

2.2 Land and location

Check the zoning

Find out how easy or difficult it might be to change the zoning of the property you wish to buy, should it prove necessary for your business. This includes all properties in Yukon, even those outside municipal boundaries. Land use must comply with the Yukon Government's *Area Development Act* and the *Municipal Act*. Contact the Community Land Planning Branch at (867) 667-8945 for information on zoning.

Regulatory and assessment processes

If you want to purchase, lease, license or use territorial land for a tourism project or activity, you will (with a few exceptions) have to apply for it. You may require a Yukon Government permit or license and, in some cases, an environmental and socio-economic effects assessment. Permits and licenses are part of the Yukon Government's regulatory regime on Yukon land. First Nations with Final Agreements and the federal government may issue permits or licenses for their lands, depending on the project. While the regulatory and permitting processes may differ between governments, the environmental assessment process is the same. The process may seem intimidating; the Tourism and Lands Branch staff are ready to help you. If your project requires an assessment, Yukon Environmental and Socio-Economic Assessment Board (YESAB) and Designated Offices (DO) staff can help you.

The new *Yukon Environmental and Socio-Economic Assessment Act* (YESAA) provide a single assessment process for projects on federal, territorial and First Nation Land. The YESAB, or one of its six Designated Offices throughout the Yukon, conducts neutral, independent assessments for proposed projects and activities. See www.yesab.ca for a list of Designated Offices and YESAB contacts. Assessors collect input from technical experts, governments and the public within a set timeframe, consider environmental and socio-economic effects for proposed projects, and conclude their findings with recommendations to the Yukon Government, First Nation or federal agency that has the decision-making power for a project. The government can accept, reject or vary recommendations.

Some tourism projects do not require a permit or assessment, but it depends on the type and location of the activity. It is best to check with the Lands Branch staff early in your project to determine regulatory or assessment requirements.

The *Energy, Mines and Resources (EMR) Assessment – Regulatory Guide* includes plain language step-by-step descriptions of land disposition, use and assessment processes for Yukon land. It is available on the EMR website (www.emr.gov.yk.ca), at EMR offices in Whitehorse, and at Natural Resources Offices in Yukon communities.

Your application

Once you've determined the application, regulatory or assessment processes required for your project, it's time to dig out the business, financial and marketing plans you've written, as well as a summary of your proposed access to the land. Include all this information with your application. Business plan guidelines and a template can be obtained from the Yukon Government Lands Branch. You will also need a site development plan and map of the area, and you will need to flag the site on the ground.

Factor enough time

This process can take considerable time. If all goes well you may be ready to call in the surveyors twelve months after you start the process. Factor enough time for the process into your business plan.

Other considerations

Planning boards do exist in a number of municipalities and a formal development process is in place for certain communities. Make sure that you investigate any requirements this process may demand of your proposal prior to any land application you make. Whitehorse, for example, may support only those land applications that fall within its Official Community Plan; however, requests for variances are sometimes granted.

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Location related to your market

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

Four important considerations

Many businesses can start up without having to acquire land, by simply renting or leasing available premises. This is particularly true in larger communities and for tourism businesses that require office or retail space. Many wilderness tourism activities do not require owning or leasing land, unless you need to build infrastructure – like a dock or cabins – to support your business. If you decide that you do need land, however there are four things you should pay particular attention to:

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

Land ownership categories

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

1. Yukon land – now the majority of vacant land in the territory – controlled by the Yukon Government.
2. Settled land belonging to Yukon First Nations.
3. Privately owned land, including that owned by municipalities. Also known as *fee simple land*, this includes all land for which someone holds a deed of ownership. Municipalities administer their lands, community plans and zoning bylaws within their jurisdictions. Whitehorse and Dawson City control subdivision within their boundaries.
4. Land that is controlled by the federal government. This consists of three national parks (Kluane National Park, Ivvavik National Park, and Vuntut National Park) and one wildlife area (Nisutlin River Delta National Wildlife Area)

Land considerations

Ownership and administration of Yukon land is subject to change. New policies may be applied and the way you plan to use the land may be subject to laws and policies of both the federal and territorial governments. First Nation Settlement Lands are subject to the laws and administration of the respective First Nation government. Make sure you have current information by calling the Yukon Lands Branch (867) 667-5215 or 1-800-661-0408.

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Getting started

Tourism staff can help you with some of your land-related questions, and direct you to the right agencies and officials for more information and assistance. You are encouraged to work directly with land, regulatory and assessment officials, as required.

If you have a specific piece of land in mind, the first step is to find out who owns and administers it. The Yukon Lands Branch can be reached at (867) 667-5215 and is located on the third floor of the Elijah Smith Building in Whitehorse. The Lands Branch website (www.emr.gov.yk.ca/lands) includes detailed information on land application processes and policies. The Lands Branch can tell you the status of the land—whether it is private, federal, Yukon or First Nation land—and if it's available for disposition. Staff can also tell you whether or not your application requires an environmental assessment.

1. Most communities have a Yukon Government Natural Resources Office and will be able to help you identify your site on a map.
2. Call the mining recorder for your area to check on active mining claims:
 - In Dawson City, call (867) 993-5343.
 - In Mayo, call (867) 996-2256.
 - In Watson Lake, call (867) 536-7366.
 - In Whitehorse and all other districts, call (867) 667-3190.
3. Determine if your site is within a Park or Special Management Area. Call Yukon Parks at the Department of Environment, (867) 667-5652, or contact the specific Yukon parks administered by Parks Canada.
4. Subsequent steps depend on the land categories to which your selection belongs.

Territorial (or Yukon) lands

How can you go about using Yukon land for your project? Start by contacting the Yukon Government Lands Branch. If you want to use the land on a short term basis, you may need a Land Use Permit. A Land Use Permit will allow you to occupy land over a specific period of time. The permit will also tell you what you must do to protect and restore the environment. It should be noted that in many cases, temporary land use permit applications are carefully scrutinized to insure that the proposed use is not continuous.

Purchase, lease or license

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

Settlement land

Eleven of Yukon's fourteen First Nations land claims have been settled and Yukon First Nation Final Agreements have resulted in changes to land ownership and management in the Yukon. Each First Nation with a settled agreement has parcels of Settlement Land in their Traditional Territory.

If you would like to locate your tourism business on Settlement Land or use Settlement Land for tourism activities, you need to contact the appropriate First Nation directly. (*See Fact Sheet 2.3 for First Nation contact information.*)

If you plan to use non-settlement land for your business location or activities, you are encouraged to contact the appropriate First Nation directly. This should be done as a courtesy, whether or not you have a legal requirement to do so. As with other governments, First Nations have an interest in, and value, the economic health of their community. First Nations will be asked to comment during land application review processes and their comments will have a bearing on the outcome.

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Yukon First Nation Settlement Land and commercial tourism activity

Settlement Land includes Category A, B or *fee simple lands* with ownership rights depending on the category. Settlement Land can be designated Undeveloped or Developed, and it is important to determine if your tourism activity includes Developed Land. Final Agreements include a 'general right of access' (see below) that applies **only** to Undeveloped Settlement Land. You can contact the appropriate First Nation office or Yukon Department of Environment to confirm the status of Settlement Land you wish to access.

General Right of Access

As a commercial tourism operator, you and your clients do not require the consent of a First Nation to enter, cross and make necessary stops on Undeveloped Settlement Land in order to reach adjacent Non-Settlement Lands, as long as your access is of a casual and insignificant nature, or the travel route has a history of regular use and will not be altered by your access.

If your access plans do not meet these conditions, you must ask for permission from the affected First Nation. Whether or not you require permission, you and your clients must not damage the land or structures, interfere with the use and enjoyment of the land by the First Nation, or commit acts of mischief.

If you need to access a waterfront right-of-way—which includes land from the high-water mark to 30 metres inland—beside or within Settlement Land, as a commercial operator you must first obtain permission from the First Nation.

A First Nation can lease or sell Settlement Land and has the authority to make laws for Settlement Land that apply to every one. Examples include land use and zoning, natural resources and business activity. First Nations are in the process of developing laws for Settlement Land, and several First Nations have laws in place. The best way to ensure compliance is to contact a First Nation before using Settlement Land.

The White River First Nation, Ross River Dene Council and Liard First Nation do not have Final Agreements. While not required, you are strongly encouraged to inform First Nations without a Final Agreement that you will be operating in their Traditional Territory. If a permit or authorization is required from Yukon to carry out your business, Yukon Government will carry out any required consultation, not you.

For more information

For more information, contact the Yukon Land Claims and Implementation Secretariat (867) 667-5878.

Privately owned land

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

DEFINITIONS

Territorial / Yukon Lands – land under the control of the Yukon Government and includes municipalities, territorial parks and campgrounds, and land which is privately owned. Territorial lands are administered by the Government of Yukon.

First Nation Settlement Land – land belonging to the First Nation identified in a First Nation Final Agreement. Category "A" lands include both surface and subsurface rights. Category "B" and fee simple lands include surface rights.

Lands Withdrawn from Disposal – Crown Land withdrawn from disposal by Privy Council Order.

Land Set Aside – Refers to lands which are not reserved under the *Indian Act* but which are noted in Canada's land records as set aside for the use and benefit of Yukon Indian People. For instance, land has been set aside for housing and other uses.

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

Traditional Territory – areas of Yukon which members of a First Nation have identified as their Traditional Territory under the *Umbrella Final Agreement*.