



# Yukon Legislative Assembly

---

Number 85

1<sup>st</sup> Session

35<sup>th</sup> Legislature

---

## HANSARD

Wednesday, October 26, 2022 — 1:00 p.m.

Speaker: The Honourable Jeremy Harper

# YUKON LEGISLATIVE ASSEMBLY

## 2022 Fall Sitting

**SPEAKER — Hon. Jeremy Harper, MLA, Mayo-Tatchun**  
**DEPUTY SPEAKER and CHAIR OF COMMITTEE OF THE WHOLE — Annie Blake, MLA, Vuntut Gwitchin**  
**DEPUTY CHAIR OF COMMITTEE OF THE WHOLE — Emily Tredger, MLA, Whitehorse Centre**

### CABINET MINISTERS

NAME	CONSTITUENCY	PORTFOLIO
<b>Hon. Sandy Silver</b>	Klondike	Premier Minister of the Executive Council Office; Finance
<b>Hon. Tracy-Anne McPhee</b>	Riverdale South	Deputy Premier Minister of Health and Social Services; Justice
<b>Hon. Nils Clarke</b>	Riverdale North	Minister of Highways and Public Works; Environment
<b>Hon. John Streicker</b>	Mount Lorne-Southern Lakes	Government House Leader Minister of Energy, Mines and Resources; Public Service Commission; Minister responsible for the Yukon Development Corporation and the Yukon Energy Corporation; French Language Services Directorate
<b>Hon. Ranj Pillai</b>	Porter Creek South	Minister of Economic Development; Tourism and Culture; Minister responsible for the Yukon Housing Corporation; Yukon Liquor Corporation and the Yukon Lottery Commission
<b>Hon. Richard Mostyn</b>	Whitehorse West	Minister of Community Services; Minister responsible for the Workers' Safety and Compensation Board
<b>Hon. Jeanie McLean</b>	Mountainview	Minister of Education; Minister responsible for the Women and Gender Equity Directorate

### OFFICIAL OPPOSITION

#### Yukon Party

<b>Currie Dixon</b>	Leader of the Official Opposition Copperbelt North	<b>Scott Kent</b>	Official Opposition House Leader Copperbelt South
<b>Brad Cathers</b>	Lake Laberge	<b>Patti McLeod</b>	Watson Lake
<b>Yvonne Clarke</b>	Porter Creek Centre	<b>Geraldine Van Bibber</b>	Porter Creek North
<b>Wade Istchenko</b>	Kluane	<b>Stacey Hassard</b>	Pelly-Nisutlin

### THIRD PARTY

#### New Democratic Party

<b>Kate White</b>	Leader of the Third Party Takhini-Kopper King
<b>Emily Tredger</b>	Third Party House Leader Whitehorse Centre
<b>Annie Blake</b>	Vuntut Gwitchin

### LEGISLATIVE STAFF

Clerk of the Assembly	Dan Cable
Deputy Clerk	Linda Kolody
Clerk of Committees	Allison Lloyd
Sergeant-at-Arms	Karina Watson
Deputy Sergeant-at-Arms	Joseph Mewett
Hansard Administrator	Deana Lemke

**Yukon Legislative Assembly  
Whitehorse, Yukon  
Wednesday, October 26, 2022 — 1:00 p.m.**

**Speaker:** I will now call the House to order.  
We will proceed at this time with prayers.

*Prayers*

**Speaker's statement — in remembrance of victims  
of shooting incident in Faro**

**Speaker:** Can we please stand?

Today, I will ask everyone to stand for a moment of silence for those who lost their lives in Faro in a tragic shooting incident one year ago today.

*Moment of silence observed*

**DAILY ROUTINE**

**Speaker:** We will proceed at this time with the Order Paper.

Introduction of visitors.

**INTRODUCTION OF VISITORS**

**Hon. Mr. Pillai:** Today, I would like to ask my colleagues in the Legislative Assembly — there are a number of individuals who are here today from Yukon's Indian community. I would ask folks, after I go through our list of guests, to give them a warm welcome.

Today with us is Cyriac George, George Puliken, Aromal George, Thomas Jacob, Noble Jacob, Boaz Jacob, Anu Johnson, Ash Mohandas, Inderjit Singh, Navdeep Kaur, Raman Grewal, Lovejot Kaur, Johnson Devassy, Ravi Bhullar, and Satnam Gill. As well, with us today is Sam Taneja, known to many of us as "Sam".

I hope I have caught everybody today, and let's give all the folks here today a very warm welcome.

*Applause*

**Hon. Mr. Clarke:** For the 30<sup>th</sup> anniversary of the Wolf Creek research basin tribute, we have in the gallery today: Heather Jirousek, director of the Water Resources branch; Anthony Bier, intermediate hydrologist; Jonathon Kolot, hydrology technologist; Alexandre Mischler, hydrology technologist; Nicole Novodvorsky, operations manager; Ella Parker, program advisor; and Priyank Thatte, assistant deputy minister, Department of Environment.

I would also like to welcome Leslie Gomm, partner of the late Ric Janowicz, who was responsible for initiating the Wolf Creek research basin project.

*Applause*

**Ms. White:** Merci, M. le Président. Alors, j'invite mon collègue à souhaiter la bienvenue à la classe de Karine Bélanger et David Pharand.

This class is grade 10 FACES — alors en français — and it is fun because David is one of my dearest friends and he is

just about finishing up the YNTEP program. He has been working on concepts of reconciliation and indigenous sovereignty, and he has brought his class today.

*Applause*

**Mr. Dixon:** I would like to ask my colleagues to join me in welcoming Neil Gillis to the gallery. Neil is a resident of the Annie Lake Road area and he has come to observe the proceedings today.

*Applause*

**Speaker:** Are there any tributes?

**TRIBUTES**

**In recognition of Diwali celebration**

**Hon. Mr. Pillai:** Mr. Speaker, I rise today on behalf of the Yukon Liberal government to pay tribute to the Diwali festival. Also known as the "Festival of Lights", Diwali is one of the most important festivals in Hinduism, although it is also celebrated by Jains, Sikhs, and other groups. Originating in the Indian subcontinent, Diwali is a five-day event, which always falls between mid-October and mid-November each year, centered around the new moon during that period.

The festival is a time for feasts, prayers, and fireworks as people illuminate lamps and candles to symbolize the triumph of light over darkness and good over evil. I think that today, with your earlier tribute, this is a very fitting conversation. This year's event concludes today, having begun on October 22 with a feast with music and dancing at the Mount McIntyre Recreation Centre. I would like to provide a very special thank you and shout-out to Arunpartap Singh Lalia, who is new to the Yukon in the last couple of years, but helped to organize a very successful event. Celebrations also took place here in the Yukon at the Gurdwara Akaljit Sahib, the northern-most gurdwara in Canada, on October 23 and 24. Today's celebration marked the third night of Diwali, the darkest day of the lunar month and when the majority of Diwali celebrations and fireworks occur. The Festival of Lights is about spreading the message of friendship and togetherness, a festival of hope, success, knowledge, and fortune. I believe that this message is one that we can all share.

As today marks the final day of this year's festivities, I want to wish a happy Diwali to all those who celebrate. I would also like to recognize the executive of the Whitehorse Malayali Association for organizing Onam festivities recently. Onam is a 10-day harvest festival which originated in the state of Kerala and is celebrated by the Malayali community around the world. The festival marks the homecoming of King Mahabali, who returns each year to bestow happiness and prosperity.

Onam celebrations consist of many cultural events, including boat races, singing, dancing, flower offerings, prayers, and feasts. Yukon's Indian community contributes much culturally to the territory and these celebrations are a great example of Hindu and Sikh traditions and Christian traditions thriving in the north.

*Applause*

**Mr. Dixon:** I rise on behalf of the Yukon Party Official Opposition to wish everyone celebrating across the Yukon a very happy Diwali. Across the country and indeed the world, Diwali is being celebrated by not just Hindus, but Jains, Sikhs, and Buddhists who will get together with their loved ones to celebrate the ultimate triumph of good over evil and of light over darkness.

Of course, Diwali is also known as the “Festival of Lights” and is marked with the lighting of lamps. So, to all of those celebrating as you light your diyas and lamps, I hope you can reflect on the lightness that dispels the darkness and hope for a peaceful and prosperous future.

It is said that the lighting of these lamps is an invitation to mother Lakshmi into the home so that she may bless the home and bring prosperity to the whole family. Diwali is also a source of great warmth and joy as people gather with friends and family to feast together and share in the many blessings received.

Here in Whitehorse, I understand that there have been a few gatherings, and I know that there was a celebration hosted at the local restaurant Ricky’s on Saturday night. Of course, thank you to Sam for hosting that. I want to acknowledge that it was organized by Renu Kumar and Anita Bhullar. I’m told that there was wonderful food, gifts and, dancing well into the evening.

I also want to acknowledge that for many Sikhs, an important part of Diwali is the celebration of the Bandi Chhor Divas which is known as a day of liberation, a celebration of freedom and of standing up for human rights. As Yukoners, we are so fortunate to join in these celebrations and to recognize the diversity and inclusion that makes our home such a wonderful place to live.

So, on behalf of the Yukon Party, happy Diwali to all, and may your homes be filled with joy, peace, and prosperity.

*Applause*

**Ms. Tredger:** I rise today on behalf of the Yukon NDP to wish everyone a happy Diwali, happy Deepavali, and happy Bandi Chhor Divas.

Here in the Yukon, the days are growing colder and darker, and it’s the perfect time for a festival to celebrate light, both literally and metaphorically. For Hindus, this celebration of light is about protection from spiritual darkness, about the victory of knowledge over ignorance. For Sikhs, Bandi Chhor Divas celebrates the fight against political injustice. It is a reminder of our moral obligation to push back against injustice wherever we encounter it.

These are values to celebrate and uphold here in the Legislature and across the territory, this week and always.

The number of people celebrating these sacred days has grown in the Yukon in recent years, and it brings me great joy to know that such a beautiful festival is thriving in our territory. Happy Diwali, happy Deepavali, and happy Bandi Chhor Divas.

*Applause*

## **In recognition of Wolf Creek research basin**

**Hon. Mr. Clarke:** I rise today on behalf of the Yukon Liberal government and on behalf of the Official Opposition to pay tribute to the Wolf Creek research basin, which celebrated its 30<sup>th</sup> anniversary this year. Thank you all for being here today and for the work that you do in supporting the research efforts of the Wolf Creek research basin and on climate change and water resources generally in the Yukon and Canada’s north.

The Wolf Creek research basin was established in 1992 as part of Indian and Northern Affairs Canada’s Arctic environmental strategy in partnership with Environment Canada’s National Hydrology Research Centre. I want to acknowledge the pioneering efforts of Ric Janowicz, John Pomeroy, and Sean Carey, who are responsible for establishing the Wolf Creek research basin project.

Ric Janowicz knew 30 years ago that there was something special and important happening in the Yukon that would greatly impact our understanding of climate change in Canada’s north. To truly understand the effects of climate change, he had the foresight to know that scientists then, now, and into the future would need an observation area to measure changes in hydroclimatic conditions in the north.

As a result of the Wolf Creek multidisciplinary monitoring project that was created in 1992, initially the project focused on the water cycle in northern climates. Over the years, the research has expanded into multiple sciences to include climate and climate change, vegetation, forestry, fisheries, and wildlife. Research generally at the Wolf Creek basin has helped us understand the impacts of freeze-and-thaw patterns on our waters and the sensitivity of our alpine vegetation and habitats to climate change.

Important hydrological cryospheric and atmospheric research continues in the basin to the present day. Research is supported by the Department of Environment’s Water Resources branch, McMaster University, and the Centre for Hydrology at the University of Saskatchewan through its Global Water Futures program, the largest water and water-related climate research initiative of its kind in the world. The Wolf Creek basin has also become an internationally renowned climate change research area.

The data produced is used in cold regions around the world to understand, plan, and prepare for the impacts of climate change. Your commitment to scientific knowledge is supporting us to make better decisions for our future.

The Wolf Creek research basin, through the cooperation and partnerships of governments, First Nations, and academics, is an example of how we have come to work together to understand and address the biggest challenge of our time.

Mr. Speaker, I had the honour of attending the anniversary celebration this past summer, and I am honoured again to stand in this House today to pay tribute to the 30<sup>th</sup> anniversary of the Wolf Creek research basin. This important project has proven the Yukon’s leading role in studying climate change. Thank you to Ric Janowicz, John Pomeroy, and Sean Carey for establishing this important project and to all scientists, the employees of the Water Resources branch, McMaster University, and others who have contributed to making the

Wolf Creek research basin a truly special example of innovative research and collaboration.

The Wolf Creek research basin has supported and will continue to support scientists, policymakers, local residents in the Yukon, and others around the world to understand and respond to climate change impacts in northern regions.

*Applause*

**Ms. Blake:** I rise on behalf of the NDP to pay tribute to the Wolf Creek research Basin. I must admit that I had not known anything about the incredible work being done in this watershed until today. Like many Yukoners, I am only familiar with Wolf Creek for its beautiful campground amenities that help to bring family and community together. I have been visiting the basin for over a decade to hunt and fish in the Coal Lake area. I had no idea of the scale of research being done there.

I was very excited to learn about the important work being conducted across the beautiful alpine area. In 1992, Ric Janowicz and Dr. John Pomeroy understood the need for better hydrology and water-quality data to help with things like flood forecasting. The Wolf Creek basin, with its easy logistics and established access road, made for an obvious candidate. They pushed to establish the first forecasting system of its type north of 60 and one of the most complex models in the world at the time.

They didn't know, at that time, that their work would last more than a few years, let alone become such an important research hub. I was struck by the quality of students and researchers conducting research at the basin. As one of the longest tenured research sites in Canada, the data provided by the basin's many gauges and stations is clearly attracting a variety of bright researchers with a diversity of experiences and new ideas.

Much of the work being conducted in the basin relates to our changing climate — 30 years and counting of hydrology and water-quality data tells an important story. It tells us how the Whitehorse area is rapidly changing and the impact that has had and will have on our homes, local wildlife, and more.

I am grateful for all of the researchers working to better understand the impacts of this. We don't always recognize the importance of scientific research like this, but I can tell that the results of this work will be used to fuel new policy for decision-makers for years to come, from protecting fish populations to flood forecasting and prevention to the important role of wetlands in storing carbon and water table regulation. I hope that their work is used to protect this beautiful region and others for future generations.

From now on, when I travel through the area by quad or snowmobile, I will look at the snow, creeks, and wetlands in a new way. I will appreciate them for their contributions to science and to helping us better understand the world we live in. Mahsi'.

*Applause*

**Speaker:** Are there any returns or documents for tabling?

## TABLING RETURNS AND DOCUMENTS

**Hon. Ms. McPhee:** I have for tabling the Yukon Hospital Corporation annual report for 2021, which is tabled pursuant to the *Hospital Act*, section 13(3).

**Mr. Hassard:** I have for tabling a letter from the TTC — the Teslin Tlingit Council — to the Premier regarding the Gadzoosdaa residence.

As well, I have for tabling the minutes and the PowerPoint presentation from the September 22 Gadzoosdaa residence advisory meeting.

**Mr. Kent:** I have a letter for tabling from the Minister of Community Services to me, as the MLA for Copperbelt South, dated August 25, 2022, regarding flooding in the McConnell Lake area.

**Ms. White:** I have for tabling today a letter in support of section 13, from the Ross River Dena Council, and a letter that I sent out to First Nations when I was seeking information on re-adding section 13.

**Ms. Blake:** I have for tabling a letter from the Teslin Tlingit Council and a letter from the Ross River Dena Council in support of Bill No. 305.

**Ms. Tredger:** I have for tabling a press release from the Porter Creek gender and sexuality alliance, also known as the "Rainbow Room", dated October 11, 2022.

**Speaker:** Are there any reports of committees? Petitions.

## PETITIONS

### Petition No. 14 — response

**Hon. Mr. Streicker:** I rise today in response to Petition No. 14 regarding our rural residential subdivision in Golden Horn. My apologies, Mr. Speaker; I don't have my notes with me at this moment, but I will give my reply at the moment, and I will table the full reply for all members opposite.

I want to thank the Member for Porter Creek South for bringing forward this petition. I also want to thank the members of Golden Horn for their petition. I really appreciated their suggestion around amending the local area plan and the development area regulations. I think it's a great suggestion that what they are suggesting is on the rural residential zones — both rural residential 1 and rural residential 2 — that they reduce the minimum lot area size to two hectares. That change is a good one to look at. I think it's an important opportunity to consider.

Of course, whenever we go to amend any local area plan or development area regulations, we have a process that we would need to follow, which includes engagement with First Nations — in this case, the Kwanlin Dün First Nation and the Ta'an Kwäch'än Council — but also allow for broader public input. I do appreciate that there were quite a few folks with their names on that petition, but what I will suggest is that, based on

their suggestion and the opportunity they provided, we will seek to engage with the residents of Golden Horn and the First Nations to come up with the best possible local area plan and development area regulations and take this to its natural next steps.

Again, thank you very much to the residents of Golden Horn for bringing forward this petition.

**Speaker:** Are there any petitions to be presented?  
Are there any bills to be introduced?  
Are there any notices of motions?

## NOTICES OF MOTIONS

**Mr. Kent:** I rise to give notice of the following motion:

THAT this House urges the Yukon government to work with provincial governments and the federal government to establish a harmonized national licensing pathway for teachers that includes a streamlined process for verifying the credentials of foreign-trained teachers and helping them complete any additional training that may be needed in a timely manner.

**Mr. Cathers:** I rise to give notice of the following motion:

THAT this House urges the Minister of Health and Social Services to ensure that people who have already signed up for the government's Find a Family Doctor program are given priority in being selected as patients at the new bilingual health clinic.

I also give notice of the following motion:

THAT this House urges all ministers to ensure that their own actions and the actions of their departments comply with all Yukon laws, including but not limited to the *Child and Youth Advocate Act* and the *Corrections Act, 2009*.

**Ms. White:** I rise to give notice of the following motion:

THAT this House urges the Government of Yukon to work with the Ross River Dena Council and Ross River citizens to officially change the name of the community of Ross River to its original Kaska name, Tu Lidlini.

**Speaker:** Are there any further notices of motions?  
Is there a statement by a minister?  
This then brings us to Question Period.

## QUESTION PERIOD

### Question re: Housing support programs

**Ms. Clarke:** On January 31 of this year, the Yukon government issued a news release about increasing the financial support for a project to renovate and refresh the former High Country Inn and convert it to supportive housing. That news release said that renovations on the building are underway and the project is expected to be completed by the fall of 2022.

During their presentation to city council in August of last year, the Safe at Home Society said that the first residents were expected to move into the building in September 2022. It is now

October. Can the minister tell us if residents have begun to move in?

**Hon. Mr. Pillai:** First, to answer the question, I don't believe that any residents at this time have moved into what was known as the Coast High Country Inn, but I will give a bit of background on the project and an update.

It was announced last spring that the Safe at Home Society was the successful recipient of funding from the Canada Mortgage and Housing Corporation — which they had applied for — to deliver 55 units of permanent, supportive housing for vulnerable Yukoners; \$10 million of that money was through the northern carve-out of the national housing co-investment fund from CMHC, and then another \$5 million on top of that was under the City of Whitehorse rapid housing initiative project stream.

I think it's important to state that the City of Whitehorse really doesn't occupy the space of housing. They don't have a housing department, but the money was available through CMHC for municipalities, so it flowed through the City of Whitehorse. That's why they were involved.

An additional \$1.02 million was committed by the Yukon Housing Corporation for further support for this project under the housing initiatives fund.

This project, when completed, would be looking to support vulnerable folks here in Whitehorse.

**Ms. Clarke:** Residents were supposed to start moving in last month. In the January 31 news release, the Yukon government said that renovations were underway; however, we have heard from several contractors that renovations were halted during the summer.

Can the minister explain why these renovations were halted, and can the minister please provide more details about why this project is so delayed?

**Hon. Mr. Pillai:** I want to first take a moment to commend Safe at Home for taking this on. What will happen in this discussion with the opposition is — they will paint a brush — really, it will be on Yukon Housing Corporation, but the reality is that I commend folks who go out and volunteer to try to make lives better for Yukoners. That's what Safe at Home has been undertaking.

The reason for the delay, for Safe at Home — they are currently assessing the costs required to bring the building up to code. There is a change in usage, and that increase in cost is what they are reviewing at this time with CMHC — including more substantial energy-efficiency updates. I think they have applied to different sources to make the building more energy efficient as well.

They will identify what additional funding sources are, so we anticipate that we should have a fulsome understanding. I know that they are in discussions now — that's what I can say — and they are the lead organization, and this is their project. Entities at different levels — whether it be CHMC, as a Crown corporation, or Yukon Housing Corporation — want to support them as best as they can.

I would urge the opposition, specifically my critic, to ensure that they are not disparaging toward this organization.

We need more people to get up and take this on, and we need the partners to solve this problem.

**Ms. Clarke:** When Yukon Housing Corporation appeared before city council on August 30, 2021, the project budget was just under \$15 million. At the time, we understood that \$10 million was for the purchase of the hotel and \$4 million to \$5 million was for renovations.

Can the minister tell us if this project is on budget? If not, how much does the minister anticipate this project going overbudget?

**Hon. Mr. Pillai:** Again, I think, to be respectful to the organization, I hope that the member opposite reached out to the organization and had a fulsome conversation before Question Period today. If not, I urge the individual who is my critic to do that. I would say that, in this particular case, I don't have visibility as to what the total cost will be. What I do know is that CMHC and the Safe at Home Society, as I have been briefed, are in a position where they are reviewing extra costs associated with this project and then, based on that information, will be looking at what the next steps are going forward.

This is something that, I believe — this type of housing was really focused on vulnerable families — primarily women and children who are fleeing violence. We think that there is still a substantial need for this. I am here to support Safe at Home in any way we can at the Yukon Housing Corporation, and I know that my colleague, the Minister of Health and Social Services, also feels the same way.

We will wait for the information that they are collecting, and then we will look at how to go forward in supporting them in their endeavours to help vulnerable Yukoners.

#### **Question re: Housing support programs**

**Mr. Dixon:** I would like to follow up with the Minister responsible for Yukon Housing Corporation on this project. Everyone certainly agrees that there is a need for this type of housing. There is no doubt about that, but we are concerned about the significant project delays and increases in costs.

Will the minister please confirm whether or not the initial estimate of \$4 million to \$5 million for renovations of this project is still accurate, and is his department aware of any increases?

**Hon. Mr. Pillai:** What I can state for the House is that we believe that the costs have risen above the original budget — very clearly, that is what we have been told. We do not have the exact number that is associated with this at this time, and as I stated in the first set of questions, there is a series of due diligence being undertaken by Safe at Home. I believe that the technical work would be done by the contractor that they have hired to do the work, and I know that CMHC is supporting that, but we are, again, waiting to get that number and waiting to get information from the organization on how they would like to look at next steps.

**Mr. Dixon:** I would remind the minister that the capital funding support from the Yukon Housing Corporation was contingent on Yukon government's final approval of the capital costs, operational plans, and long-term financial and program viability for this project. So, it was the Yukon Housing

Corporation that conducted the due diligence — or should have — prior to the funding being approved.

The funding parameters for the rapid housing initiative suggest that, while the CMHC will cover up to 100 percent of the capital construction costs for approved projects, they also require that projects be completed within 12 months of the funding approval. Now, since the minister has admitted that this project is going overtime and overbudget, is the minister at all concerned that, by breaching the program parameters from CMHC, that may be putting this funding at risk? Has he communicated to the CMHC that the project is delayed, and is he worried about the funding being in jeopardy?

**Hon. Mr. Pillai:** There was a series of inaccurate comments that were made by the Leader of the Official Opposition. So, let me try to wade through it. First of all, this is a situation that is being led by an organization — an NGO — not the Yukon Housing Corporation. Second, the due diligence, as I understand it, concerning the acquisition was undertaken by CMHC on this particular project. That is what I have been informed, and that was looking at the structure and the actual building.

At this point, I am not writing to CMHC, because CMHC is leading the process with Safe at Home at this particular time. So, I believe that CMHC is in a position, because they undertook the original due diligence on this — are looking for solutions, hand in hand with Safe at Home. That is what I am aware of. That is what has been stated and briefed up to me.

Again, I will state that we are here at Yukon Housing Corporation to support the work of NGOs, such as Safe at Home, and I know that they are looking for a solution to some of the extra costs that have been identified in this project. We are waiting for them to complete their work so that we have a fulsome understanding on how they would like to go forward.

**Mr. Dixon:** Mr. Speaker, the minister seems to be taking issue with my comments that the long-term financial and program viability for this project were reviewed by the Yukon government, so due diligence was, of course, done by the Yukon government through the Yukon Housing Corporation. The reason I know that is because the minister wrote that in a letter to Safe at Home Society on August 25, 2021, which is a letter I would be happy to table.

Mr. Speaker, it's clear that this project has gone overbudget. It's clear that this project has gone over the allotted timeline, and the parameters for federal funding require the project to be done within 12 months.

So, my question for the minister is simple: Is he concerned about federal funding drying up because of the breach of the parameters of the federal funding? Furthermore, I would ask the minister if he could tell us whether or not he thinks that this project is still viable and does he have or have not any second thoughts about this project.

**Hon. Mr. Pillai:** When we're talking about viability of this particular project going forward, as stated in that letter, we're looking at: What is the programming and how will the programming be paid on-site? That's the focus. It's the go-forward of what is the delivery of programming to the individuals — the vulnerable individuals who are in there.

So, we've been comfortable with the go-forward focus by the organization. The challenge is the renovations. So, again, I'm not in fear that CMHC is going to — and I'm sharing with the House and I'm sharing with Yukoners — I'm not concerned that the funding is going to dry up, because they're at the table with the organization, hand in hand, looking for solutions. That's who is at the lead.

I don't have the costs or the cost increase yet, as I stated in pretty much the first five questions. What I'm waiting for is the information and full scope of what the change is in the project. It would be inappropriate for me to answer if I still think this is viable or it still should go forward without having that information. When I have that information, I will bring it to the House and be accountable and transparent with Yukoners, but at this time, we have an organization and a Crown corporation that are leading this work, and we're looking for solutions for new increased costs on the project.

#### **Question re: Health care services**

**Ms. Blake:** Earlier this week, this government sent out a press release about the new bilingual Constellation clinic.

While we are happy that this is finally moving forward, Yukoners still have questions.

In the release, there is a link to a form where people can apply to be considered for this clinic. The Find a Doctor waiting list already has thousands of people on it, many of whom have been waiting for years. Now it seems like they will have to fill out a second application.

This government already knows who is waiting for health care and how long they have been waiting. Can the minister tell Yukoners on the Find a Doctor wait-list if they will be automatically considered for the new Constellation clinic?

**Hon. Ms. McPhee:** We are committed to improving care for Yukon's population, including the Yukon's francophone population, and are expanding access to primary health care services for all Yukoners through the Constellation Health Centre.

We continue to make progress, and we have announced this week that the Constellation Health Centre will be a primary health care clinic, the first of its kind here in the territory, and it will serve as a model for the care to build upon in the future.

In addition to delivering high-quality health and wellness services in both French and English, the centre will provide an additional access point for primary health care services. The process, as described in the news release, for individuals is to register. Individuals who have put their name on the list to be matched with a Yukon primary care physician will not automatically be registered at this clinic.

**Ms. Blake:** Most Yukoners just want access to basic health care. This is a publicly run clinic, and the government already has a list of people who have been waiting for years to get primary care. Imagine being one of the people on the Find a Doctor wait-list. Imagine that you have done everything right: You have put your name on the wait-list, just like this government said you should; you have waited years for the chance to get medical help without waiting for hours in emergency, and then you happen to miss a government press

release, because not everyone spends all day checking for government announcements. So, you didn't know that you had to do a second application to be considered for this clinic, and now you are back to waiting and hoping that you will win the health care lottery. Will this government notify people on the Find a Doctor wait-list that they must apply for this clinic?

**Hon. Ms. McPhee:** The new collaborative care clinic is a recommendation of the *Putting People First* report and will be fully integrated into the broader health care system — incredibly important move going forward.

It will add another access point for primary health care services for Yukoners, including the growing francophone population, and it will reduce some of the current pressures on our health care system. We have been working with our partners, including the francophone community and other health system partners, to ensure that this clinic responds to the needs of the community. It is but one solution going forward to address our health care issues here in the territory and provide service for Yukoners.

**Ms. Blake:** For the Yukoners who have been lucky enough to hear about this application form and are applying, there are still questions. The application form says — and I quote: "A team of professionals will review and prioritize applications." That leaves a lot of questions about how people will be prioritized. Unlike the Find a Doctor application, the Constellation clinic application asks people to disclose their pre-existing medical conditions. Many Yukoners are afraid to share the extent of their health care needs on their application in case it disqualifies them from this clinic. Yukoners need reassurance that they will get equal access to primary care, no matter what their needs are.

Can the minister tell Yukoners how they will be prioritized for the Constellation clinic?

**Hon. Ms. McPhee:** This fiscal year, we budgeted \$1.7 million for the development of the Constellation Health Centre. The centre will offer services in both French and English, as well as in other languages through virtual care options. It will be staffed by a number of health care professionals to provide wraparound services to clients.

As noted, starting at the end of October, people will be able to apply online to be a client. Applications will be reviewed and prioritized by a team of professionals at the clinic. Acceptance or wait-list status will be based on the current capacity of the clinic's primary care providers, alongside pre-established determinants to ensure an equitable and balanced client onboarding. If someone is not initially accepted, they will be added to a wait-list and notified when space becomes available.

The matching of individuals with the services provided is a key element of the application process and is one that will serve Yukoners well.

#### **Question re: McConnell Lake flooding**

**Mr. Kent:** In early May, I noticed on social media that a family living on the south Klondike Highway north of the Annie Lake Road was having flooding issues from a nearby lake for the second consecutive year. At a site visit later that week, I was told that McConnell Lake has traditionally drained



south. However, for the past two years, it has drained north and is causing significant damage to a number of properties in the area.

I reached out to the Minister of Community Services a number of times about this and wrote him on behalf of the residents in late July and received a response on August 25. He said in that letter — and I will quote: “Regular communication has been ongoing with the residents since May of 2022.” However, area residents say that communication has been sparse and believe that their concerns are largely being ignored.

So, can the minister explain the discrepancy between what he told me and what I have heard from residents regarding communications?

**Hon. Mr. Mostyn:** I will say that this year has been a challenging year for a lot of people across the territory. It is one of the worst flooding seasons we have had, and this comes on the season last year, which was also exceedingly bad. There was flooding throughout the territory this summer, and the member opposite is absolutely correct. I have heard from McConnell Lake residents through the extraordinary MLA they have in that region, who has been in contact with me. We have been out at the site. I know that EMO — the Emergency Measures Organization — has sent people out there. We have had pumps helping the residents out there. I have flown over the site and seen the flooding that has occurred in that place, in the single tour I took this year of the flooding across the Yukon. It is indeed — there are certainly houses there that are surrounded by water, and this is extraordinary. We are seeing things like the flooding we are seeing right now on the Southern Lakes; we are seeing the flooding around McConnell Lake that is hard to explain — which is why, as I said in my letter to the member opposite that I sent in August, we have hired an engineering firm to assess what is going on in that area. We expect to have the engineering firm complete their work early in 2023, and I hope to get back to residents after we have seen that information to actually come up with a plan to help them.

**Mr. Kent:** So, I would encourage the minister to visit the site on the ground like I did. It is quite a sight and he will really get a full idea of what the situation is that these residents are facing. So, the residents are desperate for a solution to this so that they can stop worrying about flood damage to their property. According to the minister, and as he mentioned, there is an engineering study underway and a report due by February 2023 to recommend options and identify any permits or licences required. Meanwhile, the residents are worried about what next year will look like.

So, earlier this Sitting, I tabled a motion urging the minister to meet in person with the residents, to listen to their concerns, and develop a mitigation plan for the short and long term. So, will the minister agree to meet with these individuals as soon as possible?

**Hon. Mr. Mostyn:** I want to thank the member opposite for the suggestion. As I have said in his letter, we have an engineering study currently underway that is going to identify some of the unusual circumstances affecting the few property owners in that area.

Until we have that information, I really am not at liberty to say what sort of measures we are going to take to fix it or if it is even fixable. We have to let the engineers do their work and find out what is actually happening in that region that historically has not seen flooding like this. This is another extraordinary situation in a whole litany of extraordinary circumstances we are seeing across the territory this year and last year. I will work with the Emergency Measures Organization and with the engineers to ascertain what is happening. At that point, we will certainly have something to say to the residents of that area.

#### **Question re: Hotel room shortage**

**Ms. Van Bibber:** We have heard from several people in the tourism industry that this summer there was a severe shortage of hotel rooms, and the lack of hotel room supply hampered the industry. We have even heard there is a squeeze for upcoming events, like Geoscience happening in November.

Last December, the Minister of Tourism and Culture issued a press release congratulating a local real estate developer on the construction of a new 100-room hotel on Main Street. Since he issued a release on this project, I wonder if he can provide an update on it. Will those 100 rooms he announced in December be available in time for the upcoming tourism season?

**Hon. Mr. Pillai:** I can say that I agree with the member opposite that we do need new hotel rooms in inventory. We have just gone through a process at Tourism and Culture — essentially a request for information to look at models and options for a new convention centre. We also hope that undertaking will spur interest in increased development in the hotel sector.

I do think, based on interest and demand, that there is a real opportunity here for one or two — multiple — potential new hotels to be built in the Yukon.

What the member opposite is referring to is a local company owned by many Yukoners and many First Nations which stated they were going to build a hotel. We commend folks for taking that on, but what I cannot do today is become a spokesperson on this project, because I would again urge both — again, this line of questioning — I would urge the members opposite, and specifically my critic for Tourism, to reach out to the company that’s building it. I would say that would be the best source of information versus asking the Minister of Tourism and Culture.

I’m going to commend anybody in the private sector who will take on a risk and build, but again, the most accurate information will come there.

**Ms. Van Bibber:** The proposal of the new 100-room hotel was exciting for many in the tourism industry, especially since we lost the High Country Inn last year. In his December news release, the minister said the new development — and I quote: “... represents a significant private sector investment in the recovery of the Yukon’s tourism sector.”

What does the minister think the project’s delay means for Yukon tourism?

**Hon. Mr. Pillai:** Again, I think that investment in hotel rooms is a good thing. I think that it's needed. I think we have seen a lack of true investment in new hotel rooms or doors over the last number of years. We're going back pretty far. I commend folks — the team behind the Raven Inn who have done an exceptional job of taking on their project and to open right before the whole scenario of COVID came, and now they're thriving. I commend them.

Again, I'm going to commend and I'm going to support — as a person who has responsibility for Economic Development and Tourism and as a person who has actually worked in the private sector — I will state that I support folks undertaking this and this work.

But again, I urge the member opposite — I would say that anybody in the opposition who I've seen attend events, the chamber events, from time to time and speak with organizations and that kind of thing — the best way — and I think the member knows this well — the best way to get that information is to, when we finish Question Period this afternoon, pick up the phone and give the company a call, and they'll probably get an update on what's happening with that project.

#### **Question re: Seniors housing**

**Ms. Clarke:** The Auditor General's report on housing that was tabled earlier this year found that, from 2015 to 2021, the wait-list for eligible social housing applicants grew significantly and much more rapidly than the population did. The number of applicants on the wait-list increased by 320 percent — from 112 to 463. We know that the demand for seniors housing has particularly increased. Can the minister tell us how many of those on the current community housing wait-list are seniors?

**Hon. Mr. Pillai:** I appreciate this line of questioning, because I think that it is extremely important that we dig into exactly who is on the wait-list and from what background they come, so I will do my best to answer very specific questions. I have asked the Yukon Housing Corporation to dig in. The wait-list, as of yesterday morning, was 507 people. We try to monitor this at all times, but it is also very important to understand what percentage of individuals on that wait-list have been in the Yukon for less than 24 months — is it new people moving to the Yukon — and how many of those individuals have been long-time Yukoners who are now seeking to move onto the wait-list. They may even be in a position where they have a home or a condo, but they are looking to be on that list and to, again, look for a different type of housing in the future.

There are several factors that are contributing to the growth of the wait-list. Between 2016 and 2021, yes, we were the fastest growing province or territory anywhere in the country. That is one thing. The Yukon's population is aging faster than the national average, which was touched on by the member opposite, so the percentage of the population who are seniors grew again by 2.1 percent from 2006 to 2021, and then again, in the Yukon, it has increased by 2.9 percent.

We will look for the next question, but these are all trends that probably the members opposite had seen coming.

**Ms. Clarke:** The Minister responsible for Yukon Housing Corporation has previously committed to support the Vimy Heritage Housing Society and their proposed seniors housing project in Whitehorse. The minister's briefing notes from April 2022 says this about the project — and I quote: "The current proposal is to develop a 75-suite building with parking and green space with construction scheduled to start in 2022..."

Can the minister tell us if that is correct? Is that project still scheduled to start this year? Can the minister tell us what funding the government is using to support this project?

**Hon. Mr. Pillai:** The latest I can report, which is from a communication yesterday, was that there are multiple organizations looking to collaborate to ensure that the governance structure is solid behind this project before they break ground. In early November, I have been requested to attend a meeting on that particular topic. I believe that Vimy, as an organization, is looking for funding sources from CMHC. That's what I can report to the House today, but what I can gather from today is: Beware, if you are an organization that goes out and tries to do something, because I can see the opposition is picking apart these projects that people are trying to work on to solve a problem — a problem that we knew was coming our way by trends. Back when the Member for Lake Laberge cancelled housing money and could have been building housing in this territory — I'm getting under their skin, but that's the truth.

Go back and look at the Yukon Housing Corporation for the 10 years before we took government. The money that was spent in the corporation, year over year, was on O&M, okay? So, they might fashion themselves as being pro-business and watching the dollars, but what they were doing was paying wages instead of investing in housing. That's why we are investing the most money in housing in Yukon history, and that's why we will take on this problem that was left behind, and we will support organizations that want to take these risks and do better for Yukoners.

**Ms. Clarke:** Another project that the minister has discussed in relation to seniors housing is the Normandy project. The minister has said that Yukon Housing has committed \$3.5 million to secure 10 units in the Normandy project. Can the minister update us about whether there are any plans to increase the number of units that the Yukon Housing Corporation will lease from Normandy Manor?

**Hon. Mr. Pillai:** Potentially, there is. I am just mulling that over and looking at the numbers at this time.

**Speaker:** The time for Question Period has now elapsed. We will now proceed to Orders of the Day.

## **ORDERS OF THE DAY**

### **OPPOSITION PRIVATE MEMBERS' BUSINESS**

#### **BILLS OTHER THAN GOVERNMENT BILLS**

#### **Bill No. 306: *Act to Amend the Oil and Gas Act (2022)* — Second Reading**

**Clerk:** Second reading, Bill No. 306, standing in the name of Ms. White.

**Ms. White:** I move that Bill No. 306, entitled *Act to Amend the Oil and Gas Act (2022)*, be now read a second time.

**Speaker:** It has been moved by the Leader of the Third Party that Bill No. 306, entitled *Act to Amend the Oil and Gas Act (2022)*, be now read a second time.

**Ms. White:** It is an honour to speak on behalf of Bill No. 306, entitled *Act to Amend the Oil and Gas Act (2022)*. This act would reinstate section 13(1) of the *Yukon Oil and Gas Act* that was repealed back in 2012. For this bill to make sense, we need to go back in time. First, I want to take us back 10 years. Ten years ago, the Yukon Party was in power with a majority government. Their disregard for First Nation rights was no secret, as it is well-documented in the court cases of the day.

The MLA for Lake Laberge, then-Minister of Energy, Mines and Resources, tabled amendments to the *Oil and Gas Act*. In his opening remarks, he said this as justification for the amendments — and I am quoting from Hansard: “Looking at the significant amendments first, the repeal of section 13 is perhaps the most significant change for the future of the Yukon’s oil and gas sector and for the act itself. The Oil and Gas Act was written at a time when many Yukon First Nations were without final agreements. In the 1990s great progress was being made and there was an anticipation of quickly reaching final agreements with all 14 Yukon First Nations. These agreements provided full certainty over lands and resources for both First Nation and Yukon governments. At the time the Yukon included a requirement in the act for First Nations without final agreements to give consent on oil and gas dispositions and activities within their traditional territory. This was in order to provide certainty to the parties while claims were being negotiated. Today, 11 of the 14 First Nations within Yukon have settled land claims. The three remaining First Nations have publicly indicated that they do not intend to conclude land claims under the *Umbrella Final Agreement*.”

“After considerable human and financial resource investments to attempt to obtain consent requirements required by section 13, negotiations were recently terminated by the Liard First Nation.

“Southeast Yukon continues to hold proven gas reserves and continues to be of high interest to the industry...”

So, what he doesn’t say is that the Yukon Party’s intention to repeal section 13 was going to move forward, despite open disagreement from Yukon First Nations, the Yukon NDP, and the sole Liberal MLA at the time, who now sits in this House as Premier. So, what was section 13, and why was section 13 important?

Section 13(1) reads: “Consent of Yukon First Nations

“13.(1) Prior to the effective date of a Yukon First Nation’s Final Agreement, the Minister shall not

“(a) issue new dispositions having locations within the traditional territory of the Yukon First Nation, or

“(b) subject to subsection (2), issue licences authorizing any oil and gas activity in the traditional territory of the Yukon First Nation, “without the consent of the Yukon First Nation.”

So, the original version mentioned subsection 2, which this bill that we are debating today will not be reinstating. So, I will

address that specific point now before continuing on with section 13(1).

When drafting this bill, we consulted with both the drafter and former UFA negotiators who were also part of the oil and gas working group at the time it existed. With their advice, it was decided that section 13(2) should not be reinstated for various reasons. A reinstated section 13(2) would apply to all Yukon First Nations since it doesn’t distinguish between before the effective date of the Yukon First Nation final agreement and after a Yukon First Nation final agreement comes into effect.

Section 41(1) of the same act provides for the continuation of any federal dispositions for oil and gas activities. Section 14, which lays out the duty to consult Yukon First Nations, does not refer to section 41 of the act. We estimated that there was also no need for section 13 to refer to federal dispositions.

Finally, the federal government adopted the *United Nations Declaration on the Rights of Indigenous Peoples*, which means that the federal government formally recognized the right of First Nations to free, prior and informed consent, which aligns with section 13 of the *Oil and Gas Act*.

Mr. Speaker, I am going to take us back to section 13(1). What is important in section 13(1) is that no oil and gas dispositions and licensing would be issued without the consent of a First Nation without a signed final agreement. When the Yukon Party unilaterally repealed section 13 in 2012, they repealed more than a section of law; they disregarded historic negotiations, a signed agreement, and a commitment that had been made in good faith with Yukon First Nations.

So now, Mr. Speaker, we need to go even further back in time for this context. In 1997, Yukon First Nations, the Council of Yukon First Nations, and the Yukon government, represented at the time by Piers McDonald, signed a memorandum of agreement in which Yukon First Nations agreed to support the transfer of oil and gas responsibilities and powers from the federal government to the Yukon government, subject to a number of conditions to protect the rights and interests of Yukon First Nations.

With this MOA, Yukon First Nations were essentially agreeing to support devolution. Those conditions were laid out clearly in the memorandum of agreement. Section 5(1) of this memorandum says: “...Yukon hereby agrees that it will not, in respect of a traditional territory, for which the effective dates of a Yukon First Nation’s settlement agreement has not occurred, issue any new disposition in respect of oil and gas lands in the Yukon Territory without the consent of that Yukon First Nation.”

It’s important to note, Mr. Speaker, that this is more or less verbatim in this repealed section 13(1) of the *Oil and Gas Act*. When the Yukon Party chose to repeal this section, they effectively breached the Yukon government’s responsibilities and legal commitments under the signed agreement.

I want to be clear — and nothing is more clear than the words used by the minister of the day on why section 13 was being repealed. So, I’ll quote him again: “After considerable human and financial resource investments to attempt to obtain consent requirements required by section 13, negotiations were recently terminated by the Liard First Nation.

“Southeast Yukon continues to hold proven gas reserves and continues to be of high interest to the industry...”

So, at the time, the government was not able to obtain consent from the Kaska nations to move oil and gas development in their traditional territories in south Yukon. It's important to note that the Liard Basin south of the Yukon border is riddled with frack wells — those wells where oil and gas is extracted using hydraulic fracturing as a method of stimulation. The Kaska were clear: They did not want oil and gas development on their traditional territory in south Yukon.

So, instead of respecting the nation's decision, knowing that they were not going to be able to get their consent to move ahead, the Yukon Party repealed the section of the law that had been agreed to in good faith by Yukon First Nations and the Yukon government in 1997 in that MOA, a section of law that would have prevented them from moving forward.

Reinstating section 13(1) would acknowledge that confidences were breached and that an injustice was done when the Yukon Party repealed this section. Debate on these legislative changes happened 10 years ago. It happened 10 years ago in this Chamber on December 10, 2012, to be exact. It was on that day, along with my colleague, the Premier, that we stood in this Assembly and we tried to fight those changes. I read letters of opposition to the repeal of section 13. I read letters from the Council of Yukon First Nations, from the Tr'ondëk Hwëch'in First Nation, from the White River First Nation, from the Kluane First Nation, from the Carcross/Tagish First Nation, from the Ta'an Kwäch'än Council, the Teslin Tlingit Council, the Champagne and Aishihik First Nations, and the Kwanlin Dün First Nation.

My former colleague and mentor, Liz Hanson, even mentioned the resolution from the Assembly of First Nations — a resolution that was passed unanimously in support of the Kaska Nation and Yukon First Nations against the repeal of section 13 of the *Oil and Gas Act*.

Now, Mr. Speaker, I wish today that I could read all of those letters into the record again, because although this document and its submissions were publicly available on the Energy, Mines and Resources website in 2012, since the transfer over to yukon.ca, that information is no longer available.

So, I have reached out everywhere in hopes of tracking down this document, but as of right now, I haven't been successful. Instead, I am going to read a letter that I sent to all chiefs and all councils as I was preparing for this bill. I tabled that letter earlier today, so I'm quoting: “As part of the *Confidence and Supply Agreement* signed with the Yukon Government, the government has committed to ensure that for each sitting, one Private Member's Bill introduced by the NDP will receive a final vote. It means that we have the rare opportunity of seeing a non-government Bill go through the entire legislative process, and possibly become law.

“I am reaching out to your government as the Yukon NDP is exploring the idea of introducing a Private Member's Bill at the legislature to reinstate Section 13 of the *Oil and Gas Act* that was repealed by the Yukon Party government in 2012. I attached section 13 as it read at the time.

“For context, in 2012, Bill No. 49, *Act to Amend the Oil and Gas Act*, was introduced by the Yukon Party. This was a controversial change that repealed section 13, titled *Consent to Yukon First Nations*. This section required the prior consent of a First Nation without a Final Agreement before the issuance of any new oil and gas authorizations or licenses within their traditional territory could proceed. The consultation process for First Nations who have signed a Final agreement is in Section 14 of the *Oil and Gas Act* and was not affected by the Yukon Party changes in 2012 and would not be affected by bringing back Section 13.

“We believe that the repeal of Section 13 is in direct contradiction with the principle of consent that is central to the UNDRIP.

“At the time, several First Nation Governments (with and without final agreements) opposed the removal of Section 13, including the Chief of Tr'ondëk Hwëch'in, the Chief of Liard First Nation, the Chair of the Kaska Dena Council and the Chief of the Ross River Dena Council. The Council of Yukon First Nations, the Kwanlin Dün First Nation, the Ross River Dena Council and the Liard First Nation also released a joint statement at the time condemning the government's decision to repeal Section 13.” The current Premier “... as Leader of the Third Party at the time also opposed the change.

“As part of our preparation for this Private Member's Bill, we are contacting each Yukon First Nation for your feedback and to answer any questions you may have.”

Mr. Speaker, to date, I have received six letters of support, five of which I tabled yesterday and one that I tabled earlier today. It is important to note that I will continue to seek those letters. I want to thank all chiefs and councils that have engaged in these conversations with me. I know that they are busy and I appreciate the time that they have shared. I want to also thank those who have sent letters of support.

To quote from the letter received from the Council of Yukon First Nations: “In our view, the Yukon government acted in bad faith when it refused to respect and adhere to its commitments under the MOA. Unfortunately, this adversely impacted the relationship between the CYFN and Yukon First Nations and the Yukon government for years since the CYFN and Yukon First Nations had little faith that the Yukon government could be trusted to keep its word in any agreement.”

In their letter of support, the Chief of the Kwanlin Dün First Nation wrote — and I quote again: “... we also believe that the repeal of Section 13 is in direct contradiction with the principle of ‘free, prior and informed consent’ that is central to the United Nations Declaration on the Rights of Indigenous People (UNDRIP). This principal clearly emphasizes the importance of recognizing and upholding the rights of Indigenous peoples and ensuring that there is effective and meaningful participation of Indigenous peoples in decisions that affect them, their communities and territories.”

The letter from the Little Salmon Carmacks First Nation states — and I quote: “After internal discussion, Little Salmon/Carmacks First Nation Council believes that although our rights as a self-governing First Nation were not affected by

repeal of Section 13; we stand in solidarity with those First Nations who have yet to sign a self-government agreement.”

The Teslin Tlingit Council’s letter of support reads — and I quote: “The Teslin Tlingit Council Executive Council is in Support of the above mentioned bill. We feel that this Bill will be beneficial to all Yukon First Nations.”

The two nations most affected by the removal of section 13, as they are in the area with speculated oil and gas reserves, had much to say. The Liard First Nation’s council wrote — and I quote: “It has long been the LFN’s position that legally requiring free, prior, and informed consent for any development within unceded Kaska traditional territory, as promised to the Kaska on May 9, 2003, would provide increased certainty for all. It would drastically reduce the risk of monetary damages for infringement of Aboriginal rights and title or the failure to adequately consult and accommodate. It would clarify for industry that they must achieve meaningful benefits agreements with First Nations whose legal interests would be impacted by their proposed projects. It will protect the public purse by creating the understanding that sharing wealth and opportunities are capital cost investments of doing business fairly and progressively in a modern Yukon. Consent provisions help drive relationship building and transparency so that fully informed participants and industry proponents can know early whether projects will obtain Kaska support. Sharing information freely and prior to decision-making creates constructive, positive dialogue and saves resources.

“Reinserting the need for and importance of consent puts YG, the Kaska, and Yukoners on a pathway toward reconciliation and the promotion of well-considered sustainable development and economic prosperity for all Yukoners.”

Finally, the Ross River Dena Council said this — and I’m quoting again: “The reinstating of this clause is important to redress the contentious decision by the Yukon Government ... in 2012 to rescind Section 13, despite the objections of the Kaska chiefs. Also, it is a demonstration that YG is committed to advancing reconciliation and the principles of the United Nations Declaration of the Rights of Indigenous Peoples ... UNDRIP is considered to be requisite framework for advancing reconciliation, and its implementation can contribute to supporting sustainable development and responding to growing concerns relating to climate change and its impacts on Indigenous peoples.

“Section 13 was an important, perhaps essential, piece in allowing the Devolution Transfer Agreement ... that transferred administrative powers over land and resources from Canada to the YG, to proceed. The Premier at the time acknowledged that the devolution of oil and gas was not achievable without the formal support of the affected First Nations. To this end, YG negotiated and signed a Memorandum of Agreement ... with the Kaska in January 1997, in which they agreed not to issue any new dispositions for oil and gas lands in the Kaska traditional territory without the consent of the Kaska.”

So, now that this bill is on the floor, the party that is now in power — the Liberals — may or may not choose to vote in

favour. As you’ve heard in my letter to chiefs and councils, they’ll have to vote in favour until third reading, thanks to our confidence and supply agreement, but the real question is: Will they fully support it to becoming law?

They may say that, since they came into power, they’ve worked hard to rebuild trust in government-to-government relationships, and no one will dispute the importance of the relationship-building of the Yukon Forum, but I suggest that, given the number of court cases that are currently, or have happened, since 2016 between Yukon First Nations and the current government, there’s still a long way for us to go.

I would also suggest that a government that benefits from the breach of trust and the breach of a signed agreement from a previous government and actively refuses to fix it when the opportunity is right in front of them is not much better, but I remain hopeful, because they may also choose to support this bill, and in this case, I thank them.

I also want to acknowledge that this change would only apply to First Nations without a signed final agreement. Why? This isn’t about completely changing the legislation; this is about restoring the rights that were taken away from three First Nations without a final agreement back in 2012. It is important to understand that section 13 was removed when the Yukon Party was unable to reach an agreement with Liard First Nation.

Liard First Nation refused to consent to oil and gas development in their territory, and the Yukon Party removed the one section that they could use to fight against it. They removed it so that they wouldn’t have to obtain consent at all. But more than reinstating rights that were wrongly taken away, reinstating section 13(1) would open the door to conversations about what First Nation consent really means and about the difference between “consultation” and “consent”.

In 2021, the Government of Canada officially adopted the *United Nations Declaration on the Rights of Indigenous Peoples*, which enshrined free, prior, and informed consent. In November 2019, British Columbia became the first Canadian jurisdiction to incorporate the *United Nations Declaration on the Rights of Indigenous Peoples* into law, and the Yukon government has yet to do so, but I am optimistic that we will get there.

It is my hope that this bill, even though it applies here only to First Nations without a final agreement, will open the door to implementing free, prior, and informed consent for every First Nation in the Yukon — not just for oil and gas, but as stated by Liard First Nation in their letter, for any development. This conversation needs to happen, and I know that this won’t be an easy conversation, because there are overlapping and cross-boundary traditional territories. There are interests and priorities that might not go in the same direction and debates between nations and debates between nations and the Yukon government that have a lot of history and a lot of baggage, but this doesn’t mean that these conversations shouldn’t be held. This doesn’t mean that we should shy away, because we will be stronger as a territory for having these difficult conversations. We need to move forward together.

The right of free, prior, and informed consent must be discussed, and then it must be implemented. The Yukon was

once a leader in indigenous governance in Canada. First Nation consent is the future of modern treaties and sovereignty. There is no longer a conversation as to whether or not it will happen, but a conversation as to when it will happen. We have the opportunity to lead the way. We don't always get a chance to right the wrongs of the past, but this is one opportunity where we can do just that.

I am going to end by quoting my friend and former colleague Jim Tredger, who at the time was the MLA for Mayo-Tatchun. I am going to quote when he stood in this Assembly to address the Yukon Party's repeal of section 13 — and I quote: "I want you to take a look and imagine what our society — what the Yukon will look like in 10 years, in 20 years, in 40 years — perhaps as many as 100 years — when the non-renewable oil and gas reserves run out. What is left? It's the people. It's the people of the Yukon who are left. And what makes the people of the Yukon strong? We have learned lessons from our elders and the seniors and the pioneers. We know our land. We spend time on it. We live on it. We play in it. We exist from it, and we get our subsistence from it, and overriding all of that is our relationship we have one to another.

"What will our communities look like if we allow ourselves to be divided, if we ignore promises made, and break the trust that has been handed to us?"

"Yukoners are very fortunate — very fortunate. We were welcomed to the Yukon by the First Nations. They shared their land. They shared the resources. They shared the animals. They shared their world view. It was through the guidance of the elders that we sat down to develop a brave new way of managing our territory. We had seen what had happened in southern Canada, in Europe, in the United States and in eastern Canada, and we said no — we can do better.

"We can work with each other. We can trust each other; we can depend on each other, and we can live together. What will our community look like? What will our land look like? What will our water be like, and what will our relationships be?"

Mr. Speaker, without consent, consultation is meaningless.

**Hon. Ms. McPhee:** I appreciate the presentation on — I just want to be clear — I think it's Bill No. 306, if I have that right.

In relation to the matter before the Legislative Assembly today, I do have some comments I would like to note. I am sure that others here will have other opportunities and take the opportunity to speak about this important bill. I certainly hope we hear from members of the Official Opposition.

I think it is important to review some of the history. I appreciate that the member opposite has done some, but a true historical picture of the way in which this issue became an issue here in the Yukon Territory is important. Back in May of 1993, Canada and the Government of Yukon agreed that Canada would devolve the administration of oil and gas resources to the Government of Yukon.

This devolution was set out in the Canada-Yukon Oil and Gas Accord. It came about back in 1993. Then in January 1997, the Government of Yukon, the Council of Yukon First Nations,

all Yukon First Nations, the Kaska Dena Council, and the Kaska Tribal Council executed a document that is entitled the "memorandum of agreement". That, I think, has been noted also by the mover of this bill.

But this document contemplated the involvement of Yukon First Nations in the design — and I'm going to say the quote from the MOA — quote: "... design, determination, development, administration and management..." of Yukon's oil and gas regime or a common regime as the case may be, depending on how it would develop. The memorandum of agreement provided that, in relation to the traditional territory for which a settlement agreement has not yet taken effect, Yukon agreed, at that time — Yukon government agreed, at that time, not to issue any new disposition in respect of Yukon oil and gas lands without the consent of the affected Yukon First Nation. It also obliged the Yukon government to amend the — quote: "proposed Yukon oil and gas act" to incorporate that undertaking.

It also committed the parties to work together to jointly develop amendments to the oil and gas regime in the Yukon. So, it contemplated local Yukon legislation and the fact that, in order for the disputes or the conversations or the disagreements that were happening at that time — that they would be working together in order to propose a Yukon oil and gas act that the government would, of course, bring as a bill to try to make into law, but that would be done with the consent of affected Yukon First Nations, and they would have that consultation, collaboration, and cooperation.

Then in 2003, Yukon enacted the *Oil and Gas Act*. It included what I will call the "original section 13". In 2009, the Yukon consulted with the affected First Nations — for example, the Liard First Nation, the Ross River Dena Council, and the White River First Nation — those First Nations who did not have a final agreement — and they spoke to them in 2009 about repealing section 13.

It was understood that some, if not all, of the consulted First Nations opposed the repeal of that provision and that the discussions respecting the consent agreement may have occurred concurrent with this consultation, but at that time, no repeal of section 13 occurred following those conversations because we know that this didn't come about until several years later.

Three years later, back in August 2012, the Liard First Nation wrote to then-Premier Pasloski providing notice that the letter was, in fact, the termination and the completion of the negotiations that they were in with the government at the time of the terms under which the Kaska would consent to the disposition of oil and gas rights in their traditional territory. The very next day, on August 28, 2012, the then-Cabinet proposed an amendment to the *Oil and Gas Act* to repeal section 13. The bill subsequently passed and section 13 was, in fact, repealed in December 2012.

I won't go into the reasons for that. I think that they have very clearly been set out by the mover of this bill, the Leader of the Third Party. They were fixing a problem by just simply unilaterally changing the law.

I think that it's important to note that none of those conversations — at least in the brief research that could be done in relation to this — did, in fact, consult — that the government of the day did not consult with the transboundary First Nations, including Acho Dene Koe, the Tahltan, the Taku River Tlingit, Gwich'in Tribal Council, the Inuvialuit, the Dease River First Nation, or the Kwadacha First Nation. It is incredibly important to note, because the issue of transboundary First Nations is a live one; it is one that has not yet been resolved.

There is certainly uncertainty in the law with respect to the duty to consult. I appreciate that this is not a government bill, but the duty for Yukon government to consult in relation to this bill is a live issue. It is certainly one that may remain because of the uncertainty in the law, but what I can say about that — or what I want to say and should say about that — is that the building of relationships, the building of partnerships, and the concepts of reconciliation are critical in order for relationships to continue — relationships that have been extremely important to this government, to our one-government approach, to building reconciliation with First Nations, and that consultation, collaboration, and cooperation must always take place, even if there is not a legal duty to do so. As I have said, there is uncertainty in the law with respect to that.

I think it is fair to say that, in any case, the greater the effect that the statutory amendment has on a First Nation's rights, the greater the likelihood that a court may find or be tempted to expand the law, as it currently states, to apply to the amendment, and the legislative amendment can certainly empower a later government to trigger the duty to consult. In any event, it is prudent to do so.

I am going to spend just a few minutes talking about the honour of the Crown. Back in 2012 when this section was removed from the legislation, there is certainly a question about whether or not the then-government was respecting the honour of the Crown. Notwithstanding the fact that there may be little in the way of adverse impacts that might be sufficient to trigger common-law duty to consult, there is still the matter of the honour of the Crown.

It's at play now, and it certainly was at play in 2012. Remembering the history as we have laid it out and as is recorded in government documents, the purpose of the change done in 2012 was to avoid an obligation that had been negotiated much earlier in the life of the concepts of oil and gas here in the territory. I am going to say that the actions of the government in 2012 probably abused the honour of the Crown or at least ignored it, to a certain extent.

The honour of the Crown, just as a concept, is a constitutional principle that is fundamental to aboriginal law, and while its roots are in British traditions, it has certainly taken on new significance in the passing of Canada's *Constitution Act, 1982*. The *Constitution Act, 1982* recognized and affirmed that existing aboriginal and treaty rights of aboriginal peoples of Canada were entrenched in Canada's Constitution. According to the Supreme Court of Canada, the role of the concept dates back to the Royal Proclamation of 1763, which stated that indigenous peoples live under the Crown's protection. While that may seem offensive to some, it has

evolved in Canadian law and taken on a new life through decisions of the Canadian courts, which have clearly and emphatically recognized and affirmed the constitutional status of existing aboriginal treaty rights of the aboriginal peoples of Canada.

The Supreme Court of Canada has stated that the duty of honour derives from the Crown's assertion of sovereignty in the face of prior aboriginal occupation. This is important in the history of Canada. It refers to an underlying tension in Crown and indigenous relations, a tension that stems from the fact that indigenous peoples occupied the land that we now call "Canada" long before European settlers arrived and lived in organized, autonomous societies, according to their own systems of law.

When the Crown asserted its sovereignty over these lands, it unilaterally imposed its own laws and customs upon those pre-existing indigenous societies. The honour of the Crown characterizes the special relationship that arises out of this colonial practice. The honour of the Crown also seeks to further reconciliation. The court has used the term "reconciliation" in a number of ways, and it is important that the term "reconciliation" and the actions of reconciliation are, in fact, taken on by individual indigenous societies here in the territory and throughout Canada.

I have noted the obligation to consult, which I think will be quite obvious to the members of the Third Party and the mover of this piece of legislation, and I think there have certainly been attempts to do that. There is an open question about the consultation and whether it is shown to be as comprehensive as it must be.

I appreciate the member opposite making note of the debate back in December 2012, because I think that it is an important piece of information to consider as we go forward. The then-Leader of the Third Party and now Premier also spoke about many of the First Nations that needed to be consulted and felt that they weren't at that time.

I will just take a second to note that section 13.1 that is proposed today is not an exact replica of the section that was removed from the legislation back in 2012. There is a reference in section 41 to some specific lands that I understand are currently held by — just let me get the actual name, if I can. There is an issue with respect to section 41, and we will hopefully be able to ask about this, because section 41 remains in the *Oil and Gas Act*, and it addresses the continuation of rights under federal disposition.

The information that I have been able to obtain through research is that there are possibly two federal dispositions. They are often known as "significant discovery licences", or "SDLs". They exist in the small corner of the Yukon Kaska traditional territory across the border into the Northwest Territories, and both of those are held by Canadian Natural Resources Limited. That, I understand, could still be an issue with respect to whether or not Yukon would be obliged to obtain the consent of the Yukon Kaska. We are using the term "Kaska", to be clear, with reference to the Ross River Dena Council and the Liard First Nation together.

I will leave that as an opportunity to make a question. I do want to also note that, back in 2012, MLA Jim Tredger did bring an amendment. I think that the purpose of that amendment is important to note. At that time — let's just be clear that we are talking about the then-Yukon Party — they were trying to remove this section from the *Oil and Gas Act*. The amendment brought by MLA Jim Tredger requested that the matter be referred to a select committee and that they were looking for the select committee to have the opportunity to have a more public consultation with Yukon First Nations, to get legal and other opinions and to get more background from experts and seek their opinions, and that amendment was voted down by the then-Yukon Party government. Why the Yukon Party had come at that time, in my estimation, without a good bill and without a bill that was supported — and, I'm going to say, that it was quickly put together to achieve a political end which they could not manage to negotiate.

At that time, the now Premier, the then-Leader of the Third Party, spoke about wanting to have equal representation, not only on the committee but also that the committee would be able to seek public consultation and get some other opinions. That, as we know, was ultimately voted down by the then-Yukon Party. This was really an attempt by MLA Jim Tredger and the Leader of the Third Party at that time to get more information, to get some expertise, and to make sure that the consultation was full, but that was denied by the then-Yukon Party and the mover of that bill, which was the current Member for Lake Laberge.

There was really an attempt in MLA Tredger's amendment to save the government from itself at the time and to perhaps assist with the poor relationships that the then-government had with Yukon First Nations and the lack of respect they had for their governments. This is something that we have been trying, since we came to government, to repair. This is also an attempt today, with some exceptions, for the Third Party looking to right a wrong that the then-Yukon Party did to the Yukon Territory and to Yukon First Nations. That's a laudable goal — speaking to Bill No. 306 and a pursuit that we support in spirit.

We need to determine through the debate what changes, if any, are needed to achieve appropriate consultation and to understand the impact that the bill will have. That certainly can be dealt with through questions, I understand.

I recognize that the Third Party has brought forward a number of letters from Yukon First Nations in support of their bill — Bill No. 306 — to amend the *Oil and Gas Act*, and we are very pleased to see them engaging with First Nations, which certainly have a vested interest in the success of the resource extraction in this territory going forward, as does every Yukoner.

I think it's critical to make sure that we do not waver from our commitment to adequate and appropriate consultation. It was absent from the debate in 2012 when this matter was brought forward by the then-Yukon Party, which is mostly the same elected members as are currently here. They, at that time, did not showcase that consultation was adequate to the Legislative Assembly. There is lots of evidence of that in

Hansard with respect to challenges to the adequacy of that and to the purpose for which this amendment was being brought.

I want to be clear to say that I don't think there has been no consultation in this current bill before the Legislative Assembly. We have seen tabled letters in support from many of the Yukon First Nations, but we need to determine if unanimity has been achieved, if unanimity is required, and ultimately what the government's responsibility is in relation to that same consultation. We have to ask about transboundary nations, which claim territory in more than one jurisdiction in overlapping colonial boundaries. We need to know their position or their view.

While the work is ongoing, I understand, to ensure that the needs and the concerns of Yukon First Nations are in fact being addressed, it is something that we must still contemplate in the debate.

The Third Party, having brought this matter before the Legislative Assembly, needs to complete that work.

Mr. Speaker, government is hard. Work on building relationships and building proper consultation takes time, and they must absolutely be comprehensive.

The Third Party here in this Legislative Assembly is passionate and a team with some good ideas, but the work must be comprehensive — and there are questions about that — and an opportunity to dig further into the details and the work that has been done will be one that we welcome.

The Yukon Party Official Opposition, as I've noted, has primarily the same members and the responsibilities, so I look forward to hopefully their voice on this so that we can understand what was done in 2012 from their point of view and see what questions they ask of the Third Party. This is unfortunately a party that is not renowned for its relationships with Yukon First Nations. It is a party, as we can see by the history and the dates of investigating this in 2009 and not changing the bill or doing anything in 2012 — understanding that there were some negotiations in that time, but they can be characterized as slow or unwilling to move us forward. Given a free rein, I am concerned about what they would do — moving us backwards — because I think this removal of section 13 to achieve a political goal is exactly an example of moving us backward. I hope that they will reconsider their former position on section 13 and that we can hear from them going forward.

I look forward to the continued consultation and questions — the answers to those questions about consultations from the Third Party.

There is very likely a government responsibility to consult here, even though the changes to the *Oil and Gas Act* that are being proposed do not adversely affect, or could be characterized as not adversely affecting, Yukon First Nation rights, but there may be the responsibility of government consultation over and above the consultation by the Third Party. As I have noted, the case law on this topic has some uncertainty, but despite that, I think that the relationships we have built with Yukon First Nations, the evidence like, as mentioned, the Yukon Forum and the commitment to that Yukon Forum four times a year and the commitment to Yukon Days and having



Yukon First Nation governments come and meet at tripartite government meetings between Yukon, Canada, and Yukon First Nations annually at Yukon Days, usually in December — these are just part of the relationships that have been built, and those relationships mean that we can work together better, we can cooperate, and we can consult, perhaps even easier than at some other times. It does not mean that we will always agree on every topic or that we will be in unison. What it really means is that we have committed to come to the table, as have Yukon First Nation governments, so that hard questions, hard topics, difficult decisions can be talked out and can be approached in a way that is open and is committed to being open for the purpose of achieving better for all Yukon peoples.

I appreciate the opportunity to speak today at second reading of this bill.

**Hon. Mr. Streicker:** To begin with, I would just like to pick up on a comment by the Minister of Justice. I sure hope that we hear from the Yukon Party today. There is a lot that I would like to know about — what their perspective is on this and whether it has changed since 2012. I hope that they will be responding. I have not seen them rise yet, but I will — anyway, I would just like to say that I think it is important that they express their views on this bill.

Let me begin by thanking the Leader of the Third Party for bringing this bill forward. I think that it is actually an important bill. I think that there are important things in it. I do agree with the principle of what is here. I have a lot of questions that I hope to get to during Committee of the Whole, even today, I hope. I will try to pose those questions, but I will share some thoughts now to give an indication of the work that I've done in trying to consider this bill.

Really, the principle that we're talking about here is consent, and it's in a piece of resource legislation. I think that the principle of consent is very important. At its heart is respect for First Nations, for our *Umbrella Final Agreement*, for the self-government agreements, in government-to-government relationships, including for those First Nations who chose not to partake in the *Umbrella Final Agreement*, and it is about respect for traditional territories. When I listened to the Leader of the Third Party, she talked about some of those challenges with those, where there are competing interests, and it was her submission that, despite those challenges, we should abide by this principle of consent.

I think that also, at its heart, it's about respect for the environment. When we think about resource legislation, we are always seeking to balance how we are going to deal with the environment, if there is some sort of development, because often that development can be problematic for the land, the animals on that land, and the sustainability of that land, so I think that it is important that we get these things right.

Part of this, in my mind, is of course talking about oil and gas development, although the Leader of the Third Party has expanded those principles to go much beyond that. But this is the act that we are working on right now or where this amendment is proposed, and in my mind, this is also wrapped up in the whole conversation around fracking — or hydraulic

fracturing, but I'll use the term "fracking" here, because I think that's a common term that most Yukoners can understand.

Let's put ourselves in the context here that the amendments to the *Oil and Gas Act*, which were brought forward by the Yukon Party, were in the Fall Sitting of the 2012 Legislative Assembly. The debate is taking place on December 10. You know, it's kind of late in the year for this Legislature. In fact, it's the last week of the Sitting of the Legislative Assembly for that year. It's maybe the third to the last day of the Assembly for the year, and we're on second reading.

There is a lot of conversation in the Yukon about fracking. It kind of started with conversation around the Whitehorse Trough, but it very quickly expanded to what we should do around the issue of fracking. It was of concern up in Eagle Plains, where we had the work, at the time, of Northern Cross, now called "Chance Oil and Gas". It was also, of course, of concern in southeast Yukon. A lot of the conversation we have had today pertains to the southeast Yukon.

We have a situation where several amendments are being brought forward by the Yukon Party to amend the Yukon *Oil and Gas Act*. I'll quote now from the Member for Lake Laberge, who said — and I quote: "... the amendments to the *Oil and Gas Act* are mostly fairly mundane and administrative in nature and strengthen government's ability to responsibly manage oil and gas activity." So, he referred to the amendments as "mundane", not really that problematic, but of course, we know that they were hugely controversial. Well, the removal of the clauses in section 13 — and now we're looking to reinstate one of those clauses, I think, the critical clause — was hugely controversial.

You had tabled in the Legislative Assembly many letters from First Nations. I would have to go back and count, but it was certainly the majority of all First Nations who had submitted letters, saying, "Don't do this." If there was engagement around it, surely that came out, but the then-government, the Yukon Party, made the decision to sort of fly in the face of that.

The way it was described by the Member for Lake Laberge at the time — and I will quote again. He said — and I quote: "... if we were unable to achieve consent under section 13, repealing that section was our best alternative to an agreement."

Effectively, the government gave themselves veto power over the consent issue, so the clause required that you work with First Nations — in this case, those First Nations in southeast Yukon — and work to try to find agreement. Then, when they couldn't find agreement, what the government did — I think, they hoped, quietly — was to just eliminate that clause. No problem. No harm, no foul — but there was a foul, because the clause itself said that they had to get that consent. So, they just used the power of this Assembly, in my view, inappropriately, to remove that requirement.

Later in his remarks, as he closed his portion of the debate at second reading, the minister of the day, the Member for Lake Laberge, referenced a letter where he had written to the federal minister to talk about what was important here. He spoke about the key phrase of that letter. I am now quoting that letter and his words to this Assembly. "We believe that First Nation

consent is forthcoming. With federal assistance, Yukon could be in a position to open the Liard Basin to new oil and gas exploration and development as early as 2010.”

So, the member said in that letter: “I think we’re going to get that consent; let’s move ahead.” Now, of course, that letter predates the 2012 debate, but the point is that consent did not come —

**Some Hon. Member:** (Inaudible)

### Point of order

**Deputy Speaker (Ms. Blake):** The Member for Lake Laberge, on a point of order.

**Mr. Cathers:** The Government House Leader seems to be having trouble with geography and has mixed up north Yukon with southeast Yukon. I’m not sure which Standing Order that would be, but perhaps this will help orient him.

### Deputy Speaker’s ruling

**Deputy Speaker:** There is no point of order. This is a dispute between members.

Please continue.

**Hon. Mr. Streicker:** Thank you, Madam Deputy Speaker. If I mixed up north and south, my apologies. I’ll just get that sorted. I am referring largely to the southeast Yukon here, but there is oil and gas — subsurface oil and gas — in both the north Yukon and southeast Yukon — and in other areas, but mostly we’re talking about southeast Yukon.

So, what happened here was the members opposite, the Yukon Party, wanted to develop oil and gas in southeast Yukon. What they did was just amend the act so that they didn’t need to get the consent of the affected First Nations, because those negotiations weren’t proving fruitful.

Okay, let’s talk a little bit about that oil and gas and what other things were at work at that time. The sedimentary basin in southeast Yukon is one where, really, it would require a lot of — the type of basin that is there is the type of basin that is typically fracked to get at oil and gas. We see it in northeastern British Columbia. There’s a lot — under the current NDP Government of British Columbia, there’s a lot of oil and gas activity in that area, a lot of fracking going on.

Right in that moment, here in the Yukon, the conversation was unfolding around what we should do as a territory when it came to fracking. The Yukon Party — and I commend them for this — convened a select committee — not before they amended the *Oil and Gas Act*, but after — to look at fracking. Most Yukoners will recall that committee. They went around the territory and they talked to a lot of Yukoners. I also submitted to that committee — with my own research at that time as an engineer and a climate scientist — and I suggested that fracking was too risky to do, that it led to too many fugitive emissions, and that it caused problems for our landscape and risks around our water. I suggested that we should not have that. Subsequently, we, as a government, have banned fracking in the Yukon.

What was going on — and the Minister of Justice alluded to it — was that, while the debate was happening on

December 10, 2012 around these amendments, the Member for Mayo-Tatchun proposed that there be engagement instead of going ahead and putting in this amendment, which the Member for Lake Laberge sort of called “mostly mundane”, but I think is incredibly significant. As all of that is happening, this piece of legislation was amended, and in so doing, there was no longer a requirement for consent for those First Nations, like White River First Nation, Liard First Nation, and Ross River Dena Council. I think that there were also other First Nations that we have to be thinking about here, especially when we’re talking about the southeast Yukon — for example, the Acho Dene Koe, whose traditional territory emanates out of Fort Liard and around that area but certainly crosses over into southeast Yukon, including the sedimentary basin there where we have oil and gas.

So, the principle that we are working on is about consent. We also, as a government, have a responsibility when we’re bringing in any changes to resource legislation to talk with First Nations. There is a responsibility on our part — on whoever is the government of the day — to do that consultation. This is a piece of resource legislation. There is a responsibility that we have to get that consultation in with First Nations and a principle of making sure that we have heard from them, that we know what their perspectives are, and that we are not having adverse consequences that we didn’t understand. So, effectively, there is need for us, generally speaking, to go off and do that work whenever we are amending resource legislation.

So, even though the principle here is to put back in place the ability for consent to be there, there’s also a responsibility of government to make sure that we know where the First Nations are on this issue. I will just let the Leader of the Third Party know that one of the places where I will go with my questions is to — when we get to Committee of the Whole — ask about her work to grab those perspectives of the First Nations. I certainly appreciate that she has tabled letters. I haven’t yet had the chance to read the letter from the Ross River Dena Council that she tabled today, but I will make an effort to get that. But I noted yesterday that the Teslin Tlingit Council, Kwanlin Dün First Nation, Liard First Nation — which, I think, she noted is very important — and the Ross River Dena Council, Little Salmon Carmacks First Nation, and the Council of Yukon First Nations, but there are others — five of the 14 Yukon First Nations — and there are —

**Speaker:** Two minutes.

**Hon. Mr. Streicker:** Thank you, Mr. Speaker. I will wrap up my remarks. I will look to pose those questions. There is much more that I want to try to ask about — how that work has gone on. I also will take a moment to just say thank you to the Third Party for their briefing that they gave for members yesterday. I am curious about our northern chiefs; I am curious about the White River First Nation, and also I want to ask about how all of that has unfolded.

I will conclude my remarks here, but I will just reiterate that it is my hope that we hear from the Yukon Party on this bill.

**Hon. Mr. Pillai:** I rise today to speak to the *Act to Amend the Oil and Gas Act (2022)*. The proposed amendment would reinstate the requirement under the repealed subsection 13(1) of the *Oil and Gas Act* for the government to obtain consent from a non-self-governing First Nation before issuing a new disposition, such as oil and gas extraction on non-self-governing First Nation traditional territory.

Section 13, titled “Consent of Yukon First Nations”, was repealed in 2012. This section removed the requirement for government to seek consent from the Yukon non-self-governing First Nations for oil and gas extraction or government dispositions on their traditional territory. Again, I would like to take a few moments to reflect on the history of the *Oil and Gas Act*, which brings us to where we are today.

The timing is interesting. On November 1, it will have been 10 years since the Member for Lake Laberge put his quote out talking about how the amendments to the Yukon *Oil and Gas Act* will raise standards and bring opportunities. Certainly, when we look back and reflect on that statement — when I think about that, I think that those comments were definitely strongly flawed. I don’t understand where the standards were raised, and I definitely think that the Member for Lake Laberge talked about opportunities that we still aren’t seeing.

I also think that it is intriguing, too, when I look back at that time, because it is interesting that there was an extraction of a piece of policy that really was giving a veto, I guess — it was about consent on this particular topic — and the member at that time was the Minister of Energy, Mines and Resources and probably used his veto in his backyard in the Whitehorse Trough for himself — not really sharing that power with other levels of government.

**Some Hon. Member:** (Inaudible)

### Point of order

**Speaker:** The Member for Lake Laberge, on a point of order.

**Mr. Cathers:** Thank you, Mr. Speaker. The minister made reference to the decision made by a previous government and me, as a minister, regarding denying the applications in the Whitehorse Trough. He also made an assertion that is counter to the Standing Orders — of accusing a member of representing someone other than their constituents or Yukoners in asserting that I made that decision on my own behalf when, in fact, it was following listening to the feedback of Yukon citizens.

I would ask you to have him retract the remark, correct the record, and apologize to the Assembly.

**Speaker:** Government House Leader, on the point of order.

**Hon. Mr. Streicker:** What I heard was my colleague saying that the member had worked on behalf of his citizens, his constituents.

### Speaker’s ruling

**Speaker:** There is no point of order. It is a dispute among members.

Minister of Economic Development, please continue.

**Hon. Mr. Pillai:** Thank you, Mr. Speaker. So, moving on, I think that it is important to echo the comments of my colleagues — that we believe that the work on and intent of this particular piece of legislation or amendment to the legislation — there is great value in it, and we are looking forward to getting into some deeper conversations.

What I will put on the record today for second reading is that my work with Committee of the Whole will focus today on where things have gone from a standpoint of consultation. It has been an experience that has continued to evolve over the last number of years on how, as a government, we interact with all of the nations that are here within the boundaries of the Yukon, as well as transboundary nations.

The previous work that I had an opportunity to do at Energy, Mines and Resources — of course, those conversations were so extremely important. When I think back to things that we — the department and I — were trying to undertake, certainly I look back at some rookie mistakes when we were trying to move some pieces forward — all for the right reasons and all with good support — in one particular case, requested by the Kaska, and then tried to move that work forward. In the end, there were some challenges. It was really about just ensuring that the conversation with all the other 11 self-governing nations had taken place and what that looks like.

I think that the Third Party has made a valiant effort in going out and gathering a number of letters. Today, I want to hopefully pose some questions around: Did the process of that interaction or the letter that was sent to First Nations — was there a legal perspective that it met the thresholds of consultation? I’m also intrigued to see: What are the effects of this particular amendment to some of the transboundary nations? Specifically, I’m interested in how this will potentially affect interaction between the Gwich’in Tribal Council and Vuntut Gwitchin. I do understand from what has been put forward that the act pertains to the nations that are in the Yukon, and the map that is going to build the foundation for these decisions is the UFA map. So, I also want to understand if some of the nations involved in this — is the UFA map still a level of comfort? Are those still the boundaries? Because inevitably that will matter; that will matter in southeast Yukon and it will matter in the traditional territory of the White River First Nation. So, those are some pieces.

Of course, I have taken some time to reach out to some of the advisors for different First Nations to get their perspective on this and just to understand what they believe the scope of this work is.

Then again, what are the implications of moving through the amendment, and has case law changed so much over the last decade that the rights of transboundary — if there has been identified traditional territories inside Yukon boundaries, does that affect us?

I think that we are all trying to make sure that we get to ensuring that the spirit of this legislation, after it had gone through — and as the Leader of the Third Party said, it had gone through a process of consultation, it was done in good faith, and then this piece of it was extracted. As it was said to me over the last couple of days, that really undermined the government’s

relationship with First Nation governments immensely, because all of that work had been done. It's very similar to some of the stuff that happened with YESAA. It was, at the end of the day, pulling out one piece of this work — the interesting part about it is, as one technical support person within the First Nation government said to me, that it then undermined implementation of all treaty pieces — that one aspect. So, I can understand why the Third Party has the passion they do to bring this back and understand again why this is so important to so many First Nations, especially folks who were at that table doing the work over time and then to have these unilateral decisions made.

Again, we want to make sure that we have the support for this work today. We definitely don't want to solve one problem that was based on a unilateral decision with what could be considered another unilateral decision. We want to ensure that we have a complete understanding of what the nations in the Yukon are saying.

The other piece of it that I'm interested in discussing is the northern chiefs oil and gas table and how that is affected. So, under two different themes, the northern chiefs table on oil and gas was engaged by Yukon government. I had the opportunity to be at the table. Our original meeting took place in Dawson City early in the last mandate, and it was really focused on an opportunity to engage with the nations that were really focused on what was happening — by chance, oil and gas at the time.

So, it was made up of Vuntut Gwitchin, Tr'ondëk Hwëch'in, and Na-Cho Nyäk Dun. I am interested to see if there was engagement directly with the northern chiefs table on oil and gas, because that is where, at the time, I was seeking a lot of perspective. Does that change with this at all? Because the decisions that would be made by that group of three chiefs — I just want to see if there is a potential effect based on the fact that there could be interaction from other nations.

If the table of northern chiefs makes a decision in what is defined as their traditional territory as per the UFA map, is there still the potential for an intervention from a potential other nation, and would that have veto over the decision of that table? That's more of a technical thing, but it's quite important.

As well, what has been contemplated about the work that has been done around the Beaufort? Many Yukoners forget that we have a northern coast, and a tremendous amount of work has been done over the last number of years focused on the Beaufort and what the lines are within the Beaufort concerning areas of responsibility between the Northwest Territories and the Yukon government. What area — and how is the interaction defined between the Inuvialuit? Some very technical conversations have happened over the last number of years. There has been a moratorium on drilling in the Beaufort. The Yukon government entered those conversations because we were focused on ensuring that we stood up for the rights of the Yukon, that we understood the boundaries, and that, for anything that was going to happen there, Yukon would be at the table.

We had the most experienced individuals, arguably, at the table. We went back and pulled some team members who had

worked in oil and gas for decades in the Yukon, and they helped direct us on that.

Again, this is another part of the conversation. We went back and looked at some of the framework from the 1990s on how consultation should be done on oil and gas. We used some of that early framework to give us a sense of what the blueprint should be on how to speak.

Initially, we were reaching out to all the nations. All nations were at the table, whether they had a signed final agreement or not. That discussion, over time, was really focused on the Vuntut Gwitchin because the Vuntut Gwitchin traditional territory was the closest to the Beaufort and that seemed to be of the most interest. Does this change now with the extra potential powers of consent, and how does that play out? Again, does that change the configuration and how we move forward, whether it is offshore or onshore?

I guess the other item that I will just touch on is — is there any concern that, in the current state that we're in as a country and as we see the legal challenges that have come — some of them have concluded the legal process — some of the challenges that we have seen from different indigenous governments or First Nation governments as well — are we in a position where we think about how the powers will play out in other areas of decision-making? That is something that I think we want to talk about during Committee of the Whole.

Overall — I will state it again — we are supportive. It might seem that, in many ways, we're digging in and being the devil's advocate, but I guess, at the end of the day, that is the job when you are sitting in Committee of the Whole essentially as an opposition member to the bill. There are a lot of things that are extremely technical and you have to be very patient in the processes to ensure that you have met the strength tests in order to have those laws stand in the future. We want to get into a position, as we move forward — what I have heard from the Premier and my colleagues is that we just want to make sure that we are in a position to support the amendment but that the amendment has the strength to stand.

We think that is important and we are here, I believe, in collaboration, as the Third Party has put this out, to be able to support and ask some tough questions but, at the same time, figure out collectively how we ensure that something like this is reinstated but is reinstated in a way where it is going to have the strength and it is going to meet the intent that it originally did.

With that, I am going to conclude second reading remarks and look forward to getting into some more specific technical conversations during Committee of the Whole.

**Ms. Blake:** I am honoured to speak today about the Yukon NDP's *Act to Amend the Oil and Gas Act (2022)*. As my colleague, the Leader of the Yukon NDP, noted, this bill will restore some rights to Yukon First Nations who do not have signed final agreements. Consent is a right that was always intended for Yukon First Nations to have and to be upheld.

For generations, Yukon First Nations have used the principle of consent between nations. I think of stories I know of the time before highways were in the Yukon when our

people were still walking and travelling by land and water. Even then, the Yukon First Nations got permission from communities. When Tlingit people travelled on the ocean, they would sing together to notify and seek consent from the communities they visited. Before we had fiddling in the north, the Gwitchin would walk the Porcupine River to the Yukon River toward Fort Yukon, Alaska, and they would sing and drum to seek permission to enter their community. Consent has been a protocol for generations, and for those generations, it has always been Yukon First Nation governments, elders, and communities who have ensured that our lands are protected and that the animals, plants, and water are kept healthy.

If this bill passes, it will be an important step to remind all Yukoners of the value and sacredness of our traditional territories. As land protectors and caretakers, we, as Yukon First Nations, are the ones who have real, deep knowledge about our lands. We know where to hunt, which habitats to protect, and how the land changes with the seasons. So much has changed over the decades. I have seen and heard stories from Yukon First Nation communities who have seen real suffering. Some of the communities who have witnessed the most resource extraction are also the most impoverished. Without the right to consent, they do not see the economic benefits of these projects, but this bill would allow unsigned Yukon First Nations to consent to oil and gas projects they support or not consent. It is a step closer to ensuring that resource extraction companies are held accountable and that responsibility to care for the land before, during, and after projects is clearly defined.

As Yukon First Nations, we've inherited the responsibility to care for the land that our ancestors have passed down to us. We talk about health and well-being of people often in this House. It's also important to ensure that land and resources' well-being is a part of that conversation.

Growing up in my community on Vuntut Gwitchin land, I was always taught about how important it is to care for not only our lands, but our resources, like animals and plants. I was taught the value of all aspects of our land, down to the smallest insect. We co-exist within our environments with the animals, the water, and the land. I was taught that everything we do today and everything that we did yesterday will always have an impact on future generations.

Yukon First Nations know this and involve this teaching in their decisions. Yukon First Nations always go back to the question: What will our children inherit from the decisions that we make today? We want to see our kids have healthy lands, use natural resources off our lands, without being worried about what contamination has happened to the food and the land that they harvest from. No matter what goes on within our territories, companies will come and go. It is Yukon First Nations who will always be there, protecting the land for generations. Yukon First Nations must have a seat at the table on the decisions that affect their traditional territories.

I will conclude by stating that I am hopeful that everyone in this House will vote in favour of this bill. I am honoured to speak in support of this bill and how important it is, not just to

the affected First Nations, but to all of us who live in this territory. This bill is reconciliation in action.

**Ms. Tredger:** It is pretty hard to follow my colleague from Vuntut Gwitchin, but I will try to say a few things about this bill.

As both my colleagues and many people here have said, at the heart of this bill is that this is about reconciliation. Sometimes when I'm talking to people about the work that we do here, I say that it gets really complicated, but ultimately, I think it is our job to remember that it is also very simple. If First Nations say that they don't want that development on their traditional territory, that development can't go forward. That is very simple. I think we need to remember that when we talk about consent.

I absolutely think that we need to pass this bill, simply because it is the right thing to do when we care about reconciliation, but I also want to talk about this bill from a climate lens. We have talked a lot about climate change in the Legislature here as we have debated the *Clean Energy Act*, as we have debated the *Carbon Price Rebate Amendments Act* (2022), as we have asked questions in Question Period, and as we have had ministerial statements. It has been up a lot. I want to start by really talking about climate change in the Yukon.

I am looking at a report from the Yukon University that came out this year. I am actually reading from a CBC article, and it says that, according to this report — and I quote: "... temperatures in the territory could jump between 0.7 to 3.7 degrees in the next 50 years, enough to drastically alter ways of life." We are often talking about future generations, and absolutely, we should be holding them at the centre of our conversations, but 50 years, I hope, is within my lifetime. I think that we talk a lot about solutions to climate change — and absolutely, we need to — but I first want to take a bit of a step back and think about how we got to this situation.

How did we get to a situation where we are anticipating a drastically altered way of life in 50 years here? We have been making decisions for a long time with a very colonial world view, and it has not gone well. We have created an enormous mess for ourselves that we are now desperately trying to get ourselves out of. I think that it is worth asking: Do we think the same decision-making world view that got us into this problem will get us out of this problem? I would suggest that the answer is no.

So, while I'm sure we could have lots of arguments about whether oil and gas should be developed in the Yukon, I could argue that we shouldn't, that we need to not develop further fossil fuels to be burned and put carbon in the atmosphere, but other people might argue that it is necessary for our transition to a greener economy. There might be merits on both sides, but ultimately, it is arguing within a colonial world view that has gotten us into an enormous mess. I think we have an alternative, and that's to incorporate traditional knowledge into the ways we are making decisions here.

This is a draft report from the Yukon First Nation Climate Fellowship, so keep in mind that this is a draft, but I do want to quote — it says, "...the heart of climate change lies within our

disconnection from Spirit, Self, Each Other and Earth. This disconnection is at the foundation of the systems we live, learn and work within. This is the root cause of climate change and what we must focus on changing...”

They also go on to say, “A philosophy comes from a worldview. It’s a set of beliefs we use to navigate the world. When it comes to climate change, the philosophy we use to understand the problem determines the types of tools and solutions we imagine into being. The dominant approach to climate change is to treat the symptoms of climate change...” — example, rising carbon dioxide emissions — “... rather than the root causes.”

They go on to say, “We need re-narrate our understanding of ‘climate change’ and the meaning of ‘climate action’.” So, this is an example of changing that world view, of bringing in a world view that has been used in the Yukon very successfully for a very, very long time as we start to make these decisions.

I was thinking about this as I was listening to the Member for Vuntut Gwitchin. She talked about stories that she heard from a long time ago and how they relate to today. Sometimes, when I hear people talk about traditional knowledge, I get the impression that they think it’s about history or they think it’s about exclusively things that happen on the land, and that’s just not true. I will point, for example, to an article that was published by some Yukoners in the *Journal of Science* in 2020. For people who aren’t familiar with scientific journals, that is about as high in the academic publishing world as you can get. It was about how traditional knowledge needs to be used to come up with solutions to the pandemic. I thought it was a really perfect illustration that traditional knowledge is not about history; it’s about now. It applies to the modern world. It applies to the decisions we’re making about development projects and decisions about what cars we drive. It applies to all of that.

I don’t think there is anyone in here who would argue with the value of traditional knowledge. I certainly hope not.

So how do we make that happen? How do we make sure that the traditional knowledge of Yukon First Nations is part of the decision-making, is part of the solution that we use to move us forward? By giving them weight in the decision-making process, by giving them the chance to say yes or no to projects.

Because the way that the Yukon government goes about making these decisions is through a long — I shouldn’t say “long” — often a very long consultation process, which is very colonial by nature. And that doesn’t mean there aren’t very valuable things that come out of those processes, but they are very colonial by nature.

We need an alternative pathway. We need — when a First Nation goes through their own decision-making process, their own way of gathering information and coming to conclusions — that those decisions have weight, that they have teeth — for lack of a better word — and that they can’t just be brushed aside. Unfortunately, that’s not always what’s happening in the Yukon right now.

I want to talk a little about the Kudz Ze Kayah mine. Now, I know this is not an oil and gas development per se and that this bill would not directly apply to how that mine was

approved, but I think it is a useful case study in what the consultation process can produce when it doesn’t go well.

So, the Kudz Ze Kayah mine was approved over the strenuous and continuous objections of the Kaska First Nations. I’m going to quote a little bit from a *Yukon News* article from June 2022. The Chief of the Ross River Dena Council talked a lot in this article about how their contributions to that process were pushed to the side and ignored and diminished. So, for example, they submitted a 48-page submission to the process, which was dismissed in the final decision as a letter that reiterates concerns.

He talks about how they really tried to have traditional knowledge included in that decision-making process. He talked about the traditional knowledge: “Traditional knowledge refers to the Kudz Ze Kayah area as the breadbasket, a sacred area that you can harvest in, but not live there. It is a sensitive place — a sanctuary for animals and people that are hungry.”

And then the article talks about how this is contrasted with the decision document that keeps referring to the caribou as “FCH”, which is shorthand for “Finlayson caribou herd”.

It was really hard to see this decision come down, because sometimes there is a lack of clarity and sometimes it’s hard to know exactly what’s going on. But in this case, the Kaska nations were absolutely crystal clear that they did not want this to go ahead as is. Ultimately, even though there was consultation, those wishes, those intentions, and those desires for their home were ignored.

If they had a veto power — and if they had been able to say, “You need our consent for this to go forward; it’s not enough to say that you considered it and disagree; you need our consent” — that mine wouldn’t be underway right now or going through the next processes to be underway right now.

Now, again, I know that we’re not talking about mines today; we’re talking about oil and gas development. But I think this is an example of why consent is so important — critical — because it turned out that all of the traditional knowledge in the world didn’t matter in a colonial decision-making process. That has to be different. That has to be different because of our commitment to reconciliation. It has to be different if we are going to find a way forward out of climate change. If we want to survive — this may sound a little dramatic, but I really believe it’s true. If we’re going to survive, we need to find different ways of knowing and doing them — what we’ve been doing for a long time — because that has got us into a real mess.

So I think this bill is an important step toward that. It’s saying — bringing back the principle of consent and allowing traditional ways of knowing and First Nation world views to be considered alongside the colonial processes of consultation and decision-making. I think that is critically important.

**Mr. Hassard:** It’s a pleasure to rise today to speak at second reading on this bill that was brought forward by the Third Party.

It has been very interesting, Mr. Speaker, listening to the ministers across the way rise today and speak on this — in particular, the Minister of Energy, Mines and Resources. He obviously has a great interest in this. He has clearly spent a lot

of time researching the history of when the previous bill changed and who said what when.

I guess I would just like to make mention to the minister that I would hope that he would spend as much time dealing with issues like ensuring that there is firewood for Yukoners since he is clearly not in favour of oil and gas here in the Yukon. So, I hope that he would at least get a little more interested in that.

Anyway, Mr. Speaker, the Yukon government currently has an obligation to consult with all 14 First Nations regarding oil and gas activities in their traditional territory, including dispositions, proposed calls for bids, and permit extensions. That obligation to consult with First Nations and consider that their input exists under the land claims and self-government agreements, as well as under common law through court interpretations regarding the obligations of public government, and it is also recognized in Yukon's *Oil and Gas Act*.

Now, under the NDP proposal, the three First Nations that have not signed a final agreement would have more power under this legislation than the 11 First Nations who have signed a final agreement. So it would appear that the NDP want to give the three First Nations that have not signed final agreements a veto over oil and gas activities.

Now, under current law, the Yukon government must consult with affected First Nations and give fair consideration to their input whether that First Nation has signed a final agreement or not. That is a fair and level playing field, and we believe that this is the way it should be kept. We, as the Yukon Party, believe that environmentally responsible development of Yukon's resources has the potential to provide jobs, economic opportunities, and tax revenues that benefit all Yukoners. That includes the potential future development of our oil and gas resources, but in a responsible manner, Mr. Speaker. Beyond the direct economic impacts, we also believe that there is a case to be made that utilizing locally produced oil or gas makes a lot more sense than continuing to import 100 percent of our fuel from down south. The economic benefits are clear, but the security of supply and the independence that locally produced energy resources would create are things that are often underappreciated here in the Yukon. I remind this House that, from the relatively small development of gas wells in the Kotaneelee area of southeast Yukon, the territory and First Nations received millions of dollars in tax revenue before this activity ceased. If Yukon could find a way to use these resources here in the Yukon rather than exporting them, there could have been even more benefits.

Now, we know that the NDP do not support oil and gas development in the Yukon, and that is fine, Mr. Speaker. However, we respectfully disagree, and therefore, we will not be supporting this bill.

**Speaker:** If the member now speaks, she will close debate.

Does any other member wish to be heard?

**Ms. White:** It has been an interesting afternoon, especially following up behind my colleague, the Member for

Pelly-Nisutlin. It is interesting, the takes that we can have as we go forward. We all have a different interpretation of history.

While we were sitting in the Chamber this afternoon, I am delighted to say that I just got another letter of support from the Carcross/Tagish First Nation that says — I'm quoting and I will table a copy of it: "In the spirit of reconciliation, we support reinstating the requirement of consent of First Nations without final agreements prior to the issuance of any new oil and gas authorizations or licences within their traditional territory."

I am delighted to have another letter to table, but my ongoing commitment is — I haven't stopped working on this. I started just after the last territorial election. The letters went out as soon as we decided that we were going to give this a shot and I have been following up. It means that I have sent letters to chiefs and councils, both before and after elections, as they have changed. I got an e-mail saying that the Vuntut Gwitchin are in support, but they cannot send an official letter as the writ has been dropped in their territory. Despite my best efforts, that is occasionally where we are at.

I want to bring some of the context in. It is interesting, because there were only two of us in the opposition benches from 2012 who will remember the full context. I appreciate the Minister of Energy, Mines and Resources trying to bring that in, but those were crazy times; that is the only thing I can say. I appreciate that colleagues brought forward that my colleague, Jim Tredger, the MLA for Mayo-Tatchun at the time, did propose an amendment, but it was a Hail Mary proposal. We also voted down a proposal that my colleague, the Member for Lake Laberge, speaks about extensively, where he said that we didn't want to consult with the Vuntut Gwitchin when we were talking about northern oil and gas development. The times were wild. I am just going to say that. They were wild times.

I really want to talk about it because the minister of the day, my colleague, the Member for Lake Laberge, talked about the "extensive consultation".

I'm going to use that in quotes right now, because I went back and read over my notes, and I am going to remind everyone here that sarcasm does not translate into the written word. So, I say often about the "extensive consultation", and I was obviously being sarcastic, because the consultation period went from July 29, 2009 and concluded September 14, 2009.

Last week — I think it was last week or this week or in some week — I had the pleasure of doing a tribute to librarians. I can tell you that it's only because of librarians that I've even been able to access the information that I've gotten so far. So, with the help of librarians, I have the "what we heard" document from 2009, and it's fascinating. I can table it; I'll share it for sure; I'll copy it. But what that librarian taught me was that there's something called the Wayback Machine on the Internet. I have to tell you that the Wayback Machine on the Internet is the most fascinating thing in the world.

I can say, out of that really "extensive" — and this is sarcasm, just so if I go back and read it later on, I know — the "extensive consultation" that the Yukon Party did in 2009, I'm going to share how many and who supplied responses. The reason I'm doing this is, in 2009 — or sorry, 2012, when I was in this Chamber and I could access the website, I read a lot of

these letters into the record. I cannot find those letters anymore. The librarians are trying to help me. They were the ones who got me this document. They taught me about the Wayback Machine. I just want to read into who this “extensive consultation” — again, sarcasm, just so when you go back and read that.

Public comments coming from the Yukon Conservation Society, Ducks Unlimited, the Canadian Association of Petroleum Producers — the reason I’m going to stop and highlight that one is they actually got a letter from the Yukon government before the First Nations did. So, their letter was dated the day before. I know this because I read it in 2012. Linda Leon, the Yukon River Inter-Tribal Watershed Council, the Council of Canadians, Gill Cracknell of the Yukon Conservation Society — the Yukon Conservation Society also had a meeting. Those were the non-governments that responded to this “extensive consultation” — again, sarcasm — and it’s important, because the Premier and I read a lot of these letters. My colleagues from the NDP at the time — we read a lot of these letters in. I have to say that the Member for Lake Laberge at the time was unhappy with the amount of repetition, but if you can imagine, the only positive response in all of these things that I’m reading in right now was from the Canadian Association of Petroleum Producers, which said this was a way to get industry to move faster.

So there were comments from the First Nations — White River First Nation, the Kluane First Nation, the Council of Yukon First Nations, the Carcross/Tagish First Nation, the Ta’an Kwäch’än Council, the Teslin Tlingit Council, the Tr’ondëk Hwëch’in First Nation — oh, they submitted twice — the Champagne and Aishihik First Nations, and the Kwanlin Dün First Nation.

So, that is — within that “extensive consultation” — again, with sarcasm — also saw six people at a public meeting. So, we had that many submissions, and we had six people attend the public meeting. One of the reasons why I bring this up right now — and I appreciate my government colleagues asking me questions, and I appreciate all of those. I am going to highlight that, at this point in time, between 2011 and 2016, Jan Stick, who was a member of the NDP at the time, brought forward a bill that we actually got to debate, and it was about removing the sunset clause from the *Ombudsman Act* at the time. So, that didn’t require any kind of backup. My current colleague, the Member for Whitehorse Centre, debated in the last legislative Sitting an amendment to the *Education Act*.

Today, in Committee of the Whole, I will be doing my best without a lawyer or judicial counsel present. I am going to let everybody know that I will do my best to answer the questions as they come. Unlike the Minister of Justice, I do not have a law background to rely on, on my own, so I will do my best.

I just wanted to point out that, really, the creation of Yukon’s *Oil and Gas Act* actually goes back to the federal government and Bill C-8 — so, it is the *Canada-Yukon Oil and Gas Accord Implementation Act*. That is just to answer a point that was brought forward by my colleague, the Minister of Economic Development.

So, this document talks about how Yukon is actually going to move forward, so this is actually a piece of federal legislation that talks about how Yukon is going to develop its own oil and gas regulations or legislation, I guess. So, I just want to quote from the commentary — and I quote: “During the consultation and drafting process leading up to Bill C-8, the most prominent objections were expressed by Yukon First Nations. Concerned that the federal and Yukon governments were pursuing the transfer of administration over resources prior to the completion of land selections by various First Nations under the Yukon land claims agreement, the Yukon First Nations requested confirmation that oil and gas rights would not be issued in traditional territories where land selections had not been made. More generally, First Nations expressed their preference for completing final land claims and self-government agreements prior to the completion of the overall devolution of initiative; the federal government has taken the position that the two can proceed simultaneously.” And I believe that takes us to what section 13 is.

In closing right now, before we get into what is going to be the anxiety-causing part of the day for me, which is Committee of the Whole, I just want to thank my colleagues for their comments. I agree with some; I disagree with others. I was here 10 years ago; it was hard.

You know, it was a different time and different conversations were happening. I say that I learned how to speak in this Chamber with the sound of drums coming from outside. That was the time. That was the time. There was great public pressure against the developing of fracking in the territory. There was great pressure to protect the Peel. There were battles — I can only describe them as battles — raging. What we heard from outside was how people felt about that.

As I stated before, this bill is about more than reinstating rights that were wrongly taken away. It is more than reinstating a section that was wrongfully repealed by a government at the time that had no respect for indigenous sovereignty. Reinstating section 13(1) will open the door to conversations about what First Nation consent really means. As the member opposite, the Member for Mount Lorne-Southern Lakes, said today, today what we are really talking about is consent. This bill will open the door to implementing free, prior, and informed consent for every First Nation in the Yukon, because I truly believe that these conversations need to happen.

At the time, the repeal of this section was used to force oil and gas development on a First Nation who refused to consent. We heard it in the Member for Lake Laberge’s opening statements. We heard that. Development of oil and gas is not being forced on First Nations right now. We have heard from the Minister of Energy, Mines and Resources that oil and gas — you know, there’s a moratorium. My concern is that a moratorium only lasts as long as the government in power. I think that, by putting back section 13, we are giving three First Nations a bit more clout to make sure that, if oil and gas does move forward, they have the ability to consent.

From the Na-Cho Nyäk Dun First Nation to the Ross River Dena Council, Liard First Nation, the Vuntut Gwitchin First Nation, Tr’ondëk Hwëch’in government, and between court



cases that have happened both with our current government and the previous government, letters of opposition in 2009, letters of support today, we know that issues exist. What we are trying to do right now is right a wrong of the past.

**Speaker:** Are you prepared for the question?

**Some Hon. Members:** Division.

### Division

**Speaker:** Division has been called.

### Bells

**Speaker:** Mr. Clerk, please poll the House.

**Hon. Mr. Silver:** Agree.

**Hon. Ms. McPhee:** Agree.

**Hon. Mr. Streicker:** Agree.

**Hon. Mr. Pillai:** Agree.

**Hon. Mr. Clarke:** Agree.

**Hon. Mr. Mostyn:** Agree.

**Mr. Dixon:** Disagree.

**Mr. Kent:** Disagree.

**Ms. Clarke:** Disagree.

**Mr. Cathers:** Disagree.

**Ms. McLeod:** Disagree.

**Ms. Van Bibber:** Disagree.

**Mr. Hassard:** Disagree.

**Mr. Istchenko:** Disagree.

**Ms. White:** Agree.

**Ms. Blake:** Agree.

**Ms. Tredger:** Agree.

**Clerk:** Mr. Speaker, the results are nine yea, eight nay.

**Speaker:** The yeas have it.

I declare the motion carried.

*Motion for second reading of Bill No. 306 agreed to*

**Speaker:** Bill No. 306, entitled *Act to Amend the Oil and Gas Act (2022)*, has now received second reading, and pursuant to Standing Order 57(4), it stands ordered for consideration by Committee of the Whole.

Pursuant to Standing Order 14.2(3), the Third Party designated Bill No. 306 as an item of business today. The Leader of the Third Party is therefore entitled to decide whether the House should resolve into Committee of the Whole for the purpose of continuing consideration of Bill No. 306.

I would ask the Leader of the Third Party to indicate whether she wishes the House to resolve into Committee of the Whole.

**Ms. White:** Mr. Speaker, I would ask that the House now resolve into Committee of the Whole for the purpose of continuing consideration of Bill No. 306.

**Speaker:** Pursuant to the request of the Leader of the Third Party, I shall now leave the Chair and the House shall resolve into Committee of the Whole.

*Speaker leaves the Chair*

### COMMITTEE OF THE WHOLE

**Chair (Ms. Blake):** Order. Committee of the Whole will now come to order.

The matter now before the Committee is general debate on Bill No. 306, entitled *Act to Amend the Oil and Gas Act (2022)*.

Do members wish to take a brief recess?

**All Hon. Members:** Agreed.

**Chair:** Committee of the Whole will recess for 15 minutes.

### Recess

**Chair:** Committee of the Whole will now come to order.

### Bill No. 306: *Act to Amend the Oil and Gas Act (2022)*

**Chair:** The matter before the Committee is general debate on Bill No. 306, entitled *Act to Amend the Oil and Gas Act (2022)*.

Is there any general debate?

**Ms. White:** I thank my colleagues for getting us to this point. I do appreciate it. Just before we came into Committee of the Whole, I highlighted that one big difference from being a government member bringing forward a piece of legislation is that I don't have the drafters or folks with me, so I would just like to thank my chief of staff, Pascaline Etter, who is online in support right now, and Erik Pinkerton, who has been working on this piece of legislation with me since the beginning. Thank you to both of them.

I would also be remiss if I didn't mention that my former colleague, Liz Hanson, is also in the NDP office right now. A lot — I shouldn't say a lot; it's everything — of what I know and understand about First Nation final agreements comes from Liz, as she played a really important role during the time of negotiation. I did speak to folks who were on the oil and gas team at the time this was being done.

I just want to start by talking about the differences between what I have brought forward, the *Act to Amend the Oil and Gas Act (2022)*, and what the original was in 2012.

It has been highlighted that the legislation in 2012 is different from now. The 2012 legislation reads:

"13(1) Prior to the effective date of a Yukon First Nation's Final Agreement, the Minister shall not

"(a) issue new dispositions having locations within the traditional territory of the Yukon First Nation..."

So, that is the same, but (b) is different. In 2012, (b) said, "... subject to subsection (2), issue licences authorizing any oil and gas activity in the traditional territory of the Yukon First Nation..."

In the legislation we have right now, (b) says, "... issue licences authorizing any oil and gas activity in the traditional territory of the Yukon First Nation..."

Both of those finish up saying "... without the consent of the Yukon First Nation."

I talked a bit in my opening statement about how come we didn't include section 2 of 13 from 2012. With that, I welcome questions and will give it my best shot.

**Hon. Ms. McPhee:** I really appreciate this opportunity. It's a new role; we always get new experiences in our work — usually not in this Legislative Assembly, but certainly outside of it. I am always challenged by that. I am happy to rise to that occasion and to ask a few questions.

First of all, thank you to the people who are online to support, and thank you to the Leader of the Third Party for taking this to Committee of the Whole today.

My first question is in line with some of the comments that have just been made. I apologize if this was addressed in the opening comments, but I think it's a valuable question and something that Yukoners who are reading the differences between the proposed section 13.1 and old section 13 that was removed back in 2012.

The proposal here is that a version of the old section 13 — I'll call it the "proposed section 13.1" — is to reinsert it into the *Oil and Gas Act*. But the new section 13.1 does not make any reference to section 41 or make reference to the inclusion of subsection 2, which are in the original version of this section that was removed from the *Oil and Gas Act*. So, those two references remove exceptions made for federal dispositions, and our research indicates that there are still two federal dispositions in a small corner of Yukon Kaska traditional territory near where it crosses the border into the Northwest Territories, so in the southern part of the territory.

The two federal dispositions are known, as I mentioned earlier, as "significant discovery licences", or "SDLs". They are currently held by the Canadian Natural Resources Limited. My question is: How will the new section 13.1 affect those federal dispositions?

**Ms. White:** I do thank the minister for that.

We actually don't think that the federal government will have much to say about section 13(1) being added back in, so this doesn't change the status of the current dispositions. Now that oil and gas responsibilities are in the hands of the Yukon government, the federal government won't actually be issuing new dispositions. The minister mentioned — it's our understanding that there are currently five federal dispositions, four of significant discovery licences, and one is of exploration. Of the four significant discovery licences, three are in the Eagle Plains area, whereas one is in southern Yukon on the NWT border. So, the exploration licence isn't in northern Yukon on the coast. These have been grandfathered in and continue to exist until discontinued.

So, we're actually not removing the exception. The exception is still there in section 41. So, there actually was no mention initially in section 13 or in section 14 that referenced a consultation. So, when we look toward section 41 of the current act, it says, "Continuation of federal dispositions". So, actually, section 13 doesn't affect section 41.

**Hon. Ms. McPhee:** Thank you for that answer. So, I want to make sure that I understand that is why you have made the decision — the explanation you have just presented — to

not include section 13(1) with a reference to section 41 or section 13(2). I just want to be clear.

**Ms. White:** I am just going to ask a clarifying question. Section 13 actually doesn't ever refer to section 41, and so the existing legislation in 2012 — there is no mention of section 41 in section 13.

**Hon. Ms. McPhee:** I can move on and come back to this, but my information says that in the original — I am going to call it the "back-in-2012 version" — the first three or four words were: "Subject to section 41, before the effective date of a Yukon First Nation's Final Agreement..." I could be wrong about that. I don't have the original legislation here, so I will move on and then see if I can come back to that question.

What does your research — you did a lot of research and work to get to this stage to present the bill — show about your duty to consult regarding this Bill No. 306? A non-government duty to consult — is there such a thing and what did you find? I mean, fully understanding that you have done some work writing to the Yukon First Nations — you have tabled the letters — but I am trying to determine: What is the standard that you are trying to meet?

**Ms. White:** I think that it is a fascinating question. First of all, I will say that there is nowhere that it says that there is a duty to consult, from a party like ours, moving forward. But what I will say is that, based on what I read from the 2009 consultation, I didn't put out a press release before I contacted the First Nations. I approached the First Nation chiefs and councils. I had a conversation. I brought forward the letter.

I reached out again. I presented it to the Council of Yukon First Nations' General Assembly last summer. I have been having ongoing conversations since I started. But as it stands, there is no duty for me to consult. So, I have reached out to the best of my ability and will continue to do so, which is partially why I was so delighted when I got the letter from the Carcross/Tagish First Nation. Although it was addressed to the Premier, I was cc'd, so I was able to table that. But there is no duty to consult for me as a non-government member.

**Hon. Ms. McPhee:** I know that, as a member of this Legislative Assembly and as the mover of this bill, you will have also turned your mind to the government's duty to consult. So, my next question — I am just trying to break them down — is: What does your research or work to date show about whether or not there is a government's duty to consult?

**Ms. White:** I appreciate that question again. When I was initially moving forward with this idea about moving this amendment forward, one of the legal opinions we got is that — every letter that came from First Nations at the time said that consultation had not been included and that they were not approached in the right way by government. It wasn't government to government and there was a short amount of time.

I talked about — and I'm saying now the word "sarcasm" — the "extensive consultation" that happened because I listed off every single person who had submitted a response. So, when I initially started this, one of the thoughts was that there wasn't the consultation — the government at the time had not reached

out to do a proper consultation with First Nations prior to making these changes. So, there was that also.

Consultation wasn't done when the repeal was initially made. So, really, what I'm trying to do is right a wrong of 10 years ago. At that point in time, my colleagues and I, including the Premier, were trying to fight that from going through. Again, the scenario was that there was a majority government. There wasn't a way for us to win that vote, unfortunately. So, I am trying to bring it forward. I would hesitate to say that there was a consultation in 2009 that led to the changes in 2012.

**Hon. Ms. McPhee:** Thank you for the answer to that question. I certainly appreciate the comparison between the two. Some Members of the Legislative Assembly would think that the 2012 consultation was sufficient; many would not.

If there is a government duty to consult, does your background work on this show that any part of the government's duty to consult can be discharged by the work that your team has done in preparing to debate this bill? So, you know, it's the reaching out, the letters, the support — realizing that we have not had the opportunity — I have not had the opportunity — to read all of the letters that have been tabled. I appreciate that those will say certain things about the positions of First Nations, but the duty to consult can be more than that on the government side. I am just wondering if any of the work or your background work shows that our duty as a government can be discharged by the work done by your team to prepare.

**Ms. White:** It's an interesting point and I appreciate it coming forward. What we have right now is a motion that is actually coming to all Members of the Legislative Assembly, so it does not put the onus on the government, but in my opinion, it is on all MLAs who are present in this Assembly. To be honest, I don't feel like this, right now, is a partisan issue at this stage around the issue of consent.

I apologize, because I wish I had the letters to table from — it was a 2009 consultation that I was referencing in 2012. At the time, in 2012, I was reading it off the website. If I knew then what I know now, I would have printed it all out so that I could share what was said.

Going through my 2012 presentation, every comment — except for the one from the Canadian Association of Petroleum Producers — that I brought forward is saying how the government of the day should not be repealing section 13.

The reason why I highlight that is because it wasn't like First Nations at the time were in support of the changes that were being made to the *Oil and Gas Act*. Although some did say — and it was very focused on the “what we heard” document that I have shared with the Minister of Energy, Mines and Resources — we can selectively, of course, select quotes — but where it does say that some nations were in support of clarifying language, but they all said that they were against repealing section 13. So, the letters — and I appreciate that the minister hasn't had a chance to read them yet and that's okay, but they are in support of reinstating section 13. So, again, I don't believe that this is a partisan issue or discussion around consent. Again, I'm trying to right something that happened 10 years ago.

I guess the other point I would say is that, at that point in time, the one Liberal member in the Assembly also is on record of saying that repealing section 13 is wrong, that it shouldn't happen.

I can just add one point. I can actually quote from the Premier at the time. He says — and it's from that time — that the government is looking for support on this and that we were prepared to give it if section 13 was left alone. That's to the amendments of the *Oil and Gas Act*.

**Hon. Ms. McPhee:** I just have two more questions. One is specific to the White River First Nation. I appreciate that it's not in the work so far, but the White River First Nation asserts traditional territory beyond that which is defined as their traditional territory in the *Umbrella Final Agreement*. I'm wondering if any work — or if you have turned your mind to what the impact of the position of the White River First Nation would have on the consultation regarding their traditional territory — so that sort of assertion — and whether that has been taken into account, specifically with respect to them.

**Ms. White:** I appreciate that question from the minister because it is a challenging one. There has been a lot of mention right now of the maps recognized under the UFA. Of course, we know that the White River First Nation has not accepted — well, they are not part of the UFA. I think it's really important to note that, when we speak about the oil and gas legislation, there are no known oil and gas reserves in White River territory, no matter where their maps extend.

The real issue lies with the Kaska in south Yukon. Kaska territory very much shares the Yukon-British Columbia border with the Liard Basin on the other side. So, this very much affects the Kaska.

I guess that I will just lean back into — I know that these conversations won't be easy, but I know that we have to have them. The previous ministers mentioned transboundary nations and there was mention of the northern chiefs and there were other mentions. Those are all important questions and they are all conversations that we will have to happen, but this, very specifically, is about oil and gas — the *Oil and Gas Act* — and for the three unsigned nations, it very much affects the Kaska.

**Hon. Ms. McPhee:** That actually leads right into my last question, I think, which is an opportunity to just hear again about the implications. I would like to say that I would like to ask the question about the Wayback Machine on the Internet, but I won't. I would love to do that, but I will do that in another venue.

My last question for the member opposite is: What are the legal implications of the proposed section 13.1 becoming law? What is the effect? What will it mean to Yukon First Nations? You may have spoken a little bit about this before, but I think that it is really important, in relation to this specific question, for Yukoners to have this information and frankly for Hansard to record this information — but the legal implications of what is proposed in your bill and what the effect would be.

**Ms. White:** I thank the minister for that question. We are in a really unique situation in this case, which is that I am not proposing new legislation. This is not new legislation. This was law 10 years ago. It was still actually law 10 years ago because

we are shy of the end of that Fall Sitting in 2012. So, because it is not new legislation, the law existed. It worked with the federal government; it worked within the boundaries of the Yukon. What I am asking right now is that it go back. So, how will it affect things? It will give unsigned First Nations the ability to not consent to oil and gas dispositions and licences in development on their traditional territory. Who does that really affect? Well, to be honest, it really affects the Kaska — so, the Liard First Nation and the Ross River Dena Council. But this was law until 10 years ago, and it worked in the Yukon context, it worked with the federal government context, and I am just trying to put it back.

**Hon. Ms. McPhee:** I will just return to my reference. From our quick research, it looks like the reference to section 41 might have been in an earlier version, although the information that I have is that it was in the 2012 version that was repealed. Either way, nothing hinges on it because the explanation has been given about the federal licences and the now full-on devolution of these responsibilities to the Yukon government and the effect that will have. I just wanted to return to that because I said I would.

Thank you very much for the opportunity to ask questions.

**Ms. White:** I thank the minister. I often get teased a bit in my office about being a keeper of paper, but the good news about being a keeper of paper is that I have part of the original 2012 oil and gas legislation that we were debating. It's funny because, at the time, it even had my sticky note on it and it had all my other papers, which is how we got to where we are today. I kept all of the paper from the debate in 2012.

I thank the minister for that clarification, and if she would ever like to see my copy of what was in 2012, I am happy to print it out.

**Hon. Mr. Streicker:** I do have several questions, as I indicated during second reading. I would like to start just by — the Member for Takhini-Kopper King, when she was giving her opening remarks at Committee of the Whole, talked a little bit about the consultation, or the lack of consultation, in 2009 and 2012. I wouldn't mind just giving her an opportunity, if she wished to expand at all, to talk about what those differences are, I guess, from her recollection of the time and what she feels would be an appropriate level of consultation.

**Ms. White:** I thank the minister for that question. I think it goes back to a question that the Minister of Justice asked, which is: What is my duty to consult? I want to be very clear that there is no legislated definition of "consultation" for me in this case. I believe that we are here debating a motion. We are Members of the Legislative Assembly, so we are having that conversation.

The reason I highlighted the consultation — so, in 2012, the minister at the time described it as "extensive consultation", so I already gave out the parameters. It was from — let me just confirm to make sure that I don't misquote myself. It was that the period for public consultation on the proposed amendments to the *Oil and Gas Act* began on July 29, 2009 and concluded on September 14.

I'm quoting myself, but I want to be sure that we know that I was sarcastic at the time, because when I read it, I was like,

"Kate, that is not extensive consultation." It was not extensive consultation. So, because I had access to the website at the time — the consultation saw 18 submissions, and I read off who gave the 18 submissions, and six people attended the public meetings. So, if we think about that — if we go back — so, this was a consultation in 2009 on amendments to the *Oil and Gas Act*. It had 18 people put in submissions. It had six people attend meetings. I'm going to guess that, to a certain extent, there was crossover. In 2012, I read what those First Nation submissions were, and they were all against this. They all said that there needed to be consultation from a government-to-government perspective.

One of the pieces of advice that I had been given was that there wasn't really consultation in 2009. The decisions were made; they weren't grounded in consultation, so that makes the conversation harder.

The first thing I would say as a premise is that there was inadequate consultation done at the time — so, in 2009. In 2012, there was additional consultation done when this was brought forward. People were surprised. The Premier actually said — let me just try to find out where that is. So, the Premier said in 2012: "The government shelved the changes and not much was heard on the topic in the interim. This spring, when there were public meetings about possible oil and gas development in the Whitehorse Trough, the question was raised again whether there would be changes to the act. People were told that no changes to the legislation would happen without public consultation.

"That did not happen; the government did have limited discussions with the First Nations and was told the answer remained the same as when they asked the question in 2009, and that was 'no'."

**Hon. Mr. Streicker:** Earlier, the Leader of the Third Party described that era, that the times were wild — I think that is what she talked about. She talked about hearing drumming outside of the Assembly. Since then, we've gone to the Supreme Court; the Peel land use plan has now been settled in favour of what I think more Yukon citizens wanted. In fact, I also read in Hansard from December 10, 2012 that the Member for Lake Laberge was chastising the Member for Takhini-Kopper King, saying that there was no broad public opinion about the Peel and wanting to protect it. Fracking now has been banned. I appreciate that the member opposite has said that future governments can change that, of course. That is always true — that future governments have the authority to come to this Assembly.

What I guess I am wanting to ask about is: In thinking about this legislation, the context does seem different. I hear completely that this is reverting the legislation back, but it does feel like we are in a different context at the moment. Having said that, I guess I would like to ask the member what she believes the outcomes should be of the legislation. Feel free to go where she wishes, but there is the specific that is here in front of us, but there is also what the intention is.

**Ms. White:** I appreciate those questions. I think I am going to say that a lot today.

For the first part, the minister has used the words “ban of oil and gas development”, but really, the territory understands a moratorium, which is actually just a pause, right? It is not legislated. It is not in law that oil and gas is not going forward. It was a moratorium. Those are the words that his government has used.

I think what I will do is come back and say that, when we have had conversations in this Assembly, for example, about banning conversion therapy, we recognized how important it was to include it in law, because although we may not know if it was happening, the fact that it could happen was problematic. And so, the context is different for sure.

The minister is part of a government that doesn’t have hundreds of people outside on the first and final day of the Legislative Assembly. I haven’t had to speak over drums under this government. By that, I mean people were outside, and there were such great numbers that you could hear them in the Chamber.

So, the context has changed, but the reality is that putting something in legislation is making it law. Right? It’s elevating it; it’s saying that it’s serious. Again, I’m not rewriting. I’m sorry; I guess I did rewrite, because I took out reference to subsection 2. So, I did take out that one part, but this existed 10 years ago. It existed, because when the memorandum of agreement was signed in 1997, there was a commitment made then that said that First Nations without final agreements would have the ability to consent as to whether or not development — like oil and gas development — happened. That was in — that’s section 5 of the memorandum of understanding, which I’m happy to read again, but I think I’ve read it a couple of times, so I’m not going to.

I guess my point is that I think consent should be legislated; it should be part of law, and that’s what I’m trying to do. I guess part of the concern I have is that, if the minister doesn’t feel like consent should be part of the law when we talk about oil and gas development for First Nations without final agreements, that would be the difference. I’m saying that it should be included; it should be part of law, because in the absence of it being law, it can happen. Right? That is the same — similar to conversion therapy. We all recognized that although it may not be happening, it was important to say that it couldn’t happen in law. So, what I’m asking is that First Nations without signed final agreements have the ability to consent to what happens when we talk about oil and gas in their territories.

**Hon. Mr. Streicker:** I thank the member opposite for her response. When I first got up, I think I should have acknowledged — thank you to the support people who are with the Leader of the Third Party.

I was trying to get — I understand clearly that this is about putting this consent back into law. It is specifically about the memorandum of understanding — of agreement, pardon me — that was developed previously. It is about oil and gas, but the member also talked about opening the door and about other things. So, I am just — from her perspective — what are other things, other ways in which the principle could be used? I just want to hear her perspective on — yes, I understand explicitly that it is in this piece of legislation, but what else?

**Ms. White:** I am actually going to lean right now into the *United Nations Declaration on the Rights of Indigenous Peoples*, and I am going to go backward in time. I am going to go back to the 2021 territorial election campaign, during the First Nation debate that was held at the Kwanlin Dün Cultural Centre, which I was part of. I talked about UNDRIP — the *United Nations Declaration on the Rights of Indigenous Peoples* — there, and I have to tell you that I did get some pushback from chiefs, to be honest. The reason I bring that up is because one of the letters of support that I got, that I am hoping I did not clean up in my effort to make my desk easier to find things — possibly, I did. In the letter of support that we received from the Kwanlin Dün First Nation, the Chief of the Kwanlin Dün First Nation recognizes the importance of the principles behind UNDRIP, and that is free, prior, and informed consent.

So, a conversation that I was trying to have in the territory in the spring of 2021 was really hard, because I was really kind of having it with myself. The challenge of that, of course, was telling First Nations with signed final agreements that this actually doesn’t take away from the laws that you have, from the powers and the abilities that you have; it actually bolsters it. So, when Canada accepted the principles of UNDRIP on June 21, 2021, that sets the tone.

So, again, I believe in free, prior, and informed consent. I am happy to have that conversation any which way to Sunday, but right now what we are talking about is reinstating section 13 of the *Oil and Gas Act*, which does actually talk about consent of First Nations without signed final agreements.

**Hon. Mr. Streicker:** Thank you, Madam Chair. So, what I’m hearing is that the consent here is explicit in what we are talking about, but there is an interest in the broader principle of consent, and for the member opposite, it is based — for her — in the *United Nations Declaration on the Rights of Indigenous Peoples*.

Can I just ask about a few other points around this? First of all, if we are talking about the specific issue of oil and gas being about new dispositions and about it being First Nations without final agreements, in the press release that the member had issued about the bill, they talked about the northern chiefs and the permit extensions that were given. I am just wondering about their perspective. I feel like they were suggesting that if this piece of legislation were to pass this House, or if the amendments to the bill were to pass this House, somehow those permits would have been dealt with differently. Could I just ask for her thoughts on that, please?

**Ms. White:** I thank the minister for that. The reference I made to the press release from the northern First Nations was an indication that those First Nations hadn’t given consent for those exploration permits to be extended. Do I think anything would change with this legislation for those northern First Nations who have signed final agreements? I do not.

Do I think that the Liard First Nation and the Kaska Dena Council should be able to withhold consent for oil and gas development on their territories? Absolutely, I do. If this were reversed, do they have the ability right now to withhold consent on that? They don’t, and they do not have a legal — when we

removed — I didn't remove it — when section 13 of the *Oil and Gas Act* was removed, it removed something that they could really lean into to withhold that consent.

I did quote the minister at the time, and I am just going to go back to it one more time, because I think it's really relevant. One of the things that he had said at the time was that — pardon me — is that the government of the day really wanted oil and gas development to happen in the Liard Basin. They said that there were still strong industry interests in the Liard Basin. The Liard Basin directly affects the Kaska and they were saying no. The government at the time talked about how much money they had spent working through it and how much money they had spent on the Kaska. That was thrown around lots at the time, but money does not buy consent. They were not giving consent, so I'm trying to put consent back into law, which is where I think it belongs in the *Oil and Gas Act* for the nations without a signed final agreement.

**Hon. Mr. Streicker:** I appreciate that. I guess I'm trying to invite the member opposite to let me know, when she says phrases like “this opens the door” and “gets us to the broader conversation”, where it would go. I heard her colleague, the Member for Whitehorse Centre, discuss other examples, but if the member wishes, I would like to get a sense of where consent would go and what that would mean. How will this open the door, from her perspective?

**Ms. White:** There are two points to this. I would say that this closes the door on consent that was removed in 2012. That is the first thing. I really believe that, when Canada accepted the *United Nations Declaration on the Rights of Indigenous Peoples* that said “free, prior and informed consent”, in Yukon, that is a conversation that, if we are not having it now, we will be having.

Again, I mentioned that I got a bit of pushback in 2021 when I was talking about UNDRIP during a debate actually on First Nation issues. One of the letters that I referenced today actually says that, under the principles of UNDRIP, “free, prior and informed consent” is where we have to go. The truth of the matter is that I have been in this House for 11 years, and I have heard all sorts of speaking notes and all sorts of things happen during debates on specific legislation, but the ultimate truth is that what is happening right now is section 13(1) and that going back in.

Do I think that the Yukon will have bigger, broader conversations about consent? I do. Do I think that the nations are interested in having those conversations? I do.

So, I guess the question that comes is: How does the minister and his government feel about consent and about First Nation consent? That is probably something that we are going to talk about at some point in the Sitting — maybe not today. I think it really comes back to that. Where does the minister and his government stand on the issue of consent?

**Hon. Mr. Streicker:** I know which way the questions are going. I will answer a little bit. I think I made remarks during my second reading. I support the principle of consent, but I also think that, in order to get consent, you have to work with the First Nations to have that consent. I know that the conversation, for example, has been happening through the

Yukon Forum. But I would even bring it back to this bill before us — I have heard the member say that this is not new legislation, but, of course, it still is somehow. The times have changed. There are differences. I heard her mention, for example, that when there's an election within a First Nation, she reaches back out again to try to get the perspective because, as governments change, so too could perspectives. That may be true, and it's challenging. But I also think that, from a government perspective, we want that engagement, consultation, and consent from First Nations. Shouldn't we need to try to get the consent from First Nations in order to then pass a law that affects them? That seems like a principle that's underlying it. I'm trying to wrestle to ground — I appreciate also that this was taken away what seemed to be inappropriately. The process looked wrong to me as I read back through it. But I should not use the process of my predecessors.

Let me just go a little bit further with this. Let me ask: Where does the member opposite believe consent should extend to? Her colleague mentioned, for example, Kudz Ze Kayah mine. Let me just start with the mining piece and ask the question: Does the member feel that consent should be there with mining projects?

**Ms. White:** First of all, what I'm going to say again is that we're debating section 13.1 of the *Oil and Gas Act*. But I will tell you what I think consent looks like. My assumption would be that the governing body would respect the First Nation laws and practices when seeking consent. This is also a question that First Nations should weigh in on, as it is about First Nation self-determination.

Two things — section 13 used to exist, which means that these questions existed at the time. This is a question that also needs to be addressed as a concrete step toward implementing UNDRIP, but I think it's useful to reflect on the following perspectives regarding consent by the Indigenous Foundation.

“Free, informed and prior consent can be broken down into three pieces to be better understood. Free consent means that consent is given in the absence of coercion, manipulation or intimidation. Prior consent means that consent is sought and received sufficiently in advance of any actions being taken. Informed consent means that relevant information about the decision must be provided in an accessible, accurate and transparent way.”

That is a definition of “free, prior and informed consent” from the Indigenous Foundation. This is what we will be leaning into, but do I think First Nations without a signed final agreement should have the ability to either give or withhold consent from oil and gas development happening on their territories? That's what section 13.1 is. I believe that a First Nation should be able to withhold consent in that situation.

**Hon. Mr. Streicker:** I respect that the member is talking about the specifics. I won't push too much further. It was her colleague who did mention mining, so I was curious.

Can I ask about things that are sort of closely related to oil and gas? For example, geothermal — to me, geothermal is a renewable energy source which uses some of the same techniques, drills, et cetera, working underground as oil and gas does. It's a renewable energy versus a fossil fuel, but I am just

wondering whether, from her perspective, something like geothermal would end up being in that. How would she see it if there were proposals for geothermal under this new section being replaced in the *Oil and Gas Act*?

**Ms. White:** First of all, it's not a new section. It's just reinserting an old section.

Again, I think it's about seeking consent. If the minister was going to go to the Kaska and say, "We're going to use hydraulic fracturing to access geothermal reserves underneath your territory", I imagine that consent would be withheld, as hydraulic fracturing is one of the big reasons why there was so much pushback in 2012 when we talked about development of the Whitehorse Trough.

But, as we are talking about the *Oil and Gas Act* — I'm just going to steer us back there. I am probably over my time. It's 5:12 p.m., so I'm just going to steer us back to section 13.1, which is what I'm trying to have the conversation about.

**Hon. Mr. Streicker:** Again, I definitely don't want to put words in the member opposite's mouth, but I am trying to understand what her sense of the scope of this is or would be. We don't have geothermal legislation as of yet, so I think it's relevant at least. I wasn't even thinking of fracking because I still believe it is banned here in the territory. I'm not trying to mince words, but if it were conventional drilling for geothermal, would — say, for the Liard First Nation and if it were happening in their traditional territory — this reinstatement of the text into the *Oil and Gas Act* — from the member's perspective, does she think it would mean that the consent would be required in the example that I'm giving of the Liard First Nation?

**Ms. White:** I wonder if this is the minister signalling that geothermal legislation is going to come to this House, in which case, I would imagine that not only would he consult with the 11 First Nations with signed final agreements, but he would also consult with the First Nations without signed final agreements, including the Liard First Nation. My thought is that they would possibly — well, actually, I can't dictate what the Liard First Nation, or nations without signed final agreements, would say. But do I believe that section 13(1) of the *Oil and Gas Act* should be put back in? I do. I believe that First Nations without signed final agreements should be able to either offer or withhold consent to oil and gas development within their territories.

**Hon. Mr. Streicker:** I will just go one step further, and I appreciate that the member opposite is — I am trying to keep it about the bill we have in front of us.

We are looking to bring in geothermal legislation. We have been out engaging on it. It is happening — I am not sure whether — I think that I have said that previously, but that is happening. In the interim, the only act that we have that talks about drilling, really, is the *Oil and Gas Act*, so that is the one kind of that we — that I look at. But the reason I am mentioning it is because we could have geothermal in White River, right? That is one of those places where you could go for geothermal energy, and now I get into this other question about: Because the bill that is before us talks about the unsigned First Nations,

then I am thinking it would apply there, and I just want to check to make sure that is also the member opposite's thinking.

**Ms. White:** I would suggest that First Nations with signed final agreements have a whole slew of tools at their disposal when it comes to negotiating with government. First Nations without signed final agreements don't have the full spectrum of those tools. One of the reasons why the consent clause is so important in the *Oil and Gas Act* is because First Nations without signed final agreements do not have the same ability to push back in the same way as those with signed final agreements.

So, I can't — I am not a drafter; I am not from the Department of Justice; I am not from the department and I cannot speculate, as the minister moves forward with development of geothermal legislation, what nations without signed final agreements will say, but I would expect that conversations will be held with them to seek their consent on a go-forward basis — right? — making sure that it hits those points that the indigenous law foundation did about how you reach that consent.

**Hon. Mr. Streicker:** Let me move off and let me talk about the government-to-government side of this, where — the member previously was talking about, you know, this is the Legislature and there are differences here, but I think that there is still also this notion that we, as a government, have a responsibility to consult, especially when it comes to resource legislation. For example, we are working right now on successor mining legislation for both the placer and quartz acts.

When I talk with First Nations about that legislation, they tell me about the importance of the tables that we have created and that there be enough involvement and enough time to deal with some of the complex issues. That is great, but with this legislation, we have not yet had the opportunity to talk to First Nations about it. I really appreciated all of the work that the member opposite did. I saw the letter tabled about the outreach to First Nations. We have seen now seven, I think, letters come in. I have read them and appreciate all of them, but I'm just wondering about what the member feels about the responsibility of government to consult on this. Appreciating that this is putting back in something that was there, I am just hoping to get her perspective.

**Ms. White:** I'm just going to lean back into what I said before, which is that, of the 2009 consultation, there was lots of pushback from the First Nations at the time saying that there wasn't consultation. In all fairness, the government has been government since 2016 and has not chosen to put this one amendment back into legislation. I'm using the tools that I have available to me to try to do it. I am not government; I do not fall under the same duties to consult. Today, I tabled another additional letter, so we have one additional nation who has since sent a letter.

Again, the minister's government has had since 2016 to put it back in, but they haven't. So, that is why we are here. I am trying to do that.

**Hon. Mr. Streicker:** Absolutely appreciate that response. I will also say that we work with First Nations directly to ask them priorities. I had not heard this one come up,

but I do believe that there is lots of conversation around consent, consultation, certainly always around engagement. I also appreciate that the member has made a lot of effort to talk with First Nations. I want to acknowledge that here. I think that it is impressive, actually.

I have not noted or have not heard whether there have also been any letters from the member opposite to industry, for example, or checking with the public service. I just ask whether any of that engagement had taken place or not.

**Ms. White:** I never reached out to industry to ask about First Nation consent, because what I was seeking was support to reinstate First Nation consent in section 13.1. Do I think the association or the Canadian Association of Petroleum Producers would support it? They didn't support it in 2009. They were the ones that spoke in favour of removing section 13. So, I did not reach out to industry partners; I reached out to First Nation governments.

**Hon. Mr. Streicker:** I appreciate the point about the Canadian Association of Petroleum Producers. I appreciate that, although again, from a government perspective, usually our position tends to be that we engage, and it's not about seeking support; it's about finding views — fair enough. Was there any opportunity or, as part of this work, did the member have an opportunity to talk with Yukoners?

**Ms. White:** I reached out directly to First Nation chiefs and their councils.

**Hon. Mr. Streicker:** I do still have — I won't say quite a few questions, but a bunch of questions. I will try to pose one more. I'll let the member be the last person to stand during this Committee of the Whole so that she then also is the first person to be able to rise, hopefully, when this comes back.

I will even let the member opposite know what the remaining questions are in the intervening time so that there's an opportunity for her to consider them ahead of time. But broadly, I guess I am interested, as I've been talking about this notion for us, as a government, to consult with First Nations, what I'll ask is: Over the last day, we've seen two more letters come in, and just whether she is continuing to do work to gain further letters from First Nations. I am sure she is, but is she willing to submit those for all of us here in the Legislative Assembly?

**Ms. White:** I thank the minister for that. I haven't stopped since I sent out my first letter. I have regular e-mails, phone calls, and leave messages and respond, so I am actively seeking other letters of support.

I just want to go back to one point that the minister said when he asked if I had talked to industry partners. I am just going to quote from a submission made. There was one submission that was made in support of the changes to the 2009 oil and gas — and there was one letter of support that came in, and it was from the Canadian Association of Petroleum Producers. I am just going to quote from their August 3 letter where it says, "These actions ultimately reduce regulatory risk and improve Yukon's competitiveness..."

The reason why I wanted to put that in is because, at the time, again, the Yukon Party majority government was trying to develop the Liard Basin. When they did not get consent from

the Liard First Nation, they brought this forward. I think it is important to note that this wasn't just done offhandedly. There was a debate, and there was a quote from a minister at the time, who said — I'm just trying to find that quote. There was a quote from the minister at the time that said, essentially, that if consent couldn't be guaranteed, then what they were going to do was remove that section. That was long before the 2012 debate happened.

So, when I'm standing here now in 2022 in a place further from the left, where I was up on the top bench in 2012, what I am trying to do is put something back that was taken out. This is not new legislation. How this works with our existing legislation and federal legislation isn't new. I think, if anything, the conversation around First Nation consent is stronger than it was. Words like "reconciliation" are being used in a way in which they were not used in 2012. We weren't talking about the *United Nations Declaration on the Rights of Indigenous Peoples* in 2012 because, at that point in time, that was not the conversation.

I appreciate the questions, Madam Chair, and seeing the time, I move that you report progress.

**Chair:** It has been moved by the Member for Takhini-Kopper King that the Chair report progress.

*Motion agreed to*

**Hon. Mr. Streicker:** I move that the Speaker do now resume the Chair.

**Chair:** It has been moved by the Member for Mount Lorne-Southern Lakes that the Speaker do now resume the Chair.

*Motion agreed to*

*Speaker resumes the Chair*

**Speaker:** I will now call the House to order.

May the House have a report from the Chair of Committee of the Whole?

### Chair's report

**Ms. Blake:** Mr. Speaker, Committee of the Whole has considered Bill No. 306, entitled *Act to Amend the Oil and Gas Act (2022)*, and directed me to report progress.

**Speaker:** You have heard the report from the Chair of Committee of the Whole. Are you agreed?

**Some Hon. Members:** Agreed.

**Speaker:** I declare the report carried.

**Hon. Mr. Streicker:** I move that the House do now adjourn.

**Speaker:** It has been moved by the Government House Leader that the House do now adjourn.

*Motion agreed to*

**Speaker:** This House now stands adjourned until 1:00 p.m. tomorrow.

*The House adjourned at 5:28 p.m.*



**The following sessional paper was filed October 26, 2022:**

35-1-66

*Yukon Hospitals Year in Review 2021-22 and Yukon Hospital Corporation Consolidated Financial Statements March 31, 2022* (McPhee)

**The following documents were filed October 26, 2022:**

35-1-86

Staff Recruitment & Cutbacks at Gadzoosdaa Student Residence, letter re (dated October 24, 2022) from Eric Morris, Naa Shaáde Háni, Teslin Tlingit Council to Hon. Sandy Silver, Premier, Hon. Tracy-Anne McPhee, Deputy Premier, and Hon. Jeanie McLean, Minister of Education (Hassard)

35-1-87

McConnell Lake Flood Support, letter re (dated August 25, 2022) from Hon. Richard Mostyn, Minister of Community Services to Scott Kent, Member for Copperbelt South (Kent)

35-1-88

Proposed amendment to the *Oil and Gas Act*, letter re (dated October 25, 2022) from Dylan Loblaw, Chief, Ross River Dena Council to Kate White, Leader of the Third Party (White)

35-1-89

Bill No. 305, Truth and Reconciliation statutory Holiday, letter re (dated October 25, 2022) from Eric Morris, Naa Shaáde Háni, Teslin Tlingit Council to Annie Blake, Member for Vuntut Gwitchin (Blake)

35-1-90

Bill No. 305, Truth and Reconciliation Statutory Holiday, letter re (dated October 18, 2022) from Verna Nukon, Deputy Chief, Ross River Dena Council to Annie Blake, Member for Vuntut Gwitchin (Blake)

35-1-91

*Oil and Gas Act* Amendment, letter re (dated October 25, 2022) from Maria Benoit, Kaa Shaa du Hen, Carcross/Tagish First Nation to Hon. Sandy Silver, Premier (White)