

2026

UNDERSTANDING

***The Settlement Land Use Act
(Ninānkāk hqzq wëk'ãtr'ënòcha)***



A Citizen's plain language guide to the consultation draft



INTRODUCTION

TH adopted its first land management law in 2004, entitled the *Land and Resources Act* (LRA), and that law has been in legal operation ever since. Despite amendments in 2005 and 2007, the existing law has not always worked effectively for both staff and Citizens.

In 2017 and 2018 more comprehensive amendments to the LRA were considered, however these amendments were never brought forward to the community nor passed through the General Assembly (GA). As such, in the spring of 2025, the GA passed a first resolution acknowledging the need for a comprehensive review of the LRA and the development of a consultation draft to present to the GA.

The consultation draft of the proposed *Settlement Land Use Act* (SLUA) was designed to replace the current LRA and provide a blueprint for more effective Settlement Land use and management. It deals with everything from land applications and decision-making processes to dispute resolution and enforcement.

This consultation draft is built from information obtained through technical workshops with staff, legal analysis, and, importantly, Citizen feedback received in October of 2025 and at the GA.

The consultation draft is a starting point and is not final, which means that it is still a work in progress. Now that the consultation draft has been approved by the Spring 2026 GA, workshops will be organized for Citizens to provide their input on all aspects of the proposed law in Fall 2026. This guide is intended to help Citizens understand the consultation draft so that they can participate in providing input and improving it. TH cannot replace the LRA with the SLUA without careful consultation with the people it will affect the most – TH Citizens – on how it will manage TH's most important resource – Settlement Land, the land that TH owns under the TH Final Agreement.

Once feedback has been received and considered, TH will update the SLUA to reflect Citizen comments, and prepare a final draft to be presented back to the Spring 2027 GA.

READING NOTES

This document is a summary of the consultation draft of the SLUA. If passed, the SLUA will replace TH's existing law, the LRA, which applies on Settlement Land. The summary uses everyday language to explain each section of the SLUA, in order.

This document can help TH Citizens understand how the SLUA works, but it is not a legal document or a substitute for the SLUA itself. For complete information, readers should refer to the consultation draft of the SLUA.

DÄ'ÒLÈ AND DĚNEZHU VALUES

DÄ'ÒLÈ

Dä'òlè, or “Traditional Law” is one of the most important aspects of Tr'ondëk Hwëch'in governance.

Dä'òlè refers to, as Elder Angie Joseph-Rear puts it, “the way it is,” meaning the ways that people are expected to act - in everyday life as well as on special occasions. There is an element of Dä'òlè in every aspect of life, from daily activities like hunting, burials, and more. Dä'òlè can be hard to put your finger on because it's built directly into culture and often seen in the many actions that people take without even thinking about them, like standing for a prayer, taking your hat off at the dinner table, or being respectful of animals.

Dä'òlè includes a set of rules which guide people in all aspects of their lives. Dä'òlè is learned through customs, protocols, stories, and rituals. Consequences for breaking Dä'òlè are entrenched in social practices. Dä'òlè is sacred. Dä'òlè is based on a group of people's worldviews and is often the way people express their worldview.

DĚNEZHU

Dënezhu way of life is informed by the concept of Tr'ëhudè (“living in a good way”). Tr'ëhudè is how we conduct ourselves and how we are in relationship with one another – those who have come before us, the spirit world, the land, the water, and more-than-human animals. Tr'ëhudè is passed on through Dänojà (long ago) foundation stories, Indigenous Science (Traditional Knowledge), family stories, and individual experiences.

Tr'ëhudè is taught by example – our community, ancestors, the land, and all our relations demonstrate to us how to live in a good way. It is our job to share this knowledge with our children and grandchildren so that our sacred relationships with land, water, and all inhabitants remain intact.

DĚNEZHU AND DÄ'ÒLÈ

To ensure the SLUA remains grounded in Dä'òlè and Dënezhu values, jëje-in have tried to demonstrate how these important principles and cultural cornerstones influenced the development or connect to the law, by developing a separate document will be ready soon. Jëje-in are also actively considering how to incorporate the contents of that document into the SLUA itself, to help guide Citizens' understanding of the law itself.

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PART 1: GENERAL PROVISIONS

Part 1 of the draft SLUA deals with the following:

1. CITATION

The act can be called the *Ninànkāk hqzq wëk'àtr'èòcha Act* or the *Settlement Land Use Act* when referencing it.

2. APPLICATION

The SLUA only applies to TH Settlement Land. It also repeals the SLUA.

3. BINDING ON TR'ONDĚK HWĚCH'IN

TH must follow its own law.

4. BINDING ON CITIZENS AND NON-CITIZENS

The SLUA must be followed by Citizens and non-Citizens.

6. PURPOSE

The purpose of the SLUA is to protect the culture, traditions, lifestyles, and rights of TH Citizens, and to administer Settlement Land in a way that provides for a sustainable use for future generations. The SLUA is also meant to protect Settlement Land, the use and peaceful enjoyment of Settlement Land by Citizens, and the economic, spiritual, and cultural relationship between Citizens and the land.

7. DEFINITIONS

The SLUA includes several terms that require a clear and common understanding amongst all readers. The purpose of the Definitions section is to provide for that clarity.

8. INTERPRETATION

This section provides further clarity on how certain words in the SLUA will be interpreted. Importantly, this section also addresses how the SLUA fits with other laws, including the Final and Self-Government Agreements.

PART 2 RESERVATIONS AND PROHIBITIONS

DIVISION A RESERVATIONS

12. RESERVATIONS

A grant of an interest or authorization (i.e. lease, permit, etc.) does not give the person any right to use Settlement Land except for what is included in the authorization or licence issued under the SLUA. For example, if someone has been granted an authorization to operate a quarry on Settlement Land, that person cannot also harvest and sell timber from that land, unless authorized by the authorization.

DIVISION B PROHIBITIONS

14. NO ACCESS, USE, OR OCCUPATION OF SETTLEMENT LAND

Citizens and others must only use Settlement Land in accordance with the Final Agreement and applicable laws, including the SLUA (and licences and authorizations issued under the SLUA). If not, they may be subject to prosecutions for a violation of the SLUA or a licence issued under the SLUA or a legal action for trespassing or causing a nuisance on Settlement Land.

16. CITIZENS

Citizens can always access and use Settlement Land for the purposes of carrying out **traditional activities**, as long as that activity is carried out in accordance with the SLUA, the TH Final Agreement and other TH laws. Settlement Land must be administered for the use and benefit of present and future generations of Citizens.

18. EMERGENCIES

The SLUA allows a person employed or contracted by a government (e.g., YG) to use Settlement Land in order to respond to an **emergency situation** without obtaining the required authorizations under the SLUA. For example, if YG must access Settlement Land to respond to a flash flood and does not have the time to obtain an authorization to enter and use Settlement Land.

19. ACCESS TO SETTLEMENT LAND DURING EMERGENCIES

There may be occasions where a person must use Settlement Land, without prior permission, in an emergency situation. For example, if someone is lost and must build an emergency shelter. If that person causes significant damages to Settlement Land during the emergency, then the person is liable to TH for those damages (e.g., compensate TH or remediate the damage to the land).

20. SPECIFIED SUBSTANCES

“Specified Substance” under the SLUA has the same meaning as under Chapter 1 of the TH Final Agreement, which is “*any carving stone, flint, limestone, marble, gypsum, shale, slate, clay, sand, gravel, construction stone, sodium chloride, volcanic ash, earth, soil, diatomaceous earth, ochre, marl, or peat*”. No person is allowed to use a “Specified Substance” on Settlement Land for any commercial use, unless specifically authorized under a permit or other interest.

21. NO LITTERING

No person is allowed to litter or abandon debris or garbage on Settlement Land. If they do, they could be prosecuted for that offence.

22. DAMAGE AND DEGRADATION TO SETTLEMENT LAND

Unless permitted under the SLUA, no one is allowed to do the following on Settlement Land:

- Cause significant damage or degradation to Settlement Land, including trees, streams, soil or buildings or other structures located on Settlement Land, or enable that damage or degradation to occur on Settlement Land (e.g., asking someone to do it for them);
- Cause mischief, such as removing timber or building roads or trails; or
- Cause significant interference with the use and peaceful enjoyment of Settlement Land by Citizens.

Authorizations and Interests

What is the difference between an ***AUTHORIZATION*** and an ***INTEREST***?

These terms are not interchangeable, and in order to understand the SLUA, it is important to understand the difference between these terms and what they are used for:

Table 1: Authorizations, Interests, and Allocations

	Authorization	Interest
<i>What is it?</i>	A license, permit, or approval to access, use, occupy or develop Settlement Land	An allocation (for TH Citizens only specifically for traditional activities), lease, or easement
<i>Does it create a right to the land?</i>	No. It only provides temporary permission to a particular area for a particular activity.	Yes, but not ownership of it. These are enforceable rights transferred to the owner of the interest with conditions.
<i>Who can apply?</i>	Any person (Citizen and non-Citizen)	It depends on the type of interest (allocations are only available to Citizens, leases and easements are available to any person but may be subject to priority rules for Citizens)
<i>Who owns the land?</i>	TH	TH
<i>What is the purpose?</i>	To allow for temporary activities to occur on Settlement Land	To allow for formal rights to occupy and develop Settlement Land
<i>What is it used for?</i>	Uses, like mining, gravel extraction, timber harvesting, public utilities, scientific research, etc.	Residential, cultural, or commercial uses (i.e. building a house as a primary residence)

The regulations will also specify the minimum Citizen engagement that is required to be undertaken by the Director before any authorization or interest can be granted. For example, an application for a land use permit may be required to be posted publicly for at least 30 days, so that Citizens have an opportunity to comment on it.

PART 3 GRANTS OF INTERESTS IN SETTLEMENT LAND

DIVISION A GENERAL

23-25. INTERESTS IN SETTLEMENT LAND, ETC.

A person may be issued a licence under the SLUA to use or occupy Settlement Land in accordance with the TH Final Agreement and TH laws. This use or occupation of Settlement Land could be limited to a specific period of the year or for a specific term. For example, a lease for residential purposes cannot have a term that exceeds 99 years.

Table 2: Allocations, Leases, and Easements

	Allocation	Leases	Easements
Who can apply?	TH Citizens only	TH Citizens and non-Citizens (priority rules for Citizens may apply for residential leases)	TH Citizens and non-Citizens
What is it used for?	For traditional activities (cabins, caches, fishing camps, etc.)	For residential or commercial development	For access roads, utility corridors, etc.
What does the owner get?	Exclusive use and occupation for the purpose of undertaking the traditional activity	Exclusive possession for a fixed amount of time for a specific activity	No exclusive possession, only allows for passage or temporary infrastructure for a fixed amount of time
Can it be transferred?	Only transferable to TH Citizens (or to a non-Citizen in a life estate)	Transferable to Citizens and non-Citizens (subject to certain restrictions for residential leases)	Transferable to Citizens and non-Citizens

Interests allow for more formal rights to Citizens and non-Citizens to use and occupy Settlement Land for particular activities, generally for residential or commercial purposes, like building your home or a business, or in the case of allocations for Citizens, building a cabin to support the exercise of traditional activities on Settlement Land.

Similar to authorizations, interests:

- Can only be granted when they align with the SLUA.
- Can be cancelled or corrected by the Director if there is an error or it was granted by mistake.

It is also important to note that a person who submits an application for an interest does not have priority over anyone else when they apply, unless the SLUA or regulations specifically require that priority (e.g., Council may designate certain residential leases for Citizens only).

26. WITHDRAWAL OF LANDS

Council may make an order (through a regulation) that no licences can be issued under the SLUA for the use of a specific area of Settlement Land. This order would “withdraw” Settlement Land from use under the SLUA as specified in that order. For example, certain areas of Settlement Land could prohibit the issuance of any new interest, other than allocations.

This section allows Settlement Land to be withdrawn to protect areas of Settlement Land, such as critical habitat for wildlife or birds or heritage areas or to ensure that areas could continue to be used by Citizens for traditional activities, such as harvesting. However, even if areas of Settlement Land are withdrawn and do not allow for certain industrial or commercial activities, persons with rights under the TH Final Agreement (e.g., encumbering rights) can still exercise those rights within those areas.

27. INSTRUMENT REQUIRED

The Director of Lands, or any other person designated to act on behalf of the Director, can only permit a use or occupation of Settlement Land in a written document in accordance with the SLUA. That written document is called an instrument.

If parcels of Settlement Land are ultimately registered in the Yukon Land Title Office, then the written document also has to comply with the requirements for registration in that office.

28. COMMON LAW PRINCIPLES

The SLUA does not allow a person to acquire ownership of Settlement Land by “adverse possession.” Adverse possession refers to “squatter’s rights” where a person may obtain legal ownership of land by occupying it openly, continuously, and without permission for a certain period of time, if the true owner does nothing to remove the occupier during that period.

If a person squats on Settlement Land, they will not obtain any form of right or ownership to that Settlement Land. They would be trespassers and could be prosecuted for that illegal use and occupation of Settlement Land. Any occupation of Settlement Land must be done in accordance with the SLUA and the TH Final Agreement.

29. LIMITATION PERIOD

TH can commence legal action at any time to protect Settlement Land, and the expiry of any limitation period under territorial or TH laws does not mean that TH's title to the land is affected or diminished.

DIVISION B RESTRICTIONS AND LIMITS ON INTERESTS

30. NO PRIORITY

A person who submits an application for a use or occupation in Settlement Land does not have priority for that use or occupation, unless otherwise indicated in the SLUA.

31. FEE SIMPLE INTEREST

Fee simple or "equivalent to fee simple" is the highest form of land ownership. TH holds most of its Settlement Land under the TH Final Agreement in equivalent to fee simple. The SLUA does not allow TH to grant fee simple ownership of any Settlement Land to any persons. But, TH will be able to grant long-term leases for certain activities, such as residential uses, under the SLUA.

32. LONG-TERM INTEREST REQUIRE COUNCIL APPROVAL

Currently, the SLUA sets a maximum term of 99 years for residential leases. If there is no land use plan in place, then the Director needs Council's approval before granting, transferring or changing a residential lease if the proposed term is more than 99 years. In the case of any other interest, other than an allocation, the Director needs Council's approval before granting, transferring or changing a lease if the proposed term is more than 10 years.

33. MORTGAGE

Council may enact rules and limitation in respect to mortgages relating to Settlement Land.

34. LIMITATIONS ON GRANTS TO NON-CITIZENS

In general, a non-Citizen can hold a lease or other time-limited interest with respect to Settlement Land. But non-Citizens cannot hold allocations, except if an immediate family member that is a Citizen wills the allocation to them for their use and occupation for the remainder of their life in accordance with the SLUA.

35. PERMANENT INTEREST NOT AVAILABLE TO NON-CITIZENS

No permanent interest in Settlement Land can be granted to a non-Citizen.

DIVISION C ALLOCATIONS

36. PURPOSE OF ALLOCATION

A Citizen can only hold **one** allocation at a time, and an allocation is only granted to support the exercise of traditional activities. Traditional activities means:

“a non-commercial activity, other than trapping, undertaken by a citizen for subsistence or a ceremonial, spiritual or cultural purpose, and any incidental activity to such purpose, and includes a cabin, camp, tent frame, cache, fish rack, or other like improvement which is used primarily for trapping or non-commercial harvesting or other traditional purposes;

37. APPLICATION FOR ALLOCATION

Allocation applications can only be made by **Citizens**. Other than in limited situations (described below), non-Citizens cannot hold an allocation.

39. GRANTING OF ALLOCATION

This section describes who is eligible to apply for an allocation.

A TH Citizen must be 18 years of age or older in order to apply for and obtain an allocation of Settlement Land, and they will have to meet any other requirements that may be established under the regulations in the future. Allocations can be granted on any parcel of Settlement Land, unless those parcels are “withdrawn” for other purposes (e.g., residential) or ongoing land use planning.

40. ALLOCATION HOLDER RIGHTS

This section describes what rights the allocation holder obtains when an application is approved by the Director.

A Citizen who holds an allocation **has the right to:**

- undertake activities that support the exercise of traditional activities within the allocated area, and the exclusive use and occupation of that allocated area for those purposes;
- reasonable access to enter and across adjoining land for the purposes of accessing their allocation area; and
- transfer the allocation to another Citizen, if they are eligible, or in trust to a Citizen that is younger than 18 years of age.

A Citizen who holds an allocation does not own the land (it remains owned by TH) and **does not have the right to:**

- use the subsurface under the allocation area;
- subdivide the land;
- develop natural resources, such as the trees, on the land for commercial purposes;
- grant other interests to other persons, such as leases or licences, to the land;
- build structures, other than those allowed to support the exercise of traditional activities on the land (e.g., cabins, caches, etc.).

A Citizen who holds an allocation **must:**

- abide by all applicable laws, including the SLUA; and
- conserve and treat the land in a manner that protects its value and importance to Citizens, for current and future generations.

41. TERM

Allocations can be permanent or temporary, depending on the activity being proposed. Allocations can also be subject to terms and conditions, like the maximum size that an allocation can be, the types of activities that can be undertaken within an allocated area (see above), the required buffers between allocations, and buffers to watercourse or other environmental features (like wetlands). Regulations and policies will set out the terms and conditions that apply.

42. MAXIMUM SIZE OF ALLOCATION

To ensure transparency and fairness, it is proposed that, in the SLUA, a maximum size for allocations is set out and approved by Citizens.

How Big Should an Allocation be?

The consultation draft proposes 0.5 hectares, but we are seeking input from Citizens on this number.

The purpose of this would be to better control and manage the use of Settlement Land, providing for some certainty and consistency across the board for Citizens.

43. CERTIFICATE OF ALLOCATION

When the Director approves an allocation, they must issue a certificate with the following information:

- the name of the person;
- a description of the area of Settlement Land, which may include specific location information, like GPS coordinates;
- how long the allocation is granted for (e.g., permanent or time-limited); and
- if there are any terms and conditions that the allocation is subject to, in addition to those set out in the SLUA and regulations.

46. ALLOCATION HOLDER OBLIGATIONS

An allocation holder must follow all laws and conserve and treat the allocated land in a way that protects its value and importance to Citizens, for present and future generations.

47. REVOCATION OF ALLOCATIONS

In extenuating circumstances, the Director does have the ability to revoke an allocation if the holder of the allocation fails to meet their requirements under the certificate and the SLUA. For example, if a person is no longer a Citizen, then the Director can revoke the allocation. If the Director does decide to revoke an allocation, they must provide written reasons why they are doing so, and the holder can ask for the decision to be reviewed.

48. DESIGNATION FORM

A key message heard from Citizens and staff is that the inheritance process for allocations needs to be clarified in the SLUA. One of the ideas is to introduce the concept of “designation forms” where a Citizen who applies for, or subsequently inherits or is transferred an allocation, must designate the Citizen or non-Citizen spouse or other immediate family member that will inherit the allocation. The designation form would only be used if the deceased does not have a will.

49. ALLOCATIONS HELD IN TRUST

A **trust** is when one person agrees to **look after something for someone else** until certain conditions are met.

An allocation can be held in trust if:

1. the trustee (the caretaker) is a TH Citizen, the legal guardian of the beneficiary (the person who will receive it later, e.g., a minor), or the executor or administrator of the deceased Citizen;
2. the beneficiary is a Citizen;
3. the trust agreement or document appointing the trustee is registered in the registry under the SLUA.

For example, the following scenario describes where allocations can be held in trust:

Scenario – *An Estate*

A Citizen passes away, and their allocation is left to their child that is a Citizen.

The executor is the ‘trustee’. The child is the ‘beneficiary’.

The executor holds the allocation in trust until the beneficiary meets the criteria for holding an allocation (i.e., the child turns 18).

Non-Citizens

Allocations can only be legally held by Citizens, except for provisions related to the transfer of an allocation to a non-Citizen immediate family member via will (a life estate).

51. LIFE ESTATE

A non-Citizen who is a spouse or other **immediate** family member of a Citizen may obtain a life estate in an allocation. In other words, the Citizen allocation holder has left their allocation to their non-Citizen spouse or other immediate family member. An **immediate family member** includes parents, siblings, spouse, and children.

If a non-Citizen obtains a life estate in an allocation, the terms and conditions that apply to the allocation (as originally issued) continue to apply. However, that non-Citizen cannot transfer the allocation to another non-Citizen (only to a Citizen). If at the end of the life estate the non-Citizen does not transfer it to a Citizen, then the allocation goes back to TH, and other Citizens can apply to obtain an allocation in that area.

54. TRANSFER OF ALLOCATION TO NON-CITIZEN

If a TH Citizen who holds an allocation leaves it to a non-Citizen spouse in their will or designation form, the non-Citizen does not get full ownership of the allocation. Instead, the non-Citizen receives a life estate in the allocation.

Scenario – *When a Citizen and Non-Citizen are Married or Common Law*

A TH Citizen marries or is common law with a non-TH Citizen.

The Citizen is granted an allocation in land and then wills it to their non-Citizen spouse.

If the Citizen passes, the spouse can use the land for life (subject to the terms and conditions that apply to the allocation) but cannot pass it to non-Citizens, only Citizens.

When the spouse passes, the land returns to TH for reassignment if it is not transferred to a Citizen.

A life estate means the non-Citizen can use and occupy the land for their lifetime, but the allocation will go back to TH if they die, unless it is transferred to a Citizen before their death. At that point, TH can transfer the allocation to another Citizen, upon application.

55. TRANSFER UPON DEATH WITH WILL

When a Citizen has a **will** and they pass while holding a valid allocation, the Director must transfer the allocation to whoever is listed in the will. As noted above, this includes where the will designates a non-Citizen spouse or other immediate family member.

56. TRANSFER UPON DEATH INTESTATE

Intestate means when someone dies without a valid will.

If an allocation holder dies without a will (intestate), the Director will transfer the allocation to the person identified on the designation form (either a Citizen or a non-Citizen spouse or other immediate family members). If the designation form does not identify either a Citizen or a non-Citizen spouse or other immediate family member, or there is no designation form, then the allocation goes back to TH and a Citizen can apply for an allocation in that area of Settlement Land.

These rules are important because they ensure TH remains in control of Settlement Land and that allocations are used for the right reasons. It also helps to encourage Citizens to make wills

if they want certainty that an immediate family member will receive their allocation once they pass on.

These rules can be complicated, so the SLUA allows Council to enact rules setting out further processes and procedures for the transfer of allocation upon the death of their holder.

58. REGISTRATION

A holder of an allocation must register the certificate of allocation in the registry, including where the holder receives it through will or other transfer.

59. NO PLEDGE OF ALLOCATION

An allocation holder cannot be used as security or collateral. Meaning, you cannot use an allocation as financial backing for a loan, mortgage, or any other financial contract. This is because allocations are for traditional and cultural continuity and connection for Citizens to the land. They are not for financial gain or commercial leverage.

60. CONVERSION TO LEASE

The Director can convert an allocation into a lease interest. This may be necessary when a Citizen who originally intended to only temporarily occupy Settlement Land wants to move to the allocation location permanently, which would require a different form of grant (like a lease) under the SLUA.

DIVISION D OTHER INTERESTS AND INSTRUMENTS

61. DEFINITION OF INTEREST

For the purpose of this Division, the term “interest” does not include allocations as there are specific rules that apply to allocations, described above. An interest in this section means a lease or easement.

62. PRIORITY FOR CITIZENS

The SLUA requires that an interest in a planned development parcel and residential leases be offered first to Citizens, unless otherwise specified in the regulations. A ‘planned development parcel’ is a Settlement Land parcel that is identified for future development, like housing or for commercial uses.

63. APPLICATION FOR INTEREST

A person can apply for an interest, or the amendment, renewal, transfer or cancellation of an interest, following the process set out in the SLUA and the regulations.

As outlined in this section (and further described in the regulations), the process is generally as follows:

1. **Application:** a person submits a form and all required documents and pays fees.
2. **Director Review:** the Director checks application and may request more information.
3. **Decision:** the Director decides to grant, grant with conditions, or refuse to approve the application, based on the criteria that the Director must consider as set out in the regulations.
4. **Written reasons:** the Director must provide written reasons for their decision.
5. **Issuance of Interest (if granted):** the interest is issued through an instrument (e.g., a lease), and that instrument may set out terms and conditions (in addition to the SLUA and other applicable laws) that apply to that interest.
6. **Registration:** the interest is registered in the TH registry and YLTO, if applicable.

The regulations and policies will set out clear requirements for the Director to consider and follow before making a decision on whether to issue an interest or not.

64. DIRECTOR MAY GRANT AN INTEREST

The Director can grant to any person a lease or easement, or an amendment, renewal, transfer or cancellation of a lease or easement, as long as the applicant meets the requirements in the SLUA and regulations and the Director follows the applicable process (as set out above).

65. SETTLEMENT LAND RESTRICTIONS

In a land use plan, Council can adopt limitations to the type or number of interests granted in an area of Settlement Land. This allows TH to plan for, and manage, the use of the land. For example, in an area planned for residential purposes, TH may restrict the issuance of industrial permits or agricultural leases under the SLUA for that land.

66. CATEGORY OF LEASES

Council can establish different categories of leases and requirements or restrictions for each category. For example, the categories of leases could include residential, commercial or agricultural. These different categories may have different rules.

67. REGISTRATION OF INTEREST IN REGISTRY

The holder of an interest must register it in the register established under the SLUA. More information about how this can be done will be available before the SLUA comes into effect (if passed by the GA).

68. REGISTRATION OF INTEREST IN YLTO

If an area of Settlement Land is registered in the Yukon Land Title Office (YLTO), then the holder of an interest must also register it in the YLTO.

69. INTEREST NOT EFFECTIVE UNTIL REGISTERED

An interest does not become effective unless it is registered in the TH register and, if applicable, the YLTO.

70. TERMINATION OF INTEREST

The Director may end an interest in Settlement Land, following the process and requirements under the regulations, with written reasons for the decision.

71. TAXES AND FEES

Any holder of an interest must pay the applicable property taxes and fees imposed by TH for that interest.

PART 4 ACCESS TO USE AND DEVELOPMENT OF SETTLEMENT LAND

DIVISION A ACCESS TO AND USE OF SETTLEMENT LAND

72. APPLICATION FOR AUTHORIZATIONS

This section outlines the process that a person must follow in order to apply for an authorization, or an amendment, renewal, transfer or cancellation of an authorization, under the SLUA. As outlined in this section (and to be further described in the regulations), the steps are as follows:

1. **Application:** A person submits a form and all required documents and pays fees.
2. **Director Review:** the Director checks application and may request more information.
3. **Decision:** the Director decides to issue, issue with conditions, or refuse to issue the requested authorization.
4. **Written reasons:** the Director must provide written reasons for their decision.
5. **Issuance of Authorization (if approved):** Terms and conditions are included in the authorization, if applicable, and the SLUA and other applicable laws apply to that authorization.
6. **Registration:** The authorization is registered in the TH registry.

The regulations and policies will set out clear requirements for the Director to consider and follow before making a decision on whether to issue an authorization. This section also does

not restrict the exercise of any existing right under the TH Final Agreement for the access, use or occupation of Settlement Land.

74. ACCESS RIGHTS UNDER THE FINAL AGREEMENT

Unless the Final Agreement provides a right of access where TH's consent is not required, a person who has a right of access under the Final Agreement must obtain consent from TH prior to exercising that right.

75. MAXIMUM TERM OF AUTHORIZATION AND CONDITIONS

Unless allowed under the regulations, an authorization can only be issued for a maximum of 5 years and the Director can impose conditions to that authorization. For example, if a land use permit allows for timber harvesting on Settlement Land between the months of October and April, the person is not allowed to conduct timber harvesting activities outside of this window (unless expressly permitted through an amendment to an authorization). If they do, they will not be in compliance with their authorization and the SLUA.

76. REGISTRATION IN REGISTRY

Any authorization, or amendment, renewal, or cancellation of an existing authorization, **must** be filed in **the registry**. Until it is filed in the register, it is not deemed effective and will not be a valid form of authorization for activities.

The Natural Resources Department is currently developing guidelines for a proposed TH Registry. Once approved, this Registry will act as the central and legal depository for all documents related to Settlement Land authorizations, interests, and any other action taken under this Act.

77. PRIORITY

A person does not have priority regarding an authorization based on the date the authorization is submitted to the Director.

78. NO INTEREST

Unless the SLUA or an authorization provides otherwise, an authorization to access, use, or develop Settlement Land **does not** confer on the holder any interest in land. Meaning, TH will continue to own the land, but activities can be authorized to individuals who wish to use, develop, or occupy it and, unlike a lease or easement, there are no legal rights to use or occupy that land. In other words, it is a temporary authorization from TH.

79. BENEFITS AND COOPERATION AGREEMENTS

The Director also has the authority to require the applicant to enter into an agreement with TH as part of their authorization. Such an agreement could help to address impacts, benefits, or areas of cooperation with TH. This provision is helpful for TH's consideration of approving potential commercial and industrial activities on Settlement Land where revenue is generated for the applicant.

80. ADMINISTRATION OF AUTHORIZATIONS

Once an authorization is granted, a Director may amend, suspend, or cancel an authorization on its own initiative or by application from the holder. The circumstances allowing for amendments, suspensions, and cancellations will be captured in the regulations.

81. ABANDONMENT AND EFFECT

If an authorization holder abandons an authorization, all structures, fixtures or chattels situated on Settlement Land become the property of TH. On a case by case basis, Council may determine circumstances that do not warrant the acquisition of property when someone has abandoned their authorization (for example, if the structures are falling apart and TH rather force their removal).

82. SECURITY

The Director may, in accordance with the SLUA and regulations, require that an applicant provide financial security before the Director grants an authorization. The financial security will be calculated in accordance with the SLUA and the regulations, and it is meant to ensure that TH has reserved funds to remediate the land if the holder of an authorization fails to perform or complete all of the requirements under their authorization.

83. ROYALTIES AND PAYMENTS

The Director can include requirements in an authorization for the holder to pay royalties or other payments to TH for the access and use of Settlement Land. The regulations will include detailed guidance on when royalties or other payments should be made.

DIVISION B Development

84. NO DEVELOPMENT WITHOUT AUTHORIZATION

Under the SLUA, no one is allowed to develop Settlement Land unless they have an approved and registered interest (allocation, lease, or easement) that allows them to develop the land or they are authorized to do so under a separate authorization.

Development means any activity, project, or undertaking carried out on, over, or under Settlement Land that involves use of the land, and any alteration or changes to the nature, purpose or function thereof. Importantly, development **does not** include any activity that is a **traditional activity**.

86. APPLICATION FOR DEVELOPMENT

A person may apply for an authorization, or an amendment, renewal or transfer or cancellation of an authorization, to develop Settlement Land.

87. AUTHORIZATION OR APPROVAL

The Director can issue an authorization to undertake development on Settlement Land if the requirements and process under the regulations are met.

88. NO DUPLICATION

If the activities that are proposed to be undertaken for a development are captured by an interest that the applicant holds, then no further authorization from TH is required.

89. REQUIREMENTS FOR OTHER AUTHORIZATIONS

This section clarifies that the holder of a development authorization must also obtain any other required building permits or other authorizations required under applicable law before proceeding with the proposed development.

90. FINAL AGREEMENT RIGHTS

This section clarifies that nothing in this part is to be understood to limit a person's rights under the TH Final Agreement.

DIVISION B SUBDIVISION

91. INTEREST OR AUTHORIZATION TO SUBDIVIDE

No person can subdivide Settlement Land unless that person has an interest that is registered in the TH register and the YLTO, if applicable, that allows them to subdivide the land or the person has obtained a separate authorization to subdivide from Council.

92. APPROVAL TO SUBDIVIDE

Council can approve an application to subdivide Settlement Land. That approval does not allow the holder to develop the land, unless that person is authorized to do so.

93. SUBDIVISION

A subdivision of Settlement Land is not valid unless the approval has been issued in accordance with the SLUA, and it is registered in the TH register and the YLTO, if applicable.

94. REVOCATION

Council can revoke an approval to subdivide Settlement Land if the conditions in the regulations are met (e.g., the holder of the approval is not following the SLUA or the applicable rules in the approval).

PART 5 ENVIRONMENTAL AND IMPACT ASSESSMENT

95. APPLICATION OF YESAA AND OTHER LAWS

The SLUA **does not** and cannot limit the requirements under the *Yukon Environmental and Socio-economic Assessment Act* (YESAA).

What this means is that even if you get an authorization or interest under the SLUA, you must also comply with YESAA and all other applicable laws. The SLUA does not limit or override YESAA requirements, so if a project on Settlement Land requires a YESAA assessment, the project cannot proceed until it moves through that process.

If there is a conflict between the SLUA and YESAA, the TH Final Agreement, it is important to remember that the Final Agreement, Self-Government Agreement, or the TH Constitution prevails and takes precedence. The SLUA is designed to operate with these agreements, not override them or conflict with them.

96. DECISION BODY UNDER YESAA

A First Nation Decision Body under YESAA is defined as:

(a) A first nation, if the project is to be located wholly or partly on its Settlement Land and

- I. the first nation has the power under the Yukon First Nation Self-Government Act or under its final agreement to issue an authorization that is required for the project to be undertaken.*
- II. The first nation is a proponent of the project, has the power to grant an interest in land that is required for the project to be undertaken or has received an application for financial assistance for the project, or*
- III. No decision document is required for the project from any federal agency or the territorial minister*

If the above applies to a project which triggers YESAA, then TH is a decision body. It is the Director's responsibility to exercise all the duties and carry out all the functions of that decision body role on behalf of TH.

97-98. DECISION DOCUMENTS AND IMPLIED TERMS

Under YESAA, the Yukon Environmental and Socio-economic Assessment Board (YESAB) makes recommendations that are then considered by decision bodies (these can be a First Nation, as described above, or sometimes Yukon Government or Canada) before a permit can be issued under each of their respective laws.

If a development or activity on Settlement Land has gone through a YESAA assessment and a decision document was issued by TH, **all conditions in that decision document automatically become part of the authorization or interest** issued under the LRA, even if they were not explicitly listed. In any event, any authorization or interest **must** be consistent with a decision document issued by TH.

The purpose of this is to ensure that TH upholds YESAA and to ensure consistency between TH approvals and YESAA requirements and reduce the chances of "gaps" in authorizations.

99. NO PROJECT APPROVAL WITHOUT DECISION DOCUMENT

If a person has applied for an authorization and interest that requires a YESAA assessment, that person is not allowed to conduct the work until they receive a positive recommendation, a decision document, and all required authorizations.

100. ASSESSMENT REQUIRED

Complimentary to the YESAA assessment, the Director must also assess the potential for effects of any proposed access, use, or occupation, or development on the environment and treaty rights. This internal assessment will be guided by specific regulations and must be completed prior to the Director determining to issue an authorization or interest. Where the YESAA assessment has been undertaken, and it is adequate, then the Director may determine that no further assessment is requirement. Where such an assessment is not required under YESAA, then the Director will undertake an assessment pursuant to the SLUA. There are circumstances however where an assessment may not be necessary (i.e., negligible or no impacts) and these can be made exempt through a Council regulation.

101. PROJECTS

This section makes it clear that when this Part speaks to requirements for 'development' or a project, those requirements are in addition to any requirements under YESAA. This means that a person must follow both YESAA and TH rules. If the development project on Settlement Land

needs a YESAA assessment, the person still has to meet all the requirements under the SLUA. Doing what is required under YESAA does not replace TH's process – both need to be satisfied.

PART 6 SECURITY

102. REQUIREMENT FOR SECURITY

Security is some sort of financial assurance that can be provided by a proponent to TH to ensure that the obligations in their authorizations are met. For example, if it is estimated that the costs to reclaim the area will be \$150,000 after the activities are completed under the authorization, then the Director may require that such amount be provided to TH in case the proponent fails to do the required reclamation on their own.

The Director can require security from any authorization holder in several different forms: cash deposit, bond, letter of credit, or other forms approved by the Director. Security can be asked for to cover costs in case the authorization holder fails to comply with conditions in their approval, like performing reclamation and remediation, or repairing any significant harm or damage to Settlement Land.

103-104. FORM AND AMOUNT OF SECURITY

The Director can approve multiple different forms of security, and will determine the amount of security required depending on the situation. The details of acceptable forms of security, how the amount will be determined, and what role TH Council may play in the decision to harness security will be further determined through regulations.

105. AMENDMENT OF SECURITY

The Director can change the amount of security required by a holder of an authorization or interest at any time by following the rules that will be set out in the regulations.

106. ADDITIONAL SECURITY

The Director can decide that additional security is required if the amount taken at the start was not enough. Specifically, the Director can require additional security to cover costs to carry out actions that will protect, conserve, restore, or rehabilitate Settlement Land, impacts to treaty rights and interests, or the environment.

If the authorization holder fails to remediate the land as required under their authorization, and the security provided does not cover the remediation undertaken by TH, that authorization holder is liable for the difference (i.e., the amount TH had to pay to complete that holder's reclamation obligations under the authorization).

107. SUSPENSION OR REVOCATION

For clarity, if a holder of an authorization does not provide security as determined by the Director, their authorization can be revoked or suspended.

108. ASSIGNMENT OR TRANSFER

A transfer of an authorization is not effective unless the transferee (the person that will hold the authorization after the transfer) has provided the security that is required by the Director.

PART 7 LAND AND RESOURCE PLANNING

DIVISION A DESIGNATED AREAS AND PLANS

109. LAND USE PLANS

Council can establish a land use plan for all or any part of Settlement Land, and in that land use plan, can set limits or rules about how the land can be used or developed. Unlike the LRA, a land use plan is not required prior to issuing certain interests, like allocations.

110. WITHHOLDING OF LAND PRIOR TO DISPOSITION

Council can, by regulation, require that a land use plan be established for an area of Settlement Land prior to any authorizations or interests being granted in that area. For example, Council may wish to reserve an area of Settlement Land for certain uses, such as commercial or residential, and before agreeing to any use of that parcel, would like to make sure that appropriate planning has occurred. To be clear, allocations can be granted in any area of Settlement Land, unless there is a regulation in place “reserving” these parcels for further land use planning or a land use plan prohibits allocations from being granted in an area (e.g., agricultural use area).

DIVISION B RESOURCE MANAGEMENT PLANS

111. RESOURCE MANAGEMENT PLANS

Council can also establish resources management plans to manage and facilitate the use and conservation of natural resources on Settlement Land. Any resource management plan must also be consistent with established land use plans.

DIVISION C PLAN DEVELOPMENT PROCESS

112. DEVELOPMENT, REVIEW OR AMENDMENT

A policy will be developed to set out how a land use plan or resource management plan must be developed, including the minimum requirements for Citizen input in that plan before it is presented to Council. Once this policy is put in place, if a land use plan or resource management plan is proposed to be developed for an area of Settlement Land, that plan must be developed and approved in accordance with the policy.

DIVISION D NON-CONFORMING USES

113. CONFORMITY TO LAND USE PLANS AND RESOURCE MANAGEMENT PLANS

Any new authorization or interest that is applied for **after** a plan comes into place must follow the applicable land use or resource management plan. This means that the Director cannot grant an interest or authorization if it is inconsistent with a land use plan or resource management plan that has been approved and is in effect. This is to ensure that the purpose and objectives of the plans are respected and implemented efficiently. This does not apply to rights provided for under the TH Final Agreement.

114. NON-CONFORMING USES

There are exceptions to the above. For example, if a person has already been given permission under the SLUA to use or occupy Settlement Land **before** a land use or resource management plan takes effect, and their uses doesn't match the new rules, they can keep using the land as before - but only until their current permission expires or is canceled.

115. CONFORMITY WITH CHAPTER 11 LAND USE PLANS

Land use plans and resource management plans must be, to the extent applicable, consistent with any land use plan developed under Chapter 11 of the TH Final Agreement. Again, this is to ensure conformity and that all of these plans work together and are implemented effectively.

PART 8 COMMITTEE

117. PURPOSE OF COMMITTEE

In this part, the "Committee" refers to the previously named "Natural Resources Advisory Committee" and is the main body responsible under the SLUA to provide Citizen driven advice and guidance to the department on a variety of items. The following sections highlight what the responsibilities (duties and powers) and general terms of reference will be for the Committee.

As noted above, the SLUA and its regulations will also require Citizen input prior to certain decisions being made.

118. DUTIES AND POWERS

The following is a list of tasks assigned specifically to the Committee at the request of Council or the Director:

1. **Review land use plans and resource management plans:** The Committee may review and give recommendations to the Director about approving or changing a land use plan or resource management plan before it goes to Council for approval.
2. **Review proposed regulations:** The Committee may review and recommend to Council on any proposed regulation or changes to regulations.
3. **Respond to Council requests:** The Committee may review and make recommendations on any matter under the SLUA if Council asks in writing.

In addition, the Committee must carry out any other tasks assigned by Council or required under the SLUA. The Section also makes it clear that Council can act without the Committee review if circumstances prevent the Committee from doing its work.

The terms and conditions of the Committee and the eligibility of its members are set under the *TH Governance Act*.

121. RECOMMENDATIONS OF THE COMMITTEE

The Committee must try to reach consensus in making its recommendations. When the committee cannot reach consensus, the Committee must inform Council of that fact when forwarding their recommendations.

PART 9 EXPROPRIATION OF INTERESTS IN SETTLEMENT LAND

126. AUTHORITY TO EXPROPRIATE

If TH requires a portion of Settlement Land for “community purposes” or “community work”, TH Council can expropriate the interest (e.g., lease) in that land. Meaning, **TH can take back land for community needs**. TH Council can only expropriate the interest for those purposes **and** after Council has determined that the purpose justifies expropriation. To be clear, Council has always had the ability to expropriate under the current LRA, **but has never used it**. It is meant to be used only in the **last resort**.

Under the SLUA, “community purpose” means a public work, building or space of TH, whereas “community work” means a development that is financed by TH funds or constructed by (or on behalf of) TH, each for the benefit or use of Citizens.

127. RIGHTS THAT CANNOT BE EXPROPRIATED

Encumbering rights guaranteed and provided for under the TH Final Agreement cannot be expropriated.

What are encumbering rights?

Encumbering rights are existing or granted legal interests in land at the time the TH Final Agreement came into effect that constrain or qualify the TH Nation’s ownership or control of its Settlement Lands. These are often referred to as “**grandfathered**” rights and remain valid, subject to the terms in the TH Final Agreement. For example, this includes mineral claims, mineral leases, trapping concessions, outfitter concessions, timber rights, and existing leases, licenses or permits that existed on Settlement Land at the time of the effective date of signing the TH Final Agreement.

128. COMMUNITY PURPOSES

Council can only expropriate someone’s interest in land if it’s truly needed for an important community purpose or project, and only after deciding that the need is strong enough to justify doing so. As noted above, Council has always had the ability to do so under the LRA, but has never opted to use this tool.

129-130. NOTICE AND REGISTRATION

If Council wants to expropriate an interest, however, the SLUA is clear on the process that must be followed, including that Council must provide notice including:

- a. a description of the land;
- b. the type of interest or right being taken, and whether the land will remain subject to any existing rights;
- c. the community purpose or work for which the land is needed;
- d. a statement that TH intends to expropriate the interest; and
- e. a statement that indicates that a person has a right to object to the expropriation.

The expropriation notice must be registered in the TH register and the YLTO, if applicable. Even if the notice doesn’t clearly describe the specific interest or right being taken, the notice is still valid. In that case, it automatically applies to all interests or rights connected to the land

mentioned in the notice. For example, there may only be one (of many) interests that need to be expropriated for the specific community purpose because that specific would interfere with the community purpose.

If the notice doesn't say whether the interest being taken will remain subject to any existing rights, the notice is still valid. In that case, the expropriation removes all existing rights.

Expropriation notices must be published online and be available in TH offices (e.g., the TH offices in Dawson City and Whitehorse) within 30 days of the registration in the register or the YLTO, where applicable. Each notice must also be sent to anyone who has a registered interest in the Settlement Land in question.

131. ACQUISITION BY MUTUAL AGREEMENT

TH must, in good faith, try to reach a mutual agreement with the interest holder to be expropriated regarding financial or other compensation, among other things.

132-133. COMPENSATION

If a mutual agreement mentioned above cannot be reached, TH can still expropriate the interest in the land. If TH takes (expropriates) an interest in Settlement Land, it must give compensation to anyone who owned or held that interest immediately before the expropriation was confirmed. This compensation must be **fair and reasonable** within the time set by regulations, and the compensation is based on:

- **Fair market value** of the interest or license being taken
- **Replacement value** of any improvements on the land
- **Damages for disturbance** (e.g., costs or inconvenience caused)
- **Damages for loss in value** of any remaining rights or interests

134. FAIR MARKET VALUE

The fair market value is what a willing buyer would pay a willing seller for that interest if it were sold on Settlement Land, considering all the usual rules, limits, and restrictions that apply to land transactions there.

In other words, it's not based on unrestricted market value—it's based on what the interest would realistically sell for on Settlement Land.

134-136. DISPUTE RESOLUTION

Anyone has the right to object to a notice of expropriation. If a person objects, they must provide the Director with a written statement that includes the name and address of that

person, the nature of the objection; the grounds on which the objection is based; the nature of the interest of that person in the matter of the intended expropriation; and the outcomes they want. This must be provided within a specified period of time after the notice is published, and that timeframe will be specified in regulations.

Upon receiving the written objection, Council must consider the merits of the objection and decide if they are to proceed with the expropriation or not. Council's reasons for declining an objection must be provided in writing to the person.

Council may also establish, by regulation, a process for resolving objections to expropriation that involves the assistance of an independent evaluator appointed in accordance with the regulations.

137. PERMANENT PRESERVATION

The registrar must keep all expropriation notices from Council permanently in the official TH register. Each notice must show the exact date and time (day, hour, minute) it was registered. The registrar must also make entries in the records so that the registration is publicly visible.

In short:

- Notices are preserved forever.
- They're time-stamped when received.
- The registry must make them publicly accessible within a set period of time.

PART 10 LANDS AND RESOURCES REGISTER

DIVISION A REGISTER

138. CONTINUANCE OF REGISTRY

This section specifies that the registry currently being developed by the Department of Natural Resources under the existing *Land and Resources Act* will remain active and be the official register under the SLUA.

Under the SLUA, the register must contain all documents related to any issuance of any allocation, certificate, authorization, and instrument ever under the SLUA. It must also include any and all requests, notices, approval, revocation, that are obtained or issued under the SLUA, and a record of all Settlement Lands. Essentially, the register is the central depository for any document or action related to implementing the SLUA. It also provides a complete picture to TH of how Settlement Land is being used and occupied.

139. REGISTRATION IN REGISTER

Council will establish regulations that detail how interests, authorizations and other documents must be registered, including the specific process that must be followed for their registration. The SLUA enables the register to exist, but the regulations will specifically set out how it works and what must be registered.

The regulations will also set out the conditions that must be met for a document to be officially registered, such as a specific number assigned to the document, the exact time of registration has been listed on the document, and that unique number is added to the register.

140. REGISTRATION IN YUKON LAND TITLES OFFICE

If TH registered any parcel of Settlement Land in the YLTO, then interests or authorizations issued for those parcels must also be registered in the YLTO.

141. EFFECT OF REGISTRATION

Instruments and authorizations that are granted or issued become effective once they are registered in the register and the YLTO, if applicable. Once an instrument affecting an interest in land is registered, it legally creates, transfers, or surrenders the interest described in the document — depending on what the document is meant to do. Meaning, if the instrument is meant to create, transfer, or surrender an interest, then that action happens the moment it is properly registered.

142. INTERESTS NOT ENFORCEABLE UNLESS REGISTERED

This section clarifies that an interest is not enforceable if it is not registered in the register and that any instrument that requires TH's consent cannot be registered unless that consent is evidenced by certain enumerated documents.

143. YLTO

If a parcel is registered in the YLTO, and there is an inconsistency between a document that is registered in the YLTO and the TH register, the document in the YLTO will be used.

144. SETTLEMENT LAND

If Council provides its written approval, then the director can apply to have parcels of Settlement Land registered in the YLTO (for mortgaging or other purposes).

DIVISION B ADMINISTRATION OF REGISTER

145-151. REGISTRAR AND DEPUTY REGISTRAR

Registrar and Deputy Registrar

- Council can appoint a registrar and a deputy registrar.
- The deputy registrar has the same powers as the registrar when the registrar is absent or unable to act. This allows for duplication and a way to ensure the duties of the registrar are fulfilled even when the registrar is not at work.
- With Council's approval, the registrar can also delegate some or all of their duties to others.

Restrictions

- The Registrar cannot act as an agent for anyone investing in Settlement Land or taking security on it.

Registrar's duties

- Maintain the registry.
- Register and record documents as required by the SLUA.
- Take reasonable steps to keep registry information secure.
- Keep an inventory of all instruments and documents that are registered in the registry.

Public access

- Registered documents are public information unless they contain personal information or would hurt someone's financial interest.
- The registrar must provide a copy of a document registered in the registry within **5 business days** of receiving:
 - A proper request form
 - Payment of the required fee

PART 11 ADMINISTRATION

152. DEPARTMENT

The Department of Natural Resources is continued under the SLUA.

153-154. DIRECTORS AND RESPONSIBILITIES

Council is responsible for hiring a director for the department. The Director's responsibilities include making sure the SLUA, regulations and policies are being properly implemented. Although the Director has more authority and responsibilities under the SLUA, as compared to the existing SLUA, there will be robust regulations and policies outlining how the Director's decision must be made (i.e., what must be considered, etc.). This will ensure that decisions can be made in a timely and efficient manner, while ensuring clear processes and direction for the Director.

The Director can also delegate their powers, duties and functions to a manager of the department, an employee of the department, or any other employee of TH (with Council's approval).

155. WAIVER OF FEES OR RENT

The regulations will say when the Director can waive a fee or rent set out under the SLUA.

156-157. OTHER GOVERNMENTS AND PERSONS

With Council's approval, the director may enter into an agreement with another government (YG, City of Dawson, etc.) related to planning, development, subdivisions, government services, managing natural resources or other land and resources measures. With Council's approval, the Director can also enter into a land development agreement with third parties.

158. DELEGATION TO COUNCIL AND DIRECTOR

Council can choose to delegate some of its powers under the SLUA to the Director. This could happen where Council has adopted regulations or policies that outline how a decision needs to be made (e.g., process, requirements, conditions, etc.), so the Director has clear direction from Council on how the authority should be exercised. In other cases, the Director may wish to ask Council to exercise a power on their behalf, in certain circumstances.

PART 12 MONITORING, COMPLIANCE AND ENFORCEMENT

DIVISION A MONITORING AND COMPLIANCE

159-160. STEWARDS

Based on input received on the SLUA so far, the term “steward” that is used in the consultation draft is proposed to be replaced by “enforcement officer” in the proposed final draft of the SLUA. That term will be used in this document.

Council can designate an employee as an enforcement officer to administer and enforce the SLUA. Stewards that are currently designated under the existing SLUA will remain enforcement officers under the SLUA. Robust regulations and policies will be development to ensure that enforcement officers have clear guidance and sufficient support to carry out their duties and authorities under the SLUA.

161. AGREEMENTS WITH OTHER JURISDICTIONS

Council can also enter into agreements with YG or another government for enforcement officers under the SLUA to enforce that government’s laws, or for any person designated to enforce another government’s laws (such as a conservation officer or RCMP member) to act as an enforcement officer and enforce the SLUA.

162. POWERS OF ENFORCEMENT OFFICERS

Stewards have all the powers necessary to enforce the SLUA, including to monitor a person’s compliance with the SLUA (including their interest or authorizations issued under the SLUA).

163. IDENTIFICATION

Stewards must always carry a form of identification confirming that they are enforcement officers under the SLUA and, when carrying out their duties under the SLUA, must inform others that they are enforcement officers.

164-165. ASSISTANCE TO ENFORCEMENT OFFICERS

When asked by an enforcement officer, a person must provide reasonable help to allow the enforcement officer to do their duties under the SLUA. For example, if an enforcement officer is inspecting a site and a vehicle is blocking access to something the enforcement officer wants to inspect, then the person on the site must move the vehicle and assist the enforcement officer with accessing the thing, if asked.

166. OBSTRUCTION

No one can ignore or go against a reasonable request of an enforcement officer, and cannot block or otherwise try to prevent an enforcement officer from undertaking their duties under the SLUA.

167. PRODUCTION OF AUTHORIZATION OR INSTRUMENT

When asked by an enforcement officer, an authorization or interest holder must show the authorization or instrument they are operating or carrying out their activities under.

168. FALSE STATEMENTS

No one is allowed to make false statements (lie) to an enforcement officer or the director. Where the director issued an authorization or other approval based on the false statement, the authorization or other approval is void (i.e., as if it was never issued in the first place).

169. TRANSFER OF AUTHORIZATIONS

No one can use someone else's authorization to carry out activities. Similarly, no one can transfer its authorization to someone else without the proper approvals under the SLUA.

170. DUPLICATION OF AUTHORIZATIONS

Similar to the above, no one is allowed to change, copy or reproduce an authorization.

171. REQUIREMENT TO STOP

If requested by an enforcement officer, the driver of a vehicle must stop it. An enforcement officer is allowed to carry out inspections of vehicles but must first identify themselves as an enforcement officer and explain why the stop and inspection is taking place.

172. POSTING OF SIGNS AND NOTICES

To ensure that the SLUA is respected or to notify persons of something under the SLUA, enforcement officers can post signs or notices on Settlement Land. For example, if access is prohibited in an area for certain purposes, then a sign can be posted. No person is allowed to remove, destroy, or change the sign.

173. INSPECTION OF PREMISES AND RECORDS

If an enforcement officer reasonably thinks that a thing or activity being undertaken in a premise (store, garage, etc.) is subject to the SLUA, then for the purposes of compliance, the enforcement officer can enter onto the premises to inspect them or anything in the premises

related to the administration or enforcement of the SLUA. If the enforcement officer thinks there is a contravention of the SLUA, then the enforcement officer can seize evidence without a warrant, only if they think that the evidence is required to prove that a contravention took place. If the premise is a house (or a living space), then a warrant is required if the owner or occupier refuses to grant the enforcement officer access.

174. SEARCH

With a warrant, an enforcement officer can enter and search any place if the enforcement officer thinks that there is evidence that an activity or development is taking place in contravention of the SLUA or there is evidence of a contravention present in that place (e.g., documents showing a false statement).

175. SEARCH WITHOUT A WARRANT

However, an enforcement officer can inspect any place (other than a house or other living space) if the enforcement officer thinks that an offence under the SLUA has been committed, if they think there is evidence in the place to prove that offence, and there are circumstances that make it difficult or unreasonable to obtain a warrant. For example, if getting a warrant would allow a person to destroy the evidence or there is a danger to human life or safety or potential irreparable harm to the environment.

176. CUSTODY OF SEIZED THINGS

An enforcement officer that has seized something as evidence or because it is in contravention of the SLUA can keep it for up to 30 days in a TH secured storage area, unless the court allows the thing to be kept for longer.

177. PERISHABLE ITEMS SEIZED

If the item is perishable (e.g. decomposable), then the enforcement officer can dispose of it or destroy it. If money is made when disposing of it, that money goes to the owner unless TH needs to keep it if there are fines or other court proceedings ongoing against the owner.

178. FORFEITURE

If, after 30 days, the enforcement officer can either not confirm that the person that the item was seized from is the lawful owner or is entitled to that thing, the thing or any money made selling it or otherwise disposing of it goes to TH. Council must direct the enforcement officer on how to deal with the forfeited thing. When a person is found guilty of an offence under the SLUA, the court may also require things that have been seized to go to TH.

179. NO RIGHT OF ACTION

No person – including any owner – can start a court action or seek compensation against an enforcement officer, TH or the director for any loss or damage that happened to a thing that was seized – correctly – under the SLUA. A person can only do so if the enforcement officer or director or other person is negligent when taking care of the seized thing.

180. PROTECTION OF ENFORCEMENT OFFICERS AND OTHERS

Stewards or any other person that can enforce the SLUA is not liable for anything they do or not do when carrying out their duties under the SLUA, as long as it is done in good faith.

DIVISION B NOTICES AND ORDERS

181. NOTICE OF NON-COMPLIANCE

If an enforcement officer believes that a holder is not following the SLUA or its authorization, then the enforcement officer can issue of notice of non-compliance: (1) identifying the suspected activity or other action that is not in compliance, (2) requesting that the person follow the SLUA and authorization, (3) how the person can do that, including the actions, and (4) by when the person has to complete those actions. If the person does not follow the notice of non-compliance, then the enforcement officer can do all of the actions required to bring the person into compliance on behalf of the person.

182. NOTICE OF UNAUTHORIZED ACCESS, USE OR OCCUPATION

An enforcement officer can also issue a notice to a person that is using, occupying or accessing Settlement Land without the proper authorizations. In that case, the person must stop using, occupying or accessing Settlement Land and restore the land that was being used unlawfully. An enforcement officer has the same powers as above to enforce notices and actions required under a notice.

183. ORDER OF AN ENFORCEMENT OFFICER

If a person does not voluntarily comply with a notice, then the enforcement officer has other tools to ensure compliance with the SLUA. For example, an enforcement officer can issue an order that:

- temporarily suspends an authorization;
- requires the person to stop an activity, use or development;
- requires the person to remove any structures, works or installations or remove those themselves;

- seizes natural resources or other products that were taken by the person against the law; and
- require the person to give up possession of the land or resources and remove any improvements.

An order is typically 30 days in length, but it can be extended under the Act (other than the temporary suspension). For example, if the person is doing the work to address the order, then the Director may agree to provide that person with additional time to meet the requirements of the order.

184. IMMUNITY FOR ENFORCEMENT OFFICER ORDER

A person that is subject to an order that suspends their authorization cannot commence legal action against an enforcement officer for loss or damage which happened because of the suspension of their authorization (e.g., loss of profits).

185. NON-DEGRADATION ORDER

An enforcement officer can also issue an order if a substance is degrading or adversely affecting Settlement Land and require the following persons to investigate the damage and remediate the land:

- a person who had possession or control of the substance when it was released onto the land;
- the occupier of the land; and
- a person who authorized the substance to be released.

186. AMENDMENTS OR CANCELLATION OF ENFORCEMENT OFFICER ORDER

An enforcement officer has the ability to amend or cancel an order. For example, an enforcement officer could cancel the order if it has been complied with before the expiry of the order.

187. ORDERS BY THE DIRECTOR

The Director also has the ability to issue orders, specifically to suspend or cancel an authorization if the holder does not comply with the terms and conditions, is doing an activity, use or development that does not comply with the SLUA or the authorization, or is doing an activity, use or development in a way that is dangerous to the health, welfare and safety of Citizens or the environment. Before suspending or cancelling an authorization, the Director must allow the holder a chance to be heard by the Director (i.e., to make their case).

188. AMENDMENT OR CANCELLATION OF DIRECTOR ORDER

Similar to the above, the Director has the ability to amend or cancel an order.

189. IMMUNITY FOR DIRECTOR ORDER

A person that is subject to an order that suspends or cancels their authorization cannot commence legal action against the director for loss or damage which happened because of the suspension or cancellation of their authorization.

190. FORM OF ORDER

The regulations will set out forms to be used by enforcement officers and the Director for notices and orders.

191. COMPLIANCE

If a person receives an order, they must comply with it and do all of the actions required by it by the time limit.

192. ENFORCEMENT BY COURT

If needed, TH can turn to the courts to get the order enforced.

193. APPLICATION BY COURT

If a person refuses to comply with an order, then TH can also ask the court for an injunction (which requires the person to stop doing something) and any other order as the court sees as reasonable and necessary. In some cases, TH may be restricted in what they can obtain (e.g., compensation) from the court in relation to certain rights set out under the TH Final Agreement. For example, in some cases related to Encumbering Rights (explained above), TH cannot obtain compensation for damage other than significant damage.

194. ACTION TO RESTORE DAMAGE

If a person refuses to comply with an order to restore or remediate the land because of damage caused by their illegal action, then the Director can take any action to ensure that the land is remediated and the damage limited. Any costs related to those actions by the Director can be charged to the person that refused to comply with the order. For example, if a person allowed hazardous substances onto Settlement Land in an illegal manner and refuses to clean it up, TH can clean it up for that person but require the person to cover the costs of TH. If that person does not pay, then TH can seek a court order requiring the person to pay.

DIVISION C OFFENCES

195-196. OFFENCES AND CONTINUING OFFENCE

A person that contravenes the SLUA (i.e., does not follow it) commits an offence. This includes the following actions:

- does not respect a prohibition (e.g., uses Settlement Land without proper approvals)
- does not respect a condition of a permission (e.g., does not follow the terms and conditions for using Settlement Land)
- does not comply with an order, direction or notice, or does something that is not allowed under any of those
- provides a person (including the Director) with false information
- files a false document

For every day that the offence continues, it is a new offence. For example, if a person is using Settlement Land without the proper authorizations for 5 days, then each day is a separate offence (i.e. the person has committed five offences).

197-198. OFFENCES BY CORPORATIONS, EMPLOYERS OR AGENTS

If the entity breaching the SLUA is a corporation (rather than an individual), then the officers, directors or agents of that corporation can be found responsible for the offence.

199. DUE DILIGENCE

This is called a “due diligence” defence. This means that, where an offence was committed, if the person did their “best” (i.e., exercise all due diligence and reasonable steps) to prevent the offence from happening, then they are not liable under the SLUA. Or, in the case of a false statement, if the person who made the statement really believed that the statement was true, then they are not liable under the SLUA.

DIVISION D PENALTIES

200. PENALTIES

Where an offence has been committed as described above, a person – if convicted – can be required to pay a fine of up to \$150,000 or to imprisonment for up to 6 months (for a first offence), or a fine of up to \$300,000 or to imprisonment for up to 6 months (for a second and more offences). These penalties are meant to be high, to ensure compliance with the SLUA.

201. ORDERS UPON CONVICTION

A court – instead of or in addition to the above – can also decide to require a person to take other actions to ensure that they are compliant under the SLUA, so that further adverse effects are avoided, to make “whole” TH, or to rehabilitate or restore the land.

202. TICKETS

Stewards also have the ability to issue tickets if they are of the reasonable view that someone has committed an offence under the SLUA. These typically act as “warnings” so the fees are lower than penalties. With tickets, the goal is for the person receiving the ticket to stop committing the offence. For a first offence, an enforcement officer can issue a ticket to up to \$500 and for a second offence or more up to \$1000.

203. TICKET ENDORSEMENT

This section sets out what needs to be included on a ticket, which warns the person receiving the tickets that this ticket and any other ticket leading to a conviction can be considered by the courts in imposing a penalty. For example, if the person has received 10 tickets, then the court may impose a higher penalty upon conviction.

204. LIMITATION PERIOD

TH must take a person to court for an offence within 2 years that (1) the person did the offence or (2) that TH became aware of the offence or sufficient facts to understand that an offence was committed. For example, if someone releases toxic substances onto Settlement Land without any authorization but TH only discovers this one year later, then the time period would commence from the day TH discovers it.

205. JUDICIAL NOTICE

This section means that the courts must accept – without any further proof – a notice, order or ticket issued by TH. It does mean that the person will be convicted, or that the court will take certain actions. It just means that TH does not have to prove that the orders, notices or tickets have legal status.

206. REMEDIES PRESERVED

Even if a person receives a penalty or is convicted of an offence under the SLUA, the person can also be liable for other things. For example, if the person receives a penalty, it does not mean that the person does not have to remediate the land, if ordered to do so. Or, even if TH seeks a penalty, TH can also choose to pursue civil remedies (trespass, etc.).

207. INJUNCTIONS

At any time, TH can apply to the courts for an injunction requiring a person to stop doing something that is contrary or in contravention of the SLUA.

208. FINES AND PENALTIES PAID TO TH

If the Court requires the payment of fines and penalties, then that money goes back to TH.

209. RECOVERY OF FINES

If a fine or ticket is not paid by a person within 30 days or a different time if the court say, then that is a debt owed to TH. TH can go to court to require the person to pay it.

PART 13 RECONSIDERATION AND REVIEW

DIVISION A ORDERS

210. APPLICATION OF PART 13, DIVISION A

This section applies only to orders that are made by enforcement officers or the director under the SLUA, as described above. It is an interim section, until the tribunal established under the TH *Administrative Appeals Act* is up and running.

211. RECONSIDERATION OF ORDER

Within 7 days from receiving an order, the person that received the order can submit an application to the Director asking for them to review and reconsider it.

212. DIRECTOR RECONSIDERATION

Within 10 days of receiving an application, the Director must decide whether to confirm, change or cancel the order and provide its decision to the person that made the application.

213. REQUEST FOR REVIEW BY COUNCIL

If the person is not satisfied with the Director's decision, then within 15 days of receiving the Director's decision, that person can ask Council to review the order and the Director's decision.

214. REVIEW BY COUNCIL

Council will then review the order and the Director's decision and decide whether to confirm, change or cancel the order. Council's decision is final and will provide their written reasons to the Director and the person that made the application.

215-216. OPPORTUNITIES TO BE HEARD

Before making their decision, the Director must allow the enforcement officer who made the order and the person subject to the order an opportunity to be heard (make their case). Similarly, before Council makes its decision, they must provide an opportunity for the Director, the enforcement officer and the person that made the application an opportunity to be heard.

217. EFFECT OF RECONSIDERATION OR REVIEW

While the review and reconsideration process is underway, the person affected by the order must comply with it, unless Council says otherwise.

DIVISION B DECISION

218. APPLICATION OF PART 13, DIVISION 2

This section applies to decisions made by the Director under the SLUA, but does not apply to any orders described above. Again, this is an interim section, until the tribunal established under the TH *Administrative Appeals Act* is up and running.

219. REQUEST FOR RECONSIDERATION

Within 30 days of a Director's decision, a person affected by it can request that the Director reconsider it.

220. CONTENT OF REQUEST

When making a written application above, the person must include why they are making the application and any other information that is required by the Director to reconsider the decision.

221. RECONSIDERATION BY DIRECTOR

After the request is made, the Director must reconsider the decision and either confirm, change or cancel the decision, and notify the person that made the application in writing of the Director's decision.

222-223. REQUEST FOR REVIEW BY COUNCIL

Within 15 days after receiving the Director's reconsideration decision, a person can ask Council to review the decision. Council will review the decision and can confirm, change or cancel the decision and must notify the applicant of their decision in writing.

224-225. OPPORTUNITIES TO BE HEARD

A person making a request for reconsideration to the Director must have an opportunity to be heard (make their case). Similarly, if Council is reviewing the decision, then the Director and the person that made the review request must also have an opportunity to be heard.

226. EFFECT OF REQUEST

If a decision is being reviewed or reconsidered, then it is not “effective” until this process is over meaning that no one can use it to justify any actions or rely on it in doing anything under the SLUA.

DIVISION 3 TRIBUNAL

227. REVIEW BY TRIBUNAL

A person must follow the process set out above – i.e., for a decision or order, the person must first try to resolve their issues through reconsideration and then, if not satisfied, the person can make an application to the Administrative Appeals Tribunal. This will remove Council’s involvement in the adjudication of disputes. This section will only come into effect when the TH *Administrative Appeals Act* comes into effect.

PART 14 MISCELLANEOUS

DIVISION A GENERAL

228. IMMUNITY

No legal action can be commenced against TH, Council, or any employees of TH for anything they did or did not do under the SLUA when performing their duties or exercising their authorities.

229. NO IMMUNITY

However, the above immunity does not apply if the person (e.g., employee) has been found by a court to be guilty of dishonesty, grossly negligent, maliciously or did the action with wilful misconduct (on purpose) or if what is being alleged is libel or slander.

230. LIMITATION OF LIABILITY

TH, Council or employees cannot be found liable for damages or other losses that resulted from their failure to enforce the SLUA or undertake actions to enforce the SLUA.

231. LIMITATION PERIOD

Any action against TH under the SLUA has to be started in a court within 6 months after the cause of action arose.

232-233. NON-CITIZENS

A person that is not a Citizen cannot hold a right or interest that is only for Citizens, unless permitted under the SLUA. If that happens, then the right or interest is automatically terminated and void.

234. SEVERABILITY

If a court finds that something in the SLUA is not lawful, then that section will not be effective but the rest of the SLUA will continue into force.

235. OCCUPIER'S LIABILITY

This section specifies that TH does not owe – to any person using undeveloped Settlement Land – a greater duty of care (meaning to take reasonable steps to ensure the safety of these users) than what the Crown owes to persons using Crown land. In other words, persons using undeveloped Settlement Land are doing so at their own risk.

236. PROCEEDINGS

TH is responsible for commencing legal action – on behalf of TH – under the SLUA. This means that a Citizen cannot commence a court action on behalf of TH under the SLUA, TH Council must do it.

237. NOTICE

This section specifies the ways that a notice or other document can be given to a person under the SLUA (e.g., personally, through mail or by posting it in an area where the activity is occurring if there is no address).

238. REGULATIONS

Council can enact any regulations it considers necessary for the proper and effective implementation of the SLUA. This section lists examples of regulations that may be required.

DIVISION B TRANSITION AND COMING INTO FORCE

239. EXISTING INTERESTS TO BE REGISTERED

Any existing interests (interests that were issued before the SLUA comes into effect) must be registered in the TH register – or as otherwise required under the SLUA – within one year of the SLUA coming into effect.

240. EXISTING INTERESTS AND AUTHORIZATIONS

Grants, authorizations or interests that were issued before the SLUA comes into effect are treated as if they were issued under the SLUA. This means that they can be cancelled, amended or renewed using the new rules under the SLUA.

241. COMING INTO FORCE

The SLUA will start to apply on one or more dates decided by Council, either all at once or in stages. This means that the SLUA may not come into force on the day it is passed by the GA. It is important that key regulations – which set out how the Act is to be implemented – are ready before the Act is brought into legal effect.