraints, as Stephen pointed out:

EMRs<sup>224</sup> [Energy, Mines and Resources] really got to vary terms and conditions, because in some cases, terms and conditions may not be implementable because of the way that the legislation that they operate under is.

However, Stephen also acknowledged that this can open the door to undue influence, adding:

But I think that it does result in departments being able to craft outcomes of assessments to fit within their regulatory regime, and sometimes it's a little bit too convenient, for sure.

Concerns about political interference further complicate the assessment process. As Ed explained:

...if there's a political party in office, running the government, which lays promising, no holds bar, no matter what YESAB says, or what YFNs say, and we've seen it happen in this territory many times. Nope, we're gonna do it anyway.

The YESAA grants Decision Bodies significant discretion to accept or reject recommendations without providing robust justifications. Quinn emphasized the need for greater accountability, stating:

The minister can override [a recommendation], but you better have a damn good reason why and you better do your duty to consult.

In practice, however, Decision Bodies often fail to provide detailed explanations for their decisions.

Lastly, two participants also noted the conflict of interest when YG is helping proponents write project proposals while also being the Decision Body for the project. Alanna recalled a personal experience whereby they were working for YG, writing a proposal for a project in Dawson City.

It was a weird – like we did it in-house because I could do it. I wrote that proposal.

**To sum up the overall points raised by participants as outlined in this section:**

- Interviewees indicated that YESAB's role as a solely recommending body creates several challenges in the overall assessment process.
- Challenges identified include:

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<sup>224</sup> Government of Yukon's Energy Mines and Resources, who are the Decision Body for most mining projects in the Yukon.

- Reduced influence of YESAB over project outcomes.
- Perceived susceptibility to political interference.
- Frustration among assessors, stakeholders, YFN Self-Governments.

### 6.1.3 *Compliance and Monitoring*

Although compliance and monitoring are not part of YESAB’s requirements and fall under the responsibility of YG’s Energy, Mines, and Resources (EMR) Compliance Monitoring Inspection (CMI), they are critical to the spirit and intent of Chapter 12, which focuses on promoting and protecting the wellbeing of all Yukoners. CMI ensures the assessment process follows through to fruition and that the terms and conditions drafted are effectively enforced to mitigate harmful effects. However, according to many participants, Yukon’s current mining oversight system is plagued by systemic issues, including insufficient monitoring, resource constraints, and regulatory conflicts. Sixteen participants addressed issues related to compliance monitoring, most of whom are affiliated with YFN Lands Departments. Only three participants from YESAB contributed to this discussion, primarily emphasizing that compliance monitoring is not part of YESAB’s responsibilities. The majority of participants expressed concerns about EMR’s insufficient capacity to effectively and consistently carry out compliance monitoring.

Bailey pointed out the absence of performance monitoring, stating:

[YESAB] does not monitor performance of projects.<sup>225</sup>

Taylor reflected on the enforcement process, emphasizing the limited scope of inspectors’ roles:

I always think about the inspector in the field. The inspector in the field has the permit. That’s what he’s supposed to enforce. And if it’s not in the permit, where do all the recommendations that some hardworking YESAA assessor put into that document? Do they just get trashed? They don’t make it into the permit.

Similarly, Jordon shared frustration over EMR’s lack of effective regulatory oversight, remarking:

And I’ll give you, again, very little to do with YESAB, and these are many frustrating examples but the lack of having a regulator to look at these things, that to me right now, it just shows the current state of the Yukon and the process

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<sup>225</sup> S. 12.15.1 of the UFA clarifies that despite the provisions of Chapter 12, the Yukon Government retains primary responsibility for ensuring that projects comply with legal and regulatory requirements after approval. S. 12.15.2 allows the Yukon Development Assessment Board (or YESAB) to recommend to a Decision Body that a project be subject to audits or effects monitoring to track its environmental or socio-economic impacts.

itself. All this is a lot of dog and pony show, show and tell. We can talk in circles all we want, but at the end of the day, it has nothing to do with reality, and what actually happens.

Several participants addressed YESAB's struggles with compliance monitoring and the inability to consider a proponent's previous compliance record Riley stated:

The one would be the fact that YESAB is grappling a bit more with the fact that they don't have an ability to ensure compliance or to consider a proponent's past compliance history and past compliance failures and take that into account on a proposed new project. Because obviously, if you have a bad actor, you don't want to give them more projects and more areas in which they can screw things up. But it feels like YESAB is trying to grapple with that and trying to look at issues like trust for example. And looking at how and why Indigenous groups may or may not trust a proponent.

Participants also voiced frustration over the system's inability to enforce mitigation measures effectively. Tim described an overreliance on trust within the industry, remarking,

There's just an assessment. I think in the mining world, generally Class 1 and right up through Class 4 that the miners are going to do what they say they're going to do and that they will willingly comply with the authorizations and that they don't need a whole lot of oversight. But I think that's extremely naive. It's not realistic and I think that human beings have a tendency to get away with as much as they possibly can if they don't have proper oversight.

The lack of capacity within EMR was a significant concern for many participants. Jamie highlighted these limitations, stating:

But the people who actually have authority and compliance, i.e. NROs,<sup>226</sup> [Natural Resource Officers] they don't have the resources and time ... they don't have the resources and time to be looking back at all of the YESAB comments and the full evaluation reports for every project that they're going on the ground to check out. They also have zero visibility into bilateral consultation, so they don't know really in a consultation perspective what was raised by First Nations and what they fought for. And so yeah, all they've got to go on are the hard and fast authorizations that conform with certain regulations. They don't have the context there for what a vision of this land should look like or how it should be managed. They're just there to enforce specific regulations.

Robin reiterated this stating:

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<sup>226</sup> NRO is in reference to Natural Resource Office(rs), a branch of Energy Mines and Resources responsible for compliance monitoring for mining projects.

Another place that really, it all kind of crumbles. Which is compliance, who's following up on the decision documents that come out with what needs to happen, and terms and conditions ... And then there's no capacity to properly do compliance on every single project.

Jordon echoed this sentiment, pointing to the absence of a regulator:

And they [mitigations] all, in theory, they all sound great. And even in the decision document and in the permit, it all sounds great. But currently in the Yukon, there's just absolutely no way, we do not have a regulator. There is nobody in the Yukon that is there to enforce these recommendations ... the system, in the Yukon currently, does not allow that these recommendations are being enforced.

Jordon also described difficulties in securing inspections, recounting a case where it took two years for EMR to inspect a site before ownership of the claims was transferred. The inspection was limited to a helicopter flyover and failed to address conditions on the ground. Reflecting on the scale of oversight required, Jordon stated:

Then they should have a 100 of you [NROs]. That's the only solution. And a 100 qualified people that actually know what they're seeing.

Other participants noted that NROs face additional challenges in their roles. Avery emphasized that inspectors cannot legally advise proponents on necessary changes to achieve compliance. As Avery explained:

The miner can explain what they're doing, and then they can go from there and [the NRO could] say, well, this is not in the scope of your licence or, oh, that makes a lot of sense or how about you do it this way and then we can achieve these other goals? Great, awesome. The problem is that nobody's empowered to do that because they might get in trouble for allowing something to happen because it's not positive.

Avery also expressed concern over the complexity of existing regulations, stating:

Right now, we have so much policy and law, and it just weakens our enforcement. Because the inspectors don't even know what they're looking for. Because there's a million different permits and things and what is actually important?

Several participants pointed to perceived conflicts of interest within EMR as a critical barrier to effective compliance and monitoring. Art explained:

The Government of the Yukon, its Department of Energy, Mines and Resources has two roles. One to promote mining activity in the Yukon, attract new investment, and the second one is to oversee all the operations. And sometimes

they conflict and I think unfortunately they conflicted in Victoria Gold in favour of mine promotion ... there's a stronger element within the Department of Energy, Mines and Resources for promoting mining, for protecting existing mining than there is on the other side of the coin of protection of the environment.

Morgan further highlighted the risks of political interference, stating:

Government needs to keep their hands off their regulatory enforcement. They interfere, if they interfere, and I've seen it numerous times firsthand ... A day later they're allowed to mill again. So, these companies, they go directly, they're on speed dial with the Premier and the minister, they plead their case to the minister and get over it.

Morgan mentioned the need for joint inspections with YFNs, stating:

It's safety too, right, that's one big hurdle that we're cognitive with, is safety to Lands Guardians.<sup>227</sup> Because really, you can't just roll up on someone's placer thing. NROs are more identified, and I think, YFNs thoughts were, was that YFNs and NROs would do these joint inspections to get operators out on the land, familiar with [the Traditional Territory and First Nation] ... A YFN provided their presence there, doing joint inspections and as part of the YFNs Land's department, the YFNs put on projects to put their presence there. So, this YFNs had, one year where they had a youth program [go out], got to know all of the people there. And then this year they went back to the same place, but provided an opportunity for the ladies to pick blueberries in that area. So, just give them [the proponent] awareness that this is somebody's Traditional Territory, and you're not out there alone, although you're really out in a remote area. But it's still giving that sense that you're sharing that land with the First Nation... Yeah, and the YFNs told them we're doing it, and I think it keeps them honest, right. In all fairness, the NROs have vast territories with a lot of things to do, and they don't necessarily get out to every single operation. So, I think that's one thing that this YFN is trying to contribute to, is to give that additional layer of eyes and ears out there. So, hopefully that works. That YFN reported a few, I think a bit frustrated in that, but they reported some incidents of fuel spills. And took the proper documentations and reports.

Alanna also expressed frustration with the government's reluctance to adopt adaptive management practices, stating:

Adaptive management and a few departments working together to do it. It's blowing my mind that this is a test thing and it's not a concept that is in any way, shape or form well understood or used.

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<sup>227</sup> Many Self-Governments of YFNs have established a role within their Department of Lands and Resources known as Lands Guardians. These individuals are responsible for observing and documenting the condition of the lands and waters within their respective Traditional Territory. They play a crucial role in recording their observations and providing a voice and presence for YFNs out on the land.

Casey similarly pointed to failures, specifically in addressing watershed changes, noting:

It doesn't add up ... they have things like no ability to change for adaptive management of a watershed ... if there is a bunch of turbidity coming through the system, right, well, OK, who is doing it? Is it natural? Is it one of the proponents that's causing problems? And then does everyone else – their compliance fails too, right? If you look through it failed. Well, that's from upstream. Too bad. No one does anything about it.

Stephen noted that there are regulations that could help with adaptive management strategies, stating:

So, there are processes in the legislation that have never been utilized. Same as there are provisions in there that allow an existing project to be assessed, even though it's already been permitted. If there are issues with maybe the mitigation measures aren't working or – never been done. And that's the requirement for the government to approve any of these is a pretty high bar.

Finally, some participants proposed reforms to address compliance and monitoring issues.

Peyton suggested the compliance measures need to be altered, stating:

The enforcement provisions suck, right? You have to go through an actual prosecution in order to hold somebody accountable. And one of the looking at, among others, is, and I think we've got a lot of alignment with YTG [Yukon Territorial Government] on this, and the new mining legislation to really ensure that there are meaningful penalties that can be issued without a prosecution, because prosecution takes time. You got to go to court, it's costly. But if somebody's clearly breaking their terms and conditions, you should just be able to slap them with a ticket or an administrative monetary penalty, right, an AMP [administrative monetary penalty].<sup>228</sup> Which could be, because the ticket can't really be more than 500 bucks, which often it just could be a fee, just like the gladiator guys to do things, take a shortcut. But if you can hit them with an AMP, which could be a lot more, it could be hundreds of thousands in some cases for really serious offenses, that may wake people up. But the real effective measure, particularly in the placer side is shutting people down, right? Because that's what hurts them. Because they only have four months basically to work in the field. If you shut them down for a week, you'll get their attention. So we're looking at stop work orders, that kind of thing.

Peyton also emphasized the need for more funding, stating:

YTG needs to put more money in inspections and enforcement.

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<sup>228</sup> An administrative monetary penalty (AMP) is a financial penalty imposed by a regulatory authority for non-compliance with laws or regulations. It is a civil, non-criminal enforcement tool designed to encourage compliance, deter violations, and address infractions without resorting to court proceedings or criminal charges.

Parker noted that other jurisdictions, such as the Nunavut Impact Review Board, integrate compliance responsibilities into their processes. Parker explained:

NIRB [Nunavut Impact Review Board] has a compliance, for example, within. You're actually out there in the field taking samples ... they're out in the field like seeing if their mitigations are working.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants expressed significant concerns regarding YG's role in compliance and monitoring of projects under the YESAB framework.
- Key issues identified include:
  - While YESAB evaluates projects, enforcement is the responsibility of Yukon's Energy, Mines and Resources (EMR).
  - EMR faces systemic challenges such as:
    - Resource constraints.
    - Lack of capacity.
    - Regulatory inconsistencies
- Critiques from participants include:
  - Limited scope of inspectors' roles.
  - Ineffective enforcement of mitigation measures.
  - Absence of adaptive management strategies.
  - Conflicting mandates as the promoters and regulators of mining.
- There is a highlighted need for:
  - Better integration of compliance responsibilities.
  - Enhanced collaboration with First Nations.
  - Regulatory reforms, such as administrative monetary penalties, to improve accountability and oversight in the territory.
- The lack of effective enforcement of YESAB's recommendations affects its ability to fulfill the spirit and intent of the UFA.

#### 6.1.3.1 Ineffective Mitigations

Just over half of the participants perceived the mitigations formulated by YESAB, which are intended to allow projects to proceed without causing harmful environmental and socio-economic effects, as ineffective in their implementation. Both participants who work for NGOs, nine participants affiliated with YFN Lands Departments, one person in the mining industry, two of the four lawyers, and three current or previous YESAB employees outlined their experiences with the varying levels of efficacy that terms and conditions are implemented. According to interviewees, ineffectiveness stems from several factors, including the inability to translate these

mitigations into permitting regulations, their lack of efficacy when implemented, or alterations made by Decision Bodies (mainly by EMR) that weakened compliance measures.

Robin criticized the superficial nature of some mitigation strategies, remarking:

Sometimes the mitigations are just really weak. Like, ‘We’ll make a working group,’ and for some reason, that checks the box of engagement, but in reality, it doesn’t function that way... The terms and conditions are getting more and more watered down as you go. You get these terms and conditions that probably don’t meet all your needs ... and compliance feels absent.

Lee added:

So when you [a YESAB assessor] try to mitigate something, YG doesn’t like it. It’s like so you got to back off on your mitigation to fit their licensing. That’s to me, it’s just so wrong. It’s like the whole reason why you write those mitigations is to mitigate an effect. That effect they seem to want to just say it’s not a big deal and let it happen.

Participants also noted the disconnect between mitigation measures and their practical application. Kirsten highlighted:

YESAB used to say things like operators should shut down if there’s caribou within a kilometre. And the NROs would say, ‘Well, how is a proponent going to be able to judge if a caribou is a kilometre or 600 meters away?’

Participants observed that YESAB’s recommendations are often altered by Decision Bodies to make them more enforceable, which can weaken their impact. Kirsten explained:

They [YESAB] have changed how they write mitigations often to try and make them more enforceable because I think they’ve gotten quite a bit of feedback from natural resource officers. The compliance and enforcement element basically saying we can’t do that.

Sage further commented on this practice, stating:

YESAB was morphing their comments in a way that they knew – so they could predict how YG was going to react. And then at the same time [YFNs] were morphing their comments in regards to Section 112 in the way that they knew that YESAB was going to react. The goal should be to put down a recommendation that best meets the findings of your assessment.

Participants provided examples of weak mitigation strategies that failed to address wildlife impacts effectively. Sebastian discussed the effects of helicopter use on sheep and caribou:

Sheep and caribou ... unsurprisingly, freak out when helicopters fly over them.

Sebastian explained that while guidelines require helicopters to stay 3.5 kilometers away from sheep, these guidelines often fail in practice:

That provision is triggered when you see a sheep. And sheep aren't always all that visible to start with. Sheep will just like hammer over the other side of a ridge as soon as they hear a helicopter coming, and they won't be visible, and consequently, you're disturbing them before you can see them.

In another example, Lee highlighted the destruction of riparian zones<sup>229</sup> caused by placer mining and the inadequacy of mitigations to address the damage:

Some of them are pretty good, but in the end, they're still doing a lot of damage to the creeks and forest along the creeks. When you remove those, you can't replace them. They're a hundred years old. They don't just grow back. And those animals that lived there have nowhere to live after.

Morgan recalled an instance where the effects on caribou for a certain major mining project within their Traditional Territory were narrowed down to just the area that a mining road would cover. But as Morgan pointed out that by narrowing the scope in this manner, limits the ability to really analyze the impacts to caribou and their habitat. Morgan stated:

It's like if we look at the Porcupine Caribou, in the impacts of Dempster Highway. We can look at the maps, and you can look at the collaring programs, they don't even cross the road. They come in their winter migrating routes, they come from Alaska, they're free to roam through the area, and as soon it gets to the road, it stops. And so, on the other side, if you look at Prudhoe Bay with the road that goes up there, so really their habitat is now confined between two major roads.

When Morgan expressed concern over this mitigation strategy, YG did not respond with an effective solution. Morgan recalled:

...they [Government of Yukon] say, 'Well, we'll put it in as part of the monitoring program [that if] you see caribou, then all vehicles have to come to a complete halt and let the caribou cross.' And I was like, 'OK, that's just...' [sentence was incomplete by narrator] I didn't even bother going back to those meetings, I just left our consultant there.

Morgan also expressed frustration over ineffective mitigations for salmon populations, particularly Chinook salmon:

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<sup>229</sup> Riparian zones are the interfaces between land and a river or stream, characterized by the presence of water-loving vegetation and distinct ecosystems. These areas play a crucial role in maintaining water quality, providing habitat for wildlife, and stabilizing riverbanks by reducing erosion and managing water flow.

Due to the sensitivity of what Yukon is facing right now, and Alaska with the Chinook salmon, you would think this is a no-go. But no, no, it's like, it's allowed to proceed ... The mud coming out of waters is like ... and we raise this concern over and over and over. And it's like, why is development allowed to proceed in the area where we are struggling to find a path forward to avoid the extinction of the Chinook salmon?

Kirsten also echoed the lack of effective mitigation for wildlife while considering YFN

Traditional Knowledge stating:

... some of those more qualitative statements that YESAB would make as mitigations, they definitely felt more aligned with some of the First Nation perspectives around land use and what you should and shouldn't do. But when you translate those into kind of a Western enforcement framework, it's very difficult for the people doing the enforcement to be fair and transparent to the operators ... I think those type of mitigations that YESAB used to write have gotten translated into much more quantitative and cut-and-dry for the sake of enforcement. Which I can see as a fairness and transparency to the operator. But I think some of the sort of soul of caring for the land gets lost in that.

Robin also mentions the cultural divide that happens with mitigations, stating:

So, you get these terms and conditions that probably don't meet all your needs. They're also kind of colonial in general, in that they're siloed between certain factors, like water, or they're not looked at holistically. And then, even when it comes to Treaty Rights, it's very narrow, it feels like it's always a narrow interpretation, but then the compliance feels absent.

Morgan also noted the lack of YFN cultural impacts, stating:

... the recommendations said there's effects on First Nations. If you look further back in to say, well, there's direct or indirect effects to the First Nations way of life and their peaceful enjoyment of the land and resources, and if there's no way to mitigate that, then you need to compensate. That's kind of why we have gotten to this point. It's like, OK well, how do you put a dollar value on that? So, I think those are the discussions we have, and it's really unfortunate.

Participants provided examples of ineffective mitigations for mining that do not account for the displacement of First Nations from their traditional practices and cultural and subsistence activities. Morgan described this displacement as the:

...involuntary displacement of our Treaty Rights on the areas we inhabit.

Morgan explained how mining operations force wildlife to move away, disrupting traditional hunting practices:

All of the wildlife is going to move away from that area. So, the First Nations now... are going to find better success in a more excluded area where there's no disturbance.

This disruption, they said, forces communities to adapt their practices at significant personal and cultural costs. Morgan critiqued the superficial approach to addressing these impacts:

This is our Traditional Territory ... and they [Government of Yukon/YESAB] say, 'OK, well, the company needs to work with you to have a place for you to be there.'

Morgan explained this, dismissing such mitigations as insufficient and continued:

Do you think I'm going to go down to that site, stay in your camp while all of this activity is going on and expect to get a moose? ... You're not successful if you're having rock trucks driving around and helicopters flying over ... So, now we're using this whole other section of our territory more, and we're not going the original area that is now used for mining anymore.

Again, participants frequently pointed to the lack of enforceability and follow-up in the assessment process as a major weakness, with Alanna mentioning 'orphaned conditions.' She explained these as:

Conditions that didn't have a home in an existing permit ... were not enforceable a lot of the time ... Instead of creating potential in alignment with the spirit and intent of these agreements, the system delivers code minimum.

Riley added that sometimes mitigations are left off stating:

... there's just a trust, that a proponent will do it without it being included in the terms and conditions. And that trust is not always warranted.

Robin highlighted the lack of follow-up on terms and conditions:

Years later, you're like, 'Oh, right, this term and condition was this, and it kind of never happened,' but no one's really checking in.

Mitigations based on inaccurate information were also cited as a concern by interviewees, with outdated and incomplete data viewed as a significant barrier to effective assessments and mitigations. Jesse emphasized:

A lot of the data is very outdated ... some of the mine surveys and caribou surveys are 10 years old.

Jesse went on to point out the need for updated data and climate scenario modeling, explaining:

For climate change, to have some future scenario modeling... would be really great to have more accurate recommendations.

Quinn suggested YESAB look at all the available data to make informed recommendations, stating:

... if the RRCs have a five-year moose management plan, like how is that not automatically informing a project application when it hits YESAA's desk? It's like, 'Oh, you're in this zone, stop,' I don't know, anything or, 'Wait' or, 'Go over here.'

Jordon also noted the need for better local knowledge, stating:

And sometimes these effects are only poorly understood, unless you're the person that's directly affected. So, if you're sitting in Whitehorse in an office, absolutely you're never going to hear that mill or see any dust. So, it's all no problem, and things can be mitigated away. But when you're the person that is living with it, it's a different story.

Participants expressed concerns about decision-making processes that prioritize economic interests over ecological and cultural considerations. Jordon remarked about a project that impacted them:

Right from the start, there were some big, major problems that were simply not addressed by government... just to accommodate a mining company.

Robin added that:

YESAB's process to mitigate until they can recommend the project to proceed, is not effective. They state: 'What can we do to make this work?' That's the mitigation world. And I just think again, that's where it falls short again, because sometimes the mitigations are just really weak.

Summarizing, Devon underscored the need for a shift in priorities, with a greater focus on ecological and cultural preservation:

You can't have zero impact... but we need to move forward in a responsible manner that minimizes harm and respects the land.

Chrystal also stated:

You can't mitigate all negative consequences ... and if we prioritize caribou in that area, we shouldn't be prioritizing mining.

Lastly, Stephen noted that YESAB needs to also consider the impacts of mine closures in their recommendations to provide for better mitigations of abandoned or non-operational mines, which is a growing issue in the Yukon and stated:

But even on a lot of big projects that are positive, they seem to leave a wake of business disasters behind them. And YESAA seems to not have a mechanism. And to me, those socioeconomic effects of projects that have lasting negative impacts on businesses, corporations and other ones to me are probably an area that needs to really be examined more fulsome within how you conduct a true environmental, social economic assessment on projects.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants expressed deep concerns about the inefficacy of mitigation strategies, citing issues such as:
  - Outdated data or ignorance.
  - Lack of enforceability and follow-up in regulatory processes.
- These factors contribute to significant environmental, socio-economic, and cultural impacts.
- Participants highlighted systemic flaws in the assessment and compliance frameworks, including:
  - A prioritization of economic interests over ecological preservation and Indigenous rights.
  - Resulting in irreparable harm to wildlife, habitats, and traditional practices.

#### *6.1.4 District Offices*

Among the 15 participants affiliated with YFN Lands, nine expressed concerns about District Offices (DOs). The two lawyers who addressed this topic referred to what the UFA states regarding DOs and acknowledged concerns about the number of offices.

Ed, who was familiar with the assessment process before YESAB, reflected on the original intent behind establishing DOs, which aimed to create community-based offices to ensure localized engagement. ED explained:

Our proposal was one in each community. There were 10 municipalities. There might have been 12 First Nations and 14 later on.

However, only six offices were ultimately established. Lee recalled:

I remember that they weren't going to put one in Mayo, and we had to push really hard to get it.

Peyton pointed out that there is no specific requirement in the UFA for a DO in every community. Stephen also highlighted that:

There is the ability in the legislation for them to move the location of the office. There is the ability in the legislation to increase the numbers as well. It has to be approved by the federal minister ... I think the number is reasonable, given the difference in the amount of assessments done from one section, one reason to another ... it would be nice to have an office in every community. It's just financially not possible.

Kendall expressed a strong desire for a local office in their community, explaining that the current office is situated far away and already covers a large area.

Nevertheless, participants pointed out the difficulty in staffing the DOs in the communities.

Peyton observed:

There's a high turnover of staff at the DOs, as well as at the board itself.

Stephen discussed the challenges of staffing offices effectively, stating:

How you staff offices with very little work and offices with a lot of work. So, the other thing was the cost implications ... it is hard to staff in communities. I know for my own First Nation, and other ones, it is hard to have staff in every community.

The implications of issues surrounding capacity within YESAB is discussed in more detail below. Drew added that structural limitations are creating disconnects, explaining:

There are some structural components that are now starting to work against the organization. I think just around the designated offices, and those six offices and housing and finding people and where are the projects and what are the issues might be a bit – there's a disconnect now.

They also noted that YESAB is attempting to address these challenges by having assessors work across regions:

I think they're trying to work with that by having all assessors work on anything for all of the DOs as opposed to you're in Mayo, so you only work on Mayo projects.

However, Drew acknowledged concerns about this approach:

But I know that that's a big concern for First Nations too, and local community members. It's like, OK, it's great maybe that you have more assessors, but they're all in Whitehorse.

The gap between the original vision for DOs and current practices was a recurring theme among participants. Avery reflected:

I really wish that the intent of a DO as being from the community and understanding what the community needs and how the community can benefit from certain proponents and certain projects going through versus others, that doesn't work. I think that was the intention ... The local folks aren't actually local. Assessors are adjudicating projects from outside of their areas, but they have to because there aren't enough people locally to be able to do that. There isn't housing for people to come into the community where they would like to be working and doing assessment. Assessors have never been to placer mines ... And then a lot of assessors come to the Yukon from places like Ontario.

Morgan emphasized the importance of cultural and local knowledge, particularly when projects activities impact Indigenous communities saying:

Because I think you get back to the question of, the interactions with the DO in the zone that they assess. And I think it's important to understand where [specific YFNs] values are, right. It's like, YFNs can write it down, YFNs can try to articulate it as best as they can. But I think it's really important that the assessor has the ability to understand and get the sense of who these people are. And have these sit downs and discussions, and you get a better sense, of where their passions are and where they're coming from. Or what the reasonings or trying to get the understanding of where they're coming from. Because I raised this concern before, and numerous times actually, but it felt like I was in, kind of in a losing battle.

The absence of local knowledge among assessors led to significant issues during assessments. Taylor recounted an experience with an assessor from a southern DO who was unfamiliar with the region where they were submitting their project, resulting in mislabelled maps. They expressed that local assessors would have been more familiar with the area and more likely to conduct accurate site visits. Jamie underscored the importance of local expertise for large projects, stating:

I firmly believe that if a different assessment officer were to have taken on the [major mining project] project, it would have either got a 'do not proceed' or it would have got bumped to executive committee. If they had a good handle on the issue, they would have put out something heftier and I think it was – that assessment was done by someone who really wasn't fully aware of the depth of those issues and the true impacts. And so, we got the Decision Document, the recommendation that we did. And so yeah, there's the general how YESAB deals with stuff but even on an individual level it can go different ways.

The intended independence of DOs and the struggle to balance consistency across offices were also significant points of discussion. Bill explained:

The vision [of the UFA] was the Designated Offices were to operate independently.

But he questioned whether this had been realized. He elaborated:

They set and adjust the sort of policy direction ... in quite a constraining way.

Peyton raised concerns about the inconsistency between DOs, noting:

The YESAA can't really tell the DOs, they can provide some guidance ... but there does need to be some support, some consistency, because it's too crazy sometimes for proponents of the exact same project in two different designated areas [to] come up with radically different approaches or conclusions.

Drew's perspective highlighted frustrations with inconsistency:

Certainly, when I worked in YG that was a constant critique that we had. And some frustrations we had with the board was consistency, what were their processes, things like that.

Participants noted ongoing efforts within YESAB to address the issues raised. Drew stated:

YESAB is reworking their DO rules.

They mentioned that YESAB has plans to introduce new methodologies to improve consistency and efficiency. They explained:

They're looking at finally introducing different levels of designated office assessment... to make some of those decisions easier.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants emphasized the importance of local perspectives and expertise provided by Designated Officials (DOs) in YESAB assessments, highlighting the need for assessors who are familiar with community values and territories.
- Barriers to maintaining staff in communities include:
  - Structural limitations.
  - High staff turnover.
  - Housing challenges.
- While the original vision for community-based DOs aimed to ensure localized engagement, current practices are criticized for falling short.
- Participants noted ongoing efforts within YESAB to address these challenges, including:
  - Revising DO rules and methodologies.
  - Improving consistency, efficiency, and alignment with local needs.

### 6.1.5 Capacity and Employee Retention

Among the various challenges affecting the environmental and socio-economic assessment process in the Yukon, participants identified capacity issues as the most significant. These challenges are not confined to YESAB but also extend to YFN, the Crown, and organizations such as the Wildlife Conservation Society and the Yukon Conservation Society, all of which are expected to participate in the assessment process. Of the 35 participants, 24 noted the issues of capacity within YESAB, while sixteen noted the lack of capacity within YFN Self-Governments. The cumulative workload for those tasked with engaging in impact assessments has been described as overwhelming and unsustainable, as evidenced by the comments detailed below.

#### 6.1.5.1 YESAB Capacity Issues

A significant portion of participants, specifically 66 percent (23 of 35), expressed concerns regarding YESAB's capacity issues. This included 81 percent (9 of 11) of participants affiliated with YESAB, 40 percent (6 of 15) of those from YFN Lands Departments, representatives from both NGOs, three out of four lawyers, and four out of five legal professionals, all of whom emphasized the importance of this issue. Overall, these 23 participants collectively acknowledged that YESAB has been struggling with its assessment workload. One of the most significant challenges YESAB faces is its high rate of staff turnover, which creates a destabilizing effect on the organization. Emphasizing the scale of the issue, Parker revealed:

YESAB had a 47 percent turnover last year [2023].

While turnover occasionally opens opportunities for new hires, the constant churn also disrupts project continuity and institutional knowledge. In some districts, such as Dawson and Mayo, staff shortages have led to over 30 unassigned projects. Parker described the situation:

YESAB can't reach timelines under the DO [Designated Office] rules ... It paints a picture of how 20 years has gotten us to this point ... the operational level capacity is a huge aspect of why we got to this spot.

Peyton stated:

YESAA, has just been completely overwhelmed with projects. The projects are a lot more complex. There's many more of them. There's a high turnover of staff at the DOs, as well as at the board itself.

Bailey also expressed concern over the high turnover:

I came to the realization that YESAB struggled with a high turnover of staff, a high turnover of assessment staff, at rates that in any other organization I would have seen as huge red flags. And yet everyone that I talked to and engaged with in the organization were all very passionate. They were all trying to do good in the universe and provide benefits for people. So, how do you deal with this high turnover of staff and yet highly engage staff?

Participants familiar with YESAB mentioned that a major factor contributing to staff turnover is the lack of career advancement opportunities within the organization. Young assessors often join YESAB as their first post-university job, only to leave when they realize that long-term growth is limited. As Bailey noted:

... what became clear was YESAB wasn't really set up in a way that allowed people to progress through the organization, seeing a path for them to advance. And so, we were seeing a lot of young people coming into YESAB as assessors, most of them coming in as their first gig out of university, for example. And they came in, and they really didn't see any other role for them in the organization. There was no real advancement for them. If they were going to advance, they had to move into some other organization.

Stephen echoed this sentiment, saying:

It's a fairly small organization, so people's career development can be limited ... YESAA, as that entity, it's still, it's an issue in the Yukon, is that when it comes to career wise and so on, it is not a government entity. There isn't a pension plan that's like a public service pension plan. I think wages are comparable and they were able to attract a lot of new, not only Yukoners, but also people coming out of post-secondary education and all that ... The challenge is retaining the employees, the challenge is the fact that some, as they established their families in Yukon, get very concerned about with pensions and so on. And although there was a contribution that was matched by the employer into RRSPs, you still didn't have this public service pension.

Interviewees explained that the lack of career advancement opportunities is further aggravated by the personal and professional pressures assessors face in their roles. The inherently demanding nature of assessment work further complicates staff retention efforts. Many assessors are balancing family responsibilities or coping with the challenges of living in rural areas, all while managing heavy and complex workloads. Assessors are required to evaluate intricate and often contentious projects, a process that can be both mentally and emotionally taxing. As Bailey highlighted:

They [assessors] were also being faced with the challenges of being the one assessor in a community... buried under the weight of the world as far as

numbers of projects coming in, and the projects are getting more complex, and the input we're receiving from people is becoming more sophisticated and complex ... and needs more work.

These mounting pressures could be the result of burnout. As Sebastian hypothesized:

It's a lot of detail that you've got to get right. And being an assessor would be much, much more difficult than being a commenter ... being an assessor would be tough. So, maybe it's just the nature of the job that people burnout really quickly.

Sam described:

... some of YESAB's staffing problems are boredom. People are like, this is mundane. I got to write a thesis for every single project. And are people even reading the whole reports? Would we be better off having reports where you're like here, boom, boom, boom.

Sam also described the difficulty in the assessment process, outlining:

Because when you have 100 applications or let's say one assessor even has only 15. You put it down and then you go to the next one and you get into that. And then like a month and a half later, you pick it back up and you've got all these other comments and maybe it's even three months because they're not even getting to adequacy in three months these days. You just can't remember. So you're redoing all that work again. So I think we need a little bit of a step back. Let's think about efficiency, workflow and saving our people...

Bailey remarked:

They're feeling like they're buried under a mountain that they can't get out from.

The cumulative effect is a workload that seems insurmountable, leaving staff struggling to maintain efficiency and effectiveness. As Alex summarized:

You've got some people currently in YESAB... stretched so thin that I can't imagine them doing an effective job.

As Sage observed:

The workload is just like constant coming down. So of course, it's easier to just say no because to make time and room to really examine it, it takes time, effort, resources and being vulnerable and that's hard.

This strain has forced YESAB to issue public warnings about its inability to meet timelines.

Aa Parker explained, acknowledging the severity of the situation:

YESAB had to basically sound the alarm bells.

Without timely assessments, Decision Bodies are left without the critical input needed to make informed decisions as Bailey stated:

If we're not able to do our assessment work, it doesn't mean things stop. It just means that Decision Bodies won't have access to the kinds of inputs ... that are important to the development of Yukon.

Jordon also mentioned the lack of on-site assessments due to capacity issues,

If you had two or three other people on staff, in that one summer, they should be able to go around and check out these projects, and get a good idea, basically. And that would be a meaningful position, instead of somebody looking at satellite images.

The intricate nature of the work, coupled with emotional strain, accelerates burnout among assessors, contributing to the high turnover rates within the organization.

Katie observed that project volumes tended to peak during specific periods, particularly due to the ten-year permitting cycle and explained:

There is a huge surge of placer projects that come through every ten years. YESAA was enacted in 2003 and YESAB began doing assessments in 2005. So, in 03 and 04 there was a huge push of projects that got permits because they wanted to get through before YESAB and the maximum permit length you can get under territorial legislation is ten years for placer. So, every ten years they hit this really big surge of project renewals. We're in one right now, and we were in one in 2014, as well.

Additionally, other participants highlighted external factors contributing to these surges, such as the implementation of the UFA, settlement allocations, Land Use Planning, and new government mandates, including wetland protections. These factors often led proponents to submit projects amidst concerns about diminishing claim availability.

Ed specifically recalled the heightened activity in the years preceding the signing of the UFA, noting:

There started to be a proliferation of land applications for grazing, leases agriculture leases more mining claims etc. And critical lands were being predetermined in advance by being disposed of and for certain designations and uses. And YFNs were getting concerned that there was critical habitat, critical drainage basin, significant subsistence harvesting areas. YFNs were getting alienated. These areas are getting taken off the table, even before we get a Final Agreement ... I was involved with those early assessment processes for landless disposition. I was there watching the pace increase, increase,

increase. And the volumes. And it became very clear to many of us and myself included that well we better get to a settlement soon. So, there was a pressure on this. It wasn't like we had the luxury just to wait forever.

Similarly, Chrystal highlighted how Crown investments in mining infrastructure could further amplify interest in specific regions. She stated:

I think they're going to get a lot more project proposals. So, there's going to be a lot more demand. Critical minerals, that's a huge one. The Golden Triangle,<sup>230</sup> they're going to have a more demand for critical minerals in the Golden Triangle. So, they're going to have to increase capacity to assess all the project proposals for that. The train Yukon wants to put, wants to connect the rail line... And also, they want to connect the grid to BC. So, the project questions are getting a lot bigger. We're no longer talking about mom-and-pop placer mine; we're talking about connecting the grid, renewable energy, critical minerals for importation, it's a big deal. So, will YESAB have to respond to that? For sure, they'll have to add their capacity.

These insights collectively illustrate the cumulative pressures on the assessment process due to regulatory cycles, policy changes, and development-driven accessibility improvements.

Two participants made suggestions to address capacity issues by calling for regulatory adjustments to reduce unnecessary assessments. Drew suggested:

If we can make some slight changes to the regulations so that we're not assessing stuff that we don't need to be assessing ... I think we have a shot at trying to take on some of these much bigger issues.

Sam also reiterated this notion stating:

The issues are still going to be the issues and I think all assessors, whatever side, really want to focus on what's going to bring the most value whether it's environmentally, socially, protecting wildlife and with all the other noise, it's really hard to do that.

They noted, however, that systemic change remains slow.

Recruitment has also proven challenging, particularly in attracting candidates with the necessary expertise and commitment. As Morgan noted:

YFNs get appointees and internally review applications, people are seeking to sit on these boards and committees, and you just don't have somebody that you expect to come in with all those necessary tools and experiences in regard to assessing large projects.

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<sup>230</sup> ,The Golden Triangle in the Yukon is a region known for its rich mineral deposits, particularly gold, located in the northwestern part of the territory.

In this instance, they are not speaking about Assessment Officer positions but are instead referring to higher positions that require CYFN appointees. These positions are just as difficult to fill and play an important role in YESAB. Stephen reiterated this, stating:

I think it [YESAB] struggles right now, because there are so many boards, and it's hard to find people to want to be on all these boards.

Avery also mentioned the difficulty in hiring applicants who are qualified for the positions, emphasizing the lack of local knowledge content, that cannot be taught in southern academic institutions and stated:

And to get more capacity, you need more people that are from University of Toronto or somewhere out east to come here. And then they're all of a sudden bringing no local context to a local problem and solving it using outside ideas, which is great. It's not a problem to have other ideas. But the problem is local. The issues are all based on historic local stuff.

Cameron echoed this statement for the need for local knowledge saying:

The more in touch and the more connected the assessors are to their assessment districts, the better the quality of the work.

Cameron goes to highlight the danger in not having locally focused assessments stating:

I'm seeing this more and more as projects and assessors kind of are more centralized and outside of the districts where they're operating, the quality of the work really diminishes. And so, you see people – it becomes a lot more boilerplate, people are kind of – they're losing touch of what they're actually doing and the fact that these are actually projects on the ground that will interact with other parts of the landscape – social, cultural, economic landscape.

The challenges facing YESAB extend beyond the organization itself, impacting stakeholders and YFN Self-Governments and the broader implementation of Chapter 12 of the Yukon's Final Agreements. Sam specifically addressed the challenge that lack of capacity can have on YESAB's ability to fulfil the UFA. They stated:

So that in and of itself is failing Chapter 12. Because you can't implement a good process if you don't have the people to do the process ... people that are living in the communities who are actually taking on some of those jobs and who want to have that role in the community to implement because it is an important part of Chapter 12.

YFN Self-Governments, in particular, have expressed frustration with the limitations of high turnover, and the inability to build relationships. Morgan stated:

You just start building relationships and professional relationships with executive committee, for example, and they're all gone.

Capacity issues also hinder collaboration between YESAB and First Nations governments. Secondments, for example, could provide valuable opportunities for knowledge-sharing but are unfeasible without a stable workforce. Bailey acknowledged:

YESAB can't do that if they're struggling so badly with keeping staff.

These missed opportunities further highlight the systemic impact of YESAB's staffing challenges.

To address some of the issues discussed above, YESAB has made changes to its hiring policies. Job descriptions no longer require a university degree, instead emphasizing relevant experience and expertise. As Rowan explained:

You should not need [a degree] ... you really need to know the jargon and the language of the subject.

Additionally, as Rowan pointed out, YESAB has revised its job advertisements to prioritize Indigenous applicants by putting preference for Indigenous applicants at the top. YESAB has also explored partnerships with Yukon University to create pathways for recruitment and training. Rowan asked, in highlighting the potential to build a more sustainable pipeline of talent:

Can [YESAB] develop into a place that can provide better linkages to Yukon University and have a place where people can do practicums with YESAB?

**To sum up the overall points raised by participants as outlined in this section:**

- YESAB faces persistent staffing challenges that significantly hinder its ability to fulfill its mandate effectively, including:
  - High turnover rates.
  - Limited career advancement opportunities.
  - Capacity constraints.
- Participants emphasized the destabilizing impact of turnover on:
  - Institutional knowledge.
  - Project continuity.
- Highlighted issues include:
  - Burdensome workloads.
  - Lack of localized expertise among assessors.
- These challenges strain YESAB's operations and undermine its ability to:
  - Collaborate with First Nations.
  - Uphold the spirit of Chapter 12.

- Efforts to address these challenges were discussed, including:
  - Revised hiring policies.
  - Partnerships with Yukon University.

#### 6.1.5.2 Yukon First Nation Self-Government Capacity Issues

The capacity challenges faced by YFN Self-Governments in their engagement with YESAB during the Seeking Views and Information stage reflect profound systemic issues, such as inadequate resources, excessive workloads, and unnecessary procedural requirements. These obstacles impede their ability to effectively assess and respond to the environmental and socio-economic impacts of projects proposed on their Traditional Territories. This concern was raised by 43 percent (15 of 35) of participants, including six affiliated with YFN Lands Departments, four associated with YESAB, three from the mining industry, one NGO employee, and two lawyers. Every proposed project requires commentary from the affected YFN, but as Kendall pointed out, their Lands Department is currently “short-staffed,” and the workload has increased significantly due to ongoing developments. In addition to managing all the development, they also have to navigate the new Mining Legislation, the updated Lands Act, Roads to Resources, Forestry, and much more. This shortage of personnel and expertise severely restricts YFNs’ capacity to address the growing complexity of land-based decisions.

Robin further elaborates on how YFNs are required to do more than simply review proposals, emphasizing the extensive capacity demands that accompany their involvement and says:

For socioeconomic indicator development and socioeconomic management plan, you need to have a working group. And on that working group, you have representation from the village and from YFNs. So automatically, that’s a capacity requirement of the Nation for a project that’s driven by a proponent. And then ... you multiply that by how many projects, and you have these steering committees and these working groups. And all of a sudden, your government structure mirrors proponents’ needs.

This expectation places enormous strain on YFN staff, who must juggle their time between immediate concerns and long-term projects such as land use planning. As Robin noted:

It’s almost like this side piece that we’re working on, like preparing for land use planning. But at the same time, you’re not dedicating a ton of time to that, because you’re putting out fires here, but you’re also trying to make sure this kind of still moves.

When being interviewed, Robin highlighted how YESAB's attempt to incorporate Traditional Knowledge (TK) in their assessments has put an added expectation that YFNs will devote capacity to fulfill this need, when they are already strained from all the other capacity expectations. Robin states:

... still seems to be kind of token. And also again, the Nation is always trying to educate people ... I think [YESAB] unfortunately still leans towards hiring western scientists that kind of don't know how to do that. So again, it constantly feels like it's on the Nation ... And then to [share TK] is a huge capacity strain on us trying again, as I think I brought up numerous times, when you're almost doing proponent work for a proponent project that then you have to comment on. So, then the alternative is to not share your TK that way, and I don't know if that helps us in the end either.

Overwhelming workloads force YFNs to adopt triage practices, prioritizing certain projects while neglecting others. This approach undermines the intended thoroughness of impact assessments and often leaves YFNs struggling to determine what they might be overlooking. As Jamie shared:

When I had time and all I was doing was environmental assessments, I would spend the time ... But when you don't have time, you don't do that. And so, yeah, capacity matters there.

Similarly, Sebastian noted that triaging has become a necessity:

I'm sure you're aware, working for a First Nation, that you're probably expected to review every single one that comes up in your territory. And Mayo is almost as busy as Dawson for projects going through YESAB, so you totally hear what I mean about the need to triage.

Robin emphasized the inadequacy of this process, explaining:

It's more so the capacity issue, or just not being able to get to it. Or the project, every single project is so much more nuanced than I think it ever seems to be ... we don't have that capacity most of the time. And then again, it's like this triage situation, so how meaningful is that engagement, or how. And if you talk to those people doing that job, do they feel really great about how it's going?

This inability to thoroughly assess each project leads to concerns that unintentional silence may be interpreted as consent, a systemic issue identified by Robin:

At some point you're triaging, which isn't, I don't think, how it's supposed to go. You shouldn't have to triage because then you don't even know what you're dropping or being silent on... there's a consistent [idea that] no response means

consent [from YFNs], which I think is one of the foundational issues with the entire system.

A recurring theme in discussions about YFN capacity challenges is their limited financial and human resources. Sage observed that YFNs carry a disproportionate share of the workload in YESAB processes, often without adequate funding or staffing:

They carry so much weight, First Nations I mean in all of our processes now because both levels of government have been gutted or are very limited sometimes in what they can actually comment on, right. So, First Nations end up being responsible for so much of that with sometimes very limited budgets, limited resources, limited capacity.

This imbalance exacerbates existing disparities between YFNs and other stakeholders, such as government agencies and industry proponents, leaving YFNs struggling to match their expertise and resources.

The increasing volume of Class 1 applications<sup>231</sup> compounds these challenges, as YFN Lands Departments find themselves overwhelmed. Tim remarked:

If the Class 1s were channeled through YESAB, I think that might be useful. That would at least ensure they get more attention, because there are times when YFNs are just overwhelmed with these Class 1 authorizations and don't have the capacity to do them justice.

Without the necessary resources, decisions are often rushed or do not provide a deep analysis, increasing the risk of overlooking critical details. Tim also observed:

There's so damn many that you can't really ... go into the details of all of them. So you kind of do a superficial analysis and let it go.

Peyton highlighted the magnitude of the problem:

If you're [a YFN], and you're getting hundreds of those things during the course of the summer, those notices, Class 1 notices, what are you going to have somebody full-time working on that stuff?

The introduction of pre-submission engagement processes for large projects has further strained YFNs, as these procedures often require excessive steps that stretch already limited resources. As Kirsten explained:

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<sup>231</sup> In the Yukon, a Class 1 mine refers to a small-scale mineral exploration project that is classified under specific regulations, allowing for minimal environmental impact and simplified permitting processes. These mines typically involve activities such as prospecting and sampling rather than large-scale extraction, focusing on initial exploration phases without significant disturbance to the land. For more information, please refer to Chapter 4: Context.

There's three times the extra steps now. And so, it puts First Nations in an unenviable position of, 'How do we allocate resources to this?'

These additional procedural requirements force YFNs to choose between glazing over certain projects or providing minimal responses due to resource constraints. Kirsten noted:

We either ignore it or we kind of just say yes whatever. Which I've seen happen in some cases to a certain extent.

Redundancy in consultation processes adds another layer of frustration. Devon criticized repeated consultations on the same matters, stating:

Why are we reconsulting on exactly the same thing in a different format and not explaining that to the people at the other end? ... It doesn't mean a government is more honest if they are sending everything to you for review without explaining what the need is.

This inefficiency not only diverts resources from substantive issues but also creates confusion and fatigue. As Sam emphasized:

We're never going to get to First Nations having more time for the important things unless we get rid of some of the minutiae and redundancy that isn't really contributing to better projects.

The systemic inequities inherent in the YESAB process disproportionately burden YFNs, placing them at a disadvantage compared to other commenters. Kirsten highlighted the irony of procedural fairness principles being used to justify these burdens:

When you're overburdening First Nations whose Treaties are actually what drove this organization to be developed ... and you're working to satisfy industry, and the solution ends up overburdening the very institutions that are the genesis of the assessment board, that doesn't quite add up to me.

Sam also pointed out that the process itself often creates unnecessary work for YFNs, explaining:

You get your decision document, then you get your permit and then the Yukon government consults again. Which I appreciate that's another capacity issue. It's more time on the same thing. Didn't we already talk about this? How many times we have to talk about the same thing?

**To sum up the overall points raised by participants as outlined in this section:**

- The procedural and systemic challenges create a workload that overwhelms Yukon First Nation (YFN) staff, leading to:
  - Operating in a constant state of triage.
  - Diminished quality of engagement.
- Capacity challenges faced by YFNs in engaging with YESAB stem from:

- Systemic inequities.
- Procedural redundancies.
- Resource constraints.
- YFNs are expected to fulfill an expansive role in the assessment process, often without:
  - Necessary support.
  - Adequate resources.

### 6.1.5.3 Government of Yukon Capacity Issues

YG has faced substantial capacity challenges in implementing and managing its responsibilities in the environmental and socio-economic assessment process. This was discussed by four participants, two of which have experience working for YG. Government of Yukon is also responsible for compliance and monitoring through EMR's CMI, that, as discussed in s.5.3.3 Compliance and Monitoring, has capacity restraints. This section will instead focus on YG's capacity issues outside of CMI. Peyton highlighted the past occurrences that added to YG's capacity issues, stating:

...the Yukon government has no capacity either. Like think about it, they suddenly in 2003, had full responsibility in Yukon on lands, waters, minerals, and forestry. One day they woke up, April 1st, 2003, OK, now you're responsible for all this.

The issue was compounded by the loss of experienced staff during devolution. As Peyton went on to recall:

The 240 employees that transferred from Canada to YG, some of them said, screw it, I don't want to live in Yukon. So, they didn't, they moved on. And so YG had to hire new people.

This exodus left critical knowledge gaps within the government, forcing departments to rebuild from scratch. As Peyton elaborates, for the year following the *Devolution Act*:

... any of these lands offices for about two years over at YG, they had no idea what they were doing. They literally had no forms or processes or anything.

The lack of institutional knowledge and resources created a steep learning curve, exacerbated by the complexity of intergovernmental relations in the territory. Various Government of Yukon departments, particularly the Department of Environment, struggle to provide adequate input into assessments due to limited human resources. As Drew observed:

I think sometimes the Department of Environment is really challenged within Yukon government. I think they don't necessarily have the resources to do the

studies and then be able to submit their information into the assessment process. It feels like they're almost on the back foot all the time, and they can barely have enough people to get their information in.

Jordon described their experience, saying:

It was very clear that none of the information I provided [to YG] was even remotely understood by the people that reviewed that file.

They recounted a two-year struggle to get approval for a cabin, which was delayed due to the reviewer's lack of knowledge and incorrect application of regulations:

If you had two or three other people on staff, in that one summer, they should be able to go around and check out these projects, and get a good idea, basically. And that would be a meaningful position, instead of somebody looking at satellite images.

The lack of trained personnel also affects the quality of decision documents, which are critical to enforcing the outcomes of the assessment process. As Taylor noted:

Part of it was because of the people who were writing decision documents, they weren't high-level people. They were just kind of administrative sorts of people. They didn't necessarily understand that whatever went into the decision document then has to be enforceable.

This knowledge-gap is only made worse by the changing staff as Peyton notes:

There's been such a high turnover of people there over the last five, six, seven, eight years.

Turnover also affects the consistency and quality of consultations with First Nations and other stakeholders. Jordon went on to recall their experience, stating:

The person reviewing that file, absolutely zero idea what a trapline is, what it means to be out on the land, and what it means to put a snowmobile trail in, and what it means to build a cabin.

**To sum up the overall points raised by participants as outlined in this section:**

- There is a lack of cultural and technical understanding among stakeholders, leading to:
  - Misinformed decisions.
  - Frustration among stakeholders and First Nations.

#### 6.1.5.4 Timelines

Capacity directly affects the ability of YESAB to adhere to timelines. A total of 35 percent (12 of 35) of participants highlighted timelines as being an issue. All four of those in the mining industry expressed concerns over how long assessments were taking and outlined the consequences this has had on the miners. Four participants that work for or have worked for a YFN Lands Department as well as four YESAB affiliated participants discussed how timelines affect their work, at times straining the process. Redundancy was also noted by participants. Timelines in relation to capacity within the organization as well as in YFNs and Government of Yukon were also discussed, as it was pointed out that often, YFNs will extend timelines citing capacity issues. Stephen spoke of other reasons that YFN engagement could cause delays stating:

What has happened though, is that departments do end up not meeting the timelines that are in the rights to issue a decision document, especially with the controversial projects because of a huge amount of ongoing consultations with First Nations to try to find a remedy to avoid either disagreement or potential litigation... But I've noticed that the timelines under YESAA have taken longer because, even with Energy Mines and Resources and other departments, the level of intervention of First Nations is so much more sophisticated than when we started and back under the Environmental Assessment Review Process guidelines ... Where the timelines are really challenging is, I think, where governments got themselves caught in a project that they really want to see proceed, but they're trying to navigate pretty significant and strong interventions from First Nations.

Katie shared that certain areas cause delays as they can be of concern to YFNs, stating:

But there are areas that aren't like that and I think we started to see those extensions come in for particular areas. There was the 60-Mile area, for example, where all of a sudden Tr'ondëk Hwëch'in started to be concerned about the level of activity proposed in this area given that it contains really important habitat for moose and caribou and has important cultural values. So then we started to see extensions in that area so that Tr'ondëk Hwëch'in had the time to fully consider and provide thorough comments, and so YESAB would have the time to meaningfully assess the impacts .

Katie also pointed out that project complexity has shifted, and in turn resulted in elongated timelines. She stated:

... that is a product of the environment getting more complex, right. And I think for one, the environment's more complex so assessments are taking longer. But two, there has been a shift I think at YESAB where they allow assessors to maybe take more time to get the assessment right. Whereas I would say in 2014, and this isn't throwing anyone under the bus, it just wasn't the culture. It was very – you get this assessment done on time. At that time, we extended the

odd number of projects. Where I would say now it's pretty across the board that most projects get extended at some point in the assessment process. And again, if it's a complex assessment and it takes that much time, I don't think that's a bad thing.

Katie also noted that prioritizing timelines over quality had drawbacks:

We prioritized timeline over quality in a lot of ways or thinking outside the box. That isn't true anymore.

A significant backlog in assessments has created inefficiencies, as noted by participants. Sam expressed significant concern over the current state of YESAB's processing capacity, pointing to what they described as a "huge volume overload and backlog." They emphasized that this issue affects a broad range of projects—from minor infrastructure such as power poles and driveways to larger developments like placer mines and ports. Reflecting on earlier years, Sam noted that missed deadlines were once the exception rather than the norm, whereas "now, none of them make the timeline." Sam also identified the COVID-19 pandemic and the shift to remote work as contributing factors to the growing delays. According to them, the transition has fundamentally altered internal practices, including staff attitudes toward responsiveness and efficiency:

Certainly, the timelines are no longer there, and that partly was COVID and remote working, [it] changed people's customer service attitudes towards like getting things out the door.

Despite acknowledging these challenges, Sam stressed the continued importance of adhering to deadlines within the assessment process. Sam argued that clear timeframes motivate action and help prevent delays, observing:

There is a value to having a deadline for everybody because it makes people actually go pick up that pile of paper and deal with it rather than let it sit and sit and sit.

Many participants also noted the current notification on the YESAB Online Registry (YOR), where visitors to the site are greeted with a message from YESAB letting them know that due to limited capacity at YESAB, they are unable to turn projects around in the same timeframe as previously. Many participants also highlighted the importance of maintaining timelines in the YESAB process and expressed frustration with delays. Blake noted:

Especially, five years ago, they stuck to timelines and expectations as per how they described it on the website.

However, Blake observed a shift in recent years:

In the last year, things really slowed down. And timelines weren't being met and I think this is because they lost a bunch of employees and they had a turnover.

Blake went on to reflect on specific instances of delays:

They have this thing where it's two weeks for this part, two weeks for this part. But everyone was getting extended up to four or five months. I have some applications that sat there, some of them haven't even been looked at, and they went in in May. It's still under Adequacy Review. So, you're going to hear some frustration from miners for that.

As Peyton stated:

And like, if you go to the YESAA registry right now, you'll see that big thing flash up that, sorry, we've got a massive backlog and we're not going to get to your project. And that's really impacting, even for the money guys. They need to get through YESAA so they can get approvals and authorization so they can do next year's field work. And if they miss some of that, then they might lose a whole season for those particular projects, right? Which is not good.

Other participants also noted the real-world impacts of delayed timelines on proponents and projects. Katie reflected:

I understand from an industry perspective it is frustrating and difficult because it's just there's no real clarity on how long these things are going to take.

Jordon explained how delays affect placer miners:

The guy said, I have lined up to go and work on the ground. They've been sitting here ready to go. They brought a CAT<sup>232</sup> up and an excavator, and what now. Two years later, I still don't have a permit. And what kind of a waste of time and money was that for them?

Sam also echoed the impact on placer miners, stating:

... they [YESAB] really do need to work on timelines to get it because that's reputational damage too to the jurisdiction. And if you're a family placer mine, you can't go for two years without a license, you need a license. And that is actually harming real people. So, the organization itself can't have a negative socioeconomic impact on the Yukon.

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<sup>232</sup> CAT refers to heavy machinery manufactured by Caterpillar Inc., including excavators, bulldozers, loaders, graders, and dump trucks, designed for industries like construction, mining, agriculture, and forestry.

Redundancy in the overall process was cited as contributing to timelines and frustration. As Avery noted:

The timelines piece and the double assessment [through YESAB and the Water Board], we would love to see some change that harmonizes those two processes.

Devon added:

And people just get defensive, but the truth is there's a number of different pieces that are redundant and not aligned, and that's super frustrating for people commenting.

**To sum up the overall points raised by participants as outlined in this section:**

- Key insights include:
  - The maintenance of predictable and efficient timelines is critical for success.
  - Participants acknowledge the complexity of assessments and the necessity for thoroughness.
  - Delays can harm proponents and undermine trust in the assessment process.
  - Delays also create inefficiencies within the overall system.

### 6.1.6 *Scope*

Participants identified issues with scope<sup>233</sup> as a significant concern, including both insufficient scoping and over-scoping. Scope creep,<sup>234</sup> as noted, often leads to elongated timelines, while evolving project complexities and a heightened awareness of diverse issues require broader considerations. Participants emphasized three critical areas needing improvement or further integration into the assessment process: Indigenous Rights, cumulative effects, and socio-economic effects.

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<sup>233</sup> In assessment, **scope** refers to the defined boundaries and focus of an evaluation, including the specific activities, environmental and socio-economic factors, and geographical areas to be analyzed. It determines what will be included or excluded from the assessment, ensuring that the process is comprehensive yet manageable. Nobel, *Introduction to Environmental Impact Assessment: A Guide to Principles and Practice*.

<sup>234</sup> **Scope creep** in relation to assessments refers to the gradual expansion of a project's original objectives, boundaries, or requirements beyond what was initially agreed upon, often without proper evaluation, planning, or authorization. In the context of environmental or project assessments, this can occur when additional factors, stakeholders, or considerations are introduced during the assessment process, leading to delays, increased costs, and challenges in maintaining focus and meeting deadlines. PMI, *A Guide to the Project Management Body of Knowledge*, 6th ed., n.d.

### 6.1.6.1 Indigenous Rights

Twelve participants discussed YESAB's lack of fulsome consideration of Indigenous Rights in their assessments. Three participants who also have or do work for YESAB discussed this issue, with all acknowledging that the complexity of the issue. Two lawyers highlighted the need to change the current policies, which was also reiterated by nine participants who are affiliated with YFN Lands Departments. They emphasized that YESAB's limited consideration of YFNs Rights<sup>235</sup> that are outlined in their Final Agreements contradicts the objectives set forth not only in Chapter 12 but throughout the UFA.

Riley highlighted this issue, stating:

YESAB asked [a YFN], 'Well, what does co-governance, what does self-determination mean to [you]?'

Riley explained that, from a YFN Self-Government's perspective, the UFA (particularly Chapters 10, 11, and 12) is designed to safeguard co-governance of Traditional Territories and promote sustainable development. Riley continued:

Ensuring that any development that happens on the Traditional Territory is sustainable and enables the continued exercise of an [YFN]'s Rights ... You saw in YESAB's response this sort of inability or difficulty in understanding what that entails, and understanding what co-governance means to [YFNs].

YESAB's approach to Indigenous Rights<sup>236</sup> in assessments was critiqued for being superficial. Riley outlined YESAB's response as:

'We [YESAB] consider impacts, but we [YESAB] will not assess impacts' ... So, if it's, for example, a harvesting right, they can assess the impact to moose and caribou, but they then can't take that additional step of assessing the impact of proposed mining activity on caribou, which then thereby affects [YFN]'s harvesting right and ability to harvest that caribou.

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<sup>235</sup> While YESAB does not directly determine whether a project infringes upon Indigenous or Aboriginal rights, these rights are considered indirectly through the assessment process. Specifically, asserted or established Aboriginal and Final Agreement rights may guide the identification of valued environmental and socio-economic components (VESECs) and influence the determination of whether project effects are significant, especially when these rights are embedded within the selected VESECs. Yukon Environmental and Socio-economic Assessment Board, "Considering Aboriginal Rights and Traditional Knowledge" (Whitehorse, Yukon: YESAB Publications, May 2018).

<sup>236</sup> While YESAB does not assess or determine legal rights, it evaluates potential project impacts on valued environmental and socio-economic components (VESECs), which may overlap with these rights. Aboriginal and Final Agreement rights help guide VESEC selection and inform the significance of project impacts. YESAB uses a consistent methodology for assessing VESECs, whether or not they involve Aboriginal rights. Yukon Environmental and Socio-Economic Assessment Board, "Consideration of Aboriginal and Final Agreement Rights in YESAB Assessments" (Whitehorse, Yukon: YESAB Publications, May 2018).

Katie echoed these sentiments, noting that while the methodology of assessing “impacts to valued components that relate to rights” may seem logical, it fails to address the broader expectations under the UFA. Katie said:

It doesn't make sense for TH [Tr'ondëk Hwëch'in] and for other First Nations ... It actually is the objective of [YESAB] under the UFA to make sure that YFNs rights are being upheld and that someone is accurately reflecting what it means to have an impact on moose and how that impacts the TH right.

As Peyton remarked:

How do we incorporate assessments on impacts to Treaty and Aboriginal Rights? That's something that YESAA is really struggling with, and we're going to force them to – because they have to take that into account, right?

Riley further criticized YESAB's approach, describing it as “an impoverished reading of YESAB and of the Final Agreements” and asserting that it disservices Indigenous governments who entered the Treaty expecting a body that would fully assess impacts on their Rights. This concern was echoed by Katie, who stated:

We're not too happy with the weight that YFNs rights carry in an assessment process. It's embedded in Chapter 12 of all Yukon Final Agreements. The weight it's given compared to other things is not consistent with the value it holds, in my opinion ... You'd think it should have a stronger consideration with all the other factors it relates to for First Nation governance and sovereignty.

Ed highlights that:

First and foremost, our right for some subsistence harvesting is entrenched and protected in the Final Agreement. So, it should get a really strong consideration.

Riley reflected on an Elder's words, stating:

...he [the Elder] said, ‘What is the good of a right to harvest if there's no salmon to harvest? Then these rights become empty and meaningless when they're divorced from the context in which they're practiced.’”

Riley highlighted the example of the Victoria Gold Mine Disaster, where environmental degradation, such as cyanide contamination, discouraged citizens from harvesting berries in traditional areas. The Eagle Gold Mine owned by Victoria Gold, was assessed by YESAB

extensively, but now encompasses an area where FNNND Citizens will no longer be able to harvest due to poisons. Quinn reinforced this sentiment, explaining:

You can't abrogate or derogate from our Rights, period. It's unconstitutional ... You still have your Rights to hunt and fish, but you have no ability to manage the resource. So yes, you have the Right to fish, but there are no fish ... You can still hunt caribou, but good luck trying to find the caribou. And yes, you can still hunt moose, but they've all moved out of the locations you're accustomed to because there's mining there.

Morgan further expanded on these challenges of land-loss, describing the involuntary displacement caused by industrial activities on traditional lands:

We talk about the displacement, and this is our Traditional Territory, our area where we harvest ... So now you establish your mine, now you got a camp, and you got choppers flying around doing exploration and all this kind of stuff. Do you think I'm going to go down to that site, stay in your camp while all of this activity is going on and expect to get a moose?

Morgan continued to explain that wildlife, such as moose and caribou, migrate away from disturbed areas, forcing First Nations to adapt by seeking quieter, less impacted regions. This displacement results in a gradual abandonment of historical grounds:

You involuntarily displace your own self from your land.

Morgan also highlighted the long-term implications of this displacement, stating:

10 years from now, as part of the assessment, they're going to say, 'Well, there's no YFNs there, so what impacts are we really having on them?' Well, YFNs are over here, because that's where the moose is.

Morgan concluded by explaining how restrictive regulations, such as prohibitions on hunting near infrastructure or mine access roads, further erode First Nations' ability to practice traditional livelihoods:

You're taking away all of this from First Nations, and it's like, there's no remedy to it.

Riley also noted that currently, YG and YESAB are both relying on the other to assess Indigenous Rights, and therefore no one is assessing them adequately by stating:

And the problem in the Yukon then is that no one is directly assessing the impacts of proposed activity on the exercise of Aboriginal and Treaty Rights. Because Yukon government is relying on YESAB's assessment to identify potential impacts to rights, and YESAB is relying on YG to identify and assess potential impacts to Rights. So, the actual assessment of Aboriginal and Treaty

Rights, which was essentially the crux of Chapter 12, is just not actually being achieved ... when YG consults with Indigenous governments on draft decision documents, that YG is going to assess potential impacts to Rights at that point. But that's too far into the process for an adequate assessment of Rights-based impacts to occur, because once YESAB undertakes its assessment and issues its evaluation report, that's kind of the universe within which YG operates. So, YG kind of binds itself to what YESAB has already done. And since YESAB never actually undertook a comprehensive assessment of the impacts of proposed projects on Aboriginal and Treaty Rights, and therefore that's not reflected in the evaluation report, then YG is essentially turning a closed mind to all of those issues, because they're just focusing on what was included in the evaluation report.

Casey also added,

Impacts to treaty rights, YESAB should actually make a chapter defining what they believe or at least interpret initially what impacts to treaty rights are, and then from there Decision Bodies have something to compare to and either work with or disagree with.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants emphasized the critical need for YESAB to:
  - Fulfill its obligations under the Umbrella Final Agreement (UFA).
  - Undertake comprehensive assessments of the impacts of proposed projects on Indigenous Rights (Aboriginal and Treaty Rights).
- The current approach of assessing only valued components related to Rights has been:
  - Criticized as insufficient.
  - Viewed as contrary to the intent of Chapter 12.

#### 6.1.6.2 Cumulative Effects

In total 22 participants emphasized the lack of robust methodologies for Cumulative Effects<sup>237</sup> assessment within the YESAB framework, highlighting its significant shortcomings. This was a concern for 80 percent (12 of 15) of those affiliated with YFN Departments, both NGO participants, three lawyers, and about half of those who were affiliated with YESAB.

Ed reflected on the UFA negotiations and the early development of YESAA, stating:

Now, if I was to speak about what I would change based on this experience, I would have first made certain that we built some of the tools at the front end.

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<sup>237</sup> Assessors evaluate the significance of cumulative effects as context for determining whether a project will cause significant adverse impacts on valued environmental and socio-economic components (VESECs) (i.e., caribou, moose, etc.). Yukon Environmental and Socio-Economic Assessment Board, “The Significance of Cumulative Effects as a Matter to Be Considered in YESAB Assessments” (Whitehorse, Yukon: YESAB Publications, 2021).

Assessment methodologies and approaches that really, hopefully break some early ground on how to do a cumulative assessment.

This sentiment was echoed by Drew, who observed:

Without the planning and the data and the information, we can't really do the cumulative effects assessment as easily.

Three participants expressed frustration over the region's failure to become a global leader in this area, as initially envisioned. Ed explained:

We thought we'd become a world-class leader as a region by doing that, making sure that was a strong feature in the assessment process.

The recurring issue of assessing projects in isolation rather than within the broader regional context was highlighted by multiple participants. Katie outlined the current YESAB system and its limitations, stating:

YESAB doesn't assess and make recommendations on cumulative impacts. YESAB determines significance and makes recommendations on project impacts that take into consideration past, present and future projects. So, it sounds the same but it actually isn't.

Riley stressed the importance of considering cumulative effects across multiple projects, stating:

And to undertake that assessment with an understanding of the cumulative effects of development, so that they're not assessing projects in this sort of piecemeal way, where they're only looking very narrowly at what one particular project may do. But they're looking at what one project may do combined with all of the existing activity in the area and all of the proposed additional activity in the area.

Lee pointed out the inadequate assessment of cumulative effects on natural systems, using placer mining as an example:

So, a perfect example is one of those big creeks that has seven placer mines on it. Each one of them are allowed to emit [a certain amount of total suspended solids]. So [that's the total suspended solids] times seven is what?

Lee goes on to point out that YESAB does not take into account the other six mines on the creek and just focuses on the one mine and questions how this is effective, noting that the effects of cumulative effects often emerge over time and explained:

They [YESAB] always say well, we don't see that yet. Well, if you don't see it yet, you're going to one day, probably.

Lee also cited the drop in wildlife, specifically moose, as an example of the impacts of cumulative effects:

Moose population. It has been so overhunted for 30 years. So, when you consider the cumulative effect, you've got to consider not just initiating projects. You got to take into consideration people effects. There's so much hunting and just activity that people don't realize how much it affects the wildlife out there. When people started utilizing an area say mountain biking, those animals get to the point where they see people so much and they're not used to it that they slowly start moving away from there because they don't feel safe. You might notice some animals don't but you don't notice the ones that do ... Moose have become so scared in the last few years that it's ridiculous. And I think all those cumulative effects are not taken into consideration by any activity, not just mining. It's not just oil and gas and mining. It's people in general.

Examples of direct impacts of inadequate cumulative effects assessments were shared, illustrating the risks to traditional lands and practices. In one case, Ed described a Little Salmon/Carmack First Nation family's concern:

There's a cabin, all-season cabin there, and an all-season road... this is their traditional trapline... If things go the way they may go ... one day you wake up five years or less from now and you're an island of trees surrounded by ripped-up tributaries all around you. And all those areas that you used for trapping or snaring, rabbits, and getting your fresh water and everything else all the berries, you were picking around here. They won't be there anymore.

Morgan highlighted broader impacts, saying:

You find too, with the displacement, you're no longer using that area, and then there's this area that maybe you would use this 50 percent of the time, and this other area 50 percent of the time. But because this area is gone, you're now using this other area 100 percent of the time... Once again, it's outside [YESAB's] scope, right. Although we articulated it and provided it through our traditional land use studies, identifying these areas and what we're starting to see. We did this whole exercise of identifying all the areas of all of our active people that are out on the land, either hunting, fishing, or trapping. We interviewed all of our Elders, we compiled our past Elders and their stories, and we provided a pretty in-depth kind of footprint of the land, of where we occupy the land. And you can see it change over time.

Morgan also noted that the lack of cumulative effects in YESAB is contradictory to Traditional Knowledge, that takes a holistic approach when considering impacts to the lands and waters and stated:

So, I think that one of the keys that we try to bring back was, that very question you raised is that, we're being displaced in this section, and another section is going to have to take that load. And it goes completely against our First Nation. We have management. So, I'm an active trapper, right, and it's a trapline that's been handed down for generations, and it's still viable, and it's still sustainable through teachings about how you manage your furbearing animals. You do not over trap in an area, because the result of that is that the population will diminish to nothing. So, what we do is, you move each and every year, you do not over harvest in one section, because then you're going to end up paying the price. But it's unfortunate now, because that's not our doing, right. It's because of industry, and it's because of the invasion of development. And we're now in our eastern section, and I think we're probably overharvesting, especially for this year with the moose. A lot of the moose were taken from [a certain hunting area], very little was downriver. We're probably seeing less and less wildlife down in that area, as you have barges and choppers and planes. I'm sure that it's the same in [other YFNs], right, where a lot of developments going on, and so you're starting to see less and less population of wildlife in that area.

Cumulative effects were also noted to have significant social implications overall, not just tied to traditional pursuits. Stephen remarked:

And this idea of really looking at ecosystems in a broader context and putting the investments necessary into that can actually help with responsible development, but also can, I think, provide us a lot more information that's crucial for our own wellbeing and our own decision-making.

While a couple participants acknowledged some progress, they emphasized the urgent need for more comprehensive methodologies. Lee shared:

Recently... [YESAB is] starting to take into consideration cumulative effects to a certain degree. Not fully but partially.

Chrystal described the collaborative efforts being made:

There was a year of working groups to talk about how to implement it and consider it. YESAB was facilitating it ... and they came out with a recommendation, or a report on that.

As Michael stated:

Work in cumulative effects is probably one of the most significant changes in how assessment is going to be considered and thought about.

The importance of legal cases was also noted. As stated by Chrystal, referencing a landmark decision on cumulative effects assessment:

I think [Blueberry](#)<sup>238</sup>... was a big one ... That was a big trigger in my six years.

Sebastian pointed out that YG has also started to develop their cumulative effects considerations, which could push YESAB to also start to consider cumulative effects and stated:

It [YESAB] really doesn't assess cumulative effects. Like I have personally requested that YESAB trigger some of the provisions around cumulative effects assessment, and I've helped First Nations make that request, and it's never really worked. So, that's been a significant shortcoming of YESAB, and I think that as the Yukon puts more flesh on that cumulative effects bones, cumulative effects framework bones, then I think that will become – hopefully that will really improve YESAB's ability to assess cumulative effects.

It was also pointed out that YG needs to aid the overall understanding of cumulative effects, as Stephen remarked:

... this issue of cumulative effects on projects has got to be one that needs to be really, the whole approach to dealing with cumulative effects and ensuring that we have the necessary baseline data is crucial, and it's still not there. Government's not spending enough money on understanding the health of our ecosystems. We rely on mining companies to do that work, and they're not an impartial player in it. So, First Nations still have limited resources to do that type of work, so mining still proceeds with a vacuum of information. And that's problematic.

The legislative framework was criticized for its inadequacies. Art explained:

The [YESSA] Act itself ... does not deal with cumulative effects ... [it] doesn't consider other projects that are being proposed for that area and the total cumulative effects of all those projects in that area.

The legislative framework was criticized for limiting the scope of cumulative effects assessments. Morgan explained:

One of the big issues ... was the cumulative impacts ... through the legislation it doesn't speak that they can assess cumulative impact.

*YESAA* does however have two sections that speak to cumulative effects: s. 112 and s. 110.<sup>239</sup>

Sage noted that YESAB should consider cumulative effects more and the First Nations should utilize s. 112 of *YESAA* more often, stating:

But the cumulative effects could be spoken to a little bit more clearly in our Act... why 112 requests under our Act aren't utilized more often when

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<sup>238</sup> *Yahay v. British Columbia*

<sup>239</sup> Cumulative Effects are also mentioned in *YESAA* in s. 42(1)d as well as 48(3)b.

cumulative effects are on everybody's mind for the last like five to 10 years, right. And I think that's a mechanism that is underutilized that could really benefit First Nations and our process too.

There are issues around the implementation of s. 112's in *YESAA*. As Jesse stated:

I was told that YESAB doesn't have the capacity to do something like that [issue a 112], and to look elsewhere for cumulative effects study, which we did, just writing a proposal.

This shows that the onus for cumulative effects studies as outlined by s. 112, is put on YFNs, adding to their capacity issues. Sage also noted that in the past:

110s [s. 110 of *YESAA*) were being used instead of a (c) do not proceed [YESAB recommendation]<sup>240</sup>... that's not OK and so that changed. But there was clear messaging that that is not what we use 110s for – if it's a (c), it is a (c) like period; a 110 doesn't change that. And we're not here to make the next project better, we're here to assess this project.

Jamie explained:

...there are the sections 110 to 112, which have the ability to instigate cumulative effect studies but with the exception of 112, all of those mechanisms are still project based specific based.

Casey remarked:

Section 110 is an attempt to try to look at cumulative impacts but there are no teeth to it ... I think it's going to stay the same in the review but I think they're going to be using it less because the practical implementation of it is extremely difficult right now. The way the legislation is configured for everyone; multiple Acts.

Stephen noted that the inclusion of cumulative effects into the assessment process will not be easy, stating:

That is such a hard task to know how you assess projects with cumulative effects, trying to determine which project breaks the back of an ecosystem. For example, what project is too much is an issue.

Peyton echoed this stating:

There are several challenges, like how do we deal with cumulative effects? How do you assess that? Is it first come, first serve? What happens?

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<sup>240</sup> As outlined in s. 56(1) of *YESAA*, "At the conclusion of its evaluation of the project, a designated office shall:" (a) proceed; (b) proceed with specific terms and conditions; (c) do not proceed; (d) be referred to the Executive Committee for a screening. "Yukon Environmental and Socio-Economic Assessment Act," Pub. L. No. Government of Canada, c.7 SC 2003 (2003).

Participants suggested potential solutions, including sub-regional assessments and watershed management. Kirsten stated:

And the idea of sub-regional assessments, I think if they could put some focus on that, it could address the cumulative effects issue.

While Casey also suggested looking at overall impacts to certain watersheds, stating:

... in a particular watershed control and management because I feel that that's one of the only ways to evaluate a project in terms of cumulative effects, is you need to understand all the components. Water is usually the vast majority of non-project-specific, of non-project, impact, so downstream impacts for example. So that's why I feel that you need to be able to understand a watershed before you're actually able to do a proper cumulative impact assessment and therefore have the proper compliance and monitoring for all of the projects that are involved instead of just one at a time which I find a horrible problem.

Ed reiterated this idea, stating:

Drainage basin management is what we should be doing. That's how it just makes sense. But we don't do it that way.

Michael aptly summarized the significance of cumulative effects stating:

Work in cumulative effects is probably one of the most significant changes in how assessment is going to be considered and thought about

**To sum up the overall points raised by participants as outlined in this section:**

- Cumulative effects remain a critical yet inadequately addressed issue within the YESAB framework, as noted by interviewees.
- Several participants voiced disappointment that the Yukon did not become a global leader in cumulative effects assessment, despite early ambitions.
- Participants emphasized the challenge of determining when cumulative effects become too great—such as identifying "what project breaks the back of an ecosystem"—and noted that this is exacerbated by insufficient baseline environmental data, due to limited government investment and reliance on biased, industry-led studies.
- While there has been progress through:
  - Recent workshops.
  - Collaborative efforts.
- Participants emphasized the need for:

- Comprehensive methodologies.
- Robust data collection.
- Integration of cumulative effects considerations with regional planning.
- Participants recommended watershed-level and sub-regional assessments—including drainage basin management—as effective and logical approaches to address cumulative effects, particularly for managing water-related and downstream impacts, while also calling for policy and legislative reforms to strengthen *YESAA*'s mandate, enforcement powers, and clarity of authority.

### 6.1.6.3 Socio-Economic Effects

Socio-economic effects, in contrast to cumulative effects, have several provisions in the legislation designed to ensure comprehensive consideration of social and economic impacts resulting from project development. However, 21 participants noted that, much like cumulative effects, socio-economic impacts—both positive and negative—remain inadequately addressed in assessments. Nine participants who have or do work for a YFN Lands Department, seven affiliated with YESAB, and two lawyers outlined the challenge that assessors have in fully considering socio-economic effects of mining. Four of the five mining industry participants also highlighted this omission, with three pointing out that YESAB also lacks the positive socio-economic effects as well.

Participants highlighted the challenges YESAB faces in adequately assessing socio-economic impacts. Drew stated:

It's well known that the weak link of the whole process and within YESAB is in the whole area of assessing social and socio-economic effects.

Rowan reiterated this stating:

[YESAB] is very good at the environmental side. But they need to work on our socio-economic side of the name and when they do assessments.

Alanna reflected on her experiences with YESAB a number of years ago, recalling:

The focus is very much environmental. They don't know how to deal with the socio-economic component that goes in there. And because it's complex and because they don't know it's just like we're just going to pretend it's not there.

Jesse also added to this, stating:

... for socio-economic effects, I find, don't really have a place in the mines that I write assessments for. Maybe in the [major quartz mines], but I find that not much is mentioned about the protocols for [Class] 3s and 4s. And it doesn't really seem to be a good tool for monitoring them or how to mitigate them either.

Bailey elaborated on the difficulty of quantifying socio-economic impacts, explaining:

But as I continued my research beyond that and started looking at a lot of the academic literature, etc., it's clear that nobody has a really good handle on how to take this ... it all comes down to making value judgments about things, and it's about balancing benefits against costs, for example, or negative impacts, and how do you value those things versus these things, and can you ever get to a balance? And people have very different views on that balance and how you value those things ... We just don't have a framework that we can point to and say, 'There, there's the logical steps you can take to understand the positive socio-economic impacts.' Even the negative socioeconomic impacts are hard to assess properly, and you end up with a lot of qualitative comment versus any sort of quantitative methodologies that you can point to. So, we try to factor some of that in through our sort of holistic assessment approach, but it's still I'd say at very early days and that, and there's still thought and work that needs to go into that.

Michael also spoke to the broad understanding needed when evaluating socio-economic effects fully, as the scope can be quite large by saying:

It's the simple thought that all things are connected. It's always all about the land ... water, earth, air. So that's where environmental assessment needs to continue to work hard at seeing those connections which are all ecological principles. We just need to keep thinking about that and never separate the societal, the social piece from it. We human beings are part of ecosystems, and we are influenced by and influence those systems. So, we're all connected ... The idea of scarcity and abundance in terms of resources and wealth and health. So my mind also goes to opioid crises, to health and wellbeing of communities and individuals, mental health. The stressors that individuals and families and collectives are experiencing as a result of uncertainty created by economic conditions, created by climate conditions, created by a deterioration of environmental quality.

Six participants emphasized the need to balance development with sustainability. Kirsten stated:

Economics is a big part of it ... It's been a big topic of conversation for many, many years, decades in the Yukon about how to find sustainable development that contributes to the territory's economy and isn't the boom-and-bust cycle of mining.

Blake highlighted that:

... the economic benefits of mining don't seem to come into the recommendations.

Blake also pointed out that the Yukon needs mining for its economy and there is a:

... need to balance industry with the environment.

Art also notes the importance of mining in the Yukon, stating:

... in general, it [mining] supports a lot of small businesses who supply supplies and services to the mining industry. And the Governments of Yukon, the politicians, know that there are not many other options for generating income for YG coffers.

Bailey also explained that positive socio-economic effects are not considered, stating:

I looked at it and was always fascinated by the fact that YESAB didn't consider the sort of positive socio-economic effects of projects. As I sort of reviewed the legislative framework at that time it was a surprise to me that that wasn't factored into the assessments that we were seeing coming forward.

Avery reiterated this sentiment, stating:

We don't ever look at the positives. That's a huge part of YESAB that I hate is that it's just negative assessment. There's no positive assessment. No positive effects. How can we build, how can we grow spiritually as humans on the planet if we only look at bad stuff?

Stephen noted that there is still a need to look at balance long-term. As outlined on before, he stated that many large projects, despite being positive, often leave behind a trail of business disruptions. The *YESAA* lacks a mechanism to thoroughly evaluate the lasting socioeconomic effects of these projects on businesses and corporations, indicating a need for more comprehensive assessments in the environmental and social impact process.

Riley critiqued the narrow interpretation of socio-economic effects in relation to First Nations, stating:

The socio-economic aspects of assessment in general... they define socio-economic effects very narrowly, and they do not include Rights-based effects as part of those socio-economic effects.

Of specific concern was the socio-economic effects felt by YFNs, whose wellbeing is deeply interconnected with the health of the lands and waters. Ed noted:

When I look at YESAB and they say, oh well, we can mitigate. You might sure have a reduction in salmon or moose or whatever. You're talking about cash, they tend to go by cash value.

He stressed the inadequacy of this approach, explaining:

First and foremost, our right for some subsistence harvesting is entrenched and protected in the Final Agreement. So, it should get a really strong consideration.

Ed outlined in detail an example of YESAB's or the Crown's inability to fully comprehend the socio-economic effects of project development and its impacts to the environment and in turn the wellbeing of YFNs. He referred to the loss of fish and wildlife in the area and the depth the impacts that losing these more-than-human relations can have on a YFN community. He cited a study that was done in conjunction with McGill University that analysis of the dietary practices, benefits, and risks associated with traditional and market food consumption among Yukon First Nations communities.<sup>241</sup> Ed emphasized the irreplaceable value of species like sheep in ecosystems and as essential subsistence resources for Indigenous communities, explaining that once such species are lost, reintroducing genetically different populations cannot restore the original ecological balance or cultural significance. Traditional subsistence harvesting remains a cornerstone of Indigenous diets, contributing up to 60 percent of nutritional intake in some communities and sustaining biological health developed over thousands of years. He highlighted the detrimental health effects of replacing traditional foods like sheep or salmon with modern substitutes like beef, as Indigenous bodies are biologically adapted to these traditional diets. Ed critiqued the tendency of assessment bodies like YESAB to prioritize economic values over the health and cultural significance of subsistence harvesting, stressing that such considerations are inadequately addressed despite being protected under agreements like the Final Agreement.

Ed also mentioned other impacts on YFNs, speaking to the miners working around his community that have at times been known to be "rude" and mistreat Indigenous women when they come into town. Morgan reiterated this stating:

The amount of suspect characters running through your community, drugs, alcohol, treatment to women in the community, and it's going to escalate like you wouldn't believe. How do you address that, right, it's very hard. It needs to be culturally enshrined in your operation, that it's zero tolerance.

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<sup>241</sup> Olivier Receveur et al., "Yukon First Nations' Assessment of Dietary Benefit/Risk" (Ste. Anne de Bellevue, Quebec: Centre for Indigenous Peoples' Nutrition and Environment, 1998).

Avery argued that assessors need to consider the size of projects when looking at the socio-economic effects, noting:

But I also don't know that an assessor can adequately apply the intentions of that document<sup>242</sup> on a two-person family-based placer operation. I don't know that that's reasonable or fair, and it's just like a rubber stamp.

Devon argued that some comments given to YESAB for a mining project would be better addressed by the Crown, stating:

... questions on the socio-economic side, it's like, oh my goodness, that is a government responsibility. How can you expect a company to answer that? But it's because people want answers to these things ... And there's an opportunity to push for those because this is a public process. Doesn't mean you're asking the right people who are coming to the right answers. And then we will saddle industry with doing the bad thing because they can't solve the problem.

Kirsten acknowledged that YESAB has been aware of the hole that the lack of fulsome socio-economic considerations can have in their assessment, stating:

I think the socio-economic aspects of assessment in general or cultural, like the human impact side of things. I've had a number of conversations with assessors where they are fully aware of this and I think they've been trying to do some work to improve that.

Bill highlighted that YESAB is improving, citing the remediation project of Faro as an example where YESAB has started to really consider socio-economic effects effectively. He stated:

And I think, with Faro we've seen them start to push that and I don't know every project of course, but there are some where I think YESAB has really started to step forward and say, 'We have this responsibility, for instance, around social economic assessment, that nobody else has not even the Mackenzie Valley Board, has it in the same way. And we need to try and understand how to do that.'

Kirsten also stated that YESAB has done a good job of trying to speak to how on-the-ground impacts are affecting First Nations:

So, they are starting to really be able to knit together the narrative around environmental impacts affecting cultural and traditional land uses and then sort of how that translates into knowledge transfer and social dynamics within First

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<sup>242</sup> Government of Yukon, "Changing the Story to Upholding Dignity and Justice: Yukon's MMIWG2S+ People Strategy" (Whitehorse, Yukon: Government of Yukon, n.d.).

Nations who value the environment and the land around them and have that reciprocal relationship with the environment.

Jamie echoed the sentiment that YESAB is improving, stating:

I think they've done a better job at characterizing project effects on less discrete things such as First Nation traditional land use, even First Nation wellness. And some of these things that slide towards the socio-economic realm. I don't know if that translates to necessarily good terms and conditions or final recommendations but in terms of recognizing and characterizing those things I think they've definitely improved.

Cameron reiterated this upward trajectory, noting:

... now I would say YESAB does a pretty good job of linking the impacts to the socio-ec[onomic], and particularly like First Nation wellness side, and making the links between the impacts on the biophysical and the people, almost like framing the factors. Like caribou are going to be impacted, and that's important to the caribou, but it's also important to the entire First Nation that relies on the caribou for the subsistence and for their health and wellbeing. And so that's the biggest shift, and I think it's one to be commended.

Stephen stated that he:

... still thinks that *YESAA* has to find its way about truly looking at what are the socio-economic effects of projects. And how to truly build those into the assessments, and how it's done. I mean, there are projects that get rejected based on potential effects of impact on the way of life and the other impacts of First Nations, but boy, when those recommendations come out, I've had calls from proponents going, 'Oh, isn't that nice.' Like really upset this kind of idea that a project could be rejected because of the impact on, say, spiritual, cultural aspects of First Nations.

**To sum up the overall points raised by participants as outlined in this section:**

- Socio-economic effects of project development are inadequately considered in YESAB assessments, despite being addressed in legislation.
- Participants noted that assessments often:
  - Prioritize cash values over cultural, health, and ecological significance of resources (e.g., salmon and sheep).
  - Undermine subsistence harvesting rights protected in agreements like the Final Agreement.
- This oversight disproportionately affects Yukon First Nations (YFNs), whose wellbeing is closely tied to the land and waters.

- Participants questioned the division of responsibilities between YESAB and YG regarding:
  - Complex socio-economic issues.
  - Challenges such as transient workforces and community strain.
- While YESAB has made progress in:
  - Incorporating First Nations' perspectives.
  - Linking environmental impacts to cultural wellbeing.
- Participants emphasized the need for:
  - A more holistic framework for assessments.
  - Better representation of Traditional Knowledge in the assessment process.

#### 6.1.6.4 Traditional Knowledge

Integrating Traditional Knowledge (TK) into impact assessment processes is increasingly recognized as vital for fostering equitable and well-informed decision-making frameworks. Participant feedback in fifteen interviews underscores the expanding role of YFNs in assessment processes, the persistent challenges of incorporating TK, and its indispensable value in understanding the ecological and social impacts of development. Six participants who were affiliated with YESAB, and most of the eight participants affiliated with YFN Lands Departments, as well as one person in the mining industry, also discussed ongoing efforts to address these challenges while emphasizing the continued need to build collaboration, trust, and mutual respect between Indigenous communities and YESAB.

TK epistemology, which inherently incorporates cumulative effects and is deeply connected to socio-economic wellbeing, overlaps with themes already discussed in earlier sections.

Michael reflected on his time at YESAB and the consideration of TK in assessments, stating:

Back then? It was a very narrow context for my review, I recall. And it was from my experience at that moment, it was very Western science based. It was very regulatory information sort of rules and procedures.

In reflections on more recent assessments, eleven participants discussed the growing influence of YFNs in assessment processes, emphasizing the need for further integration of TK. Drew stated:

First Nations are starting to influence the assessment project more. And I think they should be. And I think there needs to be even more pressure around how

we can acquire and integrate Traditional Knowledge into the assessment process more effectively.

Seven participants outlined the importance of assessments having TK throughout as it provides a more fulsome understanding of potential impacts. Three participants emphasized TK's understanding of the deep interconnectedness of species and ecosystems and the consequences of disrupting this balance. Lee underscores this, stating:

Sometimes you take one of those species out of that ecosystem and it disrupts the entire ecosystem. Those animals either got to learn to adapt or they die. Most of the time they die.

Michael reiterated the need for a more holistic understanding, stating:

So that's how I think, that's how YESAB will get better is embracing and exploring the models of environmental assessment, impact assessment that looks at all things are connected. The interrelationships and the systems. The effects of one thing in an area that we might consider well, that's a social impact. But then when you pull on that thread and you begin to see very quickly that that social connection is really a connection to the land. And once you connect it to the land, then you begin to see [it] from a Western science perspective, from an environmental, natural science. As you begin to see that cycle as a Western scientist but really – and I'm a social scientist, so I see the connections to people very quickly and the loop begins to strengthen and connect to all of these other pieces.

As Robin points out, with YESAB:

... where the process, I think, fails, is the VESEC,<sup>243</sup> is that siloing of values.

There are challenges to seeing TK used in assessment, as discussed by participants who expressed concerns about sharing TK due to fear of its misuse. Lee explained:

[YFNs are] scared to share their knowledge and how they think about things because it would be used against them, like it always is.

This fear stems from historical experiences where shared knowledge was taken out of context or weaponized against Indigenous communities. Robin also discusses the skepticism about how TK is being applied in assessments:

One of the biggest ones was Traditional Knowledge ... it still seems to be kind of token ... [YESAB is] always like, we're going to weigh it up together, but I don't know how real that is in the outcomes of a project.

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<sup>243</sup> Valued Environmental and Socio-Economic Component –It refers to the specific elements of the environment or society that are considered particularly important when assessing the potential impacts of a project.

Robin stressed that while there may be dialogue, the practical implementation of TK often falls short of reflecting the importance of traditional perspectives.

The equal consideration of TK and Western Science was cited as an issue in assessments.

As Rowan outlined:

The big changes have been really laying out that Indigenous Knowledge, Traditional Knowledge is looked at the same as Western scientific knowledge. So, we're not going out and saying these people have Ph.D.'s and so we're going to listen to them above Elders or any First Nation person who puts in comments.

As Stephen points out, the UFA speaks to this, stating:

I think some of the highlights on it [Chapter 12 of the UFA] were this integration of both Traditional Knowledge and that of scientific knowledge, I think, was good elements to Chapter 12.

However, Robin argued:

We still talk about Traditional Knowledge and scientific knowledge are used equally, but I don't know if anyone really feels that it is ... And especially when it's opposing, which it often can be.

Current practices often oversimplify TK, as Katie points out, reducing it to isolated interviews or quotes:

That's not what Traditional Knowledge is. You can't just like, yeah, we considered Traditional Knowledge because we have this interview with an Elder ... it's not the big picture.

Participants stressed that TK must be integrated as a comprehensive framework rather than fragmented data points.

Participants further spoke to the difficulties in translating TK into terms understandable within Western frameworks. As Katie explains reflecting on times when she worked at YESAB and had to ask Tr'ondëk Hwëch'in questions related to how projects impacts certain values:

I remember asking TH, "OK, but I just don't quite get what wetlands mean to you" ... and from TH's perspective, there was no other way to explain it. The value is intrinsic and not often easy to translate, but in order to have YESAB determine impacts, the value has to be dissected down into discrete factors, and that is not always consistent with the way TH views the world.

This disconnect illustrates the limitations of current systems in fully grasping the depth and context of TK. Challenges in sharing TK in the assessment process were also highlighted by Robin, who explained that TK, which is often shared through stories, is sometimes difficult to understand without greater context, which is not always made available when shared through the Yukon Online Registry. Robin went on to reflect on a specific instance where sharing TK during project assessment ended up falling short, stating:

... we did this huge, big exercise of gathering the TK that we have around that watershed. And the group that the third party hired to do the work for us, I think they struggled as what to do with it, and I think there's an uncomfortableness when you're not First Nation or not of the Nation that you're working with, to kind of take the lead on it. So, they kind of created this monster document that was essentially our TK, but it's not. The work to take the TK and use it to affect an outcome in a process didn't happen. It's just more like, 'Here's the TK.' Clearly aren't important to citizens of [a YFN], for example.<sup>244</sup> And then to do that is a huge capacity strain on us trying again, as I think I brought up numerous times, when you're almost doing proponent work for a proponent project that then you have to comment on. So, then the alternative is to not share your TK that way, and I don't know if that helps us in the end either.

Participants also noted that assessors themselves can lack familiarity with TK and therefore shy away from it in favour of Western science, which they have a better understanding of. Robin, who is affiliated with a YFN Lands Department, stated:

I don't think, one, it's fair, because I don't think most of [YESAB assessors] are comfortable in the positions that they're in. And two is, I think [YESAB] unfortunately still leans towards hiring Western scientists that kind of don't know how to do that. So again, it constantly feels like it's on the Nation.

Michael, who used to work for YESAB, also noted the challenge for assessors, stating:

What we haven't landed on yet is that more information is needed to be learned and heard from First Nations. And, I want to I want to correct. Maybe not be more information, it's how the information that is provided is absorbed and interpreted by the organization, by the assessors. So for me, I think it is related to understanding better as the science of ecosystems becomes more rich, how TK is part of that richness.

Similarly, Alanna, who is affiliated with a YFN Lands Department, stated:

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<sup>244</sup> Robin is referring to a project whereby a very detailed document was compiled outlining the TK related to the area of the proposed document. The TK document was so detailed and convoluted in its presentation, that the information gathered was inaccessible to Citizens of the YFN and also did not seem to impact the outcome of the project extensively. Instead it was just time-consuming, especially for the YFN who were relied on to provide the information.

... that a lot of translation was required to be able to get a comment understood. And I think that's something where it's like if something comes from a story you have to interpret the meaning behind it and what you might consider as information is actually much more than that. But I think the value of the input is a challenge to interpret.

Participants who have affiliation with YESAB, YFN Lands Department and an NGO employee highlighted efforts by YESAB to improve, including hiring liaison positions and attending training sessions. Robin stated:

They hired a liaison position, which I think is them trying, or at least acknowledging there's a need for that, which is good.

Chrystal noted that YESAB staff attended a workshop on Indigenous governance and Traditional Knowledge.

Braiding Knowledges' annual meeting in Victoria last year ... [focused] on Indigenous governance systems, Indigenous rights, how to bring in Traditional Knowledge and Indigenous Knowledge into regulatory processes.

Kirsten also highlighted that YESAB is:

... starting to really be able to knit together the narrative around environmental impacts affecting cultural and traditional land uses and then sort of how that translates into knowledge transfer and social dynamics within First Nations who value the environment and the land around them and have that reciprocal relationship with the environment.

**To sum up the overall points raised by participants as outlined in this section:**

- Integrating TK into Impact Assessments is essential for:
  - Equitable and informed decision-making.
  - Understanding the interconnected ecological and social impacts of development on YFNs.
- While TK's importance is increasingly recognized, several challenges persist, including:
  - Inadequate incorporation of TK into assessments.
  - Oversimplification of TK.
  - Concerns over potential misuse of TK.
- Participants highlighted the need to:
  - Move beyond tokenistic inclusion of TK.
  - Adopt holistic frameworks that respect the depth and context-rich nature of TK.

- Efforts by YESAB include:
  - Hiring liaison positions.
  - Attending workshops on Indigenous governance, reflecting progress toward integrating TK.
- Improvements noted in recognizing the value of TK alongside Western science, but gaps remain in:
  - Translating TK into actionable outcomes.
  - Addressing misalignment between TK and Western frameworks.
  - Overcoming assessors' lack of familiarity with Indigenous knowledge systems.
- Participants emphasized the need to:
  - Build trust.
  - Ensure TK is not misused.
  - Advocate for frameworks that genuinely integrate TK rather than treating it as fragmented data points.

## 1. Indigenous Epistemologies and Voices

This section explores participants' perspectives on the broader context of Indigenous worldviews, focusing on YFNs ways of knowing and practicing stewardship. It highlights the disconnect identified by eleven participants between the colonial framework underpinning YESAB's methodologies and the YFN approach to safeguarding their deep relationship with the lands and waters of their Traditional Territories. All eleven participants either had affiliation with a YFN Lands Department or YESAB. While the previous section on Traditional Knowledge examined how participants perceive the use of information shared with YESAB during the assessment process, this section delves into the cultural divide between YFN worldviews and the colonial system within which YESAB operates. It also addresses how YFNs are compelled to adapt to this system to have their perspectives recognized.

The dominance of Western methodologies in impact assessment was a recurring concern.

Robin noted:

YESAB functions in a Western science realm. So, you're at odds right away, so then you're just always at a disadvantage. And then even when it comes to

accommodations and stuff, there's these hard timelines and so it also feels like, even when you're at that conversation, it's a compromise all the time.

This dynamic creates an imbalance, as Indigenous perspectives are forced to fit into a rigid, non-Indigenous structure. Parker reiterated this, stating:

EA (Environmental Assessment) is a technical Western process, arguably, at least how we do it.

Sage added:

... [YESAB is] a colonial system – like it's a colonial construct so you can only decolonize so much.

Katie argued that this difference should not be ignored, stating:

You took them [YFNs perspectives] and then you tried to put them into a Western process. Impact assessment, land use planning, are so not aligned with what I know now of TH's culture and world view. It just doesn't align. So that is just always going to exist unless we blow up these processes and decide to do totally different methodologies. It's always going to exist. There's always going to be a gap between the two. And maybe acknowledging that is helpful.

Michael elaborated on systemic barriers, adding:

The words in the [YESA] Act are colonial. And at the same time, the words convey an effort and recognition that these words allow for the broadening of understanding the opening to read and learn things differently.

Cameron added:

A big part of it – and like it's kind of a gap that doesn't really translate well in the legislation is the fact that there's – you're like trying to bridge different worldviews in kind of like a westernized process. And that just doesn't really work very well. And it's hard, especially when you have so many non-Indigenous employees and kind of leaders trying to bring that worldview forward and to weave it into the work that we're doing.

Participants criticized the reliance on economic valuations in assessments, which fail to address the cultural and subsistence needs of YFNs. As Ed stated:

When I look at YESAB and they say, oh well, we can mitigate that you might sure have a reduction in salmon or moose or whatever. You're talking about cash; they tend to go by cash value.

Ed emphasized that subsistence harvesting is “entrenched and protected in the Final Agreement” and that its loss cannot be compensated by monetary means. Alanna spoke to a hesitancy by

many colonial government organizations to really rely on Indigenous worldviews to formulate plans and practices, arguing that it is actually imperative that Indigenous worldviews are relied on as the current colonial methods are leading society in a dangerous direction, with unsustainable methods and climate change.

Michael argued that Western science is starting to listen more to Indigenous Knowledge Keepers to get a better understanding of the world, stating:

Western science is really understanding better that all things are connected. And with that fundamental understanding that brings us closer to, as I understand it, an Indigenous perspective on the world and decision-making. When I was taught by Elders that all things are connected, the swimmers, the walkers, the crawlers, the flyers, all my relations. That concept of all my relations is one that transcends culture. Because it recognizes the fundamental human reality and existence which is we are all connected to each other and everything.

Robin summarized the struggle of impact assessments reflecting Indigenous worldviews, stating:

One is just translation of values, and the siloing, narrowing of values, and that's just not how we work as First Nation people.

Robin discussed the contrasting approaches to time and decision-making that were reiterated by Jamie, who stated:

We [colonial society] want results now. We want to mine now because this is where the market's at. We need money now. People need jobs now. All those kind of stuff, there's no thought to what is it that the seventh generation will inherit. It's just these – it's a very different world view so that's not surprising that people can't understand why we might want to just take a hot minute here and think. As opposed to just react because we're told this is how it works.

The need for Indigenous communities to adapt to Western processes was underscored. Katie remarked:

First Nations have to modify how they describe values and their worldview to fit that round hole. But they shouldn't have to.

Lee elaborated on this that YESAB in turn changes its recommendations to fit Government of Yukon, saying:

Why are [YFNs] bending [their] process to fit how YG and Water Board want it to be? Let's say [YESAB has] reached this decision [to proceed on a project] or not. But the assessment in this way, for the reason that it was assessed, that's how YESAB assessed it. If it doesn't match [YG's] terms and conditions, how

they write their rules and process their licenses, that shouldn't sway how YESAB does things.

So not only are participants seeing YFNs adapting their responses to fit YESAB, but there are also further adaptations at the YESAB level to fit Government of Yukon.

Michael reflected on when working for an organization outside of YESAB in the early years of the development of assessment language stating:

Back then? I was involved in a very narrow context, I recall. And at that time, it was very Western science-based. It was... rules and procedures.

Parker also had hope for the future, stating:

I think what's missing is an Indigenous led parallel process, but we'll get there in time.

Katie also expressed hope for YESAB stating:

YESAB's progressing in a way where they're starting to realize those gaps. That they were born out of the UFA, and that they have really big objectives that are super important. Yes, you need structure and you need policy and you need methodology that's consistent and you can – it's clear and you can explain it to somebody. But there's a huge gap in the objectives. I really do think that. But I think we're getting there. I really do. I'm hopeful for ten years down the road on what these assessments will look like.

**To sum up the overall points raised by participants as outlined in this section:**

- There is a profound disconnect between Indigenous worldviews, particularly those of YFNs, and the colonial frameworks shaping YESAB's methodologies.
- YFNs' deep-rooted practices of stewardship and interconnected relationships with the land often clash with:
  - Rigid, Western-driven assessment processes.
- Participants pointed out several structural and procedural barriers within YESAB, including:
  - Reliance on economic metrics.
  - Failure to fully incorporate Indigenous values.
- Criticism was raised regarding the compromises Indigenous communities must make to:
  - Align their perspectives with Western systems.
- The section concludes with optimism for a future where:

- Assessments better reflect the values and worldviews of Indigenous Peoples.

#### 6.1.6.5 Scoping Issues

Nine participants noted that YESAB's current process for scoping projects misses several important impacts. Of the twelve participants who addressed scoping issues, three specifically pointed out the repercussions of YESAB's broad criteria for project assessments. They recommended a narrower scope in this area to reduce the overall number of assessments. This includes projects being scoped out entirely, or specific project activities. Participants also noted that at times, *YESAA* does not scope or screen out some projects enough.

Drew highlighted that project assessment in the Yukon has a wider scope than other parts of Canada, stating:

Because you remember that in most other parts of Canada most of these projects don't even receive an environmental assessment. And so, they are going, 'Why do I need a – I've just got a pissant exploration project. Why do I need an environmental assessment?'

This broad scope was also criticized as unnecessary by some participants. As Drew stated:

... for example, the regulation for YESAB with all the thresholds for what triggers an assessment has never been changed since 2003. And YESAB has thresholds that mean they're assessing driveways and power poles and things that it's overkill. So, it takes up their time doing this incredibly elaborate process for someone's driveway or to release a few baby salmon, or whatever. And so, that's just absorbing time then that they can't put into more complex projects or even other work to support assessments.

Lee reiterated this sentiment, stating:

... right now it's more than it should be in some senses. And I think that's why YESAB itself is suffering. That's why they're so far behind on applications. There's a lot of little things within communities they do that they shouldn't have to do like driveways, power poles, all that kind of stuff. I don't think they ever had intentions of that to begin with.

Stephen highlighted this struggle, but also pointed out that YESAB needs to be cautious in how it changes this process, if it decides to. He stated:

There's a number, a lot of very small, small projects that get triggered, like a telephone pole onto a property that nobody wants to get involved in providing a comment on, but they have to. But at the same side, *YESAA* assesses projects that are at much lower thresholds than a lot of other environmental assessment

regimes, and a lot of those small projects are of significant concern to First Nations.

The need for change was acknowledged by Parker, while also being cognisant on potential impacts. Parker said there is a need for “a review of what triggers an assessment with a modern lens.” Sage also mentioned that having two screening levels could help:

... we need a screening level which is actually the lowest level like it is in all the other jurisdictions in Canada. Screening should mean smaller. And then we need a panel of the board to assess the more complicated and potentially – whatever it is - complicated or bigger impacts or really touching what matters to people in a deep way, or controversial or new technology, all those triggers. But let’s just have two levels of assessment instead of making it so very complicated.

Cameron also stated:

... having different streams of reviews so that the more complex projects can get the time and the attention that they require. And that the more straightforward projects don’t bog down the system.

Other scoping issues were also addressed by participants. Art noted that *YESAA* does not allow for separate assessments of different project components, such as access roads versus the main operation of a mine. This limitation results in important social and environmental effects, particularly those related to access roads, being overlooked.

Jordon also noted that some potential adverse effects are scoped out because proponents make commitments in the project proposal to enact mitigations. But by scoping out these activities, the proponent is not held to these commitments, as they do not make it into the terms and conditions. Jordon brought up a specific example they experienced with a major mining company, stating, the proponent:

Makes commitments during YESAB, during the process. In their application, they make certain commitments, and I want to bring the example of helicopter traffic around [a town], for example. And I bring that up because I know people who were a part of getting that permit for a company years ago, and saying that, so in the application, they worded it purposefully that the traffic, helicopter traffic would be kept to a minimum in order to avoid disturbances in [town] and all of that. So, a few years later, different people in that company took over. They had no idea about what was being said in YESAB, and of course, none of these commitments that were actually in the application form, were translated into recommendations, or into a permit, because, well, the company themselves said they would do that, right. So, why would we have to put it in a permit? So, just because people change, and companies, they’re not

aware of that. So, all of a sudden, the helicopters were stationed right outside of town, and were flying from six in the morning till 11 at night, non-stop.

Kirsten highlighted a shift in YESAB's assessment approach with proponent commitments:

They used to put all the proponent commitments in the back end of the evaluation report as a separate appendix. In some ways, that was useful and interesting to identify what the proponent was doing or committed to doing. But I believe they've changed that process now, viewing those commitments as baked-in mitigations and treating them as project activities.

Other participants also discussed the lack of consideration in assessments for previous project commitments or proposed activities in amendments/renewals/change of ownership sites.

Katie highlighted that:

Dawson again is difficult because there are a lot of renewals on very historic mining creeks and claims and projects.

Jamie spoke of a specific instance, where they were working on a renewal, and they:

... called the assessor and she didn't even know that they had done an amendment before. She just sort of is looking at this project in isolation ... And so to me, I don't know once she actually starts to receive comments, maybe when she does the evaluation, she'll start to – I don't know but I mean there's a risk there. It's like – it's just a bit of red flag to me. Like oh, if we don't give a whole bunch of context for where that project exists and what came before, this assessor might just see this completely in isolation and might not look at where this exists. So no, you can't teach context, but it can be dangerous in that case I think.

Alanna also noted that scoping out based on temporal and spatial considerations, limits YESAB's ability to really understand the overall impact of a project, which is directly related to the cumulative effects discussion above. She stated:

It's like this false line gets drawn around the temporal and the spatial extent of a project. So if you have that – like it's a false construct in a way that most economic models are false constructs where it's just like you are oversimplifying it and you are over-constraining it so that you can't see the effects. That doesn't mean they're not there. They're just not visible in the way that you're evaluating it.

She went on to make the suggestion that YESAB take a different approach whereby:

The spatial extent is this but then we know there are flows in and out. Let's identify where those are and what the nature of those flows is. It doesn't mean we're necessarily increasing – we don't need to increase the extent to the whole spatial extent of what those things are but we need to know what they are. And

we need to know what direction they're going in and we need to know what they impact. And I mean it's ecosystem thinking and systems thinking with some kind of spatial component. But instead of acknowledging that it's ignoring it.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants identified shortcomings in YESAB's scoping process and emphasized the need for improvements.
- YESAB's broad scope, which includes minor developments like driveways alongside major projects, leads to:
  - Strained resources.
  - Delayed progress.
- Suggestions for improvement included implementing a tiered system to:
  - Streamline smaller projects.
  - Prioritize complex projects.
- Critical components, such as access roads, are often overlooked during scoping, resulting in:
  - Unaddressed social and environmental effects.
- Proponents' commitments that are not formalized in permits can result in a lack of implementation and exacerbate issues related to scoping.
- The spatial and temporal boundaries used in assessments are too narrow and oversimplify impacts.
- A systems-thinking approach was recommended to better capture cumulative and interconnected effects.

## **6.2 Positives of YESAB**

Participants were asked to share their perspectives on what they believe YESAB does well as an organization. Therefore, while this section is titled, "Positives of YESAB" touching on what YESAB does well, it also highlights the counter arguments that participants made to some of these features.

### *6.2.1 Detailed Research behind Recommendations*

Fourteen participants observed that the complexity of projects submitted to YESAB for assessment has significantly increased since the organization's establishment in 2003. This increase in complexity is reflected in the detailed and often lengthy Evaluation Reports prepared by assessors. While these comprehensive reports highlight YESAB's commitment to incorporating all available information to make informed recommendations, participants, mainly four of the five who are in the mining industry, noted that much of the content in these extensive documents often goes unused and is cumbersome to collect. This has resulted in inefficiencies, with assessors devoting substantial time and effort to sections that ultimately do not contribute to decision-making.

The growing complexity of projects has necessitated more time for thorough assessments. Sebastian explained:

It's a lot of detail that you've got to get right. And so, it's meticulous work.

Katie echoed this sentiment, stating:

The environment's more complex, so assessments are taking longer.

This has also led to an increased workload for assessors, as Blake noted:

Their workload is expanding as more concerns are brought to them. Their responsibility is increasing with the weightiness of the decisions they have to make.

Sage further elaborated that while the number of assessments may not be rising, their nature is changing:

I pulled some stats on it. The number of assessments isn't necessarily going up, but the complexity and sensitivity are. I think we're reaching thresholds in this territory on many levels, and that's contributing to a lot more work to capture and weigh the comments coming in.

Reflecting on the time required for these assessments, Katie observed a cultural shift toward allowing more time to complete them, remarking,

Now it's pretty across the board; everything's getting extended ... If it's a complex assessment and it takes that much time, I don't think that's a bad thing.

Participants also recognized YESAB's detailed research approach. Kendall highlighted that the organization conducts solid research and actively seeks ways to improve its processes. For

example, efforts such as the pre-submission process have been introduced to enhance efficiency. However, this process has both advantages and drawbacks. Kirsten explained that in 2018 or 2019, and even earlier in 2015, informal discussions began between proponents and the executive committee about how project proposals should be developed. These efforts eventually evolved into a structured pre-submission engagement process, aiming to provide clarity and certainty for assessors, affected First Nations, communities, and proponents.

While the pre-submission process has improved transparency and allowed early identification of issues, it has also significantly increased the workload for YFNs governments. Kirsten noted that participating fully in this multi-step process requires substantial resources, forcing First Nations to choose between allocating these resources or accepting proposals without thorough involvement. Despite these challenges, some participants recognized the benefits of the pre-submission engagement. As Drew stated:

The new pre-submission engagement process for screenings is helping a lot with the bigger projects because it's cumbersome, but what it does is it allows for issues to be identified early.

Another critical factor emphasized by participants was the need for up-to-date information in the assessment process. Drew remarked:

If [YESAB] doesn't have a lot of good information presented to them so that they can incorporate it into the assessment, then that's a real challenge.

However, outdated data and limited staff capacity were identified as significant issues. Jesse pointed out:

One thing is that a lot of the data is very outdated ... it would be really great to have updated data ... For example, with the mine surveys and caribou surveys ... some of them are 10 years old.

Taylor highlighted the impact of inaccurate mapping data, stating:

Our maps aren't up to par ... the databases that we have are not very good.

Jordon recalled an experience they had with an assessment whereby the maps were inaccurate. Jordon reflected on the wetland polygon maps, expressing amusement at how disconnected they are from reality, particularly noting areas marked as wetlands despite clear signs of winter culverting and glaciation. Jordon describes how, in the Yukon, winter conditions can lead to significant ice formation, which eventually melts in spring, leaving dry patches that contradict

the wetland designations on the maps, suggesting that inaccurate assumptions have led to these misclassifications. This concern around assessments being a ‘desktop exercise’ was expressed by interviewees.

Many participants expressed frustration with the repetitive use of boilerplate content in reports, highlighting how it undermines meaningful analysis. Jamie remarked:

We’re all taking from boilerplates, and if everyone has 40-page things that are all bits and pieces of boilerplate language, is anyone reading anything?

Expanding on this concern, Sam observed:

I really wish we’d managed to get a handle on the volume of material assessors are required to include, so we could focus on the big issues rather than the same old stuff. I’ve seen copy and paste without even changing names—how is that valuable? How does that raise the level of conversation to what we need? If the issue is moose hunting and roads, let’s just talk about moose hunting and roads. Never mind the 20 pages of diatribe. We’re Yukoners; we know moose are important. More isn’t always better—it’s just hard on people.

Similarly, Avery noted:

Once there’s one challenge with a type of project ... that issue will get copied and pasted on every new application, regardless of who the operator is.

This sentiment was linked by Cameron to the centralization of assessors in Whitehorse, suggesting that:

People are losing touch with what they’re actually doing and the fact that these are real projects on the ground interacting with the social, cultural, and economic landscape. The more assessors are connected to their assessment districts and the more capacity they have, the better the quality of the work and the robustness of the process.

To address these challenges, one participant proposed revisiting the regulatory framework to introduce modern thresholds. Drew suggested:

If we could review the regulation, get modern thresholds, I think it would change how much we’re assessing, but it would also allow for more fulsome and really perhaps more meaningful assessments than some of the cookie-cutter assessments that kind of come out. And I think it would give assessors a bit more time to go to communities, go out to sites, and have it not be such an electronic or paper-based process.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants highlighted both strengths and challenges of YESAB’s assessment processes, including:
  - Increasing complexity of projects.
  - Growing need for thorough, informed evaluations.
- Strengths include YESAB’s commitment to:
  - Detailed research.
  - Comprehensive reporting, demonstrating dedication to high-quality assessments.
- Challenges include inefficiencies such as:
  - Repetitive boilerplate content.
  - Outdated or inaccurate data, which undermine assessment quality.
- Efforts for process improvement, like the pre-submission engagement initiative, have shown promise in:
  - Enhancing transparency.
  - Early identification of issues.
- However, these efforts have also placed additional burdens on:
  - First Nation governments.
  - Assessors.
- Participants emphasized the importance of:
  - Modernizing regulations.
  - Improving access to up-to-date information.
  - Reducing unnecessary repetition in reports to focus on key issues.
- Proposed changes could enable YESAB to:
  - Produce more meaningful, community-focused assessments.
  - Better manage workloads.

### *6.2.2 Expectations on Proponents for Project Proposals*

Five participants noted that project proposal submissions to YESAB have become more detailed and complete, along with the Information Requests issued by the board. Among these participants, two were from the mining industry, one was associated with the YFN Lands

Department, another was linked to YESAB, and the last was an employee of an NGO. Over time, there has been a clear improvement in the quality of project proposals. As Sebastian remarked:

Proponents are starting to get better at putting together complete proposals, realizing that they are going to be examined.

This improvement has been attributed to proponents making greater efforts to ensure approval, such as engaging environmental consultants to develop stronger wildlife plans. Reflecting on this change, Sebastian noted:

Some of these wildlife plans I've seen are pathetic. But more and more proponents are starting to actually take them seriously ... these things are definitely getting better.

Proponents are also demonstrating enhanced compliance in areas like reclamation. Blake observed:

Miners are more on board with it now. They're doing [reclamation] progressively, seasonally, as they move along.

However, regular submission of reclamation plans remains a concern. Kirsten questioned:

How can the assessment board fully look at the impacts of an activity when they don't have access to the reclamation plan that the proponent is proposing this is what we're going to do?

Despite these advancements, participants highlighted challenges associated with scope creep in assessments. With more detailed evaluations comes greater pressure on proponents to provide increasingly comprehensive plans. Avery explained:

The amount of questions they're asking about the operation is growing exponentially. But the house hasn't changed. And neither have the laws around it.

This growing complexity has been particularly frustrating for long-time operators, especially in placer mining. Comparing the experience to renewing house insurance, Avery stated:

It's like the insurance agent asking you to prove that how to do your dishes ... it's really frustrating.

The growing complexity of assessment documentation has made the process more difficult for some proponents, particularly placer miners. Avery explained:

Over time, it just got so complex that they now need a lot of help.

The heightened expectations have, in some cases, led proponents to withdraw their applications. Sebastian observed:

Sometimes outcomes of YESAB screenings are the project just gets withdrawn. They just go like, ‘We have no idea how to answer these questions. Perhaps we need to go and give it a rethink.’” And added, “I get the feeling that this happens more often than YESAB says no.

This sense of overwhelming complexity and red tape has discouraged some proponents. As Avery expressed:

They’re being sucked down into all of this crazy red tape. It’s almost unbelievable, and it’s making people give up. We’re losing a lot of great people and great operators, and that’s really a shame.

Another challenge raised by participants is the lack of assessor familiarity with specific industries, leading to irrelevant or impractical Information Requests. Avery noted:

What we also find is that a lot of the IRs [Information Requests] are written by people who don’t understand placer mining at all. And so the questions that they’re asking are really frustrating for the miners.

When asked why they believe scope creep has increased, Avery attributed it to political shifts and evolving priorities:

Newer assessors, folks that just don’t understand things, politics are a huge, huge part of everything here in the Yukon. So, you get a new party, and they want to talk about carbon emissions. So, all of a sudden you have all these IRs about carbon emissions. And now you have environmental groups ... actively [pushing for changes].

While some participants felt the process places excessive burdens on proponents, others observed that it sometimes caters too much to them. Robin shared:

It sometimes feels like the process really looks after the proponent ... it’s always not wanting to confuse the proponent or make the proponent do too many different processes. But I do think that it can’t always be the proponent as the key team that you’re trying to make it all work for.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants highlighted significant advancements in:
  - The quality of project proposals.
  - Compliance efforts, particularly in areas such as:

- Wildlife plans.
  - Reclamation.
- Challenges that persist include:
  - Scope creep.
  - Increased regulatory demands.
  - Frustration with irrelevant or excessive Information Requests.
- While some proponents have adapted to these expectations:
  - Others feel overwhelmed, leading to:
    - Withdrawal of applications due to complexity.
- Concerns were raised about:
  - Assessor expertise.
  - Political influences shaping assessments.

### *6.2.3 New Perspectives*

The evolution of YESAB has been shaped by shifting leadership, staff turnover, and a growing emphasis on reconciliation and inclusivity, with new personnel contributing fresh perspectives that have driven positive organizational change.

#### *6.2.3.1 New People and New Positions at YESAB*

Fifteen participants noted that YESAB's high turnover rate has resulted in a number of new people with new ideas working at various levels of the Board. This change was noted by all affiliations. Some participants, two in the mining industry and two with affiliation to YFN Lands Departments, noted that bringing in new people has also had drawbacks, as explained below. To tackle new issues, YESAB created new positions focused on reconciliation, Indigenous relations, and updated assessment practices, further contributing to the organization's transformation and introduction of fresh perspectives.

Leadership changes have been a key driver of YESAB's development. Bill noted:

The change in the last few years has been also about people. Who's there?  
Who's giving the direction?

He attributed this shift to specific leaders who were “prepared to look forward and say, ‘How can we make this better?’” Katie highlighted that new leadership has encouraged a shift from prioritizing strict timelines to emphasizing quality and innovation, stating:

We prioritized timeline over quality in a lot of ways ... That isn’t true anymore.

Rowan recalled:

And then we had a change in leadership who thought we’ve got to start looking at this and reconciliation and we need a board priority because we don’t have this relationship.

The influence of individual board members and staff on YESAB’s direction has been significant.

Quinn explained:

It’s all contingent on what human being you have in the spot at the time.

Rowan highlighted the risk that future leadership changes could reverse progress if new leaders favor a return to previous systems and priorities and explained:

And now that’s continued with the new board and the new ED [Executive Director] that’s come on, that thinking has continued. But if those are replaced again with somebody who comes back thinking, ‘Yes, that’s not our priority anymore. We’re going to go back to doing things the way we were,’ that’s always a risk and that would be very sad ... So, if we lose board members or our leadership and then somebody else comes in that does not think the same way. Which really, the big change with YESAB I think previously was that we didn’t have leadership and the board members who thought about we need to change and be more reconciliatory and think about First Nations and making that a direction. The others were very much focused on no, we’re remaining neutral.

The changes in leadership and perspectives, spurred the creation of new roles, such as the Indigenous Partnerships Manager, Human Resources Manager, and an Assessment Director, which were highlighted by participants as having further contributed to YESAB’s development. Morgan noted “They’re building the bench,” highlighting YESAB’s efforts to strengthen its capacity for more complex assessments. Drew described the new Indigenous Partnerships Manager, as:

... a force to be reckoned with ... She’s been really influential at getting YESAB and all of the First Nations together.

They cited a meeting that YESAB hosted for all the YFNs and trans-border NWT nations. Sellers’ responsibilities were described by a YESAB employee as fostering trust with First

Nations, revising internal policies to better represent the UFA, and promoting the hiring of Indigenous staff.

Efforts to increase Indigenous representation have also been a focus. Rowan shared:

When the Indigenous Partnerships Manager came in, YESAB changed some policies ... to entice more First Nation people to come and work here.

This included revising job requirements to value experience and practical knowledge over formal degrees and prioritizing Indigenous hires in job postings. Despite these changes, only two of YESAB's 45 employees self-identify as YFNS, underscoring the need for continued efforts to attract and retain Indigenous staff. Rowan emphasized the importance of hiring more Indigenous staff to fully realize these reconciliation goals. They noted:

Until we can actually get more First Nation people working in the role, I think people are not going to understand exactly how assessments might look.

Sage recalled a time when they started working with YESAB, and they requested to do a land acknowledgement to "Open in a good way" and they received the response from their supervisor at YESAB:

What will that signify? What is the message behind that?

And Sage's response to that was:

What is the message in not doing it?

Land acknowledgements have since been implemented throughout the organization.

Retaining experienced staff remains a challenge, as Jordon noted:

In my entire time, I don't think anybody's been in a YESAB office for longer than two years, at [a specific DO].

Drew reiterated this stating:

It's great that [YESAB] has more people, but everybody's new. And there aren't as many people who have more of the corporate history or the depth as assessors.

As priorly noted, high turnover in staff at YESAB has resulted in assessors from out of territory, which has led to a lack in local understanding of contexts. Participants emphasized the importance of maintaining local context in assessments while also incorporating external expertise. Avery stated:

They're all of a sudden bringing no local context to a local problem and solving it using outside ideas, which is great. It's not a problem to have other ideas. But the problem is local. The issues are all based on historic local stuff. It's just, it's too much.

Bailey highlighted the importance of local contexts, stating:

[YESAB] can engage expertise that's in specific areas that may be external, but I don't think [YESAB] should ever get to the point where we're not fulfilling that obligation to have assessments being done with local contexts. I think that flies in the face of who we are and what we need.

Some participants thought that the assessments are improving with new people. Sebastian observed:

The staff have steadily gotten better and better at doing their jobs.

This includes considering interconnected environmental effects and integrating community and public perspectives. Katie remarked:

I think that's a product of education and work experience where I think YESAB maybe has been more encouraging of assessments and assessors to think outside the box and to think more holistically about the projects they're assessing.

Katie pointed out that the new people have been a positive change, stating:

... the shift that happened is two-fold; you had people who were willing to do the work and think differently, and you also had people in management who were willing to support that.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants highlighted significant changes in YESAB's approach over the past five years, driven by:
  - Leadership shifts prioritizing reconciliation, quality, and modernized policies.
- Efforts made include:
  - Creation of new roles, such as Indigenous Partnerships Manager.
  - Revised hiring practices aimed at attracting Indigenous staff.
  - Improved engagement with First Nations.
- Despite progress, several challenges persist, including:
  - Low Indigenous representation.

- High staff turnover.
- The need to balance local knowledge with external expertise.
- Participants emphasized the importance of:
  - Sustaining leadership priorities to maintain:
    - Trust.
    - Local relevance.
    - Innovative assessment practices.

### 6.2.3.2 New Methods and Thinking to Face New Complexities

The recent alterations at YESAB reflect a gradual shift in how assessors approach assessments. Thirteen participants, mainly affiliated with YESAB, observed that over the years, YESAB has implemented procedural changes, tried to improve training, and worked towards incorporating more holistic and inclusive approaches. One participant in the mining industry expressed hesitation over some of the new methods. Initially, YESAB focused on following established methodologies from other jurisdictions rather than developing its own. Interviewees acknowledged the influence of impact assessment processes in other areas of Canada, specifically looking to the other territories for possible solutions.

As Bill observed:

They [YESAB] weren't defining EA (Environmental Assessment) methods and approaches and growing them. They were looking to other places to say, 'Has this been done? If it hasn't been done, we're not going to do it.'

In contrast, as Bill pointed out, other organizations like the Mackenzie Valley Environmental Impact Review Board attempted to lead, even if imperfectly. Nevertheless, as Bill elaborated, there is a positive shift in YESAB's approach in recent years, stating:

They are starting to, more kind of get their own feet under them and stand up and lead.

Sage also pointed out that in their experience with YESAB:

The training is better; there's more openness to new processes and I think more willingness to be vulnerable.

Sebastian reflected on the early days of YESAB, emphasizing how the organization evolved and improved over time:

In the earlier days, YESAB would make a recommendation, and the Yukon government would reject it. YESAB would then reflect on that rejection, asking, ‘What have we done that allowed the Yukon government to reject our recommendation?’ Over time, you could see the assessors’ thought processes evolve as they identified barriers and figured out ways to overcome them.

Similarly, Bailey highlighted the distinct challenges YESAB faces in assessing Yukon projects, noting that these issues cannot be resolved by simply adopting methodologies from other jurisdictions.

There’s no solid framework that an organization like YESAB can implement to address all of these challenges in a completely logical and transparent way. It just doesn’t exist. I eagerly await greater minds proposing good solutions for YESAB to consider, but at this point, it’s very difficult.

Although a comprehensive solution to address all of YESAB’s challenges has not yet been identified, the organization continues to adapt by incorporating methods from other assessment boards. Like the Yukon, both Nunavut and the Northwest Territories have assessment boards established through treaties. While each board employs unique approaches, their similarities enable the sharing of methodologies across the region. British Columbia’s proximity to the Yukon has also influenced YESAB’s practices. Furthermore, the International Impact Assessment Association has provided valuable guidance and inspiration for advancing environmental assessment methodologies. Participants underscored the importance of relationships between assessment organizations. Parker remarked:

There’s good relationships between those organizations ... people in the North are friendly.

They noted that Mackenzie Valley Environmental Impact Review Board, while influential and ahead in some areas, has a smaller project load compared to YESAB. Territorial agreements and their implementation offer valuable lessons. referencing their later final agreement compared to YFNs Parker noted:

The Tlicho were a great example ... You can learn a lot from your neighbors when you’re not first.

Similarly, Nunavut Impact Review Board’s compliance framework in Nunavut was highlighted by Parker as a progressive practice:

They’re out in the field taking samples ... seeing if their mitigations are working.

Robin observed that the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in British Columbia offers insights for modernizing assessment practices:

BC is trying to modernize their environmental assessment legislation to reflect UNDRIP... you can do these interesting comparisons.

Territories have also influenced federal legislation, with the *Impact Assessment Act, 2019*<sup>245</sup> incorporating socio-economic considerations, inspired by practices in the North. Cameron remarked:

IAC [Impact Assessment Act] has been looking at what the territories have been doing ... to build their own capacity and knowledge.

Drew highlighted that these changes in how things are done at YESAB are spurred from various occurrences, stating:

Some of that direction and so forth comes from board members. Some of it comes from lawsuits. Some of it comes from just the interactions that YESAB has with the key participants in the process.

Rowan argued that broadening understanding spurred changes in assessments:

The whole recognizing Indigenous People and reconciliation really only started taking hold in the last seven, eight years ... it's slowly changing as people get more and more aware. YESAB is putting on all these different courses to bring them awareness about YFN culture and history and why they are the way they are. And how colonized YFNs are and how the policies and acts are still in effect and how YFNs are still struggling to have a voice and all those things ... if you look on YESAB's website, the personal relational safety policy is up. And because of that, it's actually stated in there that yes, YESAB will start looking more at Indigenous worldview. And things like that and putting that into assessments.

Drew also pointed out that YESAB is being recognized and:

The leaders at the moment on the work they did for personal and relational safety as a VESEC, and they're having people contact them.

Holistic approaches to assessment have also gained traction, though they are still in development. As Bailey noted:

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<sup>245</sup> Government of Canada, "Impact Assessment Act," S.C. 2019 c. 28, § s.1 (2019).

The first time I ever saw it was the draft screening report for Faro. It had a mention of the holistic assessments approach. And YESAB just started to talk about the idea that there's the interconnectedness of all these effects, that sometimes to best understand the impacts you need to look at them in that interconnected way, not in sort of a reductionist one pathway that affects perspective. And so, YESAB started into that, but YESAB hasn't I think gotten to their final place on that. So, I'd say they understand that it's a developing perspective in the environmental impact assessment world, and they're trying to understand how it fits into their process. And they're not opposed to it, they just don't have a methodology yet that fully takes that on board.

Other method changes include how comments are gathered as Drew highlighted:

The board now is allowing for audio and video submissions. So, that's something to be able to provide more oral input into assessments. That's just starting.

Kirsten recalled a time in Dawson when audio recording for Elders comments was relied on.

They stated:

YESAB went out of their way to figure out how [Tr'ondëk Hwëch'in] could provide them with audio recordings of Elders in a meeting. And so even small things like that, they've been open and they've, I think, tried to on an individual level absorb a full range of perspectives.

Katie discussed the changes in assessment, stating:

I look at the differences in the last ten years of assessments and what they're willing to modify and kind of shift their very strict methodology in some ways to consider bigger impacts. I mean, again, Michelle Creek's<sup>246</sup> a good example. They went outside the box. They were like OK, well, we think this baseline issue is context, and therefore we think this is a significant adverse effect that cannot be mitigated. It was a meaningful interpretation of YESAB's overall objectives under the treaty and a thorough assessment.

To support changes in assessment approaches, participants argued that YESAB should hire generalists and contract specialists as needed. Drew observed:

The very nature of the work YESAB almost has to hire generalists so people who can assess, learn, and already come knowing about environmental assessment or learn the methodology. But they're not necessarily a specialist in a particular area. Some are. Some come with a biology or geology or some other degrees. And YESABs often gets criticized about that is that they don't have the technical expertise to properly understand placer mining or quartz mining or whatever it might be because the work requires you to be a bit more

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<sup>246</sup> The Michelle Creek Case involves YG taking YESAB to court over a mining project's recommendations. For more details, please refer to Chapter 4: Context.

of a generalist. But I think *YESAA*'s done a pretty good job with the technical expertise that it contracts when it needs it to help support the assessors.

Drew argued that YESAB has shifted to be more reliant on the UFA in their policy development, stating:

... in the last two/three years, little bit before COVID, YESAB really started to go back to the roots, and what does Chapter 12 mean? What does it mean in relation to the other chapters, Chapter 11 and 14 and 16?

Drew also mentioned that YESAB is putting at the:

... beginning of each policy the related sections in the UFA and YESAB. So, if it's a specific topic so that it's just reminding readers right at the very beginning that this is where it comes from.

Katie outlined the growing prevalence of UFA objectives in assessments, stating:

YESAB's progressing in a way where they're starting to realize those gaps. That they were born out of the UFA, and that they have really big objectives that are super important. Yes, you need structure and you need policy and you need methodology that's consistent and you can – it's clear and you can explain it to somebody. But there's a huge gap in the objectives. I really do think that. But I think we're getting there. I really do. I'm hopeful for ten years down the road on what these assessments will look like.

Lastly, one participant, Kirsten, highlighted a shift in YESAB's assessment approach with proponent commitments:

They used to put all the proponent commitments in the back end of the evaluation report as a separate appendix. In some ways, that was useful and interesting to identify what the proponent was doing or committed to doing. But I believe they've changed that process now, viewing those commitments as baked-in mitigations and treating them as project activities.

Avery expressed frustration with the current assessment process, stating:

Even if you just look at the methods that are available, they're not working. And so we need a new method.

They suggested exploring risk-based assessment approaches as a potential solution to address some of these challenges. Avery elaborated:

One person will have a great idea, and all of a sudden, that's the law for everybody. It's a policy law. That's really challenging. And nobody's happy about any of it. So why are we continuing to do this? Can't we just stop and

slow down and stop doing quite so much? This is what I mean about the risk and looking at the risk in assessment ... Is this a high-risk thing? Are we willing to really dig into this project? And how do you figure out where the risk matrix is? I don't know. That's a conversation for sure.

As previously mentioned, YESAB has been influenced by practices in other territories. Avery highlighted that the Northwest Territories has implemented a risk-based approach in their assessments, particularly for certain activities and explained:

Jurisdictions like Northwest Territories do that in their assessments. So, they have more of a risk-based approach for certain activities. That makes a lot of sense for an industry like placer mining, where you're going to be able to tell through a variety of known factors like location, size of an operation, kind of what the outcomes are going to look like. So behind me is a wide valley channel. Those risks are going to be these things. If you have someone who's looking at a really narrow creek, those risks are going to be different.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants describe significant shifts and challenges in YESAB practices, including:
  - A transition from reliance on external methodologies to developing internal approaches.
  - An effort to embrace holistic and inclusive methods, such as:
    - Incorporating Indigenous perspectives.
    - Utilizing new techniques like audio submissions.
- Challenges in the Yukon require tailored solutions; external models alone are insufficient.
- Changes in YESAB practice stem from leadership, lawsuits, and evolving relationships with assessment participants.
- Participants emphasized the importance of:
  - Collaboration.
  - Learning from other territories.
  - Adopting innovative strategies, including:
    - Risk-based methods.
- Frustrations with existing frameworks persist, highlighting the need for ongoing reform.

#### 6.2.4 *On-Going Procedures YESAB does Well*

Participants highlighted several areas where YESAB has excelled, including its transparency and neutrality—two aspects that were significant concerns under the Environmental Assessment Review Process.

##### 6.2.4.1 Neutrality

Seven participants discussed YESAB's neutrality, with six applauding its efforts to be independent. One participant, as outlined below, who is affiliated with a YFN Lands Department, criticized YESAB's understanding of neutrality. As described in Chapter 4: Context, environmental assessments in the Yukon were previously conducted by the federal government, a process widely criticized for its perceived inadequacies and lack of independence as they were not carried out by an impartial board, leading to concerns about bias. With the establishment of YESAB in 2005, neutrality became a core mandate. Bill noted the significant shift, stating:

It's just that it's an independent agency doing assessment. So it was that. I guess there were two things that stand out. One is it was being done by an independent agency.

Similarly, Parker emphasized the uniqueness of YESAB's structure, highlighting its independent funding stream from Canada as a key factor in ensuring impartiality:

That is truly third party, and it's very refreshing.

Jamie further underscored the value of independence, remarking:

To have a public process that its own separate board, I think is pretty important.

However, some participants expressed concerns about the challenges of maintaining neutrality. Quinn reflected on the unintended consequences of YESAB's strict independence, stating:

YESAB have taken their role as being sort of this independent, 'We have no say. We're just assessing stakeholder information.' I think they've taken it too far, to the extreme of being independent to the expense of UFA implementation ... But I don't think it's intentional necessarily, I think there's just a lot of pressure.

They noted that YESAB has begun to acknowledge the need for stronger First Nation relationships, recognizing that its role is deeply rooted in the UFA. Kirsten acknowledged the complexity of maintaining neutrality while addressing diverse perspectives, stating:

So yes, maintaining that neutrality is – I wouldn't want to be in their shoes because I think that's really, really hard ... it's a real challenge to walk that fine line of neutrality and yet still considering all of the opinions.

**To sum up the overall points raised by participants as outlined in this section:**

- YESAB's independence is a cornerstone of its operations.
- The organization faces an ongoing challenge of:
  - Balancing neutrality with meaningful engagement.
- This challenge exists within the context of the UFA framework.

#### 6.2.4.2 Transparency and the YESAB Online Registry (YOR)

In addition to neutrality, transparency is widely recognized as one of YESAB's strengths by six participants, mainly with affiliation from YESAB and YFN Lands Departments. However, participants, one from an NGO and another with affiliation with a YFN Lands Department, noted that improvements could still be made to ensure the decision-making processes are as open and accessible as the YESAB Online Registry (YOR). The YOR was praised for its role in promoting openness. Sebastian highlighted its significance:

Everything that goes into YESAB is put on the online registry, and it's easily searchable and visible to anybody, anywhere, with any interest. And that is truly remarkable ... part of the transparency is the rules that are set out about which projects need to be assessed and how they need to be assessed, what level at which they need to be assessed. That's extremely clear. It's very rare for a project not to fall neatly into one of those categories. And so, forward for proponents to know that a project needs to be assessed and at what level.

Peyton reiterated the importance of the YOR, stating:

They do a great job, like that *YESAA* registry, you can see the transparency and accountability that they have for the communication back and forth. And I think that's really, really critical ... that's probably, in my view, one of the best things they do, is just the transparency and providing opportunities.

By consolidating information, comments, and plans into a single, accessible online platform, the YOR has made it easier for remote communities and individuals to participate in the assessment process as well as foster collaboration between other First Nations. Reflecting on its transformative impact, Morgan shared:

Can you imagine back in those days, where there was no information. Now everything gets plugged in, and you can see other people's comments, you can see the detailed plans, and it's all with a click of a button, right. So, I think that was a huge time, and a good move for YESAB to establish something like that, where, I think it really helps the remote communities. But yeah, it was, I can imagine the old days, where we fax in our comments, and who knows where that goes. It gets documented and filed, we have no idea, or no transparency of, let's say of [neighbouring YFNs], who have overlap issues, and we don't know what they say, it's all through communications and networking back in the old days, right. So now, we can get a sense of what [other YFNs] are thinking and feeling about this project, so it kind of, then you can kind of correlate. And draft your comments that will address our concerns, but also try to support the overlapped First Nation, if its similar concerns in regards to maybe water, for example, right.

The YOR has proven helpful for stakeholders and YFNs Self-Governments submitting project comments, allowing them to prioritize their efforts more effectively. Sebastian highlighted:

The transparency means that I'm aware a project is being assessed, and I can take a quick look and say, OK, do I need to devote several hours of my work to this? Or can I just say someone wants to put a power line in a driveway? I think I can give this one a miss.

This triage capability ensures that resources are directed toward significant assessments, minimizing unnecessary effort.

Although the YOR's introduction initially posed challenges, its effectiveness has improved significantly over time. Morgan reflected:

When it was first introduced, a lot of people struggled with it. They couldn't access it; they couldn't utilize it very effectively. Over time, it became a very effective tool.

However, transparency in decision-making remains a concern for some participants. Chrystal expressed:

It's not transparent enough in the decision-making process ... How are perspectives weighted? Is it just quantity over quality? I'd appreciate a decision-making document that's very publicly accessible ... It could be a bit more transparent in how those thresholds are determined.

Similarly, Jesse shared their frustration, noting:

I don't know if my comments are making a difference, or how they take them into account. Sometimes I feel like I'm just making comments, and nobody reads them.

**To sum up the overall points raised by participants as outlined in this section:**

- The YOR has significantly improved:
  - Transparency.
  - Accessibility.
- Participants emphasized the need for:
  - Greater clarity regarding decision-making processes.
  - Better integration of public input in decision-making.

### 6.2.4.3 Engagement

Engagement with stakeholders, communities, proponents, YFNs and YFNs' Self-Governments is central to YESAB's operations. Through education initiatives and the incorporation of public comments in assessments, participants have observed notable progress in creating opportunities for meaningful participation. As highlighted earlier, engagement was a major shortcoming of the Environmental Assessment Review Process previously managed by the federal government before YESAB's establishment. While YESAB has made improvements, some participants emphasized the need for further enhancements, particularly in fostering stronger engagement with YFNs and ensuring all parties have a clear understanding of the process and their roles within it.

## 2. Overall Public Participation

Public engagement was cited by 57 percent (20 of 35) of participants as something that YESAB continues to improve on. Of the eleven participants with affiliations with YESAB, nine stated they saw public engagement as something YESAB was improving on or does well. The four participants in the mining industry each discussed public participation but were split on their views as to how well YESAB does with engagement. As discussed before, the effort by YESAB to ensure transparency in the process through methods like the YOR, has allowed for better access to resources for the public to be involved in the assessment process. Participants also argued that some frustrations with YESAB come from a misunderstanding of the organization's role and its reliance on a paper-process. Participants suggested that YESAB could improve by offering more

proactive engagement opportunities, such as workshops or public forums, to educate the people about the assessment process and how to provide impactful comments. Furthermore, participants noted that YESAB's public engagement, while improving with organizations who regularly comment on projects, still has some ways to go with Yukoners who do not engage in the process often.

Peyton reflected on the previous Environmental Assessment Review Process, highlighting YESAB as an improvement:

That's the real value of *YESAA* is that it does allow people to have some input to raise their grievances, their concerns, and for somebody to look at them, right? And that's an important part, the way some of these projects in the Yukon were approved in the past by the feds in particular, was not, certainly wasn't consistent with fairness, equality even just common decency in some cases.

Participants familiar with the Environmental Assessment Review Process observed that much of the public engagement under that system was limited to a paper-based process, which YESAB was intended to improve upon. However, seven participants noted that the YESAB process has yet to fully address this issue, as it continues to rely heavily on a paper-based approach. Bill pointed out that in the interim years, between the Environmental Assessment Review Process and YESAB, there was effort to go out to communities to provide, "face-to-face discussion." And when YESAB took over:

There was less opportunity for discussion and understanding of how things happen with paper process, somebody put something on paper and somebody else interprets it a certain way. And there's no room to sort of hash out the middle ground or clarify your understandings. And so, we lost all of that and I think that was a loss. And we didn't see it come back really until, in my experience, it finally came back with Faro.

Jordon expressed frustration with the reliance on desktop studies, particularly through platforms like GeoYukon,<sup>247</sup> in identifying areas of heritage potential. They criticized inaccuracies in heritage mapping, such as mistakenly identifying recent human-made structures, like dump piles, as areas of heritage significance. This reliance on remote assessments can lead to unnecessary costs and complications for proponents, who are required to address errors through additional studies. Jordon expressed a desire for more ground-based, project-specific assessments that move

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<sup>247</sup> GeoYukon is an interactive mapping application that offers access to the most current and authoritative map data from YG. It is designed to help users explore and visualize geographic information related to the region.

beyond desktop studies to ensure accurate and practical recommendations. Jordon also noted that some mitigation efforts stemming from such processes could unintentionally worsen outcomes rather than improve them. Avery called for change, stating:

We have to start on the ground with the miners and not on a document. But everything in the Yukon seems to be permit based, policy based, document based.

Sage noted that YESAB is limited in its ability to engage with the public at times fully, due to capacity issues:

The pressures that especially the DOs are under. I think it's getting more and more difficult to do that [engagement] with the resources that they have, and I think they're exploring ways to do it better and differently. I think for, a long time the EC [Executive Committee] level screenings weren't, entirely – people that were there for a long time, would probably say this isn't true because they would have a public meeting. But, 95 percent of the process was paper-based and that just doesn't work for many, many people ...

Drew also noted that due to YESAB's capacity constraints, face-to-face discussions are difficult, stating:

... it would give assessors a bit more time to go to communities, go out to sites, and have it not be such a[n] electronic or paper-based process. I think that's the other flaw is that it's heavily western. It's 'Give us your written comments,' and that's pretty much it.

Drew noted the need for in-person discussion, stating:

Just getting people in the room and talking is just so conducive to a healthier relationship, and it made for better assessments for all.

Devon also suggested that public forums on projects could help as they could bring people together and share information:

Having the dialogue, bringing the technical teams together and really describing what it is that mining companies intend to do, it's really helpful in building relationships and understanding, right? Because you have people sitting in an office looking at a permit, making a determination on what they're looking at in a literal way. But often what's happening at site can't be achieved in that specific exact circumstance. But if you can modify the literalness of it a little, you can achieve the goal.

Devon went on to emphasize the need for “front-end” engagement, for everyone to provide input as well as listen to all the information:

You need to be engaged at this stage. You need to see how the development happened. It's so easy to take a written document and tear it apart, but it's much more informative if you can see the intent and the purpose of where people are at and how the development came to be to say we may have missed something but not have a critical eye on trying to tick boxes.

Parker highlighted YESAB's role to foster inclusivity:

The role of YESAB is to allow all Yukoners to have a voice in the development that's going on in the territory ... It's about ensuring everyone has an opportunity to voice how projects will impact what's important to them.

Some participants noted that there is still a lot of work for YESAB to do to really get public engagement on projects. Rowan noted:

As with pretty much probably 90 percent of the rest of the Yukon, I didn't realize that I could put in comments about any projects. Didn't know how you found out about projects. See them pop up in the paper once in a while.

Similarly, Drew stated:

Unless it's a controversial project, YESAB doesn't really get a lot of comments from the public. And maybe that's, like you said, maybe you don't comment until it's in your backyard, and you don't want it in your backyard. But I think a lot of people don't really know what YESAB does.

Rowan highlighted YESAB's progress in engaging the public, stating:

And people just in the past few years have been more getting to know that they could put in comments. I think before they thought it was only governments or certain people that could comment on projects. Didn't even know how to find projects or how to comment. So, it's only been in the past few years I think that that's been making a real big difference.

Art reiterated this improvement, stating:

And now I think it is becoming – and as a result of criticism they received for the recommendations I think now they are evolving to a point where they are making more demands based on real concerns raised by the Yukon people. They weren't all that concerned with that before.

Alanna also noted:

At the start I don't know if it [YESAB] knew how to evaluate comments if they weren't written in a certain way. So I don't know that there was like the understanding of how to interpret comments, particularly from an Indigenous perspective.

Through outreach efforts and accessible platforms, YESAB has made significant strides in creating opportunities for public involvement but still has a way to go. Jordon recalled a specific example of public engagement their community was involved. They emphasized a perceived lack of meaningful engagement and representation for directly affected community members. Jordon felt decisions were predetermined, rendering the community's efforts to provide educated comments ineffective and leading to disengagement over time and stated:

It felt that the decision was made before anybody even applied. That, no, no, [the project] is going to be there whether anybody has anything to say about that or not. And then after that, it was just kind of a bit of a lip service. It's, yeah, we're trying, we're having all kinds of meetings, but for there to really ever be a consideration, that maybe this [project] could have been somewhere else, and it would have been way better, I don't think that that actually really happened ...

Jordon criticized the imbalance of resources, as affected residents had to sacrifice personal time to understand technical materials, while officials and stakeholders were professionally supported. As Jordon stated, the project:

Was a very negative experience, because it was extremely time consuming. It literally filled people's lives with reading volumes of material, of scientific material, that you're supposed to understand in order to come up with a good comment, because everybody wanted to know what they're talking about. So, I think the experience of that, that it was so time consuming, whereas at the same time everybody else said, we were sitting at the table with, where people exclusively, that were getting paid to do that. It's the members from YESAB from let's say DFO, Government of Canada, or the First Nations, there's always people, like yourself and other people, they have a job to sit there all day and to understand this, and it's not taking anything out of their personal life. So, as an affected member by something that big, it took huge amounts of personal time out of people's lives, and it created a lot of, yeah, anger and frustration, because it felt like, in this case, the people that are, the only people that are genuinely and directly affected by the project, were the ones that were least asked.

Despite the criticism, Jordon acknowledged YESAB's role in providing an opportunity for public input, though skepticism remains about whether such input meaningfully influences outcomes.

Jamie emphasized that:

Education and communication with the public, including First Nations, especially First Nations, will become more effective over time.

Parker reflected on the importance of public outreach, stating:

That's where engagement by YESAB is so important to explain what they do. What they don't do more importantly and what is a constructive comment. What does that look like to really create change.

Robin discussed the struggle Yukoners have with YESAB and the need for more education stating:

Unless you're those people, it seems to be like a black box, and then, so I don't, I sometimes don't think broad Yukon understands the role that they could play in it. I think there's a trust piece there, because do we ever really see the outcomes of individual comments. There's standard people that comment on everything, because obviously they have an interest in, and they do it, and a commitment to it.

Participants also highlighted the ability of YESAB's DO assessors to foster positive relationships with local communities to facilitate trust and encourage long-term engagement.

Kirsten reflected on the value of personal connections:

The community relationships that different designated offices have tried to develop, I think those are important and valuable. I know in Dawson we knew the assessors; we could go to their office; we could talk to them. They would often phone us up if there was a challenging or really difficult project coming up and just like 'heads up, let's think about this one.' I think that's been important and I don't know for your designated office in Mayo, I'm not sure if it's been the same but that was my experience in Dawson.

Blake also reflected fondly on their engagement with YESAB assessors, stating:

And everyone that I dealt with in YESAB were professional, friendly, nice ... I get along really well with them. They're polite, they respond ... But as long as you maintain a respectful relationship with them. And the frustrations are not within their control. They are just trying to move these projects through as they can for their timeline. Very professional. Yes, lovely to work with.

Avery noted that there can be a strain in building relationships between proponents and assessors.

They stated:

But I think it's also intimidating for an assessor to have a miner come in and ask them questions. And there can be miscommunication around what people are trying to get. I think that there's sometimes a feeling that the miners are trying to get a licence and that's it. And really what they're trying to do is understand.

Although some DOs have fostered positive relationships, as outlined above, some communities have felt left out. Speaking to participants who reside in Carmacks and Pelly

Crossing (where there are no DO offices), personal visits, which are so important for relationship building, have been scarce, or non-existent. As stated by a participant in one of these communities:

It was, 'Here's the letters, you got 30 days to respond.' You don't have the ability to meet in person with them to go over the project, to ask questions with the Executive Committee. And you don't even know what expertise that YESAB has in regards to do their own assessments of the project, right ... the DOs never did come here ...

Suggestions for improvements were made by participants. Rowan suggested having a set template to help public commenters that could work in tandem with public education to get more engagement. They stated:

And I'm always saying YESAB should have templates or something because they get a lot of comments in too saying no, this shouldn't happen there. It's just making a mess, and they shouldn't be allowed and basically, that's it. But really, what YESAB needs from people is to say this is what's happened in that area previously. This is the place that only this plant grows, or these berries are picked or whatever, something specific to that area that really gives YESAB meat to look into to say OK, well, this can't happen in this area. But if you perhaps move something over, you could have something. Something for the assessors to be able to say no, something can't happen here. And this is why as opposed to well, they just said no and there's no rhyme or reason. So YESAB can't really put that in because there's, yes so, anyway. So that education piece too is important for people.

**To sum up the overall points raised by participants as outlined in this section:**

- YESAB has made significant progress in:
  - Fostering transparency.
  - Providing opportunities for public participation in assessment processes.
- Areas for improvement highlighted by participants include:
  - Increasing public education on YESAB's role and processes.
  - Offering templates for constructive comments.
  - Conducting public forums to share information and build trust.
- Participants praised:
  - Assessors' professionalism.
  - Efforts to build relationships with local communities.

- Ongoing challenges noted include:
  - Limited engagement with Yukon residents who are unfamiliar with YESAB's processes.
  - A need for more proactive communication.

### 3. Yukon First Nation Engagement

Engagement with YFNs is separate from overall public participation. YESAB has a duty to meaningfully engage with YFNs as part of its mandate to assess projects in the Yukon. The formal *duty to consult* with First Nations, however, is primarily a responsibility of the Crown (federal or territorial governments) under Canadian law, as affirmed by Section 35 of the *Constitution Act, 1982*. Parker highlights that YESAB does not have a duty to consult; that is meant to be left to YG. This is complicated, however, as Riley outlines:

Consultation is not meant to just be an opportunity for Indigenous peoples to blow off steam, that's literally a quote from the Supreme Court. And it feels like in the Yukon that's exactly what it is, because Indigenous Nations will shout at the rain about how a project should not proceed because it's going to have huge impacts on their rights. And YESAB said, 'Sorry, we can't talk to you about that. We're not interested in that, just tell me what the impacts are on the environment, understood narrowly.' And then YG will say, 'Oh, sorry, we can't talk about that. YESAB already was supposed to have done all that.' So yes, good luck.

The efficacy of fulsome engagement with YFNs during project assessment was identified by participants as an essential aspect of spirit and intent of the UFA. A total of 68 percent (24 of 35) of participants discussed YESAB's engagement with YFNs. Opinions seemed to be split on how well YESAB engages with YFNs as well as its importance. As pointed out by Michael who states:

It is so absolutely, fundamentally and it's baked into the Act and Chapter 12 is I think YESAB, we have an obligation to go to each First Nation. You have to know that First Nation and build the relationships and understand. It's not OK to do anything less than build those relationships with the First Nations on whose land decisions are being made about and engage. It's the governing principle of subsidiarity, where the people most affected by the decisions should be involved in the decision-making.

Kirsten reiterated this statement, saying:

First Nation engagement in the process is critical and I think also adapting YESAB's processes to be more functional for First Nation organizations and

governments and individuals is something that needs to happen. But whether that sways the outcome of a project or of an assessment, YESAB has to maintain its independence and their responsibility is assessing what everybody says.

Although it is mandated that YFNs will be engaged on projects, participants had varying answers as to the level of influence the Nations had on the projects. Sebastian stated:

YESAB definitely does a good job of accommodating First Nations in particular, First Nation governments, when it comes to providing input into these processes. And to that extent, yes, it does live up to its promise in Chapter 12.

Drew reiterated this stating:

First Nations are starting to influence the assessment project more. And I think they should be.

Jamie also thought that YFNs comments were influential, stating:

And so, the breadth and complexity and whatever is in those comments is going to guide how they think about things. I think First Nation comments do have quite a bit of clout with YESAB ... They're self-governing nations and they are parties to the agreements, YG co-management responsibilities. It's always important that YESAB remain as impartial as possible and take all information into account. But information exists in a context I guess and so it needs to be able to weigh the information and how it needs to integrate its evaluations.

Stephen also made a comment regarding YFNs influence on assessments, stating:

The expertise the First Nations have, the more knowledge they have in their land, the more they're able to sort of navigate with that scientific and traditional kind of components of the knowledge in their other areas. I find that, yes, that definitely First Nations are having a much bigger influence. And you can see that in the environmental assessments.

Stephen noted the recent change in YFNs comments and the impacts, stating:

I've noticed that the timelines under *YESAA* have taken longer because, even with Energy Mines and Resources and other departments, the level of intervention of First Nations is so much more sophisticated than when we started and back under the Environmental Assessment Review Process guidelines.

Participants also noted that YFNs comments are being taken more seriously by YESAB. Morgen stated:

First Nation influences is starting to play a role in regards to how they assess.

Similarly, Katie stated:

I'd say, in the past several years assessments and recommendations that have come out of the Dawson office I think have started to reflect a much more accurate picture of reality. Specifically, I believe, to Tr'ondëk Hwëch'in. They've done a better job of trying to characterize impacts to TH values, which I think is really difficult because we're trying to translate TH's culture into this western process.

This was countered by other participants who feel like not only the influence of YFNs comments is lacking but the ability of providing comments to YESAB is a struggle. Jesse shared their experiences, stating:

We're getting data from the First Nations, because, we're getting information from the First Nations, because the way that it works right now, I write comments and put it into YESAB, which is quite technical sometimes. And I think that there could be a lot of valuable information from other people. But just it's not presented in a very user-friendly way for other people to put in their comments, or their concerns.

Lee stated:

It's not being heard; it's having their comments really considered. And it's just not being considered.

Lee also hypothesized that YFNs have been hesitant to engage in the past due to trust issues with YESAB. Sage recalled a personal experienced of being told no, when asked if a translator could be present at a meeting for Elders to speak in their traditional language as a sign of respect. The response she got from fellow YESAB employees was that it would slow down the meeting too much. Sage also highlighted the importance of meaningful YFN engagement, stating:

What is the measure because if your measure is we went through all our tick boxes on your checklist, sometimes the easiest way to do that not authentically is to just go through your presentation, take a couple of questions, pack up and go to the next community. But of course, it's not authentic and you don't actually get to the heart of it.

Riley also argued that YFNs do not feel fulfilled in the YESAB engagement process, stating:

The frustration that Indigenous governments feel in participating in the YESAB process. And the frustration that NND has very detailed, painstakingly compiled submissions based on wisdom from Elders and land users about the potential impacts of a project and a sense that, YESAB reads the submission, but doesn't really grapple with the implications of the submission in their evaluation reports. And just what that means and how that feels for Indigenous

governments when a Treaty body meant to protect their Rights is in a lot of ways, dismissing their Rights. And how that can lead to kind of a cycle of further disempowerment and disillusion in the process.

Quinn reiterated this statement, saying:

But what YFNs didn't understand and don't fully comprehend even now I think is what they're doing with YFNs' comments. How they're reviewing them, how are they assessing them, how are they interpreting them, what are they doing with the information and how is it being used.

Similarly, Chrystal also stated:

When they're looking at the Umbrella Final Agreement and Treaty rights, when is enough just to say, 'Yes, First Nation doesn't want this industry.' Then why is it still approved? That I don't understand fully, as how they weigh those decisions.

Parker pointed out that YESAB's assessment process is:

... built in many different levels and it looks like information sharing right through to the political level. YESAB is often used as a political tool.

Cameron reiterated this, saying:

... the YESAB process is so public, and it's so accessible to everyone, and so I think there's oftentimes where our different bodies or governments will try to use the YESAB process as a platform for things that are really outside of what the assessment process is meant to be. And so, there's like some misunderstandings there about like the scope of what is intended within YESAB and where some of the broader concerns actually can be addressed.

Jordon also expressed frustration with how political agendas have undermined the original purpose of the assessment process:

The timely and efficient and effective assessment process is gone, because politics have taken over, and it's basically, OK, we have this legislative process, we need to go through it. So, here's our opportunity, First Nation saying, no, government's still doing it anyways, basically. But we have it on paper now through this process, and that's really all it's good for at this point.

Peyton also adds:

Because the First Nations kind of view *YESAA*, I think, as their one opportunity to get as much facts as they can about a particular project, a proposed project. In a lot of cases, the proponent has no idea.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants highlighted the complex role of YESAB in engaging with Yukon First Nations (YFNs) during project assessments.
- YESAB facilitates engagement, but:
  - The duty to consult lies with the Crown.
- This division causes frustration for YFNs regarding:
  - Meaningful input and influence in the consultation process.
  - The Crown’s claim that the responsibility to consult lies with YESAB.
- Some participants noted progress in:
  - YFN involvement.
  - Recognition of Traditional Knowledge (TK).
- Others criticized systemic gaps, including:
  - Limited trust.
  - Technical barriers.
  - Perceived dismissal of concerns.
- Overall, participants stressed the need for:
  - Authentic engagement with YFNs.
  - Better integration of YFN input in project assessments.

### **6.3 Conclusion**

The participant insights outlined in this chapter reveal a nuanced landscape of both challenges and opportunities within YESAB’s implementation of the *Yukon Environmental and Socio-economic Assessment Act*. A recurring theme is the perceived disconnect between YESAB’s Western regulatory framework and the worldviews, values, and governance systems of YFNs. While YESAB was created as an instrument of co-governance under Chapter 12 of the UFA, participants expressed concern that its current practices often fall short of realizing this vision. Structural and procedural limitations—such as inadequate integration of TK, superficial treatment of Indigenous Rights, and insufficient scoping and timelines—undermine the inclusivity and responsiveness of the assessment process.

Participants also highlighted areas of promise. Some noted recent improvements in YESAB’s willingness to engage more meaningfully with Indigenous worldviews and values.

Others expressed hope that, with time and continued pressure from Indigenous governments and communities, YESAB may evolve into a more enabling, holistic, and community-driven assessment body. However, this optimism was tempered by recognition of ongoing frustrations, including the burdens placed on Indigenous communities to adapt to colonial systems and the rigidity of YESAB's methodologies.

Critically, the results of this chapter also underscore that while YESAB operates within its legislative mandate, its decisions are shaped—and at times constrained—by broader systemic factors, including the mandates of other decision bodies like YG and the limitations of current legislation. The next chapter turns to the results found during the interviews of the third research question and examines how other institutions and actors involved in the broader Development Assessment Process influence YESAB's capacity to fulfill its treaty-mandated responsibilities under the UFA.

## **Chapter 7: Results – Institutional Constraints and Political Pressures**

This chapter presents the results found from the third research question guiding this study: How do other institutions and actors involved in the broader Development Assessment Process influence Yukon Environmental and Socio-Economic Assessment Board (YESAB)'s capacity to fulfill its treaty-mandated responsibilities under the Umbrella Final Agreement (UFA)? While previous chapters examined YESAB's internal effectiveness and its alignment with the spirit and intent of Chapter 12 of the UFA, this chapter turns outward to explore how broader political, institutional, and legislative forces shape and constrain YESAB's operations.

Participants consistently emphasized that YESAB does not function in isolation. Its ability to fulfill its mandate is deeply influenced by the broader governance landscape, including federal and territorial government priorities, shifting political dynamics, legislative frameworks, and institutional coordination with bodies such as the Yukon Water Board (YWB). Through participant reflections, this chapter examines five key areas of influence: the Five-Year Review of the *Yukon Environmental and Socio-Economic Act (YESAA)*, political and government interference, government mandates, the incomplete implementation of land use planning under Chapter 11 of the UFA, and emerging changes in Yukon's mineral legislation.

These external factors, while often overlooked in evaluations of YESAB's performance, are central to understanding the systemic challenges it faces.

### **7.1 Other Influences on YESAB and Assessments**

Participants frequently discussed how YESAB operates within the Yukon, emphasizing the external influences that shape the organization. The Five-Year Review was highlighted as a key opportunity for YESAB to enact meaningful change, but it was also cited as an example of the political pressures the organization faces. Participants also identified other areas of government and political influence, particularly mandates imposed by governments, the challenges to Land

Use Planning—seen as being hindered by YG—and new mining legislation, which is expected to impact YESAB’s efficacy. Additionally, participants noted that the Yukon Water Board, a regulatory body established under the Waters Act and mandated under the UFA (similar to YESAB), has further influenced YESAB’s capacity to provide effective recommendations.

### 7.1.1 Five-Year Reviews

The Five-Year Review marked a critical point in YESAB’s development, though it was plagued with delays and challenges from the outset. These challenges, as described by sixteen participants, underscore the need for future reforms. Peyton provided context to the review outlining that while the review was required to take place five years after the legislation was brought into force, delays in fully operationalizing the legislation (with the establishment of designated offices and regulations) meant the review occurred after only 3.5 years of operational experience. As Peyton argued, this limited the ability to effectively assess the legislation’s implementation and functionality. Additionally, Peyton also stated that:

Canada was extremely reluctant to agree to another review because it was costly. It points out all the things that are wrong and things that should be done better.

Concurrently, the nine-year review of the broader Final Agreement, which demanded significant funding for the implementation of land claim agreements, was contentious. This added to Canada’s hesitation to revisit and reevaluate such processes, including the *YESAA* review.

Right from the start, the Five-Year Review was plagued with issues. As Bill recalls:

Canada and YG wanted to delay the five-year review the First Nations said, nope, we need to get this started. And the five-year, and what you’ll hear is that the five-year review took five years and it did, there isn’t any doubt about that. There was a lot of reluctance from Canada and Yukon to move things forward. It was a Yukon Party Government throughout the five-year review ... There was extreme reluctance on their part to make any changes to address the major issues. There was refusal to, we’re not going to change the legislation. All the way through the feds were like, well, we’re prepared to talk five-year review but none of this is, we’re not prepared to change the legislation.

Drew also remembered being involved in the process, stating:

... near the end of the process, it took us a long time. And there were independent consultants who came and interviewed everyone and produced reports with about, memory serves, 73 recommendations. And this large group of people went through every single recommendation to try and get consensus

and worked all through them. And there were three or four that we couldn't reach agreement on, and it kind of fell apart at the end.

Kirsten remembers what a colleague who was involved in the Five-Year Review told her, stating, the:

... reality of that review process was that, there were all these forums that were held and YESAB practitioners from across the Yukon got together and talked about a lot of the tricky issues. Probably things that we're still talking about today ... Interesting discussions, good connections to meet other YESAB practitioners. But there was no mechanism to really action any of the outcomes and there was no funding and no resources put into 'OK we all got together, we all talked about these issues. We had some ideas about how to resolve them. Next steps. How do we bring this forward and how do we actually make real change or progress on addressing and resolving some of these issues?'

Alanna, who was involved in the review process, reflected:

A lot of the things that were looked at were more in the day-to-day functioning of the five-year review. *YESAA* and the process and problems with that then necessarily how effective has it been, because you couldn't really evaluate the effectiveness at that point because it had not – it had only been – I think the regulations had only had royal assent in 2005 or something. So it was only a year of implementation when the five-year review process started. So, it was like they took it from – they started it from the date that the Act got assent, not the regulations, so it hadn't been put into force.

As mentioned by Bill, the federal and territorial government both reiterated throughout the review process to YFNs that they were not going to make any amendments to the *YESAA*. This turned out to be false, as at the eleventh hour they released five amendments. As Ed stated, the:

Conservatives went forward and got amendments to *YESAA*, right. Without our full support or, for many cases, knowledge.

Bill reiterates this, stating:

And what did they do at the end? Yukon and Canada got together and cooked up amendments to the legislation after spending five-years, saying they wouldn't amend the legislation. Cooked up, amendments to the legislation. Separately on a bilateral basis ... They were not the ones that were in the five-year review. It was unbelievable. All of it, done in the back rooms. Meantime in the front room saying, 'We're not changing the legislation.' It was absolutely appalling.

Bill S-6, which introduced controversial amendments to *YESAA*, was strongly opposed by YFNs. In response, YFNs united and traveled to Ottawa to meet with Members of Parliament,

voicing concerns over the bill's impact on trust and the deterioration of relationships between the Crown and Indigenous communities. Peyton detailed the origins of Bill S-6, noting it was introduced in 2013 by Yukon Senator Dan Lang of the Conservative Party. The bill was part of a broader Harper government initiative to weaken environmental protections across Canada. In an unusual move, Lang advanced the bill through all three Senate readings before submitting it to Parliament. This approach aligned with the government's broader strategy, which included repealing or reducing the effectiveness of key environmental laws such as the Canadian Environmental Assessment Act, The Fisheries Act, and the Species at Risk Act. Bill S-6 also proposed significant changes to *YESAA*, drawing widespread criticism for undermining environmental oversight and Indigenous rights.

Bill recalled being a part of the group of YFNs representatives that went to Ottawa. He stated:

I went to Ottawa on a lobbying trip related specifically to those amendments before they were done. And again, there were 12 First Nations represented on that trip. With senior leadership with Chiefs and Deputy Chiefs in Ottawa, on that particular matter. We were there for a week. We had something like a dozen meetings with various politicians. We met with Thomas Mulcair and Elizabeth May. We didn't meet with Trudeau because he was out unexpectedly. We had a planned meeting; he was unexpectedly away from the territory at the time. We met with Dominic LeBlanc. We met with Carolyn Bennett. Yvonne Harris. And the MP from here, of course. And the minister of, Bernard Balcors, who was the minister of CIRNAC [Crown Indigenous and Northern Affairs Canada] at the time. And so, we were there it two weeks before Christmas. It was 2014.

Peyton also recalled the fight that YFNs had to engage in to preserve the integrity of the Treaty relations. They described how the amendments were viewed as violating Treaty obligations, as they proposed unilateral changes without full consent from all parties. YFN emphasized that *YESAA* is Treaty legislation, requiring the Crown to act in good faith and consult meaningfully, but consultations did not resolve disagreements over policy shifts aimed at fast-tracking development and limiting environmental assessments. Peyton stated:

And so we went there, we were – all the First Nations were involved, spoke up about the integrity of the Treaty, the need to act in the Honour of the Crown, pointing out this is a partnership, it's not one party just unilaterally deciding to change things. All that was ignored, and they still proceeded with it.

Bill, Peyton, and Drew recalled that, fortunately for YFNs, it was an election year, and when the Liberal Party came to power, they fulfilled their promise to repeal Bill S-6.

Despite its challenges, the Five-Year Review led to some progress within YESAB, as noted by Bill:

With respect to YESAB, as the five-year review progressed, there were definitely changes they [YESAB] made as that progressed, they sort of realized, ‘Oh, these are issues that we need to fix.’ And so they made some changes. I don’t even remember what they were but, they didn’t necessarily even announce them. They just sort of tinkered away at things to address some of the issues that were raised as the five-year review progressed. And so some of those things might have been in the final report or they might not have been because they didn’t need to be anymore or whatever ... you hear a lot of people say, the five-year review was not a useful endeavor, it took too long and it was too much work. I’m not necessarily of that view ... ultimately, I think there was a lot of good discussion, there was a lot of issues identified.

Another aspect that came out of the first Five Year Review was a Memorandum of Understanding that was signed between YG, Canada and YFNs that another Five-Year Review would be conducted, starting in 2027. Many participants expressed hope that this Five-Year Review would be more fruitful and provide legislative changes. Although YESAB is making strides in its attempt to become more effective, the Five-Year Review is an opportunity to amend the Act which would create lasting legal change. As Lee states:

First Nations often forget that their agreements are not with Yukon. Their agreements are with the feds. And the feds are the ultimate authority. If they want things to change, they need to deal with the feds and the five-year reviews. Change the legislation and change what needs to be changed. You’re not going to get that change working with YG.

Sage outlined the importance of possible legislative changes as it could address structural issues within the *YESAA* board and Executive Committee. They suggested revising the current division of representation, which is structured as one-third each for three parties. This structure, while intended to ensure balance, can easily result in a two-thirds versus one-third dynamic, leading to imbalances. Rewriting the legislation could create a more equitable and functional framework for decision-making.

Discussions around the Oversight Committee<sup>248</sup> revealed differing perspectives on its effectiveness. Ed reflected on its purpose, stating:

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<sup>248</sup> The Oversight Committee was established as part of the 2017 Reset Memorandum of Understanding (MOU) following conflicts over amendments to *YESAA*, particularly Bill S-6. This committee plays a critical role in monitoring the implementation of *YESAA* and ensuring collaboration between YG, Canada, and Yukon First Nations (YFNs). Government of Canada, “Impact Assessment Act,” c. 28, S.C. 2019 § s.1 (2019).

There is an Oversight Committee, for getting it back to what it's supposed to be. Canada sits there. Yukon government sits there, and First Nations sit there. They have a couple of technical working groups under it ... Start the process of trying to rekindle more collaboration, and a better relationship with First Nations.

Ed also stated that the establishment of this body was, "a work in progress." Avery argued against the effectiveness of the Oversight Committee, stating:

I haven't seen them do anything meaningful in the last eight years, that's not good when we've got such problems and there's no change happening.

**To sum up the overall points raised by participants as outlined in this section:**

- The Five-Year Review of *YESAA* highlighted:
  - Critical challenges and opportunities for reform.
  - The need for more effective processes and collaboration.
- Challenges faced included:
  - Delays.
  - Limited operational experience, which hindered success.
- Participants acknowledged *YESAA*'s role in:
  - Identifying issues.
  - Fostering discussions.
- The contentious amendments under Bill S-6 highlighted:
  - The importance of Treaty obligations.
  - The necessity for meaningful consultation with Yukon First Nations (YFNs).
- Despite setbacks, there was progress made within YESAB.
- The Memorandum of Understanding (MOU) set the stage for a future review in 2027.
- Participants expressed hope that this review will:
  - Address structural issues.
  - Enable a more equitable and effective assessment regime.

### *7.1.2 Government*

As highlighted earlier, six participants emphasized YESAB's neutrality as a key factor in its effectiveness. However, 63 percent (22 of 35) of interviewees also noted the significant influence

exerted by various government bodies on the organization. Jordon highlighted the role that government and politics plays in YESAB, stating:

What has happened over the last 15 years with YESAB is, that it has turned exclusively into a vessel for political differences.

While the role of YFNs in shaping the assessment process was explored in detail under section 1.4.4.3.2, *Yukon First Nation Engagement*, this section focuses on the influence of colonial governments. Specifically, it examines the impact of political party platforms, election cycles, government mandates on YESAB's recommendations, involvement in Land Use Planning, and the development of new legislation, particularly in the mining sector.

### *7.1.3 Elections and Political Parties*

A total of 63 percent (22 of 35) of participants spoke about the influence of government through elections and political parties. Among these, approximately 72 percent (8 of 11) of the participants affiliated with YESAB mentioned this influence, while 60 percent (9 of 15) of those connected to the YFN Lands Department did as well. Additionally, four out of five participants from the mining industry acknowledged government influence, along with one employee from an NGO and three lawyers. The impact of political parties and elections was also briefly discussed in the previous section regarding the Five-Year Review. In that section, participants mentioned the role that the Conservative Party of both Canada and YG, were the leading forces behind the proposed amendments that YFNs saw as a violation of Treaty promises. Bailey stated:

At the end of the day, we saw that with [Bill] S-6 and then subsequent change of government at federal level and then the repeal of S-6. So, that would indicate that there's the ability for our political players to have a major impact on YESAB going forward. So, to assume that will never happen I think would be unrealistic. I think we will see that.

As discussed above, six participants argued that the timing of Bill S-6 was advantageous, as it was overturned by the Liberal government that was voted in before the amendments could take effect.

Elections can also work against effective change in YESAB, as with elsewhere. Jamie stated:

Our political system is built on this version of democracy, and it's got this four-year cycle. It's all – everything's short-term in market, especially with mineral industry, the market is so volatile. The responses are needed immediately in order for it to function in the system. But the system itself is not sustainable.

Stephen similarly stated:

Election cycles are probably the biggest potential downfall of us, is that decision makers are on an election cycle, and they're not necessarily on a career cycle or anything.

Peyton also discussed the limitations of the election cycle, stating:

Political parties often make decisions on such a short-term horizon. OK, we're in office for five years because it's part of the devolution change in the Yukon Act, which extended their term from four to five years. So, they're just there for five years and not really looking at the long-term consequences.

Four participants discussed the change in how colonial governments interacted with YESAB when the elections brought in the Liberals. Cameron stated:

When it went from the Conservatives Yukon party over to the Liberals there was definitely a shift in looking at better consideration of First Nation Rights and Self-determination. And so that was a notable change.

Cameron did go on to state that they do not think this shift will happen in the next election as the circumstances are not the same. Another participant disagreed that the Liberals brought in any real change, with Tim stating:

The Liberals talk up a good line about First Nation collaboration and they go through the motions. More than the Yukon Party would have bothered to do but it's really all for show. And when it comes to basic values and the way the land is managed, they're really no better than the Conservative Government.

Three participants discussed additional areas of political influence around the appointment of board members. Sebastian pointed out that:

Board members are appointed by cabinet. And so, they can definitely reflect the political thinking of the day. And at a Designated Office level, that doesn't make much of a difference, but on the larger sort of Executive Committee projects, it certainly can colour things.

Similarly, Katie stated:

... who gets appointed to YESAB as a Board is decided by political parties at the end of the day so it's impossible for there not to be some influence, to be honest.

Bailey added:

There are political players who do not like YESAB because they can't control what they do. Now the political players might still try and control a bit through

talking to the chair or the appointments of the board members, the Yukon government, the federal government and CYFN [Council of Yukon First Nations] nominate people to be on the board. But it's the federal government who actually makes the appointments which is good.

Funding was also mentioned as a political influence. As Sage noted:

For sure the whatever federal party is in power will, dictate things for us because that's where the funding comes from. And they could decide to rewrite legislation in any number of ways so that will also –, that would dictate it.

Bailey added:

And dare I say before we have an election next year federally, it's probably a very good thing that the money is locked down now because a different government might have a different view.

Rowan elaborated on this stating:

So going forward, I can see that YESAB is going to have a lot of struggles along the way with government changes because they have a couple of elections coming. And of course, with that means some parties are very promising and let's get things going. And so YESAB gets reduced funding and our funding cuts because they want to see things happen. And then them trying to bulldoze their way into processes and most of the time getting their way. And it really makes a difference with staffing and how staff think.

Parker argued instead that funding was not tied to political influence, stating:

YESAB's very unique. It has an independent funding stream from Canada. Not the territory it. I can personally speak from experience, that is truly third party and it's very refreshing ... influence is like political meddling doesn't happen, it's great.

Funding is an important aspect of how YESAB can function, as Michael stated:

Who or what do you think influences YESAB assessment process the most? And then you have who, what, should and why. My answer to the first part of that question is money. Money influences and my mind hit a full stop on that. And it annoyed me. I was frustrated in my response, my thinking. But when I was with YESAB, I saw that our budget did not allow for us to do the work that needed to be done. The complexity of the interrelationships that needed to be addressed, the engagement with First Nations, the engagement with Yukoners. The work that needed to allow the board to learn together with the communities across the Yukon. The money was not there to do that. So, without the kind of money that would allow that, then you were only able to do what you can do, which is not enough in my opinion. To meet the intent of Chapter 12 and the Act ... YESAB needs money for more people. YESAB needs money for more transportation, more meeting time, more time to learn together to

create that ethical space. And to achieve the guarantee of full participation by First Nations in these processes.

Sage also added:

Yes, yes and funding. Funding is a big deal. Like you probably got a sense of that too. Like all the assessors are working so hard, like the 200 assessments a year about and five at the EC, [Executive Committee] between three – , zero or five at the EC level, one panel. And so, Mayo and Dawson are just flying all the time and there's no – Canada has recently – my understanding, they are approving more funding for more positions. And that's great and that should've happened like four years ago, right, because the number of assessments isn't necessarily – I pulled some stats on it. It's not necessarily going up but the complexity and the sensitivity and I think we're in a place of reaching the thresholds in this territory on many levels, right. So, all of that is playing into a lot more work to really capture and weigh the comments that are coming in.

Colonial government influence has also been mentioned in relation to YG as a Decision Body. As Ed stated:

If government is pro, if there's a political party in office, running the government, which lays pro-mining, no holds bar, The old bar, no matter what YESAB says, or what we [YFNs] say, and we've seen it happen in this territory many times. Nope, we're gonna do it anyway.

Kirsten added to this stating:

Ultimately, if the Decision Body is the government, I don't know how that will play out, I guess. I mean, bureaucrats are meant to be kind of neutral but that's not, we know the reality. That's not the case.

Morgen reiterated a related sentiment, stating:

That influences their [YESAB's] review process, political leader, they stress that, the importance of having mining in the territory and promoting the efforts that's out there.

Stephen also noted:

Sometimes it's a little bit too convenient, for sure, when departments craft outcomes of assessments to fit within their regulatory regime.

Referring specifically to a more conservative, or right-wing government influence, Riley stated:

I think in terms of appointments at the leadership level, Conservative appointments may be even less willing to undertake a [Aboriginal] Right's

based assessment and may be even more willing to kind of rubberstamp approvals and issue recommendations that projects proceed.

Stephen also hypothesized about possible changes to YESAB with a Conservative Government, stating:

More right-leaning governments go into place; they see the metrics of what's a successful assessment regime is shorter timelines and more favourable outcomes for projects.

Avery argued that the Premier should have more say in project advancement as they are a political representative chosen by the Yukon at large and stated:

Premier will eventually be re-elected and whether it's the same one or someone different, at least that's a structure that allows fair choosing from all Yukoners. And if most Yukoners are anti-industry, which they are, and it continues to go precautionary, that's fine. We'll just lose the industry. But that's the decision of the majority of Yukoners.

Peyton argued against more territorial control, stating:

I think the key for us, though, is ensuring that that legislation remains federal and not territorial. Because if it ever becomes territorial legislation, then it can be changed by the government of the day, which could be the Yukon Party.

The influence of political parties and elections on YESAB highlights the challenges of maintaining neutrality in decision-making processes. As Peyton stated:

It's just that the political parties can have such an influence.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants recognized shifts in government priorities.
- Many expressed concerns over:
  - Short-term political agendas, particularly those aligned with pro-mining interests.
- Key areas where political influence shapes YESAB's operations include:
  - Funding.
  - Appointments.
  - Legislative control.
- Participants emphasized the importance of:
  - Preserving federal oversight to prevent undue territorial control.
  - Safeguarding long-term sustainability and treaty commitments.

### 7.1.3.1 Government Mandates

Government mandates, which provide directives to government agencies or bodies by defining their responsibilities, objectives, and authority, have been identified by 10 participants as key factors influencing YESAB's recommendations. Only 27 percent of both those affiliated with YESAB (3 of 11) and YFN Lands Departments (4 of 15) thought that government mandates were significant. One lawyer, one NGO employee, and one person in the mining industry also spoke to this issue. Mandates related to climate change awareness, cumulative effects, mining expansion, and wetlands preservation have all received increased attention in YESAB assessments. Participants noted that this shift reflects YG's growing focus on these areas.

One mandate is climate change that has become an increasing concern for Yukoners, prompting YG to implement measures aimed at mitigating activities that contribute to its effects. For the most part, participants thought that as of right now, YESAB has not fully considered the effects of climate change. Some participants hypothesized that this would change soon as climate change becomes impossible to ignore. Taylor stated:

Over time, government will start to say, well, shoot, we got to be carbon neutral by 2034. How are we going to do that? I guess we better start putting those caveats in licenses that say you can't mine in wetlands.

Parker also suggested increasing efficacy in climate change considerations:

Shifting the conversation from climate change to greenhouse gas emissions is a helpful way to approach that, especially on a project basis.

As discussed above, participants for the most part discussed YESAB's inadequate response to considering cumulative effects in their assessments. Some participants noted, however, that this is changing, with YG creating cumulative effects biologist positions within their Department of Environment. As Sebastian pointed out:

That's a result of the Canada Yukon Nature Agreement. Yukon has leveraged that to put more resources towards figuring out cumulative effects assessment.

Lee added:

Like the cumulative effect stuff was pushed by the feds. They're the ones that changed legislation and pushed it down. It wasn't the Yukon government because the Yukon government has a totally different view on it. So that was how all that change happened.

Also as discussed above, some territorial governments may help facilitate the mining industry, creating mandates that would foster the growth of the sector. As outlined in Chapter 4: Context, the mandates of Government of Yukon's Energy Mines and Resources are centered around mining. Although YG's decision documents do not have direct influence on YESAB, it does relate to YESAB's overall efficacy as their recommended mitigations could be changed or rejected more frequently. As stated by Sebastian:

We have different departments and different branches within the departments that put together comments sometimes but also have different abilities to make rules as well. And the Decision Bodies from within the Yukon government is almost entirely within one particular department, within one branch of one particular department. And that branch has the ability to propose mitigations that the Department of Environment, for example, does not.

**To sum up the overall points raised by participants as outlined in this section:**

- Both federal and territorial Government mandates can shape YESAB's recommendations.
- There is an increasing focus on:
  - Climate change.
  - Cumulative effects.
  - Wetland preservation.
- While progress is evident in some areas, participants noted:
  - Gaps in addressing climate change.
  - Gaps in addressing cumulative effects.

#### 4. Wetlands

Eight participants highlighted wetlands as an important federal and territorial government mandate, indicating the need for a dedicated section to discuss its significance. For four out of five participants in the mining industry, wetlands were a contentious issue in assessments. However, this topic was mentioned by less than 20 percent of participants from both YESAB (2 of 11) and the YFN Lands Departments (3 of 15). In 2022, YG released *A Policy for the Stewardship of Yukon's Wetlands* with the goal of "ensuring the benefits of the Yukon's wetlands are sustained." Prior to the policy's release, YFN Governments comments started focusing on

wetlands, highlighting their heritage importance. This in turn pushed YESAB to start considering wetland preservation in their assessments.

Katie, who worked for YESAB in 2014, noted the change a decade ago, stating:

2014 was unique with how YESAB assessed impacts to wetlands in the Indian river valley. That's where things really started to solidify, I think, in YESAB's methodology. So, prior to 2014 I think the status quo on mining in wetlands – and I'd have to look back at this – would have to be validated – was more “avoid them if possible”. I suspect they did find significance, but it wasn't at the scale that switched in 2014. Whereas in 2014 there were so many assessments coming through in the Indian River Watershed -again, I think because of that surge - that YESAB started to look at it and say “whoa whoa we have to look at this from a cumulative lens”. This is a cumulative impact we're seeing. And in 2014 YESAB began determining that the significant adverse effects to wetlands can only be mitigated if you do not mine the wetlands. It was a pretty big deal at the time because I think the regulator was a little thrown off by it. So, we saw that shift and I do think that it was strongly tied to comments we received from TH at that time.

Similarly, Kirsten noted:

There's some things like consideration of activities in wetlands. I think YESAB has really elevated that and I think that change has been influenced or motivated by the commentary or the public comments that various parties, largely First Nations, have provided.

Wetland preservation has also become a federal government mandate, as Avery noted, stating:

... the Canadian federal government gave, I would have to look up my stats, but it's in the magnitude of billions of dollars to groups like CPAWS, Ducks Unlimited, other organizations to protect wetlands. Because that's critical in most of Canada, but there's money involved and so that's making it an issue here.

Taylor also noted the rise in wetland considerations, stating:

If you'd asked somebody 10 years ago, what the significance of wetlands was in climate change, I don't think very many people could tell you that wetlands sequestered carbon. And that's why you don't want to mine in wetlands because they are sequestering carbon, which is keeping the global warming at bay. So, people might tell you, oh, we don't want to destroy the Indian River because it's pristine. They might've said that 10 years ago. Today they'll say there's fens and bogs there. And those fens and bogs sequester, a certain amount of carbon. And if we get rid of the wetlands, we're increasing global warming. We didn't know that 10 years ago.

Blake recalled when they started seeing a rise in wetlands related considerations in YESAB information requests, stating:

It's been the last three years. So, when I started doing this, proponents didn't have to answer any questions about wetlands. But now it's definitely a key issue that you have to answer questions about wetlands.

The rise in wetland consideration in assessment, has added complexities for proponents in the mining sector. Jordon noted that sometimes, the available resources are inaccurate, recalling a personal experience, outlining that the:

Desktop assessments of certain areas entirely based on LIDAR<sup>249</sup> images ... There's certain areas that are outlined, where clearly, like these north facing areas in the winter time. If a little bit about the Yukon, there's a lot of glaciation and overflow happening. So, these creeks freeze right down to the bottom, the water trickles over top, and over the course of the entire winter, it forms a ginormous glacier, just like it does everywhere. In the spring that glacier, or in the summer, that glacier will slowly go away, but it leaves marks in the moss, and areas where that it resembles where, OK, this has glaciated in the winter time, but it is bone dry, and it is so far from being a wetland that, again, anybody that would go there should be able to tell this, because it's completely dried out. Yet, there's a wetland polygon there, just because of somebody making the assumption that, oh, looks a little bit different there, there must be wetland, wrong. So again, it can make or break a project, and often it is not based on reality.

Blake also added that although there are resources to use to identify wetlands, they are not always available to the public, citing the Ducks Unlimited Map. Avery also cited that Tr'ondëk Hwëch'in had a map that was not made available to the public.

This has had impacts on proponents, as Blake highlighted:

The applicant is presented with an information request and all of a sudden, a map is presented of where the wetlands might be on their project area and they have to answer for it. And then it's coming up in the decision document that they have to avoid mining in wetlands. But where avoidance is impossible, they have to follow reclamation as per the Ruby Creek guidelines. So now we have to put in wetland reclamation plans with the applications. So, it's an added step that makes the process longer for them to look at it ... The fact that the wetland information isn't public is sort of problem for people. If you're going to make

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<sup>249</sup> LIDAR (Light Detection and Ranging) is a remote sensing technology that uses light in the form of a pulsed laser to measure distances to the Earth's surface. By collecting and analyzing the emitted laser beams, LiDAR can create precise, three-dimensional maps of various terrains and structures, making it invaluable for applications in geology, forestry, and urban planning.

miners account for wetlands and include this in their plans, the data needs to be added to GeoYukon so it's public.

Jordon also noted:

So, heritage wetlands, those are the new big words, right. And YESAB, and in an assessment in general, and there's a lot of power behind these things, right. It can make or break a project immediately, especially if you're not a big company that has deep pockets to afford to do a Heritage Resource Impact Assessment.

The lack of clear policy can create confusion. Katie outlined that there are reasons that some wetland maps have not been made public, stating:

So, when YESAB started to recommend that placer operations don't mine wetlands, that was a huge shift in assessment and permitting. As a result, the regulator had to really consider the assessment and in the end, that recommendation was not accepted and was instead modified. To date, I am not aware of any of those recommendations where YESAB explicitly asked for wetlands not to be disturbed being accepted. However, because of that shift, I think it suggested to industry that any mining in wetlands is going to be a big deal when it comes to assessment and permitting. What we observed was that some operators who had existing wetlands on their active permits started stripping them right away as long as they had an active permit because when they went through YESAB for a renewal, they didn't want to have the presence of wetlands being a significant factor in the assessment. So, then we started seeing applications a couple of years down the road from 2014 saying, "the wetland on this claim block has been stripped". That was a really brutal feeling, to be honest, as an assessor, and is still a really brutal feeling because you felt like that good intention backfired. You were trying to do something really good but by signalling that this is a value that's important, while simultaneously maintaining someone's rights to mine those values, you kind of just expedited or accelerated their demise. And that is brutal. It's a brutal reality.

Impact on proponents in the mining industry were further elaborated on with Avery pointing out that if there are rules around wetlands, they need to be defined with more clarity, stating:

And what is allowed for change? We don't have any good rules around that. There is a policy. It's not being followed. There are a whole bunch of people who are claiming that they know exactly what it should be. But none of the people are agreeing on what that looks like. It's really frustrating as the operator to have no guidance but way too much guidance at the same time. Nobody's willing to take accountability for saying yes you can do this or nope you can't do this. It's just no until. Well, until what? When are we going to get to that point? That's really frustrating.

Katie reiterated the need for more clarity, stating:

The wetland policy itself doesn't give anybody any clarity anywhere. I don't know – if I was a placer miner, if I read that, I'd be like “OK. What do you want me to do?” Similarly for YESAB, I know they're like ” what do I do with this information?” I know that they haven't changed their methodology based on it because it doesn't change anything, which I think is a very good measure of it probably not being very effective.. And I know that's what we often hear: it's vague and it's high level but it's all about its implementation. OK, well then let's see it. Let's see it work out then and start making some new rules to protect wetlands.

Avery also argued that wetland changes should not be viewed as negative. They stated:

... identifying wetlands is different than saying that there's going to be harm to them. And what is harm? And isn't it just change? ... landscape diversity, sorry, increases biodiversity. Dominion Creek was more of like a fen type atmosphere before and now it's a pond. So it won't have the things that a fen has, but it does have things that that area would never have otherwise which include a lot of songbirds, swans, different types of things that can live in ponds that didn't exist in that area before. All of the area around it, so if you go one valley over two valley over three valleys for like kilometres and kilometres and kilometres are all fen. So it's not looking at destroying all of the fens, it's just saying we're going to change some of this. Because it's got a big economic benefit, and I think that there's other benefits as well as economic. But that's what we mean by there are benefits environmentally from doing mining if you can look at it without stopping change it will never be exactly the same, but that's OK.

**To sum up the overall points raised by participants as outlined in this section:**

- The evolving focus on wetland preservation has significantly influenced Yukon's assessment and permitting processes.
- Key drivers of this focus include:
  - YG's 2022 wetlands policy.
  - Earlier advocacy by First Nations.
- YESAB has been prompted to address wetlands more comprehensively, because of the federal and territorial government mandate and YFNs push.
- Challenges noted by participants include:
  - Vague policies.
  - Inconsistent guidelines, which have frustrated both miners and assessors.
- There is a need for:
  - Clearer rules regarding wetland policies.

- Perspectives on wetland preservation vary:
  - Some view it as critical for climate change mitigation.
  - Others argue that wetland changes can provide economic and environmental benefits.
- To balance economic and environmental interests, participants emphasize:
  - The importance of transparent policies.
  - Public access to wetland data.
  - Clear implementation strategies for effective preservation.

### 7.1.3.2 Land Use Planning<sup>250</sup>

Of the 35 participants, 20 emphasized that Chapter 11 of the UFA, which addresses land use planning, works closely with Chapter 12: Development Assessment Process. A total of 66 percent (23 of 35) of participants discussed land use planning, including both NGO employees, nine people who work for or have worked for a YFN Lands Department, seven affiliated with YESAB, two in the mining industry, and three lawyers. The development and implementation of land use plans are influenced by Yukon Government’s mandates, which either support or neglect their creation and application. Participants expressed concerns that YESAB’s ability to fulfill the spirit and intent of the UFA has been significantly hampered by the absence of land use plans in the Traditional Territories of the Tr’ondëk Hwëch’in and Northern Tutchone Nations.

Participants consistently emphasized that land use planning was envisioned as the foundational framework for resource management in Yukon under the UFA. As Ed explains, negotiators of the UFA were under the impression that:

Regional Land Use Plan would be done first. Because they’re the hinge pin for everything, all those other processes that come out of the Land Claim, were based on our premise and firm belief that that’s what’s going to be done first ... It’s unfortunate that these things didn’t come out in a sequence or order that we thought it would. It’s kind of going backwards. It’s doing exactly what we wished would not happen, which is predetermined land use with the absence

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<sup>250</sup> This section will focus on how YESAB is affected by the lack of LUPs. For more information on the process of LUP in the Yukon, please refer to: Fraser, “Finding Common Ground: Exploring the Relationship between Regional LUP and Dev. Assessment in the Yukon”; Staples et al., “Fixing Land Use Planning in the Yukon Before It Really Breaks.”

of evidence and contribution by local populations and all that sort of thing. Which is a shame.

Similarly, Casey noted:

We're going backwards in those processes trying to retrofit principles and guidance to what's the reality on the ground. And that's not strictly YESAB's problem.

Robin reiterated this sentiment, that Chapter 12 is hindered by the lack of Chapter 11 implementation, stating:

Chapter 12, the structure failed because Chapter 11 wasn't fulfilled. Because when you read the language, they're integral to each other. As is all the other Chapters, but those two especially, there's such a link to the function that they both need to do to make them both really functional. And that doesn't exist, in some cases there are, but even in the existing land use plans that are out there, there isn't these ongoing commissions, there's not a clear conformity. There're all these still continued gaps, even in the implementation side of things. So again, it's like your foundation is crumbling before you even start.

Jamie also stated:

Land plans should be there and YESAB should be the way of implementing those plans on a project-by-project level. I think that's a pretty key piece that's not there at all. So, there's a failure where it's – and that's not YESAB's fault. YESAB was like the first thing to come in whatever, 2005 was it, but that's not YESAB's fault but because it doesn't have land plans to look at and back to Michelle Creek, when it does, it gets taken to court when it actually adheres to the plan, makes an assessment based on a land plan ... there are some key elements that are missing and the whole integration of how Chapter 11 intersects with Chapter 12 is missing just because Chapter 11 isn't implemented.

Five of the 20 participants pointed out that with the upcoming election both federally (2025) and territorially (set to happen in either 2025 or 2026), the land use planning process in both Dawson and the Northern Tutchone region will be delayed even more. Art stated:

It's partly because YG does not really believe in land use planning. And not only the Yukon Party and you saw the fiasco they created in the Peel Watershed Plan and I think it's the same with this government too. That's why they haven't approved yet or haven't responded to the recommendations of the Dawson regional plan that's been sitting on their desk now for over a year. I personally believe from a clinical standpoint they don't want to touch it, come up with a decision until the next election.

Tim pointed out that the land use planning commissions for both the Peel Watershed and North Yukon (the only two regions to have finalized and implemented land use plans) should be responsible for ensuring projects adhere to the land use plan, have been dissolved once the land use plan is complete. They explain:

The difficulty with that is that where you have land use plans in place which is the North Yukon and Peel, the Commission has been disbanded. So, it is not even in place to make those conformity determinations. Which isn't too serious in the Peel or your North Yukon because there's so few projects. But now this issue is being approached in the Dawson planning process and the Dawson Planning Commission with the encouragement of the First Nation has recommended that the Commission remain in place to make conformity determinations, which is exactly what's supposed to happen under s.12.17. But the Yukon government, even though it's shall language in s.12.17, shall request the commission to the Yukon government is saying. 'Well, look, we can't really agree to that unless the Federal Government agrees to put out funding to maintain the commissions.'

Similarly, Robin stated:

Fundamentally the final agreement says that a commission will be ongoing, and that is their role. But there continues to not be agreement on that, supposedly from YG, it's a funding issue, but that doesn't make a ton of sense.

Participants expressed concerns about the incomplete and ineffective implementation of land use planning, highlighting that this creates a disorganized and inconsistent framework for YESAB to conduct its assessments. As Drew highlighted:

The absence of land planning, so regional land use plans, has always hurt YESAB, and is only going to get worse because YESAB is all that's there. But it's always project by project, and YESAB doesn't have this larger map of how to manage the resources, availability of land, and all of those pressures ... it's driving assessors to recommend that projects don't proceed.

Parker highlighted that the absence of land use planning puts added pressure on YESAB, stating:

YESAB's role is not like Section 35, it's not Land Use Planning. YESAB often gets used. YESAB is like very early on the process step, two, after Land Use Planning. So, they're used as a political tool for many projects and I 100 percent understand why. It's just like YESAB keeps getting all these comments and proposals that are like, so big in nature that are trying to fix the systematic like the Yukon context within the assessment process.

Chrystal hypothesized how land use plans can help YESAB, stating:

YESAB basically has a working checklist (from an land use plan) that they can decide if it's hit the threshold, if they have updated data on how much is disturbed in that landscape. So, at least it's a recipe that they can follow, and it's also very transparent, because it's gone through public consultation and it's been shared with the industry, it's shared with First Nation, and it also has public interest.

Stephen also discussed how land use planning could impact cumulative effects that YESAB struggles to address, stating:

There's a huge amount of cumulative effects in baseline data collection, which really were not just about areas that mining companies want to go into, or people want to go and develop. It was about identifying key ecosystems. Now, there just isn't that emphasis by Yukon governments or others in the resources in order to undertake that kind of work. So there needs to be more on resources and recognition of the value, the incredible value of intact ecosystems, but also the recognition that ecosystems change over time. And development may be one of the changes, things that change it, but it doesn't necessarily, if you think of long-term, and we think of 100 or 200 years out, you don't necessarily have to have an ecosystem that is permanently destroyed. And in fact, you may be able to have an ecosystem that's changing over time, but it's still valuable.

Parker stated:

Without Land Use Planning it's pretty tough because YESAB's not gonna fix Cumulative Effects ... there'll be more evidence in a regional aspect, that YESAB can use. Because like right now we're faced without a Land Use Plan that has thresholds. It's a hard determination for YESAB to do like when is enough, enough? Is that even YESAB's role to determine what they're looking at? Because there's the procedural fairness side of things on the proponent. Again, a balanced mandate. So I think it'll help exponentially.

As Sebastian hypothesized that when land use plans come into play:

As time goes by, things will become more easily defined for YESAB. It'll be not automatic, but more sort of templates for how you address different projects will be able to be developed because we'll have better ground rules ... questions such as what does adequate baseline mean get answered, in some ways, these processes will become easier for YESAB, and when thresholds are developed it will become easier, things will become easier. We'll have a better idea of where projects are acceptable and where they're less acceptable.

Jordon argued that land use plans could help proponents, stating:

I still would like to see goal posts. Right now, it's a shot in the dark. If somebody would only say, 'Here, aim for this. Don't go there. Don't go there. Here's your goal post. If you aim anywhere in the middle here, that's cool.'

Right now, it's just you don't know what you're allowed to apply for, and how you're being seen for applying for it. Because there is no land use planning ... think that's really the people that suffer the most from it, are the small proponents, for sure. The big companies, they can navigate it. They have people on staff that are, have positions, paid positions that do nothing else but deal with it. But the little guys, the ma and pop placer operations, or the guy that wants to build a trapline cabin, and still has to go through YESAB ...

Avery outlined how a lack of an land use planning is impacting proponents now, stating:

Land use planning should be a guide on how we can use or not use certain areas of the land, but that hasn't happened yet. We can't just stop and pause everything in the Yukon until land use planning has been completed across the territory because we won't. But that's what's happening and so we're not able to even move forward a little bit on any of these projects. Everything is so precautionary principle that there's no – we're losing miners. People are leaving because there's no movement happening in the regulatory framework.

Cameron hypothesised that land use plans will add greater expectations for proponents, stating:

Make sure that like in order to streamline it in some way, make sure that people are looking at the land use plan, that they understand which aspect of the plan apply to their project, and build that into their project proposal. So, it's like the land use plan is another planning tool that proponents are going to have to familiarize themselves with to – like to inform their project proposals and what they're putting forward.”

Kirsten also hypothesized about how land use planning will affect proponents stating:

Proponents would need to familiarize themselves with the plan and build those considerations and mitigations into their project proposals. But yeah, the plan has to mean something, right, so proponents will be expected, I would think, to uphold that in some way. And then proponents can then – then a system that supports the plan would have to do that work.

Alanna emphasized the importance of ensuring that plans are strictly followed once implemented, noting that their past experiences revealed a lack of adherence to such plans:

I noticed there was like projects were being put through, particularly in the Fish Lake area<sup>251</sup> that did not align with the plan but they were still going through the assessment process and being recommended to approve even though a plan – it was contrary to a plan that had been developed. So, I saw a disconnect between kind of policy direction of planning and people using the assessment process as a political tool to push projects through that would not be approved. And so, in that timeframe there was actually like the first rejection from Yukon

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<sup>251</sup> Alanna explained that there was a local plan for the Fish Lake area, near Whitehorse.

government for something for the reason of it not aligning with the plan. But the assessor didn't know how to deal with plans which was really interesting.

**To sum up the overall points raised by participants as outlined in this section:**

- The effective implementation of land use plans under Chapter 11 of the UFA is crucial for:
  - Creating a coherent framework that enhances YESAB's ability to fulfill its mandate.
- Participants emphasized that the absence of land use plans leads to significant challenges, including:
  - Inefficiencies in the development assessment process.
  - Delays in assessment and decision-making.
  - Uncertainty for both assessors and proponents.
- land use plans could provide:
  - Clear thresholds and guidelines for resource management.
  - A crucial tool for addressing cumulative effects.

### 7.1.3.3 New Legislation

As outlined in Chapter 4: Context, YG is currently undertaking several legislative overhauls. Seven participants identified the mining legislation as particularly outdated. Six emphasized the urgent need for legislative reform to address the outdated and inconsistent frameworks governing mining, land use, and water management. As Stephen stated:

You can't actually implement really all the objectives of *YESAA* without modern legislation, that's right, modern regulatory legislation.

Katie also spoke to the need for new legislation, stating:

The *Placer Mining Act* is 100 years old and has never really been updated. So, things like royalties, reclamation, etc. are incredibly outdated. Again, in 2024 versus 1898, the world's different and we can now specify more clearly things that need to be reclaimed.

Devon also called for a change in legislation, but with the Waters Act, stating:

Really, from my perspective, we need to look at the system as a whole and figure out how to bring it in as a land and Water Board style. And I'm not sure how we do that without changing legislation, to be honest with you.

Peyton outlined that:

That's why we're developing new mining legislation, it goes back to a commitment that was made in the Devolution Transfer Agreement ... land legislation or mineral legislation, it's still being administered by the old federal laws that were just simply copied, rolled over as mineral legislation, as the Yukon laws.

Art also spoke to the fact that a call for a change in legislation has been a long time coming, stating:

When the board was in its formation, prior to that, as the development assessment legislation was being processed, there was a discussion of reviewing or actually rewriting acts related to development assessment and that being the *Yukon Courts Act*, *Yukon Placer Miners' Act*, *Inland Waters Act*. It recommended that Canada should – it suggested Canada should recommend to Parliament new I guess amendments to existing legislation that I just mentioned. And that never really happened. So that's part of legislation that has to change. We're not getting the benefits. Even the royalties are under the present antique legislation we have are not really sufficient.

Peyton discussed specific areas of the legislation that needed to be changed, around the mine classification, stating:

We have to deconstruct that whole Class 1, Class 4, sort of, because it's all blurry, in my view, anyways, right? Because nobody ever does a Class 2, because they'll just get a Class 3. And the Class 1 stuff – the First Nation gets notified of it. And if they wish, they could challenge it, like they can request the Chief Mining Officer to put terms or conditions on concerns raised by First Nations. But if you're Nacho, Tr'ondëk Hwëch'in, and you're getting hundreds of those things during the course of the summer, those notices, Class 1 notices, what are you going to have somebody full-time working on that stuff?

Anticipated changes were discussed by Sebastian who stated:

We don't know how the new mineral legislation is going to roll out, but that could have a significant effect on how YESAB functions. Well, it definitely will because the rules will have changed. And similarly, there's a new *Lands Act* being developed as well, and that could wind up, I really hope it does wind up actually putting legislative authority behind Chapter 11 plans, which would be huge.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants emphasized the urgent need to modernize Yukon’s outdated legislation in:
  - Mining.
  - Land use.
  - Water management.
- The goal is to align legislation with:
  - Current realities.
  - The objectives of the *YESAA*.
- Criticism was directed at the reliance on century-old laws, such as:
  - *The Placer Mining Act*.
  - *The Quartz Mining Act*
- Key gaps identified in mining legislation include:
  - Mine classification.
  - Royalties.
  - Reclamation.
- Legislative reform, including updates to mining and land acts, is seen as essential for:
  - Addressing First Nations’ concerns.
  - Improving regulatory clarity.
  - Supporting meaningful development assessments under modernized frameworks

#### 7.1.4 *Yukon Water Board*

Ten participants mentioned the lack of coordination and alignment between YESAB and the Water Board, which creates inefficiencies and challenges in Yukon’s assessment and permitting processes. Three of the four people who worked for or do work for the Water Board discussed this issue. A total of 40 percent (6 of 15) of participants affiliated with YFN Lands Department also were concerned with this redundant process. Sage highlighted issues for assessors arising from the lack of coordination between YESAB and the Water Board due to legislative misalignment, stating:

There’s so much that’s not clear because of how both sets of legislation don’t really talk to each other very well.

One issue that was of significant concern for Sage was the fact that contradictory recommendations from YESAB could undermine Water Board regulatory clarity and lead to disputes, delays, or legal challenges. They stated:

So, if there was a recommendation – if YESAB is too specific and says, the water quality objective has to be whatever, 0.5 milligrams per litre, then the Water Board couldn't say anything differently even though they probably have better expertise, right, in that specific area.

Sage also pointed out that people are less likely to engage with the Water Board also, due to not understanding the full assessment process:

And many people comment so much during assessment and then don't at the Water Board because they think that all of that information that the licencing officers, read it all and then re-tell – no, not at all.

Avery also highlighted challenges in the dual assessment processes for placer miners, which involve both YESAB and the Water Board for Class 4's. They highlighted that it can be contradictory, convoluted and time-consuming, stating:

So, it's the YESAB process but then it also goes through the Water Board process for placer. So, we have two full assessments. They're not identical but they're very, very similar. And a big challenge is what happens through the YESAB consultation period can be different than what happens in the water licensing period. The Water Board has been granted authority to act as mining land use under, the Placer Mining Act, they've been granted the authority to be able to sign off on that. So, licences are timed equivalently so you don't have someone with a water licence that expires next year but a land use licence that goes for 10. That doesn't work for placer, we need both to work harmoniously. So that's happening but it means that the assessment processes are at odds often, and the information that comes out or the IRs [Information Requests] that come out in a YESAB application, could potentially change the Water Board application. So, the timeline in general is massive.

Devon also highlighted the frustration with the concurrent assessments of YESAB and the Water Board, stating:

YESAB and the Water Board should be looking at applications at the same time in synergy, not one after the other. Because what we see happen, and it's happened on multiple occasions, and it is absolutely not the intent in my opinion of the legislation and/or meeting the intent of Final Agreements. To have an application go through YESAB, come out the other end with recommendations, go into the water licensing process, be improved through that, but obviously changed, to come out the other end and have the Water Board say, then you require another assessment. There's no way that that

loophole was intentional. And so that is a big issue in my view of how it doesn't work.

Devon suggested amalgamating YESAB and the Water Board into one body, responsible for assessing the lands and waters. Devon stated:

We need to have one agency that does land and water and socio-ec[onomic] ... I think we need to open The Waters Act and get rid of the Water Board. Roll that responsibility either into YESAB or some formalization of a department in Yukon that works aligned with YESAB. I don't know what that looks like. I don't know what Yukon's comfortable with. I don't know where that gets to. But I do think having those two organizations will continue to create chaos ...

Taylor instead pointed out that:

You could dissolve the Water Board and move it into government with all the rest of the permitting so that you got your water licence, your mining land use permit, your hard rock mining permit. You got all that from government. But what that would do would be take away the people's input into the uses of the water. And one thing everybody agreed on with chapter 14 is that you'd want public accountability for water use.

Casey advocated for earlier involvement of the Water Board in the environmental assessment process to leverage its technical expertise. They suggest the Water Board provide comments during initial stages, stating this would address "no-brainer stuff" like water balance early, preventing inefficiencies later. Casey stated:

So, for example, water balance. Water balance is a technical issue that most proponents are not properly prepared for by the time it even gets through the environmental assessment. It's well into permitting before that's actually fully defined. The Water Board, if they provided comments or were able to provide baseline comments at the start would then be able to say, 'Hey, here is some no brainer stuff that you need to deal with' and should be counted to the pathways with valued components ... The Water Board has very specific rules of communication. It's very difficult to actually consult with them. But the thing is, the case being that once a project is initiated consultation in that base does not happen. You actually have to consult with the Water Board before a project gets actually given to them and I learned that lesson the hard way.

**To sum up the overall points raised by participants as outlined in this section:**

- Participants highlighted a lack of coordination between YESAB and the Water Board, resulting in:
  - Inefficiencies in assessment and permitting processes.
  - Contradictory recommendations.

- Frustration for stakeholders.
- They criticized:
  - Legislative misalignment.
  - Dual assessments, leading to delays and confusion.
- Suggestions for improvement included:
  - Better synchronization between YESAB and the Water Board.
  - Involving the Water Board earlier in assessments.
  - Amalgamating responsibilities into a single body.
- Concerns were raised about:
  - Preserving public accountability for water use if the Water Board were dissolved or integrated into the government.

## 7.2 Conclusion

The findings presented in this chapter underscore how YESAB’s ability to fulfill its treaty-mandated responsibilities is shaped by the broader institutional and political landscape in which it operates. Participants emphasized that YESAB is not a stand-alone body, but one embedded within a complex web of government mandates, legal structures, and parallel decision-making authorities—each of which can constrain or enhance its ability to carry out inclusive, rigorous, and responsive assessments.

Concerns about government influence, from political appointments to the erosion of YESAB’s independence during processes like the Five-Year Review and Bill S-6, reflect a deep skepticism about whether the Development Assessment Process truly functions at arm’s length from partisan priorities. Participants also identified structural and procedural gaps, such as poor coordination with the Yukon Water Board and the absence of completed land use plans, that significantly undermine YESAB’s capacity to deliver effective and consistent assessments. Moreover, shifting mandates related to climate change, wetlands, and cumulative effects—while promising—have yet to be fully integrated into a coherent and enforceable framework across the Development Assessment Process.

Ultimately, participants’ reflections point to a development assessment system that remains politically sensitive, administratively fragmented, and only partially aligned with the

goals of self-determination, ecological integrity, and collaborative governance envisioned in the UFA.

The next chapter brings together the key findings from this study to assess how well the objectives outlined at the beginning of Chapter 12 of the UFA are currently being fulfilled. It synthesizes interview responses across all three research questions to evaluate the extent to which the Development Assessment Process promotes meaningful participation, transparency, sustainable development, and the integration of TK—core principles articulated in Chapter 12.

## Chapter 8: Discussion

### 8.1 Introduction to Discussion

The following discussion centres on three primary research questions. First, to what extent does the *Yukon Environmental and Socio-Economic Assessment Act, 2003 (YESAA)* and the Yukon Environmental and Socio-Economic Assessment Board (YESAB) fulfill the spirit and intent of the Umbrella Final Agreement (UFA)—particularly Chapter 12, which governs the assessment of environmental and socio-economic effects associated with development projects in Yukon? Second, what are the key strengths and limitations of YESAB’s impact assessment processes in terms of its comprehensiveness, inclusivity, and responsiveness to the needs and rights of Yukoners—particularly Indigenous Peoples? Third, how do other institutions and actors involved in the broader Development Assessment Process influence YESAB’s capacity to fulfill its treaty-mandated responsibilities under the UFA?

To effectively address the central research questions, this chapter first presents a detailed discussion of how the interview responses relate to the eight objectives of Chapter 12 of the UFA. These findings are then examined through the lens of the four theoretical frameworks, providing a deeper contextual understanding of the results. These frameworks were introduced in the literature review: Paul Nadasdy’s critique of technocratic governance and the politics of inclusion, Glen Coulthard’s emphasis on Indigenous resurgence over state recognition, the Two-Eyed Seeing approach developed by Mi’kmaq Elder Albert Marshall and Dr. Cheryl Bartlett, and the treaty interpretation philosophy of Harold Cardinal and Walter Hildebrandt, which underscores treaties as sacred, relational agreements between sovereign nations. These frameworks offer a critical lens for analyzing how knowledge, power, and governance shape the development assessment process and reveal whether it advances or undermines the UFA’s foundational principles. To further unpack these dynamics, the final section of this chapter

expands the analysis to include the legal and institutional architecture underpinning YESAA and introduces the concepts of environmental justice and slow violence to illustrate how systemic harms—particularly those affecting First Nations communities—can be obscured, normalized, or perpetuated through current regulatory practices.

Chapter 12 of the UFA outlines a Development Assessment Process designed to incorporate Indigenous participation, protect the environment and cultural heritage, and promote sustainable development and socio-economic wellbeing. The chapter’s eight objectives reflect a broader vision of co-governance, mutual respect, and the integration of Indigenous worldviews into the regulatory fabric of Yukon. While YESAB is a central institution within this framework, it is not the sole actor. As many participants noted, the effectiveness of the Development Assessment Process cannot be measured by YESAB’s performance alone—it must also consider the roles played by the Yukon Water Board, territorial and federal governments, and YFN governments.

This chapter critically examines the Development Assessment Process as a whole, not only evaluating YESAB’s role but also interrogating the institutional coordination, structural limitations, and governance dynamics that affect the system’s ability to meet the UFA’s objectives. This is imperative as YESAB’s ability to fulfil its role is greatly impacted by the overall Development Assessment Process. Insights from 35 participants—including YFN Lands Department staff, legal professionals, YESAB employees, and Water Board officials, mining professionals, and employees from Non-Governmental Organizations —offered grounded perspectives on how the process functions in practice and where it falls short. As highlighted in Chapter 5: Results, participants repeatedly described YESAB as a “cog” within a broader machine, outlining how its recommendations are often filtered, ignored, or altered by decision-makers, thus hindering the YESAB’s efficacy in fulfilling of UFA objectives.

This chapter is organized according to the eight objectives outlined in Section 12.1.1 of the UFA. These are:<sup>252</sup>

**12.1.1** The objective of this chapter is to provide for a Development Assessment Process that:

**12.1.1.1** recognizes and enhances, to the extent practicable, the traditional economy of Yukon Indian People and their special relationship with the wilderness Environment;

**12.1.1.2** provides for guaranteed participation by Yukon Indian People and utilizes the knowledge and experience of Yukon Indian People in the Development Assessment Process;

**12.1.1.3** protects and promotes the well-being of Yukon Indian People and of their communities and of other Yukon residents and the interests of other Canadians;

**12.1.1.4** protects and maintains environmental quality and ensures that Projects are undertaken consistent with the principle of Sustainable Development;<sup>253</sup>

**12.1.1.5** protects and maintains Heritage Resources;

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<sup>252</sup> Keywords from these objectives have been extracted and condensed to form the eight headings listed below, effectively summarizing the core concepts and discussing how they are each currently being met by YESAB and the Development Assessment Process.

<sup>253</sup> Sustainable development refers to meeting the needs of the present without compromising the ability of future generations to meet their own needs, balancing economic growth, environmental stewardship, and social equity. It aims to create a holistic approach to development that integrates these three pillars to promote a healthier planet and improved quality of life for all. dpicampaigns, "Take Action for the Sustainable Development Goals," *United Nations Sustainable Development* (blog), accessed March 20, 2025, <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>.

**12.1.1.6** provides for a comprehensive and timely review of the environmental and socio-economic effects of any Project before the approval of the Project;

**12.1.1.7** avoids duplication in the review process for Projects and, to the greatest extent practicable, provides certainty to all affected parties and Project proponents with respect to procedures, information requirements, time requirements and costs; and

**12.1.1.8** requires Project proponents to consider the environmental and socio-economic effects of Projects and Project alternatives and to incorporate appropriate mitigative measures in the design of Projects.

Each section of this chapter explores one objective, assessing how it is being met—or not—based on participant feedback and framed through the theoretical perspectives mentioned above. For instance, where YESAB struggles to integrate Traditional Knowledge (TK) meaningfully, Nadasdy’s analysis of technocratic gatekeeping and the politics of participation becomes highly relevant. Coulthard’s critique of recognition politics helps illuminate structural imbalances that prevent true co-governance. Two-Eyed Seeing provides a roadmap for knowledge pluralism, and Cardinal and Hildebrandt’s emphasis on living treaty relationships highlights the importance of trust, respect, and shared authority.

By drawing on these frameworks, this chapter aims to present not just a technical review of YESAB’s performance but a deeper, systemic critique of the Development Assessment Process as it operates under the UFA. The intent is to identify where change is needed—not only in

procedures, but in the values, relationships, and epistemologies that guide assessment processes in Yukon. The following analysis reveals a range of tensions between the UFA's transformative vision and the realities of institutional practice, while also identifying pathways toward greater cultural legitimacy, equity, and sustainability.

## **8.2 YFN Special Relationship with the wilderness<sup>254</sup> Environment**

The term “traditional economy” in this first objective refers to the traditional economic practices of YFNs, including activities such as fur trading, selling wild game or fish, subsistence harvesting, and creating and selling artwork. For a broader discussion on YFNs' economic considerations within the Development Assessment Process, please see the section on [Economic Considerations](#). While Tr'ondëk Hwëch'in and Northern Tutchone Peoples still engage in traditional economic practices, they are no longer the primary source of economic development for these communities. Nonetheless, these practices remain culturally significant, as they foster a reciprocal “special relationship” with the land and waters, which will be explored in greater detail below. This section will address the traditional economy solely in relation to YFNs' unique connection to the wilderness environment.

### *8.2.1 Special Relationship with the wilderness Environment*

The term “special relationship with the wilderness environment” appears repeatedly throughout the UFA, underscoring its foundational importance in the agreements between the Government of Canada, the Government of Yukon, and YFN. This phrase signifies a multifaceted connection

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<sup>254</sup> The use of the term *wilderness* in this dissertation reflects its meaning as outlined in Chapter 12 of the UFA. This use should not be confused with the critique offered by William Cronon, who argues that the concept of *wilderness* in Western discourse has often been used to erase or marginalize Indigenous presence, implying that such areas are devoid of human history or occupation. In contrast, the UFA's framing of wilderness reinforces Indigenous Rights and affirms YFNs' enduring relationships with the land and water. Here, wilderness is not a space separate from Indigenous Peoples, but a space in which their rights, knowledge, and stewardship are recognized and protected.

encompassing spiritual, cultural, economic, ecological, and political dimensions of YFN's relationship to land and water. It is more than symbolic—it informs governance, sustains identity, and guides sustainable land stewardship. In Chapter 12: Development Assessment, the first objective explicitly references this relationship, further anchoring its centrality in land and resource decision-making.

This concept is not new. The landmark 1973 document *Together Today for our Children Tomorrow* emphasized the same interconnected relationship. It spoke to the economic, cultural, and social wellbeing that derives from land and expressed grave concerns about land dispossession and colonial policies that alienated Indigenous peoples from their traditional territories. The UFA echoes and legitimizes this deep-rooted worldview in modern governance.

For YFNs, land and water are not simply physical environments; they are living, sentient beings imbued with spirit and ancestral presence. These elements of nature are seen not only as resources but as teachers, protectors, and storied entities that form the core of spiritual and cultural identity.<sup>255</sup> This perspective shapes Indigenous ethics, environmental practices, and governance structures. Every mountain, glacier, river, and lake carry historical and spiritual meaning and stories intended to teach the next generation about respect for the land and the way one should conduct themselves. Sacred landscapes are associated with powerful spiritual beings, many of whom reside in specific geographical features. For example, mountains are often viewed as spiritual guardians, while certain rivers are believed to house spirits that can influence human behaviour and wellbeing. The belief that land and water can respond to human actions—positively or negatively—illustrates a reciprocal relationship. Among the Tlingit and Tagish peoples, glaciers are believed to “listen” and react to disrespectful actions. Behaviours such as

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<sup>255</sup> Catherine McClellan et al., *A History of the Yukon Indians: Part of Our Land, Part of Our Water* (Douglas & McIntyre, 1987).

cooking with grease near glaciers are avoided due to the belief that such acts may provoke avalanches or floods.<sup>256</sup> Far from being merely metaphorical, these beliefs reflect a sophisticated ecological awareness. They encode generations of environmental observation and ethical principles about how to interact with sensitive ecosystems. This worldview rejects the notion of humans as separate from nature. Instead, humans are part of an intricate, spiritual ecology that demands care, respect, and reciprocity.

Oral storytelling is the primary vehicle through which YFNs have transmitted knowledge across generations. Elders serve as knowledge keepers, passing on narratives that encode information about hunting routes, seasonal behaviours, spiritual laws, and ecological dynamics. These stories are place-based—they are tied to specific locations and features in the land, reinforcing the idea that cultural identity is inseparable from geography.<sup>257</sup> Storytelling is not a passive activity. It is a relational practice that links people with place and ensures that knowledge remains dynamic and responsive. Place names themselves carry embedded meaning: they often describe ecological features, historical events, or spiritual presence and almost always have a story that is connected to the place. In this way, oral traditions serve as ecological archives, ensuring that Indigenous knowledge systems remain vibrant and relevant. In the context of climate change, storytelling is evolving. New narratives now reflect shifting water levels, altered animal migrations, and melting glaciers.<sup>258</sup> Rather than discard TK, YFNs adapt it, ensuring that their ecological understandings are resilient in the face of accelerating environmental change.

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<sup>256</sup> Julie Cruikshank, *Do Glaciers Listen? Local Knowledge, Colonial Encounters, and Social Imagination* (Vancouver: The University of British Columbia, 2005).

<sup>257</sup> Michael Kohler and Anne Uhlmann, “Place-Based Identity and the Role of Storytelling in Indigeneity: Perspectives from Yukon,” *Journal of Indigenous Studies* 12, no. 1 (2020): 45–63.

<sup>258</sup> Kendrick Andie, “An Examination of the Relationship Between Indigenous Cultural Identity and the Land in the Yukon,” *Canadian Journal of Native Studies* 31, no. 2 (2011): 231–54.

Cultural and spiritual relationships with the land are actively practiced through ceremonial acts that honour nature's spirits and acknowledge human dependence on the environment. Before and after engaging in activities such as hunting, fishing, or harvesting, Indigenous peoples conduct rituals of gratitude and reciprocity. These ceremonies reaffirm the belief that taking from the land is a sacred act that requires ethical responsibility. When hunting caribou, for example, Indigenous hunters observe protocols that include speaking to the animal's spirit, using every part of the animal, and giving thanks through prayers or offerings. Similar practices are observed in fishing, where selective harvesting ensures that enough fish remain to sustain ecosystems. In many communities, water is seen as a sacred and purifying force, and water ceremonies are performed to honor its life-giving power.<sup>259</sup> These acts are not symbolic—they are cultural mechanisms that maintain ecological balance and spiritual harmony.

Historically, Yukon Indigenous Peoples followed a seasonal round, moving across different landscapes based on the availability of food and resources. This mobility was not only practical; it was a stewardship model that prioritized sustainability and ecological renewal. The practice prevented overharvesting and allowed ecosystems time to regenerate. In the summer, communities traveled to salmon-rich rivers, using weirs and traps that allowed some salmon to escape and reproduce. In the fall, families followed caribou migration corridors, hunting selectively based on intergenerational knowledge of herd health. Winter brought small-game trapping and ice fishing, while spring focused on plant gathering and medicinal harvesting in wetlands and berry patches. This cyclical movement was governed by traditional laws that forbade wastefulness and emphasized respect for the land's limits. The idea that one should never

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<sup>259</sup> McClellan et al., *A History of the Yukon Indians: Part of Our Land, Part of Our Water*.

take more than needed was both a moral and ecological principle. These practices underscore the view that the land is not just a provider but a partner in survival.

In recent decades, YFNs have increasingly reclaimed authority over their traditional territories through self-governance and modern land claim agreements like the UFA. These agreements enable Indigenous communities to implement land and water policies that blend TK with contemporary science. Yet this integration is not always seamless. Eleven participants, all of whom had experience with either YFN Lands Departments or the YESAB, spoke to the cultural disconnect that continues to challenge these processes. They described how the frameworks used in environmental assessment are fundamentally rooted in colonial structures that often fail to accommodate YFN worldviews.

Participants like Robin and Sage emphasized that YESAB operates primarily within a Western scientific paradigm, creating an inherent disadvantage for Indigenous participants who must continuously adapt their knowledge and values to fit external systems. The rigidity of timelines, reliance on technical language, and prioritization of quantifiable impacts make it difficult to convey the full significance of land-based relationships. Katie pointed out that even when YFNs share their perspectives, they are still filtered through a Western process that cannot fully align with the relational and spiritual worldview of communities like the Tr'ondëk Hwëch'in.

The forced adaptation to colonial structures was another recurring concern. Several participants, including Jamie and Cameron, described the challenge of bridging fundamentally different worldviews through legislative tools that are not designed to accommodate Indigenous perspectives. These frameworks often fail to account for long-term ecological stewardship or intergenerational thinking, focusing instead on immediate economic gains. Jamie highlighted

how colonial systems prioritize urgency—jobs, market opportunities, and development—over long-term sustainability, making it difficult for Indigenous communities to advocate for future generations within these processes.

Participants also criticized how impact assessments tend to reduce land-based practices to their economic value, undermining the cultural, spiritual, and subsistence dimensions of these activities. Ed expressed frustration at this trend, explaining that subsistence harvesting is enshrined in the UFA and cannot be replaced by monetary compensation. Alanna echoed this sentiment, asserting that Indigenous worldviews are essential to reversing the ecological damage caused by colonial methods, particularly in the face of climate change.

Still, there was cautious optimism among several participants. Michael acknowledged the colonial language embedded in the *YESAA* legislation but noted that the Act does provide space to broaden understandings if approached thoughtfully. He spoke of a gradual shift within YESAB—a growing recognition of the need to learn together and build a shared understanding. Robin discussed the difficulty of translating Indigenous values into a system that tends to compartmentalize and silo information, something that does not align with how First Nations understand interconnectedness. Lee pointed out that even YESAB sometimes alters its own recommendations to align with Government of Yukon expectations, reinforcing how deeply colonial procedures shape impact assessment.

Despite these obstacles, some participants expressed hope for change. Parker envisioned a future where an Indigenous-led parallel process could work alongside YESAB to better represent First Nations perspectives. Katie shared this hope, noting that YESAB is beginning to identify its limitations and the structural gaps between its methodologies and the broader

objectives of the UFA. She expressed optimism that future assessments would better reflect the spirit of the agreements, and the values of the communities involved.

Climate change adds another layer of complexity to this conversation. As environmental shifts continue to impact ecosystems and cultural practices, YFNs are combining TK with scientific research to develop adaptive strategies. These initiatives—rooted in both ancestral knowledge and contemporary monitoring—affirm that Indigenous knowledge is not static but is a living, evolving system essential to modern stewardship. YFNs are not just navigating environmental change—they are leading innovative, resilient approaches to coexist with it.

The relationship between YFNs and the wilderness environment is spiritually profound, culturally embedded, and ecologically informed. It is sustained through oral traditions, ethical harvesting practices, and adaptive governance that centers human-environment reciprocity. Despite centuries of colonial disruption and the mounting pressures of climate change, this relationship endures—and evolves. Through modern land claim agreements, cultural revitalization efforts, and climate adaptation strategies, YFNs are asserting their sovereignty and reaffirming their responsibilities to the land and water. Their knowledge systems offer essential insights into sustainable living, ecological resilience, and spiritual balance. Ultimately, the term “special relationship with the wilderness environment” is not merely a phrase in legal documents—it is a living reality, one that continues to shape the present and guide the future for YFNs and, increasingly, for global environmental consciousness.

### *8.2.2 Discussion on YFN special relationship in the Development Assessment Process*

When considering the special relationship that YFNs have with the wilderness and environment, it is imperative that this relationship is considered through a TK lens, that incorporates a holistic/cumulative view of the world. Also, the fulsome consideration of Indigenous Rights in

assessment facilitates the recognition and enhancement of the special relationship, which in turn further upholds YFNs' Indigenous Rights. YESAB's current assessment approach,<sup>260</sup> presents significant challenges to ensuring a comprehensive understanding of environmental, social, and cultural impacts over time. While cumulative effects are considered within the context of Valued Environmental and Socio-economic Components (VESECs), the current methodology tends to compartmentalize these effects rather than adopting a holistic, interconnected approach. Indigenous perspectives emphasize the interdependence of land, water, and wildlife, yet assessments often fail to capture the broader, long-term systemic changes resulting from multiple impacts.

Additionally, the use of shifting baseline conditions—where assessments consider only the present state of a VESEC rather than pre- and post- development conditions—can underestimate the true extent of environmental and socio-economic degradation. The absence of long-term data and/or reliance on proponent-provided studies further limits the effectiveness of these assessments. Furthermore, piecemeal mitigation measures do little to address cumulative regional impacts, leaving Indigenous land-engagement practices and traditional economies vulnerable. Without a more integrated, forward-looking approach that incorporates TK, long-term monitoring, and cumulative effects outside of a VESEC-by-VESEC approach, YESAB's current framework risks failing to adequately protect YFNs' relationship with the land and waters, as well as their Rights and cultural heritage.

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<sup>260</sup> For more information on how YESAB conducts its assessment, please refer to: Chapter 4: Context under s. 1.3.6 Outline of YESAB's Role in the Development Assessment Process.

### 8.2.2.1 Cumulative Effects

Currently, YESAB defines cumulative effects as “changes to Valued Environmental and Socio-Economic Components (VESECs) caused by an activity (related to a project being assessed) in combination with other past, present, and relevant future projects or activities.” However, instead of examining how multiple developments over time interact to create long-term systemic impacts on the lands and waters, assessments often focus narrowly on individual components within defined spatial and temporal boundaries. This fragmented approach has raised serious concerns among stakeholders. Assessing cumulative effects on a VESEC-by-VESEC basis presents both methodological challenges and substantial risks. Of the individuals consulted, 80 percent (12 of 15) from YFN-affiliated departments, both NGO participants, three lawyers, and approximately half of those affiliated with YESAB expressed significant concern about this fragmented approach.

By analyzing cumulative effects separately for each VESEC, the assessment process often fails to capture the interconnections between environmental, cultural, and socio-economic systems—particularly the latter, which remains inadequately examined. This siloed analysis can result in a serious underestimation of broader systemic effects. As Riley explained, assessing projects “in this sort of piecemeal way” obscures how overlapping activities “combined with all of the existing activity in the area” cause much more extensive impacts than any one project alone. Small, incremental changes across multiple VESECs may appear insignificant in isolation but, when viewed collectively, can result in substantial and long-lasting environmental and social degradation. For example, assessing wildlife and wildlife habitat separately—or in isolation from aquatic ecosystems—may fail to recognize the intricate relationships that exist between these

systems. Ignoring such ecological interdependencies can severely undermine the accuracy and integrity of cumulative effects assessments.

The VESEC-by-VESEC model also fails to align with Indigenous worldviews, which emphasize the interconnectedness of land, water, wildlife, and human activities. The dominance of Western scientific paradigms in environmental assessments promotes a compartmentalized understanding of ecosystems, where organisms and environmental components are treated as discrete units. This approach neglects the deeply relational and holistic perspective that defines Indigenous TK. Morgan emphasized that cumulative impacts are not just ecological but are “displacing people” from certain land use areas, which causes overuse in others and contradicts traditional land stewardship practices like rotating traplines. Such neglect has significant consequences: it distorts how environmental degradation is evaluated and fundamentally underestimates how cumulative impacts infringe upon Indigenous Rights, cultural practices, and socio-economic wellbeing. It also ignores the reciprocal relationship between YFNs and the lands and waters they have stewarded for generations.

A critical concern raised by participants relates to the use of shifting baseline conditions and thresholds in assessing environmental health. This approach risks underestimating the cumulative pressure ecosystems are under. Stephen highlighted that insufficient baseline data, combined with inadequate government funding, has significantly impeded the ability to accurately assess ecosystem health. As a result, projects—particularly mining ventures—are approved and implemented with insufficient understanding of their long-term impact. At the same time, First Nations are constrained by limited resources to conduct independent research and monitoring. Lee noted that YESAB often disregards early indicators of stress, remarking that the Board “always says, well, we don’t see that yet,” even though “you’re going to one day,

probably.” Assessing each VESEC in isolation makes it difficult to recognize how the accumulation of multiple stressors may push ecosystems past critical tipping points. For instance, a mining project may not, in isolation, exceed the acceptable threshold for effects on wildlife habitat or aquatic health. However, when these effects are combined with those from other developments, the resulting cumulative stress can surpass ecological resilience thresholds.

This problem is further compounded by YESAB’s practice of defining baseline conditions at the time a project is assessed, rather than referencing pre-development ecological states. If wildlife populations are already under stress at the outset of a new assessment, their diminished health may be normalized as the new baseline. Consequently, additional stressors introduced by new projects are judged against already-degraded conditions. Although YESAB asserts that existing baseline conditions reflect the accumulated impacts of past development, it does not provide a comprehensive analysis of what those past cumulative effects entail or the scale of degradation already experienced. This absence of a clear historical frame makes it difficult to grasp the full scope of ecological change and creates a misleading perception that current degraded conditions are normal. Over time, this “baseline drift” allows serious losses to be overlooked.

Moreover, this problem is perpetuated during project renewals, which often occur on a 10-year permitting cycle. When projects are reassessed, the baseline is frequently reset to reflect the conditions at the time of renewal rather than the original conditions prior to development. This practice obscures long-term degradation and makes it challenging to evaluate the true scope of impact across decades. The resulting analysis misrepresents the state of the environment by treating the current condition as the norm, rather than assessing what a VESEC might look like in the absence of industrial activity. In turn, this leads to a systemic weakening of mitigation

efforts and a chronic underestimation of ecological and socio-economic consequences tied to development.

Mitigation strategies developed within the VESEC-by-VESEC framework also suffer from the same limitations. They are typically designed to address the effects of an individual project on a single VESEC, often neglecting the cumulative consequences of multiple developments on the same landscape. For instance, mitigation for a single mining project may include limiting road construction. On its own, this may appear to be a sufficient action. However, when several nearby projects all construct access roads, the combined effect can fragment wildlife habitat, disrupt migration patterns, and significantly degrade ecosystems. Lee offered the example of a single creek hosting seven placer mines, each permitted to emit total suspended solids—an impact that multiplies and escapes YESAB’s current scope. Without a regional or system-wide approach to mitigation, such strategies remain reactive, project-specific, and ultimately inadequate for addressing the broader consequences of industrial expansion.

Even when cumulative effects on VESECs are acknowledged, the associated mitigation measures tend to remain limited to individual project parameters. YESAB typically recommends modifications such as reduced water withdrawals or minor changes to project design. Yet these are rarely coordinated across multiple projects and do not address the systemic, regional-scale issues at hand. The absence of a mechanism to assess or mitigate the combined impacts of numerous developments leaves environmental and socio-economic concerns unresolved. This piecemeal approach erodes the efficacy of the assessment process and allows significant impacts to fall through regulatory gaps.

Another key limitation of YESAB’s cumulative effects methodology is its restricted scope of future projections. Cumulative effects are considered only in relation to projects that are

currently proposed or deemed “likely to be carried out.” This narrow interpretation prevents the inclusion of larger emerging trends—such as climate change, rising industrial activity, or land-use shifts—that could have significant implications for ecosystem and community health. The standard 10-year term for Mining Land Use Permits adds further complexity. Given that project reassessments require ministerial approval and that effects monitoring is rarely conducted, a project’s true impact may not be fully assessed for over a decade. This lag undermines the ability to identify and address long-term risks in a timely manner.

Cumulative effects on traditional economies and YFNs’ connection to land and water are also consistently undervalued. Participants like Morgan and Ed raised serious concerns about the ways in which hunting, fishing, and trapping areas are affected by multiple overlapping developments. As Ed described, traditional harvesting areas risk becoming “an island of trees surrounded by ripped-up tributaries,” where the very foundations of land-based life—clean water, wildlife, berries—can no longer be relied upon. While individual projects often claim they will not significantly affect these activities, the aggregated impacts of roads, clear-cutting, habitat destruction, and displacement of wildlife are profound. As these impacts accumulate, the cultural and subsistence value of the land is eroded—not in one catastrophic event, but through what has been described as “death by a thousand cuts.” Despite this, project assessments often fail to reach a significance determination, allowing cumulative effects on YFNs’ Rights and traditional practices to be downplayed or “mitigated away.”

#### 8.2.2.2 Indigenous Rights

Elaborating on the consideration of Indigenous Rights in YESAB assessment, the current process also hinders the fulsome consideration of YFNs special relationship with the lands and waters.

YESAB is required by law to factor in specific considerations related to YFNs and their

connection to the land. YESAB claims to fulfil the consideration of Indigenous Rights in two ways. The first way is through VESEC selection, whereby VESECs are chosen to allow consideration of YFNs ways of life (i.e., Traditional Land Engagement). The other way is through assessment context, whereby Rights provide context when determining the significance of a project's impact on VESECs. For example, if a VESEC that reflects an Indigenous Right is affected by the project, this Right helps define whether the impact is significant.

YESAB's methodology for considering Indigenous Rights involves assessing how these Rights influence the selection of VESECs rather than directly evaluating the rights themselves. This indirect approach does not capture the full scope of YFNs relationship with their lands and waters, and oftentimes misses subtle yet critical cultural, spiritual, and traditional connections. The reliance on VESECs means that if an Indigenous Right does not align closely with these selected components, its impact may be underassessed, leading to inadequate protection or recognition of these rights within the assessment process.

YESAB assesses the impacts on Indigenous Rights from a factual rather than a legal perspective, which can result in gaps in legal protection. Its methodology relies on predefined thresholds—formally referred to as Effects Characterization Criteria—to determine the significance of impacts on Valued Environmental and Socio-Economic Components. These Effects Characterization Criteria include considerations such as magnitude, likelihood, geographic extent, duration, frequency and timing, and reversibility. While these standardized criteria help bring consistency to assessments, they are primarily rooted in Western scientific approaches and assessor judgment. As a result, they may not fully reflect the cultural, spiritual, and relational dimensions that define Indigenous worldviews. This reliance on fixed criteria can lead to assessments that overlook or underestimate the significance of impacts on Indigenous

ways of life, including the disruption of traditional land use, harvesting practices, and the spiritual connection to place.<sup>261</sup>

Moreover, the rigidity of these predefined thresholds can impede the ability to account for the evolving and contextual nature of Indigenous Rights. As understandings of these Rights continue to develop in legal and cultural contexts, a static application of predefined assessment thresholds may fail to capture the full scope of what is at stake for Yukon First Nations. This highlights the need for YESAB to not only reassess the technical underpinnings of its methodology, but also to integrate more adaptive and culturally responsive approaches that can meaningfully reflect Indigenous values, priorities, and stewardship principles.

Twelve participants expressed concerns that YESAB's limited consideration of Indigenous Rights does not align well with the goals of co-governance and sustainable development. They argued that YESAB's methodology fails to fully assess how projects impact these Rights. This is especially in the case in terms of sustainable land and resource stewardship that respects YFN's special relationship with the land, as outlined above. Riley criticized YESAB for only considering, but not fully assessing, the impacts on Indigenous Rights. This approach results in superficial evaluations, particularly concerning how projects like mining affect traditional hunting grounds and, by extension, YFN's harvesting Rights. Echoing this, Morgan discussed the displacement and long-term cultural and environmental impacts of industrial activities on traditional lands, noting that this displacement from areas where harvesting Rights were exercised is not adequately factored into assessments. Riley's critique is that YESAB and the Government of Yukon rely on one another to assess these rights but neither does so effectively, leading to a gap in protection and recognition of YFN's rights as originally intended

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<sup>261</sup> Yukon Environmental and Socio-Economic Assessment Board, "Yukon Environmental and Socio-Economic Assessment Methodology."

under the UFA. The current assessment methodology employed by YESAB demonstrates significant shortcomings in effectively recognizing and protecting Indigenous Rights, particularly in relation to YFNs' intricate and vital connection to their lands and waters. Addressing these gaps is essential for achieving genuine co-governance and sustainable development that honors and respects the cultural, spiritual, and traditional ties that YFNs have with their environment.

#### 8.2.2.3 Socio-Economic and Displacement in relation to YFN' Special Relationship with the Wilderness Environment

Approximately 60 percent of participants expressed concerns regarding YESAB's insufficient consideration of socio-economic effects in project development. Two representatives from the mining industry noted that YESAB similarly overlooks the positive socio-economic impacts, specifically highlighting how mining contributes to economic prosperity in the Yukon, particularly in communities with limited economic opportunities. However, as discussed in Chapter 4: Context, a comprehensive [cost-benefit analysis](#) has not been conducted to substantiate this view. This analysis is necessary to better understand both the benefits and drawbacks of mining, enabling stakeholders to address negative impacts while enhancing positive contributions. A well-executed cost-benefit analysis would provide a clearer picture of the full spectrum of mining's social, economic, and environmental implications—offering decision-makers a more balanced foundation for assessing trade-offs, identifying net public benefits, and crafting mitigation measures that reflect both community priorities and long-term sustainability. Kirsten also highlighted the boom-and-bust cycle associated with the Yukon's dependence on mining, suggesting that a cost-benefit analysis could identify strategies to mitigate the “bust”

phases and capitalize on the “booms” to minimize economic volatility. Since these evaluations fall outside YESAB’s current scope, it hampers the board’s ability to fully appreciate the socio-economic benefits of mining, primarily due to insufficient research on the subject.

YESAB’s struggle to fully assess socio-economic considerations (including the cumulative socio-economic effects) has profound implications for YFNs and their special relationship with the lands and waters. Although the assessment process includes VESECs, socio-economic factors are often treated as secondary rather than integral to environmental decision-making. Participants who discussed socio-economic effects highlighted this fact and emphasized the need for a more balanced assessment that evaluates both the positive and negative socio-economic impacts of mining projects. This consideration relative to First Nation wellbeing will be discussed in more detail below. But for YFNs particularly, the failure to conduct a comprehensive analysis of how environmental degradation affects YFN wellbeing—particularly through the erosion of their deep connection to the land and waters—creates a reinforcing cycle of loss, where diminishing land access and resource depletion cumulatively further weaken that relationship over time.

To begin with, the displacement of YFNs from harvesting areas impacts both the physical and spiritual wellbeing. As outlined by Morgan in the previous chapter, displacement from one area can cause strain on harvesting resources when another area that was relied on some of the time is now solely relied on. This can cause resources to not have a rebound period, causing their depletion. As Morgan explained, YFNs have teachings that prevent overharvesting, and allow YFN communities to have agency in facilitating YFNs participation in stewardship of the lands and waters, reinforcing the special relationship. Also, as mentioned by Ed, certain foods are healthier for YFNs to consume, foods that are readily available in a healthy Traditional Territory.

Ed referenced a specific report conducted by McGill University in 1999 that outlined how traditional fish and wildlife (i.e., moose, caribou, sheep, salmon) that have a genetic link to the Traditional Territory are healthier for YFNs to consume than beef, pork, and chicken that are shipped in. Thus, the ongoing displacement and declining fish and wildlife populations not only undermines the physical and spiritual health of the YFNs but also erodes the very foundations of their sustainable practices and traditional diets, threatening the longevity and vitality of their cultural heritage.

Coupled with the lack of cumulative effects analysis outside of a VESEC-by-VESEC approach, the struggle to fully analyze socio-economic factors that affect YFNs wellbeing (i.e., ability to harvest, displacement, land-based education/reciprocity), has harmful effects on YFNs' wellbeing. This wellbeing is inextricably linked to the land, influencing YFNs' physical health, cultural identity, spiritual beliefs, and social structures. Disruptions to land access and environmental degradation directly impact these aspects of wellbeing, threatening YFNs' ability to maintain their special relationship that will in turn facilitate land-based resurgence. Recognizing and enhancing this relationship is essential for ensuring the long-term socio-economic wellbeing of YFNs. Wellbeing is further discussed later in this chapter also.

### *8.2.3 Conclusion*

The special relationship YFNs hold with the “wilderness environment” is not only central to their cultural identity, spiritual worldview, and governance systems—it is also foundational to environmental justice in the Yukon context. Rooted in reciprocal ethics, seasonal mobility, and land-based knowledge transmission, this relationship embodies a holistic understanding of wellbeing that transcends material use and emphasizes care, balance, and interdependence.

Although this worldview is embedded in the UFA, particularly Chapter 12, current assessment methodologies under the *YESAA* fail to meaningfully reflect its full scope.

YESAB's fragmented approach to cumulative effects—through its VESEC-by-VESEC lens—obscures the interconnected nature of ecological, spiritual, and socio-economic systems that underpin Indigenous worldviews. The reliance on shifting environmental baselines, proponent-led studies, and narrow interpretations of Indigenous Rights and title contributes to exclusionary practices that limit First Nations' ability to shape project outcomes in a meaningful way. Participants noted that Indigenous Rights are often treated as contextual rather than foundational, and that adverse socio-economic effects—such as displacement, loss of harvesting areas, and diminished cultural continuity—remain peripheral in project assessments.

This gap reflects what Leanne Betasamosake Simpson has described as a failure to engage with “land as pedagogy”—an Indigenous framework that sees the land as a source of knowledge, ethics, and political governance.<sup>262</sup> Without proper integration of these epistemologies, both environmental integrity and the physical, cultural, and spiritual wellbeing of YFNs are put at risk. The erosion of land-based education, access to traditional foods, and culturally grounded decision-making undermines intergenerational knowledge transfer, self-determination, and Indigenous governance.

Still, participants expressed cautious optimism. They emphasized the need for integrated assessment practices that center TK, include long-term monitoring, and support Indigenous-led frameworks of evaluation. These approaches align with global environmental justice

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<sup>262</sup> Leanne Betasamosake-Simpson, ed., *Lighting the Eighth Fire: The Liberation, Resurgence, and Protection of Indigenous Nations* (Winnipeg: ARP Books, 2008).

frameworks, which call not only for equitable outcomes but also for decision-making processes that respect cultural difference and Indigenous sovereignty.<sup>263</sup>

### **8.3 YFN' Participation and TK Inclusion Use**

#### *8.3.1 Discussion on YFNs' Participation*

The second objective provides for the guaranteed participation by Yukon Indian People and utilizes the knowledge and experience of Yukon Indian People in the Development Assessment Process. The objective emphasizes the critical importance of YFNs' meaningful involvement in the Development Assessment Process as an essential step toward transforming the entrenched legacy of colonial development. Historically, development in Yukon—beginning notably with the Klondike Gold Rush—was carried out without the consent, input, or even recognition of YFNs. These early practices not only excluded Indigenous peoples from decisions directly impacting their territories but also actively dismissed the relevance and legitimacy of TK, resulting in significant and lasting harm. The prioritization of this objective—placed second in the chapter—reflects its central role in reforming the Development Assessment Process. Creating a process in which YFN voices and knowledge systems are not only acknowledged but respected and integrated as equal forms of expertise is fundamental to addressing historic and ongoing injustices. Without such change, there is a risk of perpetuating development patterns that continue to inflict intergenerational trauma, displace communities, and sever deeply rooted relationships with the land and waters, while rarely delivering long-term or equitable benefits for YFNs.

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<sup>263</sup> Schlosberg, *Defining Environmental Justice: Theories, Movements, and Nature*; Whyte, “Indigenous Experience, Environmental Justice and Settler Colonialism.”

Participants emphasized that meaningful engagement with YFNs is not simply a procedural requirement, but a foundational principle of upholding the spirit and intent of the UFA. This engagement must be distinct from general public consultation and rooted in the recognition of Indigenous governance and rights. While YESAB’s mandate includes ensuring meaningful YFN participation, the formal duty to consult rests with the Crown under Section 35 of the *Constitution Act, 1982*. However, this division of responsibility often creates ambiguity, resulting in frustration for many YFNs. As Riley explained, the process can become an exercise in deflection: YESAB may limit its responsibilities to the evaluation of narrowly defined environmental impacts, while the Yukon Government refers broader rights-based concerns back to YESAB. This institutional fragmentation frequently leaves YFNs in a position where their serious, culturally grounded concerns are acknowledged but not substantively addressed—falling into a bureaucratic void where no single body assumes accountability.

This structural disconnect has contributed to a widespread perception that consultation is more symbolic than transformative. Several participants described consultation sessions as perfunctory exercises—occasions to “blow off steam” rather than influence decisions. Some YFN Lands Department staff shared examples where requests for culturally appropriate accommodations, such as providing a translator so Elders could speak in their traditional language, were denied for logistical reasons. Sage recounted such an instance where the request was dismissed for potentially “slowing down” the meeting, reflecting a lack of flexibility and respect for Indigenous cultural protocols. Participants such as Riley and Sage stressed that effective consultation must move beyond checkbox exercises toward processes grounded in trust, reciprocity, and cultural relevance.

Despite these frustrations, participants also recognized that when meaningful engagement is achieved, it enhances the quality, credibility, and legitimacy of environmental assessments. Michael highlighted that building relationships with YFNs is not optional—it is “absolutely, fundamentally” a core component of YESAB’s mandate. Effective engagement requires familiarity with each First Nation’s unique history, governance, and values, aligning with the principle of subsidiarity, where decisions should be made as closely as possible to those most affected. Kirsten similarly argued for adaptations to the assessment process that make it more accessible and functional for YFN communities and governments, such as culturally appropriate timelines and documentation practices.

Several participants noted a positive shift in YESAB’s openness to YFN perspectives. Sebastian, Drew, Jamie, Stephen, Morgen, and Katie pointed to the growing influence of YFN governments, whose increasing capacity and technical expertise have led to deeper and more effective participation. Stephen observed that while this has sometimes extended assessment timelines, it has also significantly improved the depth and relevance of project reviews. Katie recalled that YESAB has improved in recent years in translating Tr’ondëk Hwëch’in values into the language of assessment frameworks, demonstrating slow but meaningful progress in bridging Indigenous and Western knowledge systems. However, she acknowledged the ongoing difficulty of translating values rooted in relational worldviews and spiritual understandings into the procedural and technical language that dominates environmental regulation.

Incorporating TK into assessments remains a critical challenge. Many participants expressed concern that while TK is formally recognized in YESAB’s processes, it is rarely treated as equivalent to Western scientific knowledge. Instead, TK is often relegated to a supplementary or illustrative role, rather than being integrated into the core of the decision-

making framework. Jesse and Lee noted that the technical nature of YESAB's comment submission process creates barriers for many community members—especially Elders and land users—who may hold valuable and nuanced knowledge but are unfamiliar with formal documentation protocols. Lee also questioned whether TK and other YFN input is genuinely influencing assessment outcomes or simply acknowledged superficially in reports. Chrystal raised a pointed concern: if a First Nation formally opposes a project, why is it often approved regardless? This raises serious doubts about how treaty rights, cultural knowledge, and YFN positions are weighted in final decisions.

Transparency about how YFN input is used is another major issue. Quinn and Riley noted that many community members are unclear about how their submissions are processed or factored into outcomes. Riley emphasized that detailed submissions from Elders and land users are often “read but not grappled with”—a dynamic that reinforces a sense of systemic dismissal and further erodes trust in the process. The lack of clear feedback loops and accountability mechanisms leaves YFNs disempowered, undermining the broader goals of reconciliation and co-management.

Additionally, the politicization of the YESAB process presents further complications. Participants such as Parker, Cameron, and Jordon observed that YESAB is often used as a platform for raising broader concerns about land use and governance—concerns that go beyond the narrow scope of individual project assessments. While YESAB is seen as one of the few accessible channels for expressing these grievances, it is also limited in its ability to address them substantively. Jordon described how, in some cases, the process has become a formality—a way for First Nations to register their objections in writing without real influence over final decisions.

Nonetheless, several participants affirmed that the *YESAA* process remains a critical space for YFNs to share cultural, environmental, and factual knowledge about proposed projects—especially in contexts where proponents may lack understanding of local ecosystems and histories. Peyton emphasized that this is often the only opportunity for YFNs to ensure their voices are heard, underlining the ongoing importance of this platform despite its flaws. The collection and submission of TK, cultural values, and environmental insight during the assessment process remain a powerful act of resistance and self-determination, even when the system is imperfect.

To move forward, participants called for a fundamental shift in how TK is understood, valued, and applied within YESAB. This includes co-developing methodologies that are not only scientifically rigorous but also culturally grounded, ensuring that Indigenous knowledge systems shape—not just supplement—the terms of environmental assessments. Structural changes to YESAB’s governance, accountability mechanisms, and procedural frameworks will also be necessary to bridge the gap between legal obligations and meaningful, justice-oriented participation. Without these changes, the promise of the UFA and the principles of reconciliation risk being undermined by procedural compliance without transformation.

### *8.3.2 Discussion on fulsome integration of TK*

Improving the effectiveness and legitimacy of the Development Assessment Process requires a deeper recognition of the distinct worldviews, governance systems, and land-based knowledge held by each Yukon First Nation. Strong, sustained relationships must be built between YESAB, Self-Governments, Indigenous organizations, and community members to ensure that those most directly affected by development decisions are meaningfully and equitably involved. As many participants—including current and former employees of YESAB and YFN governments—

emphasized, a “one-size-fits-all” model of engagement is not only inadequate but fundamentally incompatible with the diverse realities of YFN. Assessment processes must be culturally responsive and adaptable, reflecting each Nation’s environmental, political, and social priorities. This means developing engagement mechanisms that support and respect Indigenous governance systems while embedding TK and lived experience meaningfully throughout the assessment lifecycle—not as ancillary content, but as core components of analysis and decision-making.

Central to these efforts is the respectful and robust integration of TK into environmental and socio-economic assessments. Across fifteen interviews, participants underscored the critical value of TK in offering holistic and relational understandings of development impacts—ecological, social, and cultural. TK must not be treated as symbolic or supplemental; rather, it must be recognized as a distinct and valid knowledge system equal in standing to Western science. This includes acknowledging that TK is rooted in generations of observation, oral histories, ceremonial knowledge, and interspecies relationships—insights that often extend beyond the reach of conventional, compartmentalized assessment tools. For instance, as Lee described the removal of even one species from an ecosystem can destabilize the entire balance—an understanding embedded in TK but often overlooked in linear or reductionist approaches. Michael similarly argued that development assessments must move beyond siloed thinking and toward methodologies that reflect the deep interdependence between people, land, and ecosystems.

For participants who spoke about TK, the inclusion of TK is not solely about enhancing the technical depth of assessments. It is also a matter of recognizing the legitimacy and authority of Indigenous knowledge holders. Rowan emphasized that Indigenous Elders and TK keepers must be given the same credibility as Western-trained scientists. Stephen reinforced this point by

referencing Chapter 12 of the UFA, which explicitly calls for the integration of both Traditional and scientific knowledge in assessment processes. However, several participants—including Robin and Katie—expressed concern that these commitments often remain aspirational. In practice, TK is frequently tokenized or diluted. Robin noted that TK remains “kind of token,” rarely influencing the final outcomes of project assessments. Katie described instances where a single quote from an Elder was presented as evidence of TK integration, despite the absence of meaningful engagement or application of the knowledge shared.

Participants pointed to several structural and systemic barriers that hinder the meaningful inclusion of TK. One major challenge lies in the translation of Indigenous knowledge into Western scientific or bureaucratic language. This process often strips knowledge of its cultural context, narrative depth, and ethical meaning. As Lee highlighted, some YFNs are increasingly reluctant to share TK due to prior experiences of misrepresentation or misuse. Others, including Robin, criticized the use of third-party consultants who may lack the cultural grounding necessary to interpret TK with accuracy or respect. In one case, a significant TK-gathering effort produced a comprehensive report that failed to shape the assessment’s findings or outcomes—exhausting the Nation’s capacity without delivering tangible influence.

Katie, reflecting on her experience with Tr’ondëk Hwëch’in, described the recurring frustration of trying to translate sacred and complex cultural values—such as the significance of wetlands—into regulatory language palatable to Western systems. Community members often expressed exasperation, asking, “I don’t know how else to explain this to you,” when their knowledge could not be conveyed within the narrow confines of bureaucratic templates. Alanna added that Indigenous stories, which often hold rich ecological and spiritual significance, are reduced to “comments” submitted through the YESAB Online Registry. These submissions,

when filtered through unfamiliar worldviews, risk being dismissed, flattened, or misunderstood—undermining their potential to inform decision-making.

A related and recurring challenge is the lack of capacity and preparedness among YESAB assessors to work with TK meaningfully. As Robin and Michael observed, assessors often default to Western scientific approaches because those are the methods they have been trained in and feel comfortable using. Without adequate tools, training, or institutional support, assessors are ill-equipped to understand, interpret, or apply Indigenous knowledge. Michael emphasized that the issue is not a lack of information—YFNs have been sharing knowledge for years—but rather how that information is received, understood, and acted upon. Alanna further noted that YFN governments are often required to carry the burden of interpretation, translation, and contextualization. In doing so, they effectively perform the work of the project proponent—labor that frequently goes unrecognized and, ultimately, may not shift the outcome.

Despite these ongoing challenges, participants acknowledged that progress is occurring. YESAB has taken steps to improve its engagement with YFNs, such as hiring Indigenous liaison officers and participating in training initiatives focused on Indigenous governance and TK. Chrystal highlighted YESAB's participation in the Braiding Knowledges conference in Victoria, which emphasized ways of integrating Indigenous knowledge systems into formal regulatory processes. Kirsten also noted recent efforts by YESAB staff to link environmental impacts with cultural practices and knowledge transmission, indicating a more deliberate attempt to understand the relational nature of Indigenous land use.

However, participants were clear that these efforts must deepen. Drew called for sustained and systemic pressure to ensure TK is integrated not as an afterthought, but as a central, driving force in assessments. Incorporating TK must happen from the beginning, not

after critical decisions have already been made. This demands structural change, long-term relationship-building, co-designed methodologies, and—perhaps most critically—a cultural shift within YESAB itself. Institutions must move from procedural accommodation to genuine respect, treating TK not as content to be captured, but as a living system of knowledge that belongs to and must be led by Indigenous Peoples.

### *8.3.3 Conclusion*

In summary, ensuring the meaningful involvement of Yukon First Nations (YFNs) in the development assessment process is not merely a matter of meeting legal or treaty obligations—it is about building a system that genuinely reflects Indigenous values, knowledge systems, and governance authority. Achieving this requires more than surface-level inclusion; it calls for deep systemic change, cultural humility, and a shared commitment to fundamentally rethinking how development is assessed, approved, and understood.

Environmental justice, as Kyle Whyte argues, is not simply about equitable outcomes or distributive fairness—it must also account for historical and ongoing colonial structures that have disrupted Indigenous governance systems and severed communities from their ancestral lands.<sup>264</sup> In settler-colonial contexts like the Yukon, environmental injustice occurs not only through pollution or land dispossession but also through procedural mechanisms that undermine Indigenous self-determination. This includes technocratic assessment processes that marginalize Traditional Knowledge and fail to recognize Indigenous jurisdiction as foundational rather than consultative.

Ultimately, the path toward more rigorous, equitable, and culturally responsive assessments lies in the pursuit of knowledge equity—ensuring that TK is not only acknowledged

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<sup>264</sup> Whyte, “Indigenous Experience, Environmental Justice and Settler Colonialism.”

but meaningfully integrated, valued, and applied. This is not a procedural enhancement; it is a matter of Indigenous rights, cultural continuity, and environmental justice. Only by upholding these principles can YESAB fulfill its mandate and foster a development process that is genuinely inclusive, transformative, and grounded in the lived realities of the communities it serves.

## **8.4 Wellbeing of YFNs and all Yukoners, as well as Canadian interests**

### *8.4.1 Discussion on YFN wellbeing*

The current impact assessment process administered by the YESAB carries significant implications for the wellbeing of YFN. In this context, wellbeing must be understood holistically, encompassing physical, cultural, social, mental, economic, and environmental dimensions. Although YESAB was established under the UFA with the aim of supporting sustainable development and protecting community interests, participants have expressed concerns that its current practices frequently fall short of addressing the full scope of YFN wellbeing. As a result, communities have experienced cultural erosion, social harm, and a growing sense of mistrust in the assessment process.

Environmental degradation linked to resource development—especially mining—has immediate and far-reaching effects on physical wellbeing. Such development disrupts access to traditional hunting, fishing, berry-picking, and medicine-gathering areas. These land-based practices are vital not only for nutrition and physical health but also for the maintenance of cultural identity and intergenerational knowledge transfer. Participants noted that restricted access to these areas leads to food insecurity, reduced physical activity, and chronic health challenges. Contamination of water sources by industrial pollutants, including mercury and

heavy metals, further compounds health risks and exacerbates the vulnerability of YFN communities to environmental harm.

Equally significant is the erosion of cultural and spiritual wellbeing. When development displaces YFNs from their ancestral territories, it breaks the relationships that bind people to place—relationships central to language, worldview, and cultural continuity. Elders are denied opportunities to share TK with younger generations, resulting in a growing disconnection from stories, practices, and land-based teachings that sustain collective identity. Although YESAB formally acknowledges the relevance of TK, participants consistently emphasized that it is often marginalized within the assessment process. Rather than being integrated as a foundational knowledge system, TK is frequently treated as supplemental to Western science—resulting in tokenism, misinterpretation, or complete omission. Participants shared that sacred and heritage sites are often inadequately recognized in assessments, and assessors unfamiliar with Indigenous worldviews tend to undervalue the cultural and spiritual significance of specific landscapes.

The effects on mental and social wellbeing are equally profound. Feelings of disempowerment and disconnection grow when Indigenous input is dismissed or ignored, particularly when communities invest time and resources into consultation processes that yield little meaningful change. Participants described the emotional toll of land degradation, displacement, and uncertainty as contributing factors to increased anxiety, depression, and community stress. The weakening of social cohesion, particularly through the loss of communal land-based activities such as fish camps and seasonal harvesting trips, further isolates individuals and undermines support systems. These gatherings are not merely economic or recreational; they are vital spaces for healing, knowledge transmission, and cultural revitalization.

Economically, while industrial projects may offer short-term job opportunities and infrastructure improvements, the long-term consequences are often destabilizing. Participants noted that the boom-and-bust nature of the resource economy creates cycles of dependency, job loss, and unfulfilled promises. Once mining operations conclude, many YFN communities are left to bear the social, environmental, and financial burdens, particularly in the absence of meaningful economic diversification strategies. Infrastructure investments tied to resource extraction are frequently temporary, and participants expressed concern that essential services such as healthcare, education, and housing do not receive sustained support.

Systemic barriers embedded within the YESAB process intensify these challenges. The process is widely viewed as overly technical and bureaucratic, creating accessibility issues for many YFN citizens—especially Elders and land users who may be unfamiliar with regulatory language or digital platforms. Participants described how the responsibility of responding to assessments often falls disproportionately on under-resourced YFN Lands Departments, who must complete exhaustive reviews without adequate funding or institutional support. This often amounts to unpaid labor—essentially performing the work of project proponents. Additionally, there is little transparency regarding how Indigenous input is incorporated into final decisions, further reinforcing community skepticism and disengagement.

A particularly critical concern is the lack of clarity and consistency around the treatment of TK within YESAB's processes. Participants emphasized that the assessment framework must move beyond procedural inclusion and commit to genuine knowledge equity. For TK to be meaningfully incorporated, it must inform the entire process—from scoping to mitigation, monitoring, and decision-making. This requires not only co-developing assessment methodologies with YFNs but also equipping assessors with the cultural competence and tools to

respectfully engage with Indigenous knowledge holders. The failure to do so risks continuing a cycle where TK is collected, archived, and cited, but rarely used to influence outcomes or reshape project designs.

Despite these systemic issues, participants expressed optimism for reform. Key among their recommendations was the full and early integration of TK into assessment processes—not as anecdotal evidence or thematic “input,” but as a legitimate and authoritative system of knowledge. Several participants advocated for co-governance models and the co-design of culturally appropriate engagement strategies that reflect Indigenous decision-making structures. This includes the use of translation services, land-based consultation methods, oral storytelling, and ceremonial protocols. Others highlighted the need for enhanced training for YESAB staff in Indigenous legal traditions, TK interpretation, and the ethical use of cultural knowledge. In addition to procedural reform, participants stressed the need for a more holistic definition of impact. Current assessment criteria often prioritize economic indicators while neglecting social, mental, and cultural dimensions of wellbeing. A more comprehensive and just approach would consider these factors alongside ecological integrity, cumulative effects, and cultural resilience. Transparent engagement processes, clear accountability mechanisms, and genuine responsiveness to community concerns are all essential to rebuilding trust and achieving better outcomes.

#### *8.4.2 Discussion on the wellbeing of Yukoners and Canadian interests*

In Canada, wellbeing is understood as a multi-dimensional concept that goes beyond the mere absence of illness. It encompasses physical, mental, social, emotional, cultural, and economic attributes that enable individuals and communities to navigate life’s challenges with resilience

and purpose.<sup>265</sup> This comprehensive understanding includes elements such as a sense of coherence, self-esteem, agency, and connection to place and identity. Well-being is shaped by a range of interrelated factors, including economic security, environmental integrity, social cohesion, and cultural vitality. In the Canadian context, it is also tied to broader national goals, such as environmental sustainability, Indigenous reconciliation, and responsible resource development—all of which must be carefully considered when assessing the long-term impacts of development projects.

The current operations of YESAB have far-reaching implications for the wellbeing of Yukoners, both Indigenous and non-Indigenous. As a regulatory body established under the UFA, YESAB plays a central role in evaluating development proposals and ensuring environmental protection. Its mandate includes facilitating public participation and balancing ecological, economic, and social considerations. While this structure has enabled some degree of oversight and accountability, participants in this study raised concerns that YESAB’s current framework does not adequately reflect or protect the broader dimensions of wellbeing, particularly those valued by YFN and remote communities.

On one hand, YESAB’s structured process has supported environmental regulation and enabled community input in project assessments. Some projects reviewed through YESAB have brought short-term benefits, such as job creation, infrastructure upgrades, and expanded services. However, participants emphasized that these benefits are frequently short-lived and often outweighed by long-term environmental, cultural, and social costs. When cumulative impacts are not fully accounted for—such as the degradation of water systems or the loss of wildlife

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<sup>265</sup> Government of Canada, “Quality of Life Framework for Canada,” Department of Finance Canada, 2021.

habitat—the result is a slow erosion of environmental wellbeing, particularly for those whose livelihoods and health depend on intact ecosystems.

Subsistence activities like hunting, fishing, berry-picking, and medicine gathering are not merely traditional practices—they are central to food security, physical health, and cultural identity for many Yukoners. Participants noted that these activities are frequently disrupted by development, while impact assessments often fail to meaningfully consider or quantify these losses. In smaller or more remote communities, the consequences can be acute: restricted access to land leads to decreased nutrition, reduced physical activity, displacement, and increased reliance on imported foods, which are often expensive and less nutritious. Simultaneously, the stress of environmental uncertainty and loss of land access contributes to growing mental health concerns, including anxiety, depression, and community-wide feelings of disempowerment.

Cultural and spiritual wellbeing—particularly for YFN—is deeply impacted by YESAB’s limited recognition of Indigenous heritage values. The current assessment framework continues to prioritize Western definitions of heritage, such as archaeological sites or material artifacts, while overlooking broader cultural landscapes, oral histories, and spiritual practices. Participants described how traditional trails, fish camps, wetlands, and other culturally significant places are often reduced to technical considerations of land use or environmental function. This narrow view marginalizes Indigenous ways of knowing and deepens the erasure of First Nations’ relationships to land and water. As a result, the assessment process can inadvertently reproduce colonial assumptions, undermining the very commitments to reconciliation that underpin the UFA.

Economic wellbeing, while sometimes boosted by development, is also at risk due to the unstable nature of the resource economy. Participants highlighted how mining and similar

extractive industries often follow boom-and-bust cycles, bringing temporary prosperity followed by long-term instability. When mines close or scale down, communities are left to deal with job losses, declining tax revenues, and reduced access to public services such as healthcare, education, and transportation. These impacts are especially severe in communities that have not been supported in developing diversified, sustainable local economies. For those who rely on subsistence livelihoods or who live adjacent to proposed development sites, the trade-offs are often unsustainable and carry long-term consequences.

YESAB's internal structures also contribute to systemic inequities in how wellbeing is addressed. The assessment process remains highly technical and heavily bureaucratic, posing barriers to meaningful participation for many citizens. Elders, youth, and community members without technical expertise may struggle to navigate the process or feel excluded from decision-making. Smaller or under-resourced communities are particularly affected, as they often lack the staff, time, or financial capacity to engage with multiple concurrent project assessments. YFN Lands Departments, already operating with limited capacity, are frequently responsible for extensive document reviews and community consultations—amounting to unpaid labor that can overshadow other pressing responsibilities. This creates a dynamic in which communities carry a disproportionate share of the assessment burden while having limited influence over final outcomes.

Participants also expressed concern about the strain placed on YESAB staff. Assessors are expected to process increasingly complex and controversial projects within rigid timelines, while balancing community expectations, political sensitivities, and regulatory requirements. This has led to emotional exhaustion, reduced morale, and diminished capacity for deep engagement. Without institutional supports, including adequate staffing, cultural competency

training, and mental health resources, the pressure placed on assessors undermines both the quality of the assessments and the credibility of the institution.

Social cohesion within communities is also at risk when impact assessments fail to reflect the concerns of those most directly affected. When community voices are overlooked or dismissed, residents lose confidence in public institutions. Participants emphasized that the absence of transparent feedback mechanisms, limited clarity on how decisions are made, and minimal accountability for how public input is used contribute to feelings of frustration and alienation. In some cases, the very process designed to ensure inclusion and accountability has become a source of tension, exacerbating distrust and weakening the perceived legitimacy of the development process.

While YESAB was established to promote responsible development in alignment with the UFA, its current framework has not evolved sufficiently to address the full range of wellbeing concerns expressed by Yukoners. To be effective and equitable, assessment processes must move beyond economic and environmental checklists and incorporate cultural, emotional, and spiritual dimensions of wellbeing. This includes integrating Indigenous knowledge and governance principles into all stages of project review, designing accessible and culturally appropriate engagement mechanisms, and adopting holistic indicators that better reflect community realities.

#### *8.4.3 Conclusion*

In sum, the current impact assessment framework too often fails to account for the full scope of YFNs' wellbeing, resulting in avoidable harm and diminishing trust in the process. Participants emphasized that meaningful change requires more than procedural adjustments—it demands a

fundamental shift in the values guiding assessment. Rob Nixon’s concept of *slow violence*<sup>266</sup>—the delayed, dispersed, and often invisible harm that accrues over time—provides a useful lens here, particularly in contexts where environmental degradation erodes Indigenous livelihoods, cultural continuity, and intergenerational health in ways that conventional metrics fail to register. When viewed through this lens, the shortcomings of the current framework are not only technical oversights but ethical failures to recognize how cumulative, long-term impacts disproportionately affect Indigenous communities. By centering Indigenous voices, honoring TK, and embedding holistic understandings of wellbeing at every stage of the process, YESAB can transform into an institution that is not only more inclusive, but also culturally grounded and genuinely equitable. To fulfill its mandate and remain a trusted body under the UFA, YESAB must adopt a relational, responsive approach—one that places human and ecological wellbeing at the core of development decision-making. In doing so, it can more effectively advance the goals of sustainability, justice, and reconciliation that the UFA was designed to uphold.

## **8.5 Environmental Quality and Sustainable Development**

### *8.5.1 Discussion on Sustainable Development*<sup>267</sup>

During the early 1990s, the principles of sustainable development played a pivotal role in shaping Yukon’s Development Assessment Process, directly influencing the spirit and intent of the UFA. These principles were inspired in large part by global discourse on sustainability, particularly the landmark 1987 *Brundtland Report, Our Common Future*, issued by the United Nations World Commission on Environment and Development. This report introduced the

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<sup>266</sup> Nixon, *Slow Violence and the Environmentalism of the Poor*.

<sup>267</sup> According to the UFA, s. 1.1.1, Sustainable Development is defined as: beneficial socio-economic change that does not undermine the ecological and social systems upon which communities and societies are dependent.

concept of sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs,” a definition that resonated strongly in both Indigenous and non-Indigenous communities across the Yukon.

As former Yukon Premier Tony Penikett observed, awareness of sustainable development gained considerable momentum in the late 1980s and early 1990s, aligning with the drafting of the UFA. In his book, *Hunting the Northern Character*, in which he discussed the growing prominence of sustainability in northern policymaking, he noted that the Brundtland Report not only brought the language of sustainability to global attention but also influenced discourse in the Arctic, where its principles were enthusiastically received. In parallel, Yukon’s NDP government launched *Yukon 2000*, a community-driven economic planning initiative that echoed many of the Brundtland Report’s recommendations.<sup>268</sup> This convergence of global thought and local initiative demonstrated how international sustainability frameworks were being meaningfully adapted to Yukon’s political and cultural context.

Sustainable development was deliberately embedded in the UFA, where the term appears multiple times and underpins key components of the agreement. According to Penikett, the creation of the YESAB was shaped by both the land claims process and the *Yukon 2000* planning model, highlighting how the principles of sustainability were institutionalized within Yukon’s governance structures. As a result, the UFA and its associated institutions reflect not only international commitments to sustainable development but also a local vision that seeks to balance economic opportunity with cultural integrity and environmental stewardship.

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<sup>268</sup> Tony Penikett, *Hunting the Northern Character* (Vancouver, British Columbia: UBC Press, 2017).

### 8.5.2 *Discussion on Environmental Quality*

Despite the foundational commitment to sustainable development embedded in UFA, participants expressed serious concerns about the YESAB effectiveness in upholding these principles in practice. A key issue identified is the inconsistent scoping of assessments, which are frequently either too narrowly defined or excessively broad. According to guidance from the International Association for Impact Assessment, overly narrow scopes risk overlooking cumulative, indirect, and long-term impacts—particularly those affecting Indigenous rights, traditional land use, and social cohesion. Conversely, overly broad scopes can dilute analytical focus, resulting in vague findings and recommendations that lack actionable depth.<sup>269</sup> In the Yukon context, this tension has led to assessments that often fail to reflect the interconnected nature of ecological, cultural, and socio-economic systems.

Nine participants—most of whom currently work for or have previously worked with YFN Lands Departments—noted that YESAB’s consistently high project approval rates suggest a systemic bias toward development. Rejections are rare, even when significant concerns are raised by communities or experts. Instead, YESAB often defaults to recommending mitigation measures. While mitigation can serve a legitimate role in minimizing environmental harm, its routine application—even in high-risk or culturally sensitive contexts—can dilute the precautionary and integrative principles that are central to sustainable development. This procedural reliance on mitigation over meaningful alternatives can obscure the full severity of environmental and socio-economic impacts, giving the appearance of due diligence without addressing root issues. As a result, YESAB’s operational tendencies appear increasingly

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<sup>269</sup> Yukon Environmental and Socio-Economic Assessment Board, “Yukon Environmental and Socio-Economic Assessment Methodology.”

misaligned with the holistic, risk-conscious, and community-driven framework envisioned in both the UFA and international best practices for impact assessment.

Participants emphasized the urgent need to strengthen legal and policy frameworks that support sustainable development in practice—not only in principle. They suggested that YESAB and similar institutions should adopt policies that prioritize rigorous environmental protections, incorporate community knowledge, and evaluate long-term ecological and social costs rather than focusing narrowly on short-term economic returns. The historical legacy of unregulated resource development in the Yukon—marked by large-scale environmental damage—underscores the necessity of such reforms.

The example of placer mining had different perspective expressed by participants. Avery noted that, in some cases, placer mining can create new ecosystems—especially in wetlands—that support different forms of wildlife and may not always be harmful. She also emphasized that the current wetland policies were meant for Southern areas of Canada that were experiencing wetland shortages, unlike the Yukon. However, research consistently shows that placer mining disrupts hydrological systems, degrades habitats, and reduces biodiversity.<sup>270</sup> Although studies like the 2017 RCP Engineering report on wetland reclamation in placer mining areas<sup>271</sup> suggest that minimal environmental damage may be possible with best practices, data on reclamation effectiveness remains limited. This gap in longitudinal research weakens the ability to evaluate

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<sup>270</sup> Guilherme Lombardi Garbellini, “Environmental Assessment as a Tool for Managing Impacts on Wetlands: Understanding Current Practice in the Mining Sector” (Master of Science, Saskatoon, Saskatchewan, University of Saskatchewan, 2023); Christopher J. Sergeant et al., “Risks of Mining to Salmonid-Bearing Watersheds,” *Science Advances* 8, no. 26 (July 2022): eabn0929, <https://doi.org/10.1126/sciadv.abn0929>; James Aldrich and Institute of Water Resources, “Managing Water Resources for Alaska’s Development” (Fairbanks, Alaska: Institute of Water Resources, November 1983).

<sup>271</sup> RCP Engineering, “Wetland Reclamation Design and Practices in the Indian River Valley: A Review of Placer Mining Sites” (Whitehorse, Yukon: Prepared for the Yukon Placer Secretariat, 2017).

the long-term success of reclamation efforts, complicating environmental management and undermining claims of sustainability.

Compounding these issues is the ongoing absence of comprehensive land use planning in the Yukon. Without clearly defined thresholds or reliable baseline environmental data, it is difficult to accurately measure cumulative impacts or enforce meaningful mitigation strategies. Shifting baselines further complicate this, as degraded conditions become normalized over time, leading to underestimations of long-term environmental and community harm. As a result, even well-intentioned assessments can fail to reflect the true extent of ecological degradation or cultural loss.

The 2003 Devolution Agreement,<sup>272</sup> which transferred greater control over land and resources to the territorial government, was intended to empower locally informed decision-making. However, this new mandate has also highlighted critical regulatory gaps. Yukon's existing resource development laws have not been adequately updated to reflect contemporary environmental standards, Indigenous rights frameworks, or socio-economic realities. This regulatory lag hinders effective oversight, particularly in a region where mining remains a dominant economic driver.

The problem of abandoned mines, as discussed in 17 interviews, exemplifies the consequences of weak legislative frameworks. Sites such as the Faro Mine continue to pose serious environmental and financial risks due to outdated regulatory and industrial practices that failed to incorporate proper closure planning and long-term reclamation strategies. The mine,

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<sup>272</sup> “On April 1, 2003, Yukon became the first territory to take over land and resource management responsibilities. On that date, amendments to the federal *Yukon Act* came into effect, based on the Yukon Northern Affairs Program Devolution Transfer Agreement between the federal government, the Government of Yukon and signatory Indigenous groups. Prior to Yukon devolution, the Government of Canada, through Crown-Indigenous Relations and Northern Affairs Canada, governed most natural resources in the territory.” Canada, “Yukon Devolution.”

once one of the largest open-pit lead-zinc operations in the world, left behind extensive contamination of soil and water systems, the legacy of which persists decades after operations ceased. The ongoing costs of monitoring, maintenance, and remediation—currently projected in the hundreds of millions of dollars—are now borne largely by the public, including both Yukon and federal governments. This situation underscores the critical importance of legislation that mandates robust closure plans, post-mining land use strategies, and enforceable financial securities from project proponents at the start of the impact assessment process.

Recent incidents, such as the Victoria Gold Mine Disaster, further illustrate the dangers of insufficient regulatory oversight and emergency preparedness considerations in impact assessment. Beyond the immediate environmental damage, such events erode public confidence, damage the reputation of the mining sector, and strain relationships between governments, communities, and industry. These failures make it more difficult to build the trust necessary for future project approvals and demonstrate the urgent need for more robust enforcement, accountability, and preventative planning mechanisms.

### *8.5.3 Conclusion*

In conclusion, while the UFA laid a strong foundation for sustainable development in Yukon, current assessment practices often fall short of this vision. Gaps in legislation, outdated regulatory frameworks, and limited integration of Indigenous knowledge compromise both environmental integrity and community trust. Addressing these issues demands systemic reform—rooted in stronger laws, transparent processes, and equitable participation. By aligning impact assessment with long-term ecological, cultural, and socio-economic sustainability, Yukon can move toward a model of development that genuinely reflects its commitments under the UFA and restores confidence in the institutions tasked with safeguarding its future.

## 8.6 Heritage Resources

### 8.6.1 Discussion on Heritage Resources

YESAB currently operates within a predominantly Western archaeological framework when defining and managing heritage resources. Within this model, heritage is primarily categorized as paleontological, archaeological, or historical in nature and safeguarded through established regulatory mechanisms. Mitigation tools—such as heritage resource impact assessments, site flagging, chance-find protocols, and archaeological monitoring—are used to address potential risks to these resources during development. However, these protective measures largely apply to well-documented archaeological sites and historic structures, focusing narrowly on direct physical disturbances caused by construction or resource extraction activities.

YESAB's framework offers only limited recognition to burial sites, treating them as isolated features requiring avoidance, rather than as integral components of broader cultural landscapes. Its mitigation strategies—such as excavation and monitoring—are governed by territorial heritage legislation and remain rooted in physical preservation. This approach restricts protection to tangible artifacts and locations, leaving out the intangible cultural values that are central to Indigenous heritage.

Under the *YESAA*, heritage resources are defined as:

1. A movable work or assembly of works of people or nature (excluding records) with archaeological, paleontological, ethnological, prehistoric, historic, or aesthetic value;
2. A record of scientific or cultural value in any physical form;
3. A defined area of land that contains or supports these works, or that holds aesthetic or cultural value, including human burial sites outside recognized cemeteries.

While this legal definition establishes a formal structure for heritage protection, it primarily reflects a Western colonial worldview that emphasizes physical sites and artifacts, rather than the living, relational nature of Indigenous heritage.

In contrast, YFNs advance a holistic understanding of heritage that aligns with the spirit and intent of the UFA. Their perspective expands the definition of heritage to encompass both tangible and intangible elements, including *Heritage Sites* and *Movable Cultural Resources*. For YFNs, Heritage Sites are not limited to archaeological remains but include fish camps, traplines, traditional trails, and culturally significant place names—features embedded in land-based practices and oral histories. These sites also include wetlands, mineral licks, and spiritually significant areas, which are critical to cultural continuity and identity.

Movable Cultural Resources include not only artifacts but also living natural resources essential to Indigenous life, such as salmon, moose, medicinal plants, and materials like bark, bones, and fibers. Their inclusion illustrates the deep interconnection between land, ecology, and Indigenous knowledge systems. Unlike YESAB’s artifact-centered framework, the YFN approach recognizes that cultural heritage is dynamic, ecosystem-based, and fundamentally relational.

A key divergence lies in how intangible cultural heritage is treated. While YESAB’s process largely excludes oral histories, TK, and ceremonial practices from heritage assessment, YFN frameworks center these elements as inseparable from the land and its stewardship. This exclusion under YESAB’s current model reinforces systemic biases that prioritize colonial historic sites and artifacts, while failing to protect the full range of Indigenous heritage values.

This misalignment has real implications for the Development Assessment Process. By limiting the scope of what qualifies as heritage, YESAB’s assessments risk overlooking or

undervaluing culturally significant landscapes and practices. As a result, traditional gathering places, sacred areas, and Indigenous ecological knowledge systems remain vulnerable to industrial development. Participants in the assessment process have repeatedly voiced concern that YESAB's criteria do not capture the lived realities of YFN or reflect the cultural, spiritual, and ecological dimensions of heritage as defined by Indigenous communities.

This disconnect is especially evident in the treatment of wetlands. Despite their profound cultural significance, wetlands are typically viewed through an environmental lens within the assessment framework, rather than as vital cultural heritage landscapes. The ongoing regulation and permitting of mining in wetland areas reveal a limited understanding of their cultural value. This shortfall is particularly concerning for the First Nation of Na-Cho Nyäk Dun (FNNND), for whom wetlands are central to identity, spirituality, and subsistence. These landscapes support fishing, hunting, plant gathering, and ceremonial activities, and are deeply embedded in TK and oral histories.

FNNND has voiced serious concerns about the lack of comprehensive assessments that account for the hydrological and ecological interdependence of wetlands with surrounding landscapes. While the Government of Yukon has introduced a Wetlands Policy, FNNND critiques it as insufficient, as it focuses on risk reduction rather than upholding the principle of avoidance for culturally significant sites. The policy fails to provide the level of protection required for areas that are both ecologically fragile and culturally irreplaceable. Given YESAB's legal and treaty obligations under the UFA, including the duty to protect the rights and cultural landscapes of YFN, it is imperative that the board recognize wetlands not only as environmental resources but as heritage sites. This recognition must translate into assessment practices that prioritize Indigenous perspectives, respect traditional land uses, and ensure cultural survival. Protecting

wetlands, therefore, is not simply an issue of ecological preservation—it is a matter of upholding Indigenous rights, honoring cultural heritage, and ensuring intergenerational justice.

To date, Natural Resource Officers (NROs) have rarely given meaningful consideration to heritage-related issues during site inspections. As a result, areas identified as potential heritage sites within active mine sites are frequently left unprotected and are at risk of irreversible disturbance. Moreover, because standard protocol requires projects to be halted when heritage resources are discovered, many miners are reluctant to report finds. This culture of non-reporting is compounded by the existence of an underreported black market for heritage goods, particularly the remains of mammoths and other long-deceased animals, which continue to leave the territory with little oversight or accountability.

### *8.6.2 Conclusion*

In conclusion, YESAB's current heritage framework falls short of protecting the full breadth of Indigenous cultural values, particularly those rooted in the land and lived experience. By privileging physical artifacts over relational landscapes and intangible knowledge, the assessment process excludes critical dimensions of YFN' heritage. To uphold its obligations under the UFA, YESAB must adopt a more holistic, culturally grounded approach—one that recognizes wetlands and other cultural landscapes as vital heritage sites. Only then can the Development Assessment Process ensure meaningful cultural protection, support Indigenous self-determination, and advance lasting reconciliation through land-based justice.

## **8.7 Certain, timely review process that avoids duplication**

### *8.7.1 Discussion on Certain and Timely Review Process*

The objectives of the UFA, as implemented through the YESAB, were established to ensure that development assessments are procedurally transparent, clearly defined, and completed within predictable timelines. When Chapter 12 was negotiated in 1993, YFNs envisioned a co-governance model that would deliver development assessments grounded in accountability, efficiency, and respect for Indigenous rights. At that time, the volume and complexity of development proposals—particularly those related to mining—were considerably lower than what the territory experiences today. The contemporary landscape presents new and evolving challenges that stretch the original intent and capacity of the Development Assessment Process.

Although timeliness is emphasized in Chapter 12 of the UFA and referenced in Sections 50 and 56 of the *YESAA*, neither document prescribes concrete timelines. Instead, Section 31(1) of *YESAA* grants YESAB the authority to establish regulatory timelines through mechanisms such as the Designated Office Regulations. These regulations stipulate an 8-day window for adequacy reviews (extendable to 21 days) and a 14-day limit for Evaluation Reports (ERs), also extendable to 21 days. In theory, this means a simple project could be assessed in no more than 42 days. In practice, however, these targets are rarely met. According to current data from the YESAB Online Registry (YOR), project assignment alone can take up to 70 days—well beyond the regulated benchmarks.

Timelines emerged as a significant concern for 12 of the 35 interview participants. All five participants from the mining industry stressed the economic and operational burdens caused by delays. Blake described instances where applications remained in adequacy review for months without progress, while Jordon and Peyton spoke of long delays that jeopardized entire

mining seasons. Sam warned that the inability to meet internal deadlines not only erodes public trust but also causes tangible socioeconomic harm—especially for small, family-run placer operations. Katie underscored the importance of transparency and consistent communication around delays to help proponents manage expectations and mitigate uncertainty.

Internal capacity issues within YESAB were a recurring theme. Blake and Sam cited chronic staff shortages, high turnover, and lingering effects of pandemic-era disruptions as key reasons for ongoing backlogs. Katie also noted a cultural shift within YESAB, where greater emphasis is now placed on assessment quality over rigid timelines—a departure from earlier norms. While this shift allows for deeper, more thoughtful evaluations, it has also introduced inconsistencies and extended wait times. Capacity limitations are not exclusive to YESAB. YFN Lands Departments also face resource constraints that limit their ability to engage fully and promptly in the assessment process and frequently ask for extensions to allow longer time to engage in the comment periods. Katie and Stephen highlighted that increasingly complex projects and the need for fulsome consultation with YFNs often warrant additional time beyond legislated limits.

Ultimately, the Development Assessment Process must strike a delicate balance: ensuring timely project decisions while delivering high-quality, inclusive, and culturally grounded assessments. While proponents—particularly from the mining industry—advocate for faster turnaround to support business certainty, Indigenous governments and other stakeholders continue to call for assessments that are thorough, respectful, and informed by Indigenous perspectives. Addressing this tension will require increased capacity, better coordination, and more transparent, collaboratively developed timelines.

### 8.7.1.1 Development Assessment Process Timelines

Stage	Regulated Timeline (Days)	Regulated by	Notes	Average Timelines (days)
<b>YESAB - Adequacy Review</b>	Regular mine - 8 (up to 21) Large mine – N/A	<i>YESAA</i> - Designated Office Regulations (s. 12 and 15)	Currently, on the YESAB Online Registry (YOR), this process can take up to 70 days, down from 104 day in the fall of 2024; No regulated timelines for Executive Committee level project or large mines	All projects - 70
<b>YESAB - Evaluation Report (ER)</b>	Regular mine - 14 (up to 21) Large Mine - N/A	<i>YESAA</i> - Designated Office Regulations (s. 30)	Begins once sufficient info is deemed; No regulated timelines for Executive Committee level project or large mines	Placer Mine – 146 Quartz Mine - 241
<b>Crown Consultation</b>	Regular mine – 30 days (up to 37 days) Large mine – 90 (up to 120)	Decision Body Time Periods and Consultation Regulations (s. 2 and 3)	Two 30-day extension requests possible; Longer expectations for Executive Committee projects	Information not available
<b>Yukon Water Board - Adequacy Review</b>	5 (review days)	<i>Yukon Waters Act</i> – Waters Regulations (s. 17)	Initial review of completeness; non-consecutive days	Information not available
<b>Yukon Water Board - Technical Review</b>	30 (up to 90 review days)	<i>Yukon Waters Act</i> – Waters Regulations (s. 18)	Non-consecutive days; may be extended; depends on project complexity	Information not available
<b>Land Use Permit</b>	N/A	Territorial Land (Yukon) Act	No fixed timeline; Can be done simultaneously as getting a Water Licence	Smaller Mine – 21 Larger Mine - 21

Figure 4: Development Assessment Process Timelines

### 8.7.2 Discussion on Avoiding Duplication

Duplication within the Yukon's Development Assessment Process, particularly between the YESAB and the Yukon Water Board, has emerged as a significant concern among participants, especially in light of limited regulatory and community capacity. Ten participants—including those from YFN Lands Departments, the Yukon Water Board, and other regulatory bodies—identified the lack of coordination between YESAB and the Yukon Water Board as a major inefficiency that creates delays, regulatory confusion, and undue burdens for proponents and affected communities. This misalignment is largely attributed to the disconnect between *YESAA* and the Yukon *Waters Act*, which govern YESAB and the Yukon Water Board, respectively. Sage, who has worked closely with both bodies, explained that the two legislative frameworks do not align well, causing assessors and reviewers to operate with unclear guidance and inconsistent authority. The resulting disconnect often leads to overlapping or even contradictory recommendations between the two bodies. For example, if YESAB proposes a specific water quality objective during its assessment, the Yukon Water Board—despite possessing greater technical expertise in water management—may be unable to deviate from it, potentially resulting in regulatory disputes or delays.

Participants also flagged significant inefficiencies in how assessments and consultations are sequenced. Devon described how projects are often assessed by YESAB and only afterward passed to the Water Board for permitting, creating a staggered rather than synchronized process. When the Water Board makes changes during its review, those changes can trigger the need for a new or amended assessment, effectively restarting the process and adding months, if not years, to project timelines. Devon argued that this procedural loophole undermines the intent of the UFA and *YESAA* and called for institutional reform—suggesting that water and land assessments be

integrated under a single agency to reduce duplication and enhance coherence. Casey supported this view but proposed a less structural reform: involving the Yukon Water Board earlier in the environmental assessment process to offer technical comments on water-related issues such as water balance. Doing so would prevent delays and improve the quality of assessments by identifying key technical issues at the outset. However, Casey also noted that the Water Board's rigid communication protocols currently limit its ability to engage proactively.

Devon highlighted that the current Development Assessment Process suffers from procedural redundancy. Avery raised specific concerns regarding placer mining, which requires separate approvals from both YESAB and the Yukon Water Board for Class 4 operations. This dual review often leads to conflicting timelines and consultation outputs. The Water Board's expanded authority to issue mining land use permits under the Placer Mining Act has further complicated matters, requiring license approvals to be coordinated in tandem. Avery characterized this process as convoluted, redundant, and time-consuming.

While some have proposed dissolving the Water Board and transferring its permitting powers to government departments to streamline approvals, Taylor and others expressed strong reservations. The Water Board's quasi-judicial independence is seen as critical, especially in maintaining public trust and ensuring transparent, accountable water governance—a value enshrined in Chapter 14 of the UFA. Taylor warned that integrating the Board into direct government permitting could erode this independence and compromise its credibility. Moreover, the UFA grants the Water Board constitutionally protected roles; such a major restructuring would likely require formal amendments to the UFA—something far from straightforward. Importantly, participants noted that the Water Board has at times, exercised its autonomy to limit the unilateral authority of the Yukon Government. Several projects approved by YG were later

rejected at the Water Board stage, demonstrating how the Board can serve as an important safeguard for Yukon First Nations and the public.

Participants also underscored the burden duplicative consultations place on communities, especially Yukon First Nations. While YESAB carries out consultation within its mandate, the Crown retains a separate constitutional duty to consult under Section 35 of the Constitution Act. Riley and Sage noted that this results in overlapping engagement processes, often confusing communities as to which body is accountable for addressing their concerns. Many participants reported that First Nations frequently assume the Water Board has access to YESAB submissions, only to learn they must re-submit input—contributing to consultation fatigue and undermining engagement.

Together, these insights demonstrate that redundancy within the Yukon’s assessment process is not just bureaucratic inefficiency—it erodes public and Indigenous trust and weakens the integrity of environmental governance. Addressing these systemic issues will require legislative harmonization, improved coordination between agencies, and institutional reforms that preserve independence, uphold transparency, and embed technical expertise early in the process.

### *8.7.3 Conclusion*

In conclusion, while the UFA and *YESAA* were designed to deliver efficient and transparent development assessments, the evolving complexity and volume of projects have strained timelines and regulatory coordination. Capacity challenges within YESAB, YFN governments, and territorial agencies contribute to mounting delays, particularly for mining proponents. Compounded by duplication across regulatory bodies—most notably between YESAB and the Yukon Water Board—these inefficiencies undermine trust and the intent of co-governance.

Addressing these challenges requires a recalibrated, capacity-supported approach that balances timely decision-making with meaningful Indigenous engagement, streamlined consultation, and integrated environmental and technical review processes across the Yukon’s regulatory landscape.

## **8.8 Consideration of overall Socio-Economic Effects**

The consideration of environmental effects in YESAB’s assessment has already been discussed under s. 1.4, above. Socio-Economic Effects as they relate to YFN were discussed under s. 5.1.2.3, above. This section will focus on Socio-Economic Effects as it relates to the Yukon as a whole.

### *8.8.1 Economic Considerations and Yukon Economic Development Board*

The YESAB continues to face challenges in effectively evaluating the full spectrum of economic impacts—both positive and negative—associated with mining projects in the territory. While mining has long been a cornerstone of the Yukon economy, particularly in the extraction of gold, silver, copper, and zinc, there is increasing recognition that sustainable development requires a more balanced approach. As the territory evolves, there have been growing calls to shift toward a more diversified economy that includes renewable energy, agriculture, tourism, and the arts.

In response to being shut out of colonial economic systems, YFNs negotiated Chapter 22: Economic Development of the UFA, which envisioned a more inclusive, collaborative economic future. This chapter led to the establishment of the Yukon Economic Development Board (YEDB), tasked with fostering coordinated economic planning between YFN and the territorial government. Between 2003 and 2011, the YEDB played a critical advisory role, advocating for economic diversification and increased Indigenous participation in economic decision-making.

However, the board was dissolved in 2011 following a shift in government priorities, which favored centralized planning and diminished the role of co-management and advisory structures.

The legacy of the YEDB's dissolution continues to be felt. Yukon still struggles to meaningfully incorporate Indigenous perspectives into economic planning, and economic diversification remains limited. As demonstrated in Chapter 5: Results, YESAB lacks the capacity and mandate to comprehensively assess the broader and long-term economic implications of mining projects—particularly as they affect community wellbeing, environmental sustainability, and Indigenous economic sovereignty. Without a robust framework that links economic analysis to community values and ecological limits, the territory's current development model risks undermining both sustainability and reconciliation.

Re-establishing collaborative institutions like the YEDB could help bridge this gap. A co-management board would support inclusive economic development by fostering ongoing dialogue, sharing knowledge between governments, and informing YESAB's assessments with more nuanced, community-informed economic data. It is unrealistic to expect proponents—or YESAB on its own—to assess the full economic implications of mining projects or to propose effective mitigation strategies. A multi-stakeholder body like the YEDB could provide the critical oversight and guidance required to align development with the economic and governance aspirations articulated in the UFA.

The current absence of such a coordinating structure, combined with YESAB's limited evaluative capacity, means that vital economic concerns—especially those linked to Indigenous livelihoods, long-term planning, and sustainability—are being overlooked. This omission directly undermines the spirit and intent of Chapter 22 and compromises the broader objectives of Chapter 12: the Development Assessment Process. Much like the incomplete implementation

of Chapter 11: Land Use Planning, the failure to fulfill Chapter 22 weakens the Development Assessment Process's ability to fully consider economic effects and to reflect the UFA's vision of integrated, culturally grounded, and forward-looking development.

### *8.8.2 Discussion on Socio-Economic Effects*

YESAB's approach to socio-economic considerations in development assessments has drawn sustained criticism for its failure to adequately capture the breadth and complexity of social and economic impacts. While the *YESAA* mandates that these dimensions be evaluated alongside environmental effects, participants from diverse backgrounds—including legal professionals, former YESAB staff, YFN Lands Department personnel, and NGO representatives—consistently highlighted that socio-economic impacts are treated as peripheral. Rather than serving as a foundational pillar of decision-making, these effects are frequently reduced to vague or generalized observations.

A recurring concern was the imbalance in analytical rigor. Participants such as Drew, Rowan, and Alanna pointed out that while YESAB has made strides in evaluating environmental impacts, its socio-economic assessments remain underdeveloped. Assessments often rely on qualitative observations without structured methods for identifying, measuring, or comparing outcomes. As a result, impacts related to housing availability, labor markets, public service demand, or social cohesion are inconsistently addressed and poorly integrated into project recommendations. Michael and Bailey emphasized the challenge of assessing socio-economic trade-offs, especially when those affected by projects assign different values to benefits and harms. In the absence of a standard framework or methodology, such evaluations become ad hoc and difficult to replicate.

This issue is compounded by institutional ambiguity. Participants like Quinn and Robin noted confusion over the respective roles of YESAB and the Government of Yukon in socio-economic analysis. The disbandment of the Yukon Economic Development Board in 2011 eliminated a key mechanism for coordinating long-term economic planning with project-specific assessment. Without such institutional support, YESAB is left to navigate complex socio-economic evaluations without adequate policy guidance or external expertise.

Beyond the lack of depth in analyzing negative impacts, participants like Avery also expressed frustration over the near-total absence of attention to positive socio-economic opportunities. Assessments tend to focus narrowly on risk mitigation, rather than exploring how projects could actively contribute to local wellbeing, skill-building, or regional development. Opportunities for community-owned economic initiatives, youth employment programs, or cultural infrastructure are rarely considered. Another major shortcoming identified was the short-term orientation of current assessments. Projects may be evaluated as economically beneficial based on immediate investments or employment, but their long-term effects—including economic dependency, displacement of local businesses, or post-closure stagnation—are often overlooked. This gap leaves communities unprepared for the transition that follows mine closures or development withdrawals.

Participants also underscored the persistent siloing of socio-economic and environmental considerations. While in practice these domains are deeply interconnected—particularly in rural and northern communities—the assessment process treats them as distinct. For example, changes to wildlife populations or access to clean water have clear economic implications for communities reliant on subsistence activities or tourism, yet these links are rarely explored in socio-economic terms. As a result, the assessments fail to reflect the full extent of cumulative

effects. Participants emphasized that improving socio-economic assessment is not simply a matter of adding more content—it requires a cultural shift within YESAB toward recognizing the value of diverse knowledge systems, lived experience, and community-defined wellbeing. This includes investing in training assessors on social impact assessment methods, Indigenous governance, and local economic development strategies. It also involves creating space within assessments for communities to articulate not only concerns, but aspirations for long-term prosperity.

### *8.8.3 Conclusion*

YESAB’s current approach to assessing socio-economic impacts remains underdeveloped, with participants highlighting its failure to adequately capture both the positive and negative implications of development, particularly mining. The dissolution of the Yukon Economic Development Board weakened the territory’s ability to coordinate inclusive economic planning and integrate Indigenous perspectives. Assessments lack methodological rigor, overlook long-term and cumulative impacts, and silo social and economic effects from environmental analysis. Participants call for a more holistic, community-informed framework that recognizes cultural and local knowledge, addresses systemic gaps, and reflects the original vision of the UFA for co-managed, sustainable, and culturally grounded economic development.

## **8.9 Appropriate Mitigative Measures**

### *8.9.1 Discussion on Appropriate Mitigative Measures*

YESAB positions mitigation as a cornerstone of its Development Assessment Process—intended to minimize adverse impacts and facilitate project approvals in a way that balances economic growth with environmental protection and cultural preservation. However, serious concerns

persist regarding the effectiveness, enforceability, and integration of mitigation strategies throughout the project lifecycle. Eighteen participants expressed that, while mitigation measures are often well-outlined in assessments, their practical implementation is inconsistent, poorly monitored, and often inadequate. This disconnect has, in many cases, contributed to ongoing environmental degradation and unresolved community concerns.

Across participants groups—including NGO workers, legal experts, First Nations Lands Department staff, industry representatives, and former YESAB employees—there was broad consensus that mitigation is often ineffective in practice. Challenges cited include vague or non-binding conditions, the failure to translate recommendations into enforceable permits, and post-assessment revisions by decision-makers that dilute their strength. Participants described mitigation measures as frequently “watered down,” with token actions such as forming working groups replacing meaningful engagement or structural change. Compounding the issue is the Yukon Natural Resource Office’s chronic understaffing and its openly stated lack of capacity to monitor the full breadth of mining activity under its jurisdiction.

This implementation gap underscores a deeper disconnect between the theoretical intent of assessments and the realities of project design and operation. While environmental assessments are intended to guide sustainable development, economic imperatives often take precedence over comprehensive socio-environmental evaluation. One key weakness is the superficial treatment of project alternatives. Despite being a foundational requirement of impact assessments, the exploration of less harmful or more culturally appropriate options is often cursory or absent, narrowing the scope of development decision-making.

Mitigation enforcement also faces practical difficulties. For instance, one commonly cited measure—halting all project activity when wildlife is observed—lacks clarity and is nearly

impossible to enforce in dynamic field conditions. Participants noted that recommendations are frequently altered in advance to align with enforcement limitations, which often strips them of cultural nuance and diminishes their alignment with Indigenous stewardship principles. This pattern points to a regulatory model that prioritizes what is feasible within existing bureaucratic constraints over what is necessary for long-term ecological and cultural protection.

Several participants shared specific examples of mitigation failure. Sebastian described how helicopter noise disturbs sheep well before visual contact, limiting the effectiveness of impact thresholds. In placer mining, as Lee explained, riparian zones have been irreparably damaged, and mitigation efforts have proven inadequate for restoring ecosystems lost over a century. Morgan highlighted a Dempster Highway project where mitigation was narrowly confined to the road corridor, ignoring wider cumulative effects on caribou migration and cultural use areas. These examples reflect a broader issue: mitigation framed too narrowly fails to capture the interconnectedness of ecological and cultural systems.

Cultural mitigation, in particular, was described as deeply insufficient. Participants like Morgan and Robin emphasized that cultural values are often reduced to procedural accommodations. For example, allowing Indigenous hunters to “share space” with industrial activity was seen as incompatible with traditional harvesting practices, leading to displacement from sacred and subsistence areas. Such oversimplifications not only undermine cultural survival but also erode trust in the assessment process.

Other systemic concerns include “orphaned conditions”—recommendations made in assessments that fall outside any legal permit or enforcement structure. Alanna flagged these as a major gap in accountability. Tim pointed to a reliance on proponent goodwill, where companies are trusted to implement mitigation without binding obligations. Weak follow-up and the lack of

post-approval compliance checks further exacerbate these issues, with mitigation conditions often forgotten or disregarded years after approval. Participants also raised alarm about outdated or incomplete baseline data—especially in relation to caribou populations and mine site surveys—arguing that these gaps weaken both impact predictions and mitigation design. There was strong support for integrating TK, real-time local monitoring, and climate modeling to improve mitigation relevance and resilience.

Mitigation measures, in theory, are designed to protect ecosystems, water, people, and cultural landscapes. In practice, however, stakeholders and YFN governments report that these measures are often symbolic or procedural, lacking substantive follow-through. Including mitigation in an assessment report does not ensure its application in project design or operations. Without robust enforcement mechanisms, proponents may fail to deliver on commitments, resulting in habitat destruction, cultural displacement, and long-term environmental harm.

Another major shortcoming is the lack of meaningful consideration for alternative project designs or locations. The failure to evaluate less harmful methods or more culturally respectful approaches prevents the discovery of innovative, lower-impact solutions. This reinforces the perception that the assessment process is more a tool for project justification than a venue for critical evaluation. Moreover, the gap between impact identification and mitigation design—often due to limited regulatory mandates or capacity constraints—means that mitigation becomes reactive rather than preventative.

This misalignment between stated objectives and practical outcomes is not unique to the Yukon. International research has documented similar issues in impact assessment regimes across the European Union, Australia, South Africa, and Latin America.<sup>273</sup> Common problems

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<sup>273</sup> Richard Morgan, “Environmental Impact Assessment: The State of the Art,” *Impact Assessment and Project Appraisal* 30, no. 1 (2012): 5–14; Angus Morrison-Saunders and Jenny Arts, *Assessing Impact: Handbook of EIA*

include non-specific mitigation measures, weak monitoring, poor enforcement, and limited community integration. The absence of site-specific adaptation and meaningful community participation consistently weakens the protective capacity of mitigation globally.

Addressing these challenges in Yukon requires more than improved reporting—it demands regulatory reform. Clear legal requirements must tie mitigation measures directly to permit approvals, supported by structured post-approval monitoring, transparent reporting, and corrective action frameworks.

### *8.9.2 Conclusion*

In conclusion, while mitigation is central to YESAB’s assessment framework, its current application often fails to deliver meaningful environmental and cultural protection.

Implementation gaps, weak enforcement, and superficial engagement with TK have undermined trust and limited the effectiveness of mitigation efforts. Addressing these issues requires regulatory reform, binding permit conditions, and robust post-approval monitoring. Most critically, Indigenous communities must be empowered as full partners in enforcement and oversight. Only through these changes can Yukon’s assessment process uphold its commitments to sustainability, reconciliation, and the long-term wellbeing of both the land and its people.

## **8.10 Overall UFA Spirit and Intent**

### *8.10.1 Yukon’s Development Assessment Process within the Nadasdy/Coulthard Framework*

The relationship between Indigenous governance and environmental assessment processes in Canada remains a critical area of inquiry, particularly in the context of modern treaties and land

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*and SEA Follow-Up* (London: Earthscan, 2004); Gernot Stoeglehner and Thomas Brown, “Beyond Effectiveness—The Adaptation of EIA Systems to Context,” *Environmental Impact Assessment Review* 74 (2019): 1–10; Francois Retief, “Effectiveness of Environmental Assessment Legislation in South Africa,” *Impact Assessment and Project Appraisal* 25, no. 2 (2007): 103–14.

claims agreements. In Yukon, the UFA and the *YESAA* were intended as transformative frameworks—designed to redress historical injustices, establish co-management structures, and promote development that respects both Indigenous and non-Indigenous interests. Yet despite these ambitious goals, serious concerns have emerged regarding their practical implementation.

Drawing on participant interviews and informed by the critical scholarship of Paul Nadasdy and Glen Coulthard, this analysis reveals how colonial power structures persist within institutions such as the YESAB. Participants expressed that the spirit and intent of the UFA have been undermined by fragmented implementation, legalistic interpretations, and settler-centric governance practices that fail to reflect Indigenous worldviews. Nadasdy’s critique of the “politics of inclusion” and Coulthard’s examination of the limitations of recognition-based politics provide essential frameworks for understanding these systemic shortcomings.

Participants described the barriers YFNs continue to face in asserting sovereignty and achieving meaningful participation in the Development Assessment Process. While YESAB is often positioned as a venue for inclusive decision-making, its operations remain constrained by bureaucratic norms that compartmentalize Indigenous knowledge and limit actual authority. Substantial reforms to both the UFA and *YESAA* are necessary to align them with evolving legal standards, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), and the foundational commitments to Indigenous self-determination and land stewardship.

Paul Nadasdy’s foundational text *Hunters and Bureaucrats* (2003) explores how seemingly neutral bureaucratic processes, including environmental assessments and wildlife management, often perpetuate colonial control. He argues that these institutions absorb Indigenous knowledge and participation into state frameworks that prioritize technocratic efficiency over relational governance. Participants echoed this critique in describing how

YESAB operates in silos, adhering to rigid procedural norms that strip recommendations of their cultural meaning. Instead of incorporating holistic, place-based knowledge, Indigenous perspectives are fragmented into manageable “inputs” that fit settler-defined categories. This process reduces treaty commitments to procedural formalities, weakening their cultural and relational significance.

A consistent theme among participants is YESAB’s tendency to offer only the appearance of Indigenous inclusion, without transferring real power. Nadasdy refers to this as the “politics of inclusion,” where Indigenous peoples are invited into advisory roles within decision-making spaces that remain under settler-state control. Participants described frustration with YESAB’s limited mandate and the tokenistic nature of consultation, noting that critical input from YFNs is often disregarded in the final stages of project approval.

Glen Coulthard deepens this critique in *Red Skin, White Masks* (2014), arguing that recognition-based politics often reinforce colonial hierarchies by validating Indigenous identity and rights only within state-defined limits. He contends that true decolonization requires Indigenous resurgence—reclaiming governance, land, and law outside the confines of settler frameworks. Participants echoed this view, stating that despite modern treaties, processes like YESAB continue to facilitate resource extraction and economic dependency, with minimal regard for cultural and ecological preservation. They emphasized that YESAB still operates within a colonial development paradigm that privileges extraction over Indigenous stewardship. Coulthard’s assertion that dispossession is an ongoing process—not a historical injustice—resonates throughout participant experiences. They described how the structures created under *YESAA* have enabled development that undermines Indigenous rights and values. Environmental assessments are shaped by state priorities, and mitigation efforts often favor economic feasibility

over cultural integrity. As Coulthard warns, these forms of recognition do little to alter the material conditions of Indigenous life, and in many cases, exacerbate dependency on settler institutions.

*Table 1: Participant responses to Nadasdy/Coulthard*

<b>Themes</b>	<b>Interviews</b>	<b>Nadasdy</b>	<b>Coulthard</b>
<b>Legalistic vs. Holistic Interpretation</b>	Frustration over the reduction of UFA to legal provisions, losing broader meaning.	Bureaucratic processes fragment Indigenous knowledge, reducing it to technical data.	Recognition frameworks reduce treaties to legal instruments, maintaining colonial power.
<b>Participation Without Power</b>	Inclusion in YESAB but without real decision-making authority.	Inclusion serves to legitimize state authority rather than challenge it.	State recognition offers limited participation while upholding settler sovereignty.
<b>Co-management as a Colonial Tool</b>	Lack of genuine collaboration; YESAB fails to implement true co-governance.	Co-management reinforces colonial control through procedural inclusion.	Co-management often pacifies demands for sovereignty under recognition politics.

<b>Need for Systemic Change/Resurgence</b>	Calls to revisit UFA and implement UNDRIP; address structural barriers.	Suggests dismantling bureaucratic structures that embed colonial values.	Advocates for Indigenous resurgence beyond the state’s recognition frameworks.
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*8.10.2 Yukon’s Development Assessment Process within the Two-Eyed Seeing/Co-Management Framework*

In *Treaty Elders of Saskatchewan*, Harold Cardinal and Walter Hildebrandt convey a central message rooted in the teachings of Treaty Elders: treaties are sacred, nation-to-nation agreements based on mutual respect, shared responsibility, and a commitment to peaceful coexistence. Far from being mere contracts of land surrender, these covenants establish enduring relationships grounded in principles of sovereignty, stewardship, and interdependence. However, Cardinal and Hildebrandt demonstrate how these principles have been consistently undermined by colonial interpretations that prioritize state interests and reduce treaties to instruments of administrative control.

These concerns are echoed in interview responses by participants in s. 1.1 of Chapter 5, who argue that the UFA—much like the Numbered Treaties discussed by Cardinal and Hildebrandt—was designed to create a framework of shared management and co-governance among YFNs, the Government of Yukon, and Canada. In practice, however, participants who have worked for or do work for a YFN Lands Department as well as lawyers, describe how the UFA has been reduced to a series of legalistic procedures that often sideline Indigenous worldviews. This erosion of spirit and intent closely mirrors the frustrations expressed by

Saskatchewan Treaty Elders, who lament the fragmentation and bureaucratization of sacred agreements under colonial governance models.

A key theme in *Treaty Elders of Saskatchewan* is the holistic nature of treaty relationships. These agreements are understood as living, dynamic arrangements that encompass cultural, spiritual, ecological, and political dimensions. Participants similarly stress that the UFA should not be interpreted as a collection of isolated chapters but rather as an integrated whole. As Tony recalled an Elder explaining, “You cannot understand Chapter 22 unless you look at Chapter 6, Chapter 11, Chapter 12, and Chapter 26, because they’re all connected.” This relational worldview underscores the need for a Development Assessment Process that respects the interconnectedness of Indigenous laws, knowledge systems, and governance structures. Participants also expressed concern over the lack of genuine co-management within current governance regimes. As Cardinal and Hildebrandt argue, the Crown has failed to uphold its treaty obligations by maintaining unilateral decision-making authority in areas such as land use and resource development. Twenty-one interviewees echoed this critique, calling for a revitalized partnership grounded in mutual respect and the equitable sharing of decision-making power. They emphasized that the continuation of top-down governance structures, where the Crown is the sole decision-body, undermines the spirit of partnership that modern treaties like the UFA were intended to embody.

The “Two-Eyed Seeing” framework, introduced by Mi’kmaq Elder Albert Marshall and further developed by Dr. Cheryl Bartlett, provides a powerful conceptual tool for responding to these challenges. Two-Eyed Seeing promotes the integration of Indigenous and Western knowledge systems, recognizing the strengths of each and advocating for their complementary

use in decision-making. This approach is not only epistemologically inclusive but also rooted in the principles of respect, reciprocity, and relational accountability.

Many participants underscored the marginalization of TK in the Development Assessment Process. Robin described how TK is often treated as supplementary, anecdotal, or symbolic rather than as a legitimate and rigorous knowledge system. YESAB's technocratic and legalistic orientation, they argued, fails to accommodate the holistic and relational nature of Indigenous worldviews. This critique highlights the need to restructure the Development Assessment Process through the lens of Two-Eyed Seeing, ensuring that TK is given equal weight and authority alongside Western science.

Participants advocated for assessment frameworks that integrate Indigenous knowledge at every stage—from scoping and baseline data collection to mitigation, monitoring, and adaptive management. This includes the formal inclusion of TK in regulatory guidelines, assessor training in Indigenous methodologies, and the adoption of community-led protocols for knowledge sharing. These steps would move beyond symbolic inclusion and ensure that Indigenous governance principles are embedded within environmental decision-making processes. The emphasis on collaborative governance within Two-Eyed Seeing also aligns with participants' calls for substantive Indigenous authority in project assessments. Many noted frustration with YESAB's recommending role, which can be overridden by territorial or federal decision bodies. This imbalance reflects a broader pattern of structural inequality that continues to undermine Indigenous self-determination. Two-Eyed Seeing offers a path forward by fostering truly co-managed institutions in which both Indigenous and Western worldviews are respected and applied in decision-making.

In conclusion, both the teachings of *Treaty Elders of Saskatchewan* and the perspectives shared by YFN participants underscore the urgent need to revitalize treaty-based governance as a framework for genuine partnership. The erosion of the UFA’s spirit through legalistic interpretations and colonial structures parallels broader patterns of systemic marginalization. Integrating Two-Eyed Seeing into the Development Assessment Process offers a transformative path forward—one that honors Indigenous knowledge, reinforces shared stewardship, and re-establishes balanced decision-making authority. Only through such reforms can Canada meaningfully uphold its treaty commitments and support Indigenous self-determination in both principle and practice.

*Table 2: Participants responses relate to Two-Eyed Seeing/Cardinal & Hildebrandt*

<b>Themes</b>	<b>Interview Insights</b>	<b>Treaty Elders of Saskatchewan (Cardinal &amp; Hildebrandt)</b>	<b>Two-Eyed Seeing (Bartlett et al.)</b>
<b>Holistic Understanding of Treaties</b>	UFA chapters must be interpreted as interconnected; fragmented implementation undermines treaty objectives.	Treaties are sacred, holistic covenants; not to be compartmentalized or reduced to legal contracts.	Encourages seeing the world as interconnected, integrating multiple ways of knowing in decision-making processes.

<b>Recognition of Indigenous Nations</b>	Participants call for genuine co-management, lamenting the lack of equal recognition and partnership in governance structures.	Treaties were intended to affirm the nationhood and sovereignty of Indigenous peoples; the Crown must recognize this and act accordingly.	Two-Eyed Seeing promotes respectful partnership and equal standing between Indigenous and non-Indigenous knowledge.
<b>Shared Decision-Making and Co-Management</b>	YESAB’s advisory role and decision body overrides frustrate the realization of co-management; participants seek true power-sharing.	Treaty obligations include shared governance; failure to honor these obligations perpetuates colonial relationships.	Decision-making processes should include both Indigenous and Western perspectives, fostering collaborative governance.
<b>Integration of TK</b>	TK is marginalized in YESAB assessments; participants demand its full inclusion and equal value alongside Western scientific data.	Elders emphasize the importance of Indigenous worldviews and knowledge systems in treaty implementation and governance.	Two-Eyed Seeing explicitly promotes the integration of Indigenous knowledge with Western science in decision-making.

<b>Restoration of Spirit and Intent</b>	Participants call for the restoration of the UFA’s spirit and intent, focusing on relationality, respect, and mutual benefit.	Treaty Elders stress that treaties were agreements built on sacred trust, requiring ongoing commitment to relational and respectful coexistence.	The approach fosters understanding that respects both knowledge systems’ contributions to a shared, ethical outcome.
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*8.10.3 Legal Frameworks, Environmental Justice, and the Burden of Slow Violence*

A critical consideration that emerges from the discussion above is the structural and legal architecture within which the YESAB functions, and how this framework both enables and constrains its ability to fulfill the objectives of Chapter 12 of the UFA. Throughout the previous sections, participants consistently pointed to the limitations of current institutional processes—such as fragmented cumulative effects assessments, the marginalization of Indigenous worldviews, and weak coordination with other regulatory bodies—as systemic rather than incidental. These observations demand a closer examination of the legal instruments, policy frameworks, and jurisdictional interactions that define the development assessment process in Yukon. Additionally, they underscore the relevance of environmental justice and slow violence as critical conceptual lenses for understanding the long-term, often invisible harms that First Nations experience through resource development.

YESAB’s authority under YESAA is limited by the non-binding nature of its recommendations, which can be dismissed or modified by Decision Bodies without substantial

justification. Although the Act mandates formal responses, the lack of legal rigor in these replies undermines transparency and weakens both public trust and Indigenous governance.

Interviewees highlighted how YESAB's limited enforcement power and dependency on other institutions perpetuate a model of procedural inclusion that lacks substantive influence—reflecting broader critiques of technocratic governance and symbolic recognition rather than genuine Indigenous empowerment.

Environmental justice is a particularly illuminating framework through which to analyze these dynamics. At its core, environmental justice demands the equitable distribution of environmental benefits and burdens, the recognition of diverse cultural relationships to land, and meaningful participation in decision-making. These principles are directly relevant to the Yukon context, where resource development often occurs in areas of high cultural and ecological significance to First Nations. Yet, as discussed earlier, the current assessment system fails to meaningfully incorporate these relationships. Participants repeatedly emphasized that impacts to Indigenous Rights, traditional territories, and cultural continuity are considered secondary to biophysical metrics. Socio-economic effects, such as the erosion of traditional economies, community health, and cultural identity, are often deemed “non-significant” because they fall outside the narrow scope of scientifically measurable effects.

Kyle Whyte’s work on Indigenous environmental justice further expands this critique by situating environmental harm within a broader historical and colonial context. For Whyte, environmental injustice is not only about immediate pollution or displacement, but about the long-term erosion of Indigenous capacity for collective continuance. This concept captures the cumulative, intergenerational effects of disconnection from land, breakdowns in governance

authority, and loss of knowledge systems—all of which were raised by participants in this study. The assessment framework under YESAA, by failing to account for these dimensions, not only perpetuates narrow understandings of harm but also reinforces colonial assumptions about whose knowledge and values matter.

These failings are compounded by what Rob Nixon famously termed “slow violence”—a form of harm that is gradual, dispersed, and often invisible in conventional assessment paradigms. In the Yukon, slow violence manifests in the progressive degradation of wildlife habitat, the incremental erosion of harvesting areas, and the loss of cultural sites—not through any single catastrophic event, but through the accumulation of dozens of “non-significant” approvals. The cumulative effects framework employed by YESAB, particularly its VESEC-by-VESEC approach, structurally obscures these harms by fragmenting impacts and ignoring their interrelatedness. As participants noted, this model does not align with Indigenous worldviews, which emphasize the interconnectedness of human, ecological, and spiritual systems. As a result, development projects may be approved in isolation even when their aggregated effects constitute a profound transformation of the landscape and the lifeways it supports.

Institutional fragmentation further exacerbates this problem. As discussed earlier, the existence of multiple regulatory bodies—YESAB, the Yukon Water Board, and various territorial and federal agencies—leads to overlapping responsibilities, inconsistent baselines, and procedural duplication. While the UFA envisions a coordinated system of co-governance, its implementation has been marred by jurisdictional ambiguity and bureaucratic inertia. For example, while YESAB may identify significant effects on traditional territories, it lacks the power to ensure that mitigation measures are effectively enforced across departments. This

disconnect between assessment and implementation weakens the ability of the system to deliver tangible protections for the land and for Indigenous communities.

Ultimately, addressing the structural challenges of Yukon's development assessment process requires more than administrative reform—it demands a paradigmatic shift in how impact, knowledge, and authority are understood. As this discussion has shown, the gap between YESAB's treaty-based mandate and its day-to-day practices reflects deeper tensions between state regulatory logics and Indigenous governance systems. Environmental justice and slow violence offer conceptual tools to make these tensions visible and to chart alternative futures. By embracing these perspectives and reforming its institutional foundations, the development assessment process in Yukon can move closer to realizing the transformative vision of the UFA: one grounded in mutual respect, environmental stewardship, and the self-determination of Indigenous Peoples.

## Chapter 9: Conclusion

At the confluence of environmental governance, Indigenous law, and treaty implementation, this dissertation has examined how the Yukon Environmental and Socio-economic Assessment Board (YESAB) functions not only as a recommending institution but as a litmus test for the living commitments embedded in the Umbrella Final Agreement (UFA). Grounded in Chapter 12 of the UFA, the study analyzed how YESAB's practices align—or fall short—of co-governance commitments in the Yukon. Based on interviews, legal analysis, and institutional review, this conclusion synthesizes key findings, outlines reform proposals, and identifies future research pathways to support more just, inclusive, and treaty-compliant development assessment processes.

This study set out to examine the YESAB through a treaty-based lens, guided by three central research questions. First, it sought to evaluate the extent to which YESAB fulfills the spirit and intent of Chapter 12 of the UFA, particularly within the Traditional Territories of the Tr'ondëk Hwëch'in and the Northern Tutchone Nations.<sup>274</sup> Second, it aimed to identify the key strengths and weaknesses of YESAB's impact assessment processes in terms of their comprehensiveness, inclusivity, and responsiveness to both Indigenous and non-Indigenous Yukoners. Third, it investigated how other institutions and actors within the broader Development Assessment Process influence YESAB's ability to carry out its responsibilities under the UFA. These questions were examined through interviews with Yukoners who have experience with the Development Assessment Process, review of policy documents, and an analysis of relevant legal and institutional frameworks.

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<sup>274</sup> Little Salmon/Carmacks First Nation, Selkirk First Nation, First Nation of Na-Cho Nyäk Dun.

By drawing on interviews with Yukoners who have experience with the Development Assessment Process, this research advances an understanding of YESAB not simply as an administrative body, but as a contested site of treaty implementation, legal pluralism, and institutional inertia. This study fills a critical gap in the literature by offering a treaty-based evaluation of YESAB's institutional performance, drawing on both legal analysis and qualitative stakeholder perspectives.

## **9.1 Key Findings**

YESAB was created as a modern institution to serve a modern treaty. Established under the Yukon Environmental and Socio-Economic Assessment Act (*YESAA*) as part of the implementation of the UFA—a landmark agreement between Yukon First Nations (YFN), the Government of Yukon, and the Government of Canada—it was designed to ensure that development in the territory would proceed only with environmental and socio-economic oversight grounded in fairness, transparency, and cultural inclusivity. From the outset, YESAB was envisioned as a neutral and independent body, balancing Indigenous and non-Indigenous interests while advancing sustainability and treaty-based co-governance. It is within this vision—both aspirational and legally mandated—that YESAB's performance must be assessed.

Throughout this research, participants shared layered and sometimes conflicting views of YESAB's role, performance, and potential. What emerged was a picture of an institution that has achieved meaningful gains in procedural transparency and public accessibility yet remains structurally constrained in its ability to reflect the full vision of the UFA. While YESAB is an important component of the Development Assessment Process, its role is constrained by structural limitations, inter-agency misalignments, and institutional fragmentation that prevent

the full realization of the UFA's spirit of co-governance and meaningful Indigenous participation. A recurring theme throughout the chapter is the disconnect between the UFA's transformative intent and the realities of YESAB's technocratic, procedural frameworks that often marginalize Indigenous worldviews and participation.

Central to the UFA is the recognition of YFNs' "special relationship with the wilderness environment," which is spiritual, cultural, ecological, and political. However, this relationship is often misunderstood or inadequately integrated into the Development Assessment Process. Indigenous ethics of land stewardship emphasize interconnectedness, reciprocity, and long-term sustainability, yet the current assessment models reduce Traditional Knowledge (TK) to symbolic inputs, often failing to grasp its full significance. Oral traditions, seasonal mobility, and ceremonial land practices are central to YFNs' identity and governance systems, but they are frequently misrepresented or omitted in impact assessment processes dominated by Western scientific paradigms.

Cumulative effects assessments within YESAB are another major concern. The current VESEC-by-VESEC approach (Valued Environmental and Socio-Economic Components) fragments understanding and overlooks the interconnected and compounding impacts of multiple development projects over time. Participants noted that this method underestimates ecological degradation and does not align with Indigenous holistic perspectives. The use of shifting baselines—where degraded conditions are treated as the new norm—further masks the true extent of environmental decline. These gaps, combined with limited long-term data and project-by-project mitigation strategies that are exacerbated by the lack of land use plans in much of the territory, erode the ability to evaluate systemic impacts or protect Indigenous Rights and traditional economies.

YESAB's treatment of Indigenous Rights was also criticized as superficial. Instead of directly assessing these rights, the board evaluates their impacts indirectly through VESEC selection, often failing to capture their full cultural, spiritual, and legal dimensions. This leads to assessments that do not meaningfully reflect YFNs' deep relationships with their territories. Participants emphasized that such omissions weaken co-governance and overlook the intent of the UFA, which prioritizes Indigenous stewardship and decision-making. Socio-economic effects, especially displacement and diminished access to land-based livelihoods, are likewise inadequately addressed. While some industry representatives noted economic benefits from development, other participants highlighted the need to really weigh what the benefits are against the costs. The boom-and-bust cycle typical of resource extraction has destabilizing effects on communities, particularly YFNs, whose health, identity, and spiritual wellbeing are tightly linked to land access. The failure to account for cumulative socio-economic impacts further compounds these challenges, contributing to food insecurity, cultural erosion, and intergenerational trauma.

YFN participation in the Development Assessment Process remains problematic. While YESAB has made some progress, such as hiring Indigenous liaison officers, consultation is often perceived as symbolic and constrained by bureaucratic rigidity. Language barriers, rigid timelines, and tokenistic inclusion of TK hinder genuine engagement. Many participants described frustration over how Indigenous input is acknowledged but rarely affects final outcomes. The lack of clear accountability mechanisms and feedback loops reinforces distrust and perceptions of systemic exclusion.

TK inclusion remains one of the most contested areas. Though the UFA calls for integration of Indigenous and scientific knowledge, TK is frequently treated as supplementary.

Structural barriers—like the demand for technical language, lack of assessor training, and reliance on colonial authorizations not YFN Self-Government authorizations—prevent the meaningful use of TK. Participants highlighted that TK must be treated as a living knowledge system led by Indigenous Peoples themselves, not simply as data to be collected.

The impact assessment framework also fails to comprehensively address YFN wellbeing, which is a core objective of the UFA. Current assessments prioritize non-Indigenous perspectives of wellbeing, often overlooking the mental, cultural, and spiritual dimensions of Indigenous health. Disconnection from the land leads to food insecurity, chronic illness, and community disempowerment. Participants called for a shift from procedural inclusion to relational, culturally grounded assessments. Integrating TK, land-based consultation, and Indigenous governance is critical to restoring trust and achieving sustainable development that reflects the values and realities of YFN communities.

YESAB's performance in upholding sustainable development was critiqued for being inconsistent with its original mandate. While sustainability was embedded in the UFA following global influences like the Brundtland Report, the current system prioritizes project approval and reactive mitigation over precaution and long-term ecological health. The lack of land use planning, shifting environmental baselines, and regulatory gaps—particularly in mining—were highlighted as threats to both environmental integrity and public trust.

Regarding heritage, YESAB's Western archaeological framework falls short of protecting Indigenous cultural landscapes. While physical artifacts and sites are given attention, intangible heritage—such as oral histories, ceremonial practices, and spiritual relationships to land—is often ignored. This limited view fails to protect vital areas like wetlands, which are ecologically and spiritually significant to YFN communities.

Timeliness and certainty, another UFA objective, are undermined by regulatory delays, staffing shortages/turnover, and overlapping jurisdictional responsibilities—particularly between YESAB and the Yukon Water Board. This results in inefficiencies, duplication, and frustration for both project proponents and communities. Participants (especially those in the mining industry) called for better coordination and streamlined processes. Participants who have experience working for a YFN Lands Department called for culturally appropriate timelines that respect YFN engagement capacity.

In conclusion, the current YESAB framework does not adequately reflect the holistic principles of the UFA. Fragmented assessments, insufficient TK integration, procedural consultation, and a narrow view of sustainability all limit the process's effectiveness. Yet, participants expressed cautious optimism—emphasizing the potential for reform through Indigenous-led assessments, culturally responsive engagement, and deeper recognition of TK as a legitimate, authoritative knowledge system. For YESAB to uphold the UFA and become a trusted institution, it must transform from a compliance-oriented body into a culturally grounded platform for justice, reconciliation, and sustainable co-governance. These findings highlight not only the technical limitations of YESAB's current model but also the cultural, legal, and relational blind spots that inhibit treaty realization. What follows are targeted reforms to help reorient the institution toward equity and co-governance.

## **9.2 Recommendations**

The following twelve forward-looking recommendations aim to support YESAB in strengthening its alignment with the UFA. Each action is designed to advance inclusive

governance, culturally grounded assessment practices, and long-term sustainability across the Yukon Territory.

**1. Adopt a holistic approach to cumulative effects assessment.**

YESAB can expand its assessment framework to incorporate the cumulative and interconnected impacts of development across ecological, cultural, and socio-economic systems. By broadening its scope beyond individual projects, YESAB will be positioned to support more integrated decision-making that reflects long-term regional change. A holistic model should be co-developed with Indigenous governments and include TK to better identify and manage systemic risks. In this context, robust and coordinated land use planning will serve as a foundational tool—providing a spatial and policy framework to guide cumulative impact assessment, align development with community values, and establish clear thresholds for ecological and cultural sustainability.

**2. Embed Indigenous Rights as core assessment criteria.**

Future assessments should place Aboriginal and treaty Rights at the center of analysis. Developing a Rights-based impact assessment framework will ensure that harvesting practices, spiritual use, cultural transmission, and access to territory are considered as central governance matters. This approach supports a fuller realization of the UFA's commitments and enables YESAB to act in accordance with constitutional and legal obligations.

**3. Establish TK as an equal and authoritative knowledge system.**

YESAB can lead in co-creating assessment methodologies that formally recognize TK alongside Western science. This includes embedding TK from the earliest stages of scoping through to final decision-making, with protocols that respect Indigenous

governance and the autonomy of knowledge holders. Partnering with YFNs to determine how TK is interpreted and applied will reinforce knowledge sovereignty and improve assessment depth.

**4. Strengthen Indigenous Self-Government participation through distinct engagement processes.**

These processes should work on better incorporation of traditional languages, community-led formats, and oral traditions to support culturally appropriate dialogue. Establishing clear distinctions between public input and Indigenous governance participation will enhance trust and accountability.

**5. Implement regional mitigation strategies that reflect cumulative and ecosystem-level change.**

YESAB can advance a planning approach that identifies mitigation actions across overlapping developments and shared ecological systems. Adaptive, regionally scoped mitigation strategies can be co-developed with Indigenous governments to ensure that environmental and cultural values are protected proactively, rather than project-by-project.

**6. Enhance transparency and community feedback mechanisms throughout the Development Assessment Process.**

YESAB can enhance communication and transparency by creating accessible tools that clearly show how community and YFN input influences assessment outcomes—for example, by providing plain-language summaries of Evaluation Reports. The YESAB Online Registry (YOR) already serves as a valuable platform and could be further leveraged to support this goal. However, once a project moves beyond YESAB’s purview,

it becomes difficult to track its progress through the remainder of the Development Assessment Process, including the permitting stages. At a recent meeting, YESAB indicated they are exploring the development of a centralized system in which all project-related information would be consolidated into a single database. This system would be hosted on one website and organized under a unified project identification number, significantly improving the ability to follow a project throughout its lifecycle.

**7. Expand the scope of heritage assessment to reflect Indigenous worldviews.**

YESAB should update its heritage frameworks to incorporate cultural landscapes, oral histories, and spiritual sites as core heritage elements. By adopting Indigenous definitions of heritage in both policy and practice, assessments will better reflect living cultural relationships with the land. This shift can support the protection of places that carry intergenerational meaning and identity.

**8. Advance inter-agency coordination to reduce duplication and streamline processes.**

YESAB can collaborate with other regulatory bodies, including the Yukon Water Board, to synchronize assessment timelines, share data systems, and clarify roles and responsibilities. Coordinated frameworks will reduce redundancy and provide a more coherent experience for communities, proponents, and reviewers.

**9. Invest in sustained capacity-building across institutions.**

Future reforms should ensure that YESAB and YFNs governments have the long-term financial, technical, and human resources necessary to participate fully in the assessment process. This includes regular staff training in Indigenous governance, TK, and treaty law; support for YFNs Lands Departments; and strategies to retain institutional

knowledge. Capacity investment is critical to building durable and equitable co-governance structures.

**10. Broaden socio-economic indicators to reflect holistic community wellbeing.**

YESAB can expand its socio-economic assessment criteria to include dimensions such as food security, mental health, intergenerational resilience, and cultural continuity. By using these indicators alongside economic metrics, YESAB will support more balanced, values-based assessments. Territory-wide cost-benefit analyses—especially for high-impact sectors like mining—can be used to evaluate long-term trade-offs and ensure community priorities are reflected in project outcomes.

**11. Cost-Benefit Analysis of Mining in the Yukon**

YESAB should initiate a Section 112 assessment to conduct a comprehensive cost-benefit analysis of mining in the Yukon, addressing concerns raised by participants about the inadequate consideration of socio-economic effects in project evaluations. This analysis would help clarify both the positive contributions and long-term risks of mining—such as economic volatility and cultural disruption—thereby enabling more informed, balanced, and community-responsive assessment decisions.

**12. Enhance Mitigation through Indigenous-Led Monitoring and Integrated Planning**

YESAB should require project proponents to clearly demonstrate how mitigation measures will be meaningfully integrated into project planning and operational execution prior to project approval. In parallel, YESAB should strengthen the role of YFNs in compliance and monitoring activities. Drawing on the deep ecological knowledge and cultural insight of YFN lands and communities would ensure that mitigation strategies are both locally grounded and culturally appropriate.

### 9.3 Legislative Amendments

To support YESAB's full realization of its treaty-mandated role under Chapter 12 of the UFA, targeted legislative amendments to the *YESAA* are essential. These amendments must establish a strong statutory foundation for Indigenous co-governance, cumulative effects oversight, and procedural clarity within Yukon's broader Development Assessment Process. While the preceding recommendations offer pathways for institutional improvement, many of YESAB's most significant constraints are embedded in legislation that no longer reflects the governance realities of a modern treaty era. The following seven legal reforms outline the necessary structural changes to bring *YESAA* into alignment with the spirit and intent of the UFA.

1. **Expand YESAB's jurisdiction to enable cumulative and regional-scale assessments.**

In statutory terms, the Act must mandate YESAB to move beyond isolated, project-level reviews and assess cumulative, cross-sectoral, and landscape-level impacts. This expansion would allow the Board to meaningfully account for long-term ecological, social, and cultural dynamics across Traditional Territories, responding to the full complexity of development in the Yukon.

2. **Introduce statutory accountability mechanisms for decision bodies.**

To that end, while the Government of Yukon is already required to formally respond to YESAB's recommendations, these responses—particularly when they involve changes or rejections—are often under-researched and appear arbitrary. *YESAA* should therefore strengthen this requirement by mandating that territorial and federal departments provide transparent, evidence-based, and legally defensible justifications for any modifications to YESAB's findings. Embedding such a standard in law would serve as a necessary check

on discretionary authority and help reinforce public and Indigenous trust in the integrity of the assessment process.

**3. Legislate inter-agency coordination across the Development Assessment Process.**

Specifically, amendments should mandate coordination between YESAB and other relevant institutions, such as the Yukon Water Board. This includes aligning consultation timelines, synchronizing data management systems, and clarifying procedural roles.

Codifying these processes would reduce duplication and promote institutional efficiency.

**4. Clarify the Crown’s legal responsibilities for consultation and accommodation.**

*YESAA* must explicitly define the procedural obligations of the Crown, including when, how, and by whom consultation and accommodation are to occur. Minimum standards should be consistent with both the UFA and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This legal clarity would ensure accountability in Crown conduct and prevent the offloading of consultation duties onto YESAB or YFNs.

**5. Enable flexible governance arrangements that recognize Indigenous jurisdiction.**

Legislation should provide the authority to establish co-governed regional assessment panels or parallel YFN-led assessment processes with full legal standing. These structures would move beyond advisory roles and institutionalize Indigenous legal systems within environmental governance, reflecting the UFA’s co-management intent.

**6. Embed long-term statutory supports for institutional capacity.**

*YESAA* must establish sustained legal commitments to funding, training, and capacity development—both for YESAB and for YFNs. This includes the authority to design internal governance protocols, employ Indigenous knowledge holders, and build local

technical expertise. A capacity-focused legislative foundation will ensure co-governance is not only aspirational but achievable.

**7. Protect YESAB’s independence through legislative deference.**

A statutory standard of deference should be introduced to ensure that YESAB’s treaty-aligned, evidence-based assessments are not overridden without clear justification and due process. This would insulate the Board from political influence and reinforce the integrity of its decision-making authority.

In summation, these reforms constitute more than administrative revisions; they are structural interventions aimed at recalibrating *YESAA* in line with modern treaty law, evolving standards of Indigenous Rights, and principles of democratic environmental governance. Without a legislative overhaul, YESAB will remain limited in its capacity to fulfill its mandate, and the transformative vision of the UFA will remain unrealized. These changes are not merely technical—they are constitutional in scope, grounded in treaty obligations, legal precedent, and the evolving standards of Indigenous environmental governance in Canada. Implementing such reforms would place YESAB in alignment with national and international legal trends, including UNDRIP, jurisprudence on the duty to consult and accommodate, and co-governance frameworks emerging under Indigenous-led impact assessments in the Arctic, like seen with Tłı̨chǫ’s review of the NICO Mine<sup>275</sup> or British Columbia’s Environmental Assessment Act, 2018 which allows Indigenous nations to conduct their own assessments.<sup>276</sup>

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<sup>275</sup> FireLight and Gwitch’in Council International, “Impact Assessment in the Arctic: Emerging Practices of Indigenous-Led Review” (NWT, Alaska, Yukon: Gwitch’in Council International, April 2018).

<sup>276</sup> Government of British Columbia, “Environmental Assessment Act,” Chapter 51 SBC 2018 § (2018), sec. 19, <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/18051#section19>.

## 9.4 Further Research

While this research provides critical insight into YESAB's operations and its capacity to fulfill the vision of Chapter 12 of the UFA, several areas warrant deeper investigation to advance treaty implementation and institutional reform. The findings highlight persistent challenges related to Rights recognition, fragmented governance, the marginalization of TK, and constrained Indigenous participation. Building on this, future research should explore how YESAB functions within—and is constrained by—the broader Development Assessment Process, both structurally and culturally.

To evaluate the extent to which YESAB fulfills the spirit and intent of the UFA in the Traditional Territories of the Tr'ondëk Hwëch'in and Northern Tutchone Nations, comparative treaty research is urgently needed. In particular, examining development assessment regimes in other modern treaty contexts—such as Nunavut, the Tłı̨chǫ Government, and the Nisga'a Nation—would offer a valuable benchmarking framework. In parallel, a longitudinal analysis of YESAB's institutional evolution since its inception in 2003 could trace how interpretations of Chapter 12 have shifted over time and assess the degree to which the Board's operations have remained faithful to the UFA's original intent. Complementing these studies, in-depth case analyses of assessments conducted in Tr'ondëk Hwëch'in and Northern Tutchone territories would provide grounded evidence of how treaty principles are applied—or bypassed—in day-to-day practice. Interviews with UFA negotiators and Elders would also yield vital oral histories, helping to assess whether current practices remain rooted in the treaty's foundational vision. Further, comparative legal analysis of *YESAA* and Chapter 12 could pinpoint statutory inconsistencies and inform targeted reforms.

In comparison to similar assessment bodies, YESAB’s methodological foundations—particularly the VESEC (Valued Environmental and Socio-economic Components) model—deserve critical scrutiny. A targeted evaluation of this framework would determine how effectively it captures cumulative and interconnected impacts, particularly those tied to Indigenous land-use practices and relational worldviews. Comparative research into Indigenous-led or holistic impact assessment frameworks could highlight alternative methodologies that better align with cultural governance systems. This line of inquiry should also include focused research on the integration of TK—exploring what types of knowledge are accepted, how they are interpreted, and by whom. These insights could help inform the development of co-designed, community-led processes that respect knowledge sovereignty. Additionally, a territory-wide survey of both Indigenous and non-Indigenous residents would offer empirical data on perceptions of YESAB’s legitimacy, effectiveness, and cultural responsiveness. Cross-jurisdictional comparisons of institutional outcomes—such as approval rates, legal appeals, and environmental impacts—would provide further context for understanding YESAB’s performance.

Understanding the broader institutional ecosystem that shapes YESAB’s capacity is also essential. Governance mapping of relationships between YESAB, the Yukon Water Board, Yukon government departments, federal agencies, and YFNs would help reveal jurisdictional overlap, procedural redundancies, and points of policy misalignment. This research could be paired with an audit of consultation practices to evaluate how the Crown fulfills its Duty to Consult and Accommodate—and whether such obligations are being improperly offloaded onto YESAB or YFNs. Moreover, a quantitative study analyzing the frequency and nature of changes made to YESAB’s recommendations by decision bodies would provide insight into the political and

administrative dynamics influencing final approvals. A focused capacity assessment—examining staffing, funding, and expertise gaps within YESAB and YFN Lands Departments—could help clarify the practical limits of participation and oversight. Evaluating YESAB’s alignment with international standards such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), particularly with regard to Free, Prior and Informed Consent (FPIC), would further situate the Board’s performance within a global human rights framework. Finally, discourse analysis of political communication, media coverage, and public narratives about YESAB could reveal how broader social and political currents influence the institution’s behavior and public credibility.

Taken together, these areas of further research respond directly to the structural, procedural, and cultural gaps identified in this study. They offer multiple pathways to deepen understanding of YESAB’s role within Yukon’s evolving governance landscape and strengthen the policy architecture needed to implement the UFA more fully. By identifying these lines of inquiry, this study provides a foundation for future research that not only critiques the existing system but actively informs the co-creation of more responsive and treaty-compliant assessment frameworks.

## **9.5 Significance of the Study**

This study offers a distinctive contribution to the intersecting fields of Indigenous Rights, environmental governance and justice, and treaty implementation by providing one of the first in-depth, treaty-based evaluations of the YESAB under Chapter 12 of the UFA. While existing literature often addresses impact assessment in general terms or focuses on federal-level processes, this research grounds its analysis in the lived realities of modern treaty implementation at the territorial level, including YFNs’ perspectives and experiences with

YESAB assessments—particularly in the context of mining. Academically, the study advances theoretical conversations on legal pluralism, co-management, and the operationalization of Indigenous governance within regulatory systems. It bridges critical Indigenous legal theory with empirical research, revealing how procedural frameworks can either reinforce or disrupt colonial patterns in decision-making.

From a policy standpoint, the study directly informs efforts to revise impact assessment legislation and regulatory practice to better uphold treaty rights and advance culturally relevant standards for environmental and socio-economic oversight. By identifying structural misalignments, institutional blind spots, and promising areas of reform, it contributes practical, evidence-based recommendations that can inform not only Yukon-specific policy debates, but broader national conversations around UNDRIP implementation, FIPC, and Indigenous-led assessment models emerging across Canada.

Practically, the research equips YFNs Self-Governments, decision-makers, and civil society actors with targeted insights to enhance strategic engagement within the YESAB process. Its findings can support advocacy for legislative reform, improve internal policy alignment, and strengthen community-driven approaches to environmental governance. By centering place-based analysis in regions with high-impact development, the study also demonstrates how treaty-aligned assessment processes can better protect lands, Rights, and relational worldviews—offering a framework for co-creating sustainable futures grounded in Indigenous law and governance.

This research not only informs policy innovation in the Yukon but also contributes to national and international debates on the role of impact assessment in implementing Indigenous Rights—particularly in light of Canada’s endorsement of UNDRIP, its evolving duty to consult

and accommodate jurisprudence, and global movements toward Indigenous jurisdiction in land and resource governance.

## **9.6 Concluding Remarks**

As this research demonstrates, the stakes of YESAB's work are not only administrative—they are political, cultural, and generational. Assessment processes shape the future of treaty implementation, the legitimacy of governance institutions, and the vitality of Yukon's people and environments. How assessments are framed, whose knowledge is legitimized, and who holds decision-making power are not minor procedural questions—they are questions about justice, sovereignty, and the future of reconciliation in practice.

Only through meaningful power-sharing, culturally grounded engagement, and legally enforceable co-governance can the vision of the UFA be fulfilled—not merely in words, but in the lived realities of YFNs and all those who call this land home. In this way, YESAB serves as both a symbol and a test of modern treaty implementation—an institution that must now evolve beyond procedural adequacy and toward a model of environmental governance grounded in justice, equity, and the land-based responsibilities shared across Yukon.

In closing, YESAB's evolution reflects the broader dynamics of modern treaty implementation in Canada: slow, uneven, yet full of transformative possibility. This dissertation has shown that realizing the promise of Chapter 12 requires not only policy change but paradigm shift—toward systems that center Indigenous law, prioritize cumulative relationships to land, and uphold the full meaning of self-determination. Whether YESAB can fulfill that role will depend not only on internal reform but on the broader political and legal commitments of the state. The future of assessment in the Yukon is inseparable from the future of reconciliation itself.

## Bibliography

- Absolon, Kathleen. *Kaandossiwin: How We Come to Know: Indigenous Re-Search Methodologies*. 2nd ed. Fernwood Publishing, 2022.
- Alcantara, Christopher. *Negotiating the Deal: Comprehensive Land Claims Agreements in Canada*. University of Toronto Press, 2013.
- Aldrich, James and Institute of Water Resources. *Managing Water Resources for Alaska's Development*. IWR-105. Institute of Water Resources, 1983.
- Alfred, Taiiaki, and Jeff Corntassel. "Being Indigenous: Resurgences against Contemporary Colonialism." *Government and Opposition* 40, no. 4 (2005): 597–614. <https://doi.org/10.1111/j.1477-7053.2005.00166.x>.
- An Act to Amend the Yukon Environmental and Socioeconomic Assessment Act and the Nunavut Waters and Nunavut Surface Rights Tribunal Act, S-6, Government of Canada (2014).
- Andie, Kendrick. "An Examination of the Relationship Between Indigenous Cultural Identity and the Land in the Yukon." *Canadian Journal of Native Studies* 31, no. 2 (2011): 231–54.
- "Apply for a Scientists and Explorers Act Licence." October 17, 2019. <https://yukon.ca/en/science-and-natural-resources/research-and-monitoring/apply-scientists-and-explorers-act-licence>.
- Arctic Institute of Community-Based Research. "Community-Based Research." AICBR: For Northern Health and Well-Being. Accessed November 15, 2023. <https://www.aicbr.ca/community-based-research>.
- Armitage, Derek R., Ryan Plummer, Fikret Berkes, et al. "Adaptive Co-Management for Social-Ecological Complexity." *Frontiers in Ecology and the Environment* 7, no. 2 (2009): 95–102. <https://doi.org/10.1890/070089>.
- Armour, Audrey. "INTEGRATING IMPACT ASSESSMENT IN THE PLANNING PROCESS: From Rhetoric to Reality." *Impact Assessment* 8, nos. 1–2 (1990): 1–14. <https://doi.org/10.1080/07349165.1990.9726024>.
- Asch, Michael. *On Being Here to Stay: Treaties and Aboriginal Rights in Canada*. University of Toronto Press, 2014.
- Auty, Richard. *Sustaining Development in Mineral Economics: The Resource Curse Thesis*. Routledge, 1993.
- Avango, Dag. "Imprints on the Resource Landscape: The Long History of Mining in the Arctic." *Journal of Northern Studies* 14, no. 2 (2020): 67–82.
- Baranik, Lauren A. "Indigenous-Crown Relations in Canada and the Yukon: Peel Watershed Case, 2017." University of Alaska Fairbanks, n.d.
- Bartlett, Cheryl, Murdena Marshall, and Albert Marshall. "Two-Eyed Seeing and Other Lessons Learned within a Co-Learning Journey of Bringing Together Indigenous and Mainstream Knowledges and Ways of Knowing." *Journal of Environmental Studies and Sciences* 2 (2012): 331–40.
- Bergen, Teresa. *Transcribing Oral History*. Routledge, 2018.
- Berger, Thomas R. "The Mackenzie Valley Pipeline Inquiry." *Osgoode Hall Law Journal* 16, no. 3 (1978): 639–47. <https://doi.org/10.60082/2817-5069.2078>.
- Berkes, Fikret. *Sacred Ecology*. Routledge, 2012.

- Betasamosake-Simpson, Leanne, ed. *Lighting the Eighth Fire: The Liberation, Resurgence, and Protection of Indigenous Nations*. ARP Books, 2008.
- Blackburn, Carole. "The Treaty Relationship and Settler Colonialism in Canada." In *Shifting Forms of Continental Colonialism: Unfinished Struggles and Tensions*, edited by D. MacDonald and T. Bruno. Springer, 2019.
- Booth, Annie L., and Norman W. Skelton. "'There's a Conflict Right There': Integrating Indigenous Community Values into Commercial Forestry in the Tl'azt'en First Nation." *Society & Natural Resources* (Philadelphia) 24, no. 4 (2011): 368–83. <https://doi.org/10.1080/08941920902755390>.
- Borrini, Grazia, M. Taghi Farvar, Ashish Kothari, Michel Pimbert, and Yves Renard. *Sharing Power : Learning-by-Doing in Co-Management of Natural Resources throughout of the World*. IUCN, 2004. <https://portals.iucn.org/library/node/8547>.
- Borrows, J. "Revitalizing Canada's Indigenous Constitution: Two Challenges." In *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*, edited by J. Borrows. Centre for International Governance Innovation, 2017.
- Bowen, Glenn A. "Document Analysis as a Qualitative Research Method." *Qualitative Research Journal* 9, no. 2 (2009): 27–40.
- Bryman. *Social Research Methods*. 5th Canadian. With Edward Bell. 2019.
- Cairns, Alan C. *Citizens Plus: Aboriginal Peoples and the Canadian State*. UBC Press, 2000.
- Canada, Government of Canada; Crown-Indigenous Relations and Northern Affairs. *Faro Mine Remediation Project: Yukon*. Report. 2016. <https://www.rcaanc-cirnac.gc.ca/eng/1480019546952/1537554989037>.
- Canada, Government of Canada; Crown-Indigenous Relations and Northern Affairs. "Northern Abandoned Mine Reclamation Program." Organizational description. August 16, 2019. <https://www.rcaanc-cirnac.gc.ca/eng/1565968579558/1565968604553>.
- Canada, Government of Canada; Crown-Indigenous Relations and Northern Affairs. "Yukon Devolution." Fact sheet; promotional material; resource list. November 9, 2012. <https://www.rcaanc-cirnac.gc.ca/eng/1352470994098/1535467403471>.
- Cardinal, Harold, and Walter Hilderbrandt. *Treaty Elders of Saskatchewan: Our Dream Is That Our Peoples Will One Day Be Clearly Recognized as Nations*. University of Calgary Press, 2013.
- Carlsson, Lars, and Fikret Berkes. "Co-Management: Concepts and Methodological Implications." *Journal of Environmental Management* (Oxford) 75, no. 1 (2005): 65–76. <https://doi.org/10.1016/j.jenvman.2004.11.008>.
- Carson, Marcus, Garry Peterson, and Johan Skullman. *Arctic Resilience Report 2016*. Stockholm Environment Institute and Stockholm Resilience Centre, 2016.
- Charmaz, Kathy. *Constructing Grounded Theory*. 2nd ed. Sage Publications, 2014.
- Clark, Douglas, and Jocelyn Joe-Strack. "Keeping the 'Co' in the Co-Management of Northern Resources." *Northern Public Affairs*, 2017.
- Clementino, Louisa M. "A Critical Examination of Sustainability Considerations in Yukon Environmental Assessment - Past and Present." Bachelor of Arts, Wilfred Laurier University, 2008.
- Coates, Kenneth. *Best Left as Indians: Native-White Relations in the Yukon Territory, 1840-1973*. McGill-Queen's University Press, 1991.
- Coates, Kenneth S., and Carin Holroyd. *The Palgrave Handbook of Arctic Policy and Politics*. n.d.

- Coulthard, Glen Sean. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. University of Minnesota, 2009.
- Council of Yukon First Nations. “Opinion Editorail Regarding Cill S-6, Yukon and Nunavut Regulatory Improvement Act.” Council of Yukon First Nations, December 11, 2014.
- Creswell, John. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. 4th ed. Sage Publications, 2014.
- Cronkleton, Peter, JuanM Pulhin, and Sushil Saigal. “Co-Management in Community Forestry: How the Partial Devolution of Management Rights Creates Challenges for Forest Communities.” *Conservation and Society* 10, no. 2 (2012): 91. <https://doi.org/10.4103/0972-4923.97481>.
- Cruikshank, Julie. *Do Glaciers Listen? Local Knowledge, Colonial Encounters, and Social Imagination*. The University of British Columbia, 2005.
- Darling, Samantha, Blane Harvey, and Gordon M. Hickey. “On the Individual and Organizational Capacities Supporting Impact Assessment: The Case of the Yukon Environmental and Socio-Economic Assessment Board.” *Facets* 7, no. Unep 2018 (2022): 674–700. <https://doi.org/10.1139/FACETS-2021-0118>.
- Datta, R. *Decolonizing Both Researcher and Research and Its Effectiveness in Indigenous Research*. University of Alberta Press, 2018.
- Doelle, Meinhard, and A. John Sinclair. “The New Federal Impact Assessment Act in Canada: Delivering on Reform Expectations?” *SSRN Electronic Journal*, 2018. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3290255](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3290255).
- dpicampaigns. “Take Action for the Sustainable Development Goals.” *United Nations Sustainable Development*, n.d. Accessed March 20, 2025. <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>.
- Elinor, Maze. “The Uneasy Page Transcribing and Editing.” In *Histroy of Oral History*, edited by Thomas Charlton, Lois Myers, and Rebecca Sharpless. Altamira Press, 2007.
- Elliott-Mainwaring, Helen. “Exploring Using NVivo Software to Facilitate Inductive Coding for Thematic Narrative Synthesis.” *British Journal of Midwifery* 29, no. 11 (2021): 628–32. <https://doi.org/10.12968/bjom.2021.29.11.628>.
- Ellis, Stephen C. “Meaningful Consideration? A Review of Traditional Knowledge in Environmental Decision Making.” *Arctic (Calgary)* 58, no. 1 (2005): 66–77.
- Environmental Assessment Act, Chapter 51 SBC 2018 (2018). <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/18051#section19>.
- “Ethical Guidelines for Research Involving the Sámi People in Finland Released | University of Oulu.” Accessed December 25, 2024. <https://www.oulu.fi/en/news/ethical-guidelines-for-research-involving-sami-people-finland-released>.
- “Find out How the Government Manages Type II Abandoned Mines Sites.” October 23, 2023. <https://yukon.ca/en/type-ii-mines>.
- FireLight and Gwitch’in Council International. *Impact Assessment in the Arctic: Emerging Practices of Indigenous-Led Review*. Gwitch’in Council International, 2018.
- First Nation of Na-Cho Nyäk Dun v. Yukon (Government of), 2024, YKCA 5 (Court of Appeal of Yukon April 9, 2024).
- Fitzpatrick, Patricia, and Byron Williams. *Building the System: Follow-up, Monitoring & Adaptive Management*. n.d.
- Fraser, Katie. “Finding Common Ground: Exploring the Relationship between Regional LUP and Dev. Assessment in the Yukon.” Master of Arts, University of Saskatchewan, 2021.

- Freund, Alexander. *From .Way to .Txt: Why Transcribe? Oral History and Its Double Nature*. 12, no. 1 (2011).
- Fuggle, Richard. "Have Impact Assessments Passed Their 'Sell By' Date?" *IAIA*, January 2005.
- Garbellini, Guilherme Lombardi. "Environmental Assessment as a Tool for Managing Impacts on Wetlands: Understanding Current Practice in the Mining Sector." Master of Science, University of Saskatchewan, 2023.
- Gibson, Robert B. "From Wreck Cove to Voisey's Bay: The Evolution of Federal Environmental Assessment in Canada." *Impact Assessment and Project Appraisal* 20, no. 3 (n.d.).
- Gibson, Robert G. "In Full Retreat: The Canadian Government's New Environmental Assessment Law Undoes Decades of Progress." *Impact Assessment and Project Appraisal* 30, no. 3 (2012): 179–88. <https://doi.org/10.1080/14615517.2012.720417>.
- Goudge, Stephen. "The Berger Inquiry in Retrospect: Its Legacy." *Canadian Journal of Women and Law* 28, no. 2 (2016): 393–407.
- Government of Canada. "Quality of Life Framework for Canada." Department of Finance Canada, 2021.
- Government of Canada, CIRNAC. "Archived - Yukon Land Claims and Self-Government Agreements - Tri-Annual Report 2004-2007." Report. Government of Canada, March 25, 2010. <https://www.rcaanc-cirnac.gc.ca/eng/1100100030610/1542809362878>.
- Government of Canada, Interagency Advisory Panel on Research Ethics. "Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans – TCPS 2 (2022)." January 11, 2023. [https://ethics.gc.ca/eng/policy-politique\\_tcps2-eptc2\\_2022.html](https://ethics.gc.ca/eng/policy-politique_tcps2-eptc2_2022.html).
- Government of Yukon. *Changing the Story to Upholding Dignity and Justice: Yukon's MMIWG2S+ People Strategy*. Government of Yukon, n.d.
- Government of Yukon. *Yukon Mineral Development Strategy and Recommendations*. Government of Yukon, Energy Mines and Resources, n.d.
- Government of Yukon, Energy Mines and Resources. *Case Study of Brewery Creek*. V15101033. Government of Yukon, 2024.
- Government of Yukon Energy Mines and Resources. *Yukon Mine Site and Reclamation Closure Policy: Financial and Technical Guidelines*. Government of Yukon, 2013.
- Green, Heather. "The Tr'ondëk Hwëch'in and the Great Upheaval: Mining, Colonialism, and Environmental Change in the Klondike, 1890-1940." Dissertation, University of Alberta, 2018. <https://doi.org/10.7939/R3DN40B80>.
- Gunn, Jill A.E., and Bram F. Nobel. "Conceptual and Methodological Challenges to Integrating SEA and Cumulative Effects Assessment." *Environmental Impact Assessment Review* 31 (n.d.): 154–60.
- Haavista, Peter, and Marie Levesque. "Technological Disasters and Risk Management: Lessons from the Lac-Mégantic Rail Disaster." *Canadian Public Administration* 61, no. 3 (2018): 412–31.
- Hanna, Kevin, ed. *Environmental Impact Assessment: Practice and Participation*. Fourth. Oxford University Press, 2020.
- Henstra, Daniel, Daniel S. Thistlewaite, and Sarah Andrey. "Assessing Canada's Disaster Baselines and Projections under the Sendai Framework for Disaster Risk Reduction." *International Journal of Disaster Risk Reduction* 41 (2019).
- Heubert, Rob. "Arctic 2030: What Are the Consequences of Climate Change? The Canadian Response." *Bulletin of the Atomic Scientists* 68, no. 4 (2012): 14–25.

- Hoogeveen, D. “Integrating Gender and Intersectionality into Social Impact Assessments: Indigenous Women, Mining, and Safety.” In *Handbook on Environmental Social Impact Assessment*, edited by Fiona Haines. Edward Elgar Publishing, 2024.
- Houde, Nicolas. “The Six Faces of Traditional Ecological Knowledge: Challenges and Opportunities for Canadian Co-Management Arrangements.” *Ecology and Society* 12, no. 2 (2007). <https://www.jstor.org/stable/26267900>.
- Houghton, Catherine, Dympna Casey, David Shaw, and Kathy Murphy. “Rigour in Qualitative Case-Study Research.” *Nurse Researcher (through 2013)* (London, United Kingdom) 20, no. 4 (2013): 12–17.
- Impact Assessment Act, Government of Canada, S.C. 2019 c. 28, (2019).
- Indigenous Watchdog. “Victoria Gold Owes Millions to First Nation of Na-Cho Nyäk Dun Businesses, Report Says.” Accessed April 20, 2025. <https://www.indigenouswatchdog.org/update/victoria-gold-owes-millions-to-first-nation-of-na-cho-nyäk-dun-businesses-report-says/>.
- International Association for Impact Assessment (IAIA). “Principles of Environmental Impact Assessment Best Practice.” IAIA, 2022. [https://www.iaia.org/uploads/pdf/principlesEA\\_1.pdf](https://www.iaia.org/uploads/pdf/principlesEA_1.pdf).
- Jackson, Kristi, and Pat Bazeley. *Qualitative Data Analysis with NVivo*. 3. edition. Sage, 2019.
- Jacobs, Peter, and Barry Sadler. “Sustainable Development and Environmental Assessment Perspectives on Planning for a Common Future.” *Canadian Environmental Assessment Research Council*, 1990.
- Jamie, Snook, Ashlee Cunsolo, James Ford, Chris Furgal, Andria Jones-Bitton, and Sherilee L. Harper. “The Connection between Wildlife Co-Management and Indigenous Well-Being: What Does the Academic Literature Reve.” *Wellbeing, Space, and Society* 3 (2022).
- Jean-Luc, Perrin. “Critical Infrastructure Resilience and Disaster Risk Management in Canada.” *Journal of Contingencies and Crisis Management* 28, no. 2 (2020): 123–35.
- Johnston, Lisa, and Mike Wontton. “Mapping Wildfire Hazard, Vulnerability, and Risk to Canadian Communities.” *International Journal of Wildland Fire* 29, no. 10 (2020): 863–78.
- Keeling, Arn, and John Sandlos, eds. *Mining and Communities in Northern Canada: History, Politics, and Memory*. University of Calgary Press, 2015. <https://press.ucalgary.ca/books/9781552388044/>.
- King, S., and O. Hodwitz. “Expanding the Dialogue on MMIWG2: Tribal Jurisdiction, Resource Extraction, and Gendered Violence.” *Critical Criminology* 28, no. 4 (2020): 345–65.
- Kleman, Anna. “Climate Change and Disaster Risk Reduction.” *Environmental Hazards* 19, no. 3 (2018): 245–62.
- Kohler, Michael, and Anne Uhlmann. “Place-Based Identity and the Role of Storytelling in Indigeneity: Perspectives from Yukon.” *Journal of Indigenous Studies* 12, no. 1 (2020): 45–63.
- Kothari, C.R. *Research Methodology: Methods and Techniques*. 2nd ed. New Age International Publishers, n.d.
- Lackenbauer, P. Whitney, and Suzanne Lalonde. “Searching for Common Ground in Evolving Canadian and EU Arctic Strategies.” In *Canada and the European Union: Facing the Multifaceted Challenges of the 21st Century*, edited by Crina Viju and Pierre-Olivier Lechasseur. P.I.E. Peter Lang, 2011.
- Lahiri-Dutt, Kuntala. *The Feminization of Mining*. Cambridge University Press, 2012.

- Lysyk, K, E Bohmer, and W Phelps. *Alaska Highway Pipeline Inquiry*. Minister of Supply and Services Canada, 1977.
- MacNell, Lillian, Adam Driscoll, and Hunt. “What’s in a Name: Exposing Gender Bias in Student Ratings of Teaching.” *Innovative Higher Education* 40 (2015): 291–303.
- Martin, D.H. *Two-Eyed Seeing: A Framework for Understanding Indigenous and Non-Indigenous Approaches to Indigenous Health Research*. University of Alberta Press, 2012.
- McCartney, Leslie, Ingrid Kritsch, and Sharon Snowshoe. “Publishing Our Whole Gwich’in Way of Life Has Changed— Gwich’in K’yuu Gwiidandà’ Tthak Ejuk Gòonlih: Stories from the People of the Land after Two Decades of Decisions.” *The Oral History Review*, n.d.
- McClellan, Catherine, Lucie Birckel, Robert Bringham, James A. Fall, Carol McCarthy, and Janice R. Sheppard. *A History of the Yukon Indians: Part of Our Land, Part of Our Water*. Douglas & McIntyre, 1987.
- McCrank, Neil. *Road to Improvement: Review of the Regulatory Systems across the North*. Minister of Public Works and Government Services Canada, 2008.
- McGrath, Neil. “Indigenous Knowledge in Environmental Co-Management in the Yukon.” Royal Roads University, 2018.
- McGregor, Deborah. “Mino-Mnaamodzawin: Achieving Indigenous Environmental Justice in Canada.” *Environment and Society* 9, no. 1 (2018): 7–24.
- McNab, David T. *No Place for Fairness: Indigenous Land Rights and Policy in the Bear Island Case and Beyond*. McGill-Queen’s University Press, 2009.
- Mitham, Peter. “History of the Book in Yukon: A Discussion Paper.” *The Northern Review* 21 (2000): 57–71.
- Moore, Patrick. “Disrupting Settler Colonialism through Indigenous Environmental Justice: A Literature Review.” *Decolonization: Indigeneity, Education & Society* 6, no. 1 (2017): 34–58.
- Moorse, Miriam. “Decolonizing Park Management: A Framework for the Co-Management of National Parks and Protected Areas.” Master of Public Policy, University of Victoria, 2016.
- Morgan, Richard. “Environmental Impact Assessment: The State of the Art.” *Impact Assessment and Project Appraisal* 30, no. 1 (2012): 5–14.
- Morrison-Saunders, Angus, and Jenny Arts. *Assessing Impact: Handbook of EIA and SEA Follow-Up*. Earthscan, 2004.
- Myerhoff, Barbara. *Number Our Days: A Triumph of Continuity and Culture Among Jewish Old People in an Urban Ghetto*. Touchstone, n.d.
- Myerhoff, Barbara, and Jay Ruby. “Introduction.” In *A Crack in the Mirror. Reflexive Perspectives in Anthropology*, edited by Jay Ruby. University of Pennsylvania Press, 1982.
- Na Cho Nyak Dun Development Corporation. *Annual Report: FY24*. NNDDC, 2024.
- Nadasdy, Paul. *Hunters and Bureaucrats: Power, Knowledge, and Aboriginal-State Relations in the Southwest Yukon*. University of British Columbia Press, 2003.
- Nadasdy, Paul. “The Anti-Politics of TEK: The Institutionalization of Co-Management Discourse and Practice.” *Anthropologica* 47, no. 2 (2005): 2.
- Natcher, David C., and Susan Davis. “Rethinking Devolution: Challenges for Aboriginal Resource Management in the Yukon Territory.” *Society and Natural Resources* 20, no. 3 (2007): 271–79. <https://doi.org/10.1080/08941920601117405>.

- Natcher, David C., Susan Davis, and Clifford G. Hickey. "Co-Management: Managing Relationships, Not Resources." *Human Organization* 64, no. 3 (2005): 240–50. <https://doi.org/10.17730/humo.64.3.23yfnkrl2ylapjxw>.
- Nixon, Rob. *Slow Violence and the Environmentalism of the Poor*. Harvard University Press, 2011.
- Nobel, Bram. *Introduction to Environmental Impact Assessment: A Guide to Principles and Practice*. Fourth. Oxford University Press, 2020.
- Nobel, Bram F. "Environmental Impact Assessment." In *The Canadian Encyclopedia*. Historical Canada, March 2, 2011. <https://www.thecanadianencyclopedia.ca/en/article/environmental-impact-assessment>.
- Nobel, Bram, Kevin Hanna, and Jill Blakly. "Northern Environmental Assessment: A Gap Analysis and Research Agenda." In *Resources and Sustainable Development in the Arctic*, edited by Chris Southcott, Frances Abele, David Natcher, and Branda Parlee. Routledge, 2019.
- Nuttall, Mark. *Pipeline Dreams: People, Environment, and the Arctic Energy Frontier*. IWGIA Document 126. International Work Group for Indigenous Affairs, 2010.
- Oversight Group. *Yukon Environmental and Socio-Economic Assessment Act (YESAA) Oversight Group - Fact Sheet*. Oversight Group, 2019.
- Oxedine, D. "Underreporting and the Missing and Murdered Indigenous Women, Girls, and Two-Spirit (MMIWG2S) Crisis: Resource Extraction and Systemic Violence." *Journal of Indigenous Studies and Resources* 23, no. 1 (2024): 45–63.
- Parlee, Brenda. "Resource Development and Well-Being in Northern Canada." In *Resource and Sustainable Development in the Arctic*. Routledge, 2020.
- Parlee, Brenda, and Chris Furgal. "Well-Being and Environmental Change in the Arctic." *Climatic Change* (Heidelberg) 115, no. 1 (2012): 13–34.
- Parson, Sean, and Natalie Ray. "Displacement and Extraction: Environmental Justice in Canada's North." *Canadian Journal of Environmental Education* 25 (2020): 74–89.
- Part Three - From Yesterday to Tomorrow*. With Council of Yukon First Nations. Northern Native Broadcasting Yukon, n.d. [https://vimeo.com/123680728?autoplay=1&muted=1&stream\\_id=Y2xpcHN8Mzg2MjkyMTF8aWQ6ZGVzY3x7InJlbW92ZV92b2RfdG10bGVzIjpmYWxzZX0%3D](https://vimeo.com/123680728?autoplay=1&muted=1&stream_id=Y2xpcHN8Mzg2MjkyMTF8aWQ6ZGVzY3x7InJlbW92ZV92b2RfdG10bGVzIjpmYWxzZX0%3D).
- Pasternak, Shiri. *Grounded Authority: The Algonquins of Barriere Lake Against the State*. University of Minnesota Press, 2017.
- Penikett, Tony. *Hunting the Northern Character*. UBC Press, 2017.
- Petts, Judith. "Barriers to Deliberative Participation in Eia: Learning from Waste Policies, Plans and Projects." *Journal of Environmental Assessment Policy and Management* 5, no. 3 (2003): 269–93.
- PMI. *A Guide to the Project Management Body of Knowledge*. 6th ed. n.d.
- RCP Engineering. *Wetland Reclamation Design and Practices in the Indian River Valley: A Review of Placer Mining Sites*. Prepared for the Yukon Placer Secretariat, 2017.
- Receveur, Olivier, Laurie Hing Man Chan, Harriet Kuhnlein, N Kassi, and Berti. *Yukon First Nations' Assessment of Dietary Benefit/Risk*. Centre for Indigenous Peoples' Nutrition and Environment, 1998.
- Retief, Francois. "Effectiveness of Environmental Assessment Legislation in South Africa." *Impact Assessment and Project Appraisal* 25, no. 2 (2007): 103–14.

- Rodon, Thierry. "Land-Use Co-Management in Canada: A Mixed Experience." *Research Gate*, August 2021.
- Rodon, Thierry, and Francis Levesque. "From Narrative to Evidence: Socio-Economic Impacts of Mining in Northern Canada." In *Resources and Sustainable Development in the Arctic*, edited by Chris Southcott, Frances Abele, David Natcher, and Branda Parlee. Routledge, 2019.
- Ross River Dene Council v. Canada (Attorney General), 11-YU693 (Supreme Court of Yukon May 9, 2013).
- Rusnak, Gerett. *Co-Management of Natural Resources in Canada: A Review of Concepts and Case Studies*. International Development Research Centre, 1997.
- Sabin, J. "Contested Colonialism: Responsible government and political development in Yukon." *Canadian Journal of Political Science* 47 (2): 375-396.
- Sachs, Jeffery, and Andrew Warner. *Natural Resource Abundance and Economic Growth*. National Bureau of Economic Research, 1995.
- Sanders, Baker, Douglas E. "The Indian Act and the Future of Aboriginal Self-Government." *Canadian Bar Review* 68, no. 2 (1990): 190–211.
- Schlosberg, David. *Defining Environmental Justice: Theories, Movements, and Nature*. Otago University Press, 2007.
- "See How Much Security We Hold for Mining and Exploration Projects." June 13, 2024. <https://yukon.ca/en/doing-business/funding-and-supports-business/see-how-much-security-we-hold-mining-and-exploration>.
- SENES Consultants Ltd. *YESAA Five-Year Review Issues Scoping Report*. YESAA Five-year Review Steering Committee, n.d.
- Sergeant, Christopher J., Erin K. Sexton, Jonathan W. Moore, et al. "Risks of Mining to Salmonid-Bearing Watersheds." *Science Advances* 8, no. 26 (2022): eabn0929. <https://doi.org/10.1126/sciadv.abn0929>.
- Sinclair, A. John, and Alan Diduck. "Public Involvement in EA in Canada: A Transformative Learning Perspective." *Environmental Impact Assessment Review* 21 (2001).
- Sinclair, John A., and Alan Diduck. "Reconceptualizing Public Participation in Environmental Assessment as EA Civics." *Environmental Impact Assessment Review* 62 (2017): 174–82.
- Sinclair, W.D., and G.W. Gilbert. *Mineral Industry Report: 1973*. Indian and Northern Affairs Canada, 1973.
- Slattery, Brian. "The Legal Basis of Aboriginal Title." *Canadian Bar Review* 61, no. 2 (1984): 260–92.
- Southcott, Chris, Frances Abele, David Natcher, and Branda Parlee, eds. *Resources and Sustainable Development in the Arctic*. Routledge, 2019.
- Spaeder, Joseph J., and Harvey A. Feit. "Co-Management and Indigenous Communities: Barriers and Bridges to Decentralized Resource Management: Introduction." *Anthropologica* 47, no. 2 (2005): 147–54. <https://doi.org/10.2307/25606232>.
- Spak, Stella. "The Position of Indigenous Knowledge in Canadian Co-Management Organizations." *Anthropologica* 47, no. 2 (2005): 233–46.
- Speilmann, Roger, and Marina Unger. "Towards a Model of Co-Management of Provincial Parks in Ontario." *The Canadian Journal of Native Studies* 2 (2000): 455–86.
- Stabler, J. C., and M. R. Olfert. "Gaslight Follies: The Political Economy of the Western Arctic." *Canadian Public Policy / Analyse de Politiques* 6, no. 2 (1980): 374–88. <https://doi.org/10.2307/3550006>.

- Stabler, Jack C., and Thomas R. Berger. *Northern Frontier - Northern Homeland*. 1978.
- Staples, Kiri. “Addressing Cumulative Effects in the Context of Sustainability and Co-Governance in Tr’ondëk Hwëch’ in Traditional Territory, Yukon.” PhD in Social and Ecological Sustainability, University of Waterloo, 2022.
- Staples, Kiri, Manuel Chávez-Ortiz, M. J. Barrett, and Douglas Clark. “Fixing Land Use Planning in the Yukon Before It Really Breaks: A Case Study of the Peel Watershed.” *Northern Review*, no. 37 (October 2013): 37.  
<https://thenorthernreview.ca/index.php/nr/article/view/278>.
- Stoeglehner, Gernot, and Thomas Brown. “Beyond Effectiveness—The Adaptation of EIA Systems to Context.” *Environmental Impact Assessment Review* 74 (2019): 1–10.
- Strauss, Anselm, and Barney Glaser. *The Discovery of Grounded Theory: Strategies for Qualitative Research*. Aldine Publishing, 1967.
- Thomas, David. “A General Inductive Approach for Analyzing Qualitative Evaluation Data.” *American Journal of Evaluation* 27, no. 2 (n.d.): 237–46.
- Tsuji, Stephen R. J., Aleksandra M. Zuk, Andrew Solomon, Ruby Edwards-Wheesk, Fatima Ahmed, and Leonard J. S. Tsuji. “What Is Wellbeing, and What Is Important for Wellbeing? Indigenous Voices from across Canada.” *International Journal of Environmental Research and Public Health* (Basel) 20, no. 17 (2023): 6656-.  
<https://doi.org/10.3390/ijerph20176656>.
- Tuhiwai-Smith, Linda. *Decolonizing Methodologies: Research and Indigenous Peoples*. 2nd ed. Otago University Press, 2012.
- Turner, Dale. *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. University of Toronto Press, 2006.
- Turner, Victor. *Dramas, Fields, and Metaphors: Symbolic Action in Human Society*. Cornell University Press, 1974.
- United Nations Declaration on Rights of Indigenous Peoples, Government of Canada, S.C. 2021 c.14.
- Usher, Peter. “Traditional Ecological Knowledge in Environmental Assessment and Management.” *Arctic* 53, no. 2 (2000): 183–93.
- Walsh, K. “Tar Sands Mining and Indigenous Vulnerability: Socio-Economic and Environmental Perspectives.” *Environmental Justice Journal* 11, no. 3 (2018): 121–34.
- White, Graham. *Indigenous Empowerment through Co-Management: Land Claims Boards, Wildlife Management, and Environment Regulation*. UBC Press, 2020.  
<https://doi.org/10.59962/9780774863049>.
- Whyte, Kyle. “Indigenous Experience, Environmental Justice and Settler Colonialism.” In *Nature and Experience: Phenomenology and Teh Environment*, edited by Brian Bannon. 2016. <https://papers.ssrn.com/abstract=2770058>.
- Williams, Michael, and Tami Moser. “The Art of Coding and Thematic Exploration in Qualitative Research.” *International Management Review* 15, no. 1 (2019): 45–55.
- Wilson, Emma. “What Is Benefit Sharing? Respecting Indigenous Rights and Addressing Inequities in Arctic Resource Projects.” *Resources* 8, no. 2 (2019).  
<https://doi.org/10.3390/resources8020074>.
- Wilson, Emma, and Florian Stammeler. “Beyond Extractivism and Alternative Cosmologies: Arctic Communities and Extractive Industries in Uncertain Times.” *The Extractive Industries and Society* 3, no. 1 (2016): 1–8. <https://doi.org/10.1016/j.exis.2015.12.001>.

- Wilson, Shawn. *Research Is Ceremony : Indigenous Research Methods*. Fernwood Publishing, 2009.
- Yahey v. British Columbia, 2021 (Supreme Court of British Columbia June 29, 2021).
- Yang, Peifang, and Graham A. Davis. “Why Don’t Environmental Bonds Fully Cover Reclamation Costs?” *Energy Policy* 152 (May 2021): 112187. <https://doi.org/10.1016/j.enpol.2021.112187>.
- YESAB: Assessment Districts*. With Yukon Environmental and Socio-Economic Assessment Board. YESAB, n.d.
- Yukon Bureau of Statistics, Government of Yukon Department of Finance. *Gross Domestic Product by Industry (GDP), 2023 (Preliminary Estimates)*. Government of Canada, 2024.
- Yukon Environmental and Socio-Economic Assessment Act, Pub. L. Government of Canada, c.7 SC 2003 (2003).
- Yukon Environmental and Socio-economic Assessment Board. *Considering Aboriginal Rights and Traditional Knowledge*. YESAB Publications, 2018.
- Yukon Environmental and Socio-Economic Assessment Board. *The Significance of Cumulative Effects as a Matter to Be Considered in YESAB Assessments*. YESAB Publications, 2021.
- Yukon Environmental and Socio-Economic Assessment Board. “YESAB 101: For Public.” Whitehorse, 2024. <https://yesab.ca/wp-content/uploads/2024/01/YESAB-101-for-Public.pdf>.
- Yukon Environmental and Socio-Economic Assessment Board. *Yukon Environmental and Socio-Economic Assessment Methodology*. YESAB Publications, 2021.
- Yukon (Government of) v. Yukon Environmental and Socio-Economic Assessment Board, 11 (YKSC 2024).
- Yukon Indian People. *Together Today for Our Children Tomorrow*. Council of Yukon Indians, 1973.
- Yukon Placer Mining Act, S.Y. 2003 c.13 (2003).
- Yukon Quartz Mining Act, S.Y. 2003 c. 14 (2003).
- “Yukon Water Board.” Accessed January 8, 2025. <https://yukonwaterboard.ca/>.
- Yukon Water Board v. Yukon (Government Of), 15 (YKSC 2015).

## Appendix

### Appendix A: Emails to Participants

#### **Request to Interview for 'An Assessment of YESAB'**

Hi

#### CONNECTION

...possibility of interviewing you for my PhD, *An Assessment of YESAB*. I am hoping to look at the question, to what extent does YESAA fulfil the spirit and intent of the Final Agreements.

I would like to interview a number of people who have experience with YESAB. I would like to assess how effective YESAB is as a development assessment organization through participant perspectives.

Attached to this email are the interview questions and interview consent form.

AVALABILITY for times to interview – place

If you would be open to sharing your knowledge and perspectives of YESAB.

Thank you,  
Lauren

## Interview Follow-Up - An Assessment of YESAB

Hi

I apologize that the transcription turnaround has taken longer than anticipated.

Attached to this email is the signed interview consent form as well as a blank copy of the consent form. According to the form:

1. You have indicated on the consent form you consent to being identified using your name.
2. You have also indicated that you consent to being recorded. Please find attached to this email the transcript from our conversation. Please let me know if anything in the transcript is inaccurate or if you would like to reword/provide more clarity on something.
3. You have indicated on the consent form that you would like to only be identified in the research using your affiliation to YESAB. This identifier will be (unless you would like something different): "Yukon First Nation; works for or has worked for YESAB."
4. You have also indicated that you do not want to be recorded. I therefore do not have a transcript of our conversation to share with you and have deleted any recordings of our conversation after making notes.

Also attached to this email is the transcript from our conversation. Please let me know if there is anything that should be changed.

Next steps:

I am hoping to complete my interviews by mid-October. I have started writing my research. When I am completed with the writing process, I will email you the final paper, highlighting where your comments have been referenced. You will then have the opportunity to review these sections to see if they are accurate. If you feel the information regarding your comments is inaccurate, it can either be reworded or taken out entirely.

Please let me know if you have any questions.

Thank you very much for taking part in this research. I learned a lot from your insight.

Also, as part of participating in this research, there is a \$75 incentive. Would it be okay to send an e-transfer to this email address? Some participants have opted for gifts instead that I have used to support local Mayo businesses. Please let me know what would be most appropriate.

Thank you,  
Lauren

**Final Email**

**Subject:** Thank You & Request to Review Dissertation Chapters (5–7)

Dear [Participant's Name or Identifier],

I hope this message finds you well.

I am writing to extend my heartfelt thanks for your time and valuable insights shared during our interview for my dissertation titled "*An Assessment of YESAB.*" Your contributions have been central to my research, and I am truly grateful for your willingness to share your experiences and perspectives.

As I move toward finalizing my dissertation, I would like to ensure that your views are represented accurately and respectfully. Chapters 5 through 7, which cover the results and discussion of the findings, include quotes from our conversation. To uphold the integrity of your contribution, I would greatly appreciate it if you could review these chapters and confirm that your comments have been quoted and interpreted in a way that aligns with your intended meaning.

You have been identified in the draft as: **[INSERT HOW THIS PERSON HAS BEEN IDENTIFIED: e.g., "pseudonym 'Alex'", or "a senior staff member at YESAB"]**.

Please let me know if you would be open to reviewing these chapters. I would be happy to send the draft sections to you directly and can accommodate your preferred format or method of review.

Thank you once again for your generous support of this research.

Warm regards,

Lauren

## Appendix B: Interview Consent Form

### Interview consent form for *An Assessment of YESAB*



#### *An Assessment of YESAB*

You are invited to participate in a research study. Before you agree to participate, please read this form carefully and ask any questions you may have to be sure that you understand what your participation will involve.

#### **Researcher:**

This research study is being conducted by Lauren Baranik who is being supervised by Heather Nicol at Trent University.

#### **Purpose of the Study:**

This research project will look at how the Yukon Environmental and Socio-Economic Board (YESAB) fulfils the spirit and intent of the Umbrella Final Agreement (UFA). Specifically, I will be looking at YESAB's role with mining projects on the Traditional Territories of the Tr'ondëk Hwëch'in (TH) and the Northern Tutchone Nations (First Nation of Na Cho Nyäk Dun (FNNND), Selkirk First Nation (SFN), and Little Salmon Carmacks First Nation (LSCFN))

Interviews will be conducted with people who have experience with YESAB. You have been invited to take part as you are someone who has experience with YESAB and/or have been impacted by YESAB. I will use what I hear in interviews as well as the information I gather from a historical analysis, to build an assessment that reflects what I hear as to what YESAB's role in the Yukon should be. I will then assess YESAB Recommendations related to mining projects that have been conducted on Northern Tutchone Nations' and TH Traditional Territory since 2005 to see how well the Recommendations fulfill the spirit and intent of the UFA.

#### **What Participation Means:**

If you agree to be a part of this research, I will contact you to organize a time and place to meet. The discussion will last between 30 to 90 minutes, or longer if you so choose. I will have some questions prepared, but I would like to learn from people what they think is important to know about YESAB.

If you agree, I will record the conversation so that I can make sure I can recall the information in my research. I will then give you a transcript of the conversation within two weeks of the interview date.

Please know that in the final research I can avoid using your name if you so wish to remain anonymous. Instead, I will only identify you though your affiliation with YESAB (i.e., Yukon First Nation, Government employee, miner, etc.).

Before presenting my research, I will circle back to participants who I have had a discussion with about YESAB and review with them how I have referenced their perspectives in my research. This will help me make sure that I have understood the participant properly and that their

## Interview consent form for *An Assessment of YESAB*



perspective is being presented in a way they feel is accurate. If the participant feels they are not comfortable with how their information is being referenced in the paper, it can either be reworded or taken out entirely.

I will be presenting my research multiple times in the communities of Mayo and Dawson City to communicate what I found. This will include presentations to the FNNND and TH.

### **Potential Benefits:**

The purpose of the study is to get a better understanding of the role of YESAB and if it is fulfilling that role. This could provide information on how the Board could improve its assessment process.

### **What are the Potential Risks to you as a Participant:**

YESAB can be a heated topic for some and may cause heightened emotions of anger and distress.

### **Confidentiality:**

Any information from interviews (recordings, transcripts, notes, etc.) will be stored on my computer. I will also be using the Lumivero software to organize and store interview information. Data stored on Lumivero is protected and there is restricted transfer of documents.

Once the final dissertation has been published, all documents (both paper and uploaded) related to the interviews (except for this consent form) will be destroyed/deleted. If you consent to being recorded for the interview, you will be given a copy of the transcript that you have a right to review/edit before it is used to provide information for the dissertation.

Also, as mentioned before, participants can be identified in the dissertation only by their affiliation with YESAB. If you would consent to your real name being used, then it can be.

### **Incentives AND/OR Compensation for Participation:**

I am offering a \$75.00 honourarium for participants. I hope this incentive demonstrates my gratitude for you taking the time to share your knowledge about YESAB for this research.

### **Voluntary Participation and Withdrawal:**

Participation in this study is completely voluntary. When asked, you can choose whether to participate or not. If any question makes you uncomfortable, you can skip that question. If you chose to withdraw from the discussion, you will also still receive the honourarium if you have been interviewed for 30 minutes or longer.

**Interview consent form for *An Assessment of YESAB***



Within thirty days of you receiving the transcripts from the discussion, you can contact me to have your information removed from the study. Your choice of whether to participate will not influence your future relations with myself or Trent University.

**Questions about the Study:**

If you have any questions or concerns about the research now, please ask. If you have questions later about the research, you may contact:

Lauren Baranik, MA  
PhD Candidate  
Trent University  
(437) 419-2721  
[laurenbaranik@trentu.ca](mailto:laurenbaranik@trentu.ca)

This study has been reviewed by the FNNND. The TH has been consulted prior to conducting this research. The results of this research are reflective only of the individual respondents and do not represent the TH Government's stance on this topic.

This study has also been reviewed by the Trent University Research Ethics Board; the study number is 14109. If you have questions or concerns that you don't wish to share with the researchers, please contact:

Anna Kisiala  
Coordinator, Research Conduct and Reporting  
c/o Office of the Vice President, Research and Innovation  
Trent University  
1600 West Bank Dr  
Peterborough, ON K9L 0G2  
705-748-1011 ext. 7866  
[annakisiala@trentu.ca](mailto:annakisiala@trentu.ca)

Interview consent form for *An Assessment of YESAB*



**CONFIRMATION OF AGREEMENT:**

(check off all boxes in this list)

- I have read, or have had read to me, the information in this agreement;
  - I have asked any questions I have about the study;
  - By signing, I agree to participate in the study;
  - I am aware I can change my mind and withdraw consent to participate at any time;
  - I have been given a copy of this agreement; and
  - I am not giving up any legal rights by signing this consent agreement.
- I agree to be [audio, video, or both] recorded for the purposes of this study. I understand how these recordings will be used, stored and destroyed.

***How you would like to be identified (choose one of the two options below):***

- I am aware that the researcher will use my name when discussing my contributions in their report;
- I am aware that the researcher will only identify me using my affiliation to YESAB when discussing my contributions in their report;

\_\_\_\_\_  
Name of Participant (please print)

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

**Notes:**

Date and Time of Interview: \_\_\_\_\_

Interviewee received ~~honourarium~~ on \_\_\_\_\_ via \_\_\_\_\_.

Copy of Transcript sent to interviewee on \_\_\_\_\_

Version: 1

4

## Appendix C: Interview Guide

### **Interview Guide for *An Assessment of YESAB***

The interview will be conducted as an open-ended interview or conversation with the ability of those being interviewed to guide the discussion to an extent. The purpose of this is to gain a myriad of perspectives about YESAB and its role in the Yukon. As perspectives and experiences can be diverse, questions may lack the ability to bring out the interviewee's perspectives and experiences, and therefore, the interview process should be fluid and comfortable to allow them to open up and share what they see as being important. I will still be guiding the conversation, but these questions are more to get the conversation started.

#### **Potential Questions:**

1. What has been your experience with Yukon Environmental and Socio-Economic Assessment Board (YESAB)?
2. What do you think the role of YESAB is in the Yukon? How well do you think YESAB is at fulfilling its role in the Yukon?
3. How effective do you think YESAB is at fulfilling its role in the Yukon?
4. How familiar are you with Chapter 12: Development Assessment in the Umbrella Final Agreement?
5. How do you think YESAB reflects Chapter 12 or the overall UFA?
6. What significant changes have you seen to YESAB's Impact Assessment approach since its creation in 2005? What do you think influenced these changes? How did these changes affect you?
7. How do you see YESAB changing in the future as the Yukon experiences different influences (i.e., political parties, climate change, shifts in project proposals, etc.)?
8. Who or what do you think influences YESAB's assessment process the most? Who/what should and why?

## Appendix D: Transcript Non-Disclosure Agreement from Transcript Hero



# Transcription Confidentiality Agreement

THIS AGREEMENT (the "Agreement") is entered into on this date September 16, 2024 by and between LAUREN BARANIK (the "Discloser" or the "Disclosing Party"), and Transcript Heroes Transcription Services Inc. (the "Recipient" or the "Receiving Party").

The Receiving Party desires to provide transcription services to the Disclosing Party. During the provision of services the Disclosing Party may share certain information with the Receiving Party. Therefore, in consideration of the mutual promises and covenants contained in this Agreement the parties agree as follows:

### 1. Definition of Confidential Information.

(a) For purposes of this Agreement, "Confidential Information" means any data or information that is proprietary to the Disclosing Party and not generally known to the public, whether in tangible or intangible form, whenever and however disclosed, including, but not limited to: (i) information contained in **audio and video recordings**, (ii) **transcriptions of audio and video recordings**; and (iii) any other information that should reasonably be recognized as confidential information of the Disclosing Party.

(b) Notwithstanding anything in the foregoing to the contrary, Confidential Information shall not include information which: (i) was known by the Receiving Party prior to receiving the Confidential Information from the Disclosing Party; (ii) becomes rightfully known to the Receiving Party from a third-party source not known (after diligent inquiry) by the Receiving Party to be under an obligation to Disclosing Party to maintain confidentiality; (iii) is or becomes publicly available through no fault of or failure to act by the Receiving Party in breach of this Agreement; (iv) is required to be disclosed in a judicial or administrative proceeding, or is otherwise requested or required to be disclosed by law or regulation.

### 2. Disclosure of Confidential Information.

In accordance with seeking transcription services the Disclosing Party may disclose Confidential Information to the Receiving Party. The Receiving Party will:

(a) limit disclosure of any Confidential Information to its officers, employees, or agents (collectively "Representatives") who have a need to know such Confidential Information in order to provide the transcription services to which this Agreement relates, and only for that purpose;



(b) advise its Representatives of the very private and very confidential nature of the Confidential Information and of the obligations set forth in this Agreement and require their Representatives to sign similar legally binding Confidentiality Agreements with the Receiving Party;

(c) shall keep all Confidential Information strictly confidential by using a high degree of care and security; and

(d) not disclose any Confidential Information received by it to any third parties (except as otherwise provided for herein).

### **3. Use of Confidential Information.**

The Receiving Party agrees to use the Confidential Information solely in connection with the the provision of transcription services and not for any purpose other than as authorized by this Agreement without the prior written consent of an authorized representative of the Disclosing Party. No other right or license, whether expressed or implied, in the Confidential Information is granted to the Receiving Party hereunder. Title to the Confidential Information will remain solely in the Disclosing Party. All use of Confidential Information by the Receiving Party shall be for the benefit of the Disclosing Party and any modifications and improvements thereof by the Receiving Party shall be the sole property of the Disclosing Party.

### **4. Return of Confidential Information.**

Receiving Party shall return, delete or destroy all recordings embodying the Confidential Information provided including all transcripts and audio and video recordings, upon the earlier of (i) the completion or termination of the project between the parties being contemplated hereunder; (ii) the termination of this Agreement; or (iii) at such time as the Disclosing Party may so request.

### **5. Miscellaneous.**

(a) This Agreement constitutes the entire understanding between the parties and supersedes any and all prior understandings and agreements, whether oral or written, between the parties, with respect to the subject matter hereof. This Agreement can only be modified by a written amendment signed by the party against whom enforcement of such modification is sought.

(b) The validity, construction and performance of this Agreement shall be governed and construed in accordance with the laws of Ontario (Canada) applicable to contracts made and to be wholly performed within such state, without giving effect to any conflict of laws provisions thereof. The courts located in Ontario (Canada) shall have sole and exclusive jurisdiction over any disputes arising under the terms of this Agreement.



(c) Dispute Resolution (Negotiation/Mediation/Arbitration). In the event of any controversy or claim arising out of or relating to this agreement, or the breach thereof, the parties hereto shall enter into negotiation with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If they do not reach settlement within a period of 7 days, then either party may, by notice to the other party and an online based recognised mediator, demand mediation under the Mediation Rules of the International Centre for Dispute Resolution. If settlement is not reached within 7 days after service of a written demand for mediation, any unresolved controversy or claim arising out of or relating to this contract shall be settled by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. The number of arbitrators shall be one, the place of arbitration shall be Ontario (Canada). The language(s) of the arbitration shall be English.

(d) Paragraph headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**Receiving Party**

By (Signature):

A handwritten signature in black ink, appearing to read "Andrew Dodson".

Printed Name: Andrew Dodson  
Title: Director Transcript Heroes  
Date: Feb. 14th 2024

**Disclosing Party**

By (Signature):

A handwritten signature in black ink, appearing to read "Lauren Baranik".

Printed Name: LAUREN BARANIK  
Title: PhD Candidate  
Date: Sept. 16, 2024

Appendix E: Poster Advertising Project in Dawson City and Mayo

# Interested in sharing your perspective of YESAB?



**Lauren Baranik will be interviewing people in the Mayo and Dawson City areas to get stories about Yukoners' experiences with YESAB.**

Lauren is currently a PhD Candidate with Trent University where she is doing her research on how well the Yukon Environmental and Socio-Economic Assessment Board (YESAB) fulfils the spirit and intent of the Umbrella Final Agreement in relation to mining projects. She is looking for anyone who has experience with YESAB and mining projects to sit down and have a conversation with about their experiences to get a better understanding of what Yukoners think of YESAB's actions and role in the Yukon.

Interviews will be held from April 1<sup>st</sup> to August 31<sup>st</sup>, 2024.

Please contact Lauren if you are interested in being a part of this study. If email ([laurenbaranik@trentu.ca](mailto:laurenbaranik@trentu.ca)) doesn't work, please feel free to phone/text: 437-419-2721.



Lauren Baranik- Interview for study on YESAB

[laurenbaranik@trentu.ca](mailto:laurenbaranik@trentu.ca)

## Appendix F: Umbrella Final Agreement Table of Contents

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