



JAN 13 2017

Ms. Sharon Ehaloak
Executive Director
Nunavut Planning Commission
P.O. BOX 1797
IQALUIT NU X0A 0H0

Dear Ms. Ehaloak:

Review of the 2016 Draft Nunavut Land Use Plan

The Government of Northwest Territories (GNWT) is pleased to provide the Nunavut Planning Commission (NPC) with the GNWT's comments and recommendations for the 2016 Draft Nunavut Land Use Plan (DNLUP). The GNWT has reviewed the 2016 DNLUP using the following criteria:

- Transboundary implications
- Consideration of jurisdictional authority
- NPC's Broad Planning Policies, Objectives and Goals, GNWT policy, and GNWT strategic initiatives
- The Mandate Commitments of the 18th Legislative Assembly
- Factual and contextual accuracy, clarity, readability, and ease of implementation for land users and regulators.

The NPC has requested impacted parties to provide comments on the 2016 DNLUP. Through our review, the GNWT identified potential issues and areas of interest that have, or may have, transboundary impacts in the Northwest Territories. The GNWT focused comments on what it interpreted to be within the scope of the planning review process. These issues are described in greater detail in the format provided by the NPC.

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The GNWT commends the NPC for their efforts in working towards a final Nunavut Land Use Plan and appreciates their consideration of transboundary issues. If you have any questions, or wish to set up a meeting to discuss these comments, please contact Darha Phillpot, Manager, Land Use Planning at Darha.Phillpot@gov.nt.ca or (867) 767-9183 ext. 24077

Sincerely,



Terry Hall
Director
Land Use and Sustainability

- c. Mr. Michel Chenier, Director, Renewable Resources and Environment
Indigenous and Northern Affairs Canada

Mr. Scott Paszkiewicz, Executive Director, Sahtu Land Use Planning Board

Ms. Kristi Lowe, Director A/Deputy Chief Environmental Protection Officer
Government of Nunavut, Department of Environment

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Government of the Northwest Territories Submission for the Public Hearing on the 2016 Draft Nunavut Land Use Plan

January 13, 2017

1. Background and Objectives

The GNWT's participation in the Nunavut Planning Commission's planning process to date has come from the Department of Environment and Natural Resources (ENR), providing input and expertise on barren-ground caribou herds with transboundary habitat ranges. The GNWT, represented by ENR, participated at the 2014 DNLUP Technical Hearing (June, 2015 in Iqaluit) as well as the 2014 Draft Nunavut Land Use Plan (DNLUP) Caribou Technical Meeting (March, 2016 in Iqaluit).

Many of the barren-ground caribou herds in Nunavut are shared with the Northwest Territories. Management of these herds should also be shared. The GNWT has a strong interest in the health and integrity of barren-ground caribou herds that migrate between Nunavut and the Northwest Territories given their significance to food security, as well as their cultural, environmental, and economic importance to communities of the Northwest Territories. The GNWT is committed to working with Nunavut planning partners to ensure that effective habitat protection and management measures are meaningfully considered.

The GNWT carried out an interdepartmental review of the 2016 DNLUP. As such, the comments and recommendations in this submission are from a GNWT-wide perspective and include all issues that have, or may have, transboundary effects on the interests of the GNWT.

2. General Comments and Recommendations

The GNWT supports the existing land use designation of core caribou calving grounds in the 2016 DNLUP and recommends all core caribou calving grounds remain designated as Protected Areas. Limiting new development and land disturbances within core calving areas is critical for protecting key barren-ground caribou habitat and supporting the resilience and sustainability of shared caribou herds in to the future.

The GNWT is aware that supporting economic development opportunities and accommodating existing rights will be a necessary component of the Nunavut Land Use Plan. Where potential economic development opportunities, such as areas of high mineral potential or existing rights overlap with caribou post-calving areas, key access corridors, or freshwater crossings, the GNWT would support a change of land use designation to Special Management Area with herd-specific seasonal restrictions, disturbance thresholds and possibly mobile protection measures. Under specific conditions and with robust caribou mitigation and monitoring plans developed by project proponents, negative impacts of development on shared barren-ground caribou herds in these important areas can be reduced.

The GNWT has been working collaboratively with Nunavut stakeholders and other impacted parties since 2014 on the Bathurst Caribou Range Plan, which will identify key habitat areas of the Bathurst herd and provide recommendations on appropriate management and mitigation actions. The GNWT is committed to its lead role in this work and is prepared to participate in any additional collaborative barren-ground caribou management initiatives with Nunavut stakeholders.

The GNWT also recognizes the potential transboundary economic benefits associated with Proposed Linear Infrastructure Corridors in the 2016 DNLUP. Specifically, the proposed Grays Bay Road and Port project that would connect to the existing Tibbitt to Contwoyto Winter Road and the Slave Geological Province in the Northwest Territories. The GNWT is currently considering options to build an all-weather road through the Slave Geological Province and is working in conjunction with the Government of Nunavut on routing options to eventually connect the all-weather road to the proposed Grays Bay Road and Port project at the territorial border. The GNWT supports these strategic infrastructure developments and will continue to engage with Nunavut partners throughout initial planning and the regulatory process on options to maintain the integrity of the Bathurst core calving area and reduce its impacts on the Bathurst caribou herd.

3. Specific Comments and Recommendations

3.1 Core Caribou Calving Areas

3.1.1 Reference in DNLUP:
Page 27, section 2.2.1.1

3.1.2 Comment:
Core caribou calving grounds are designated Protected Areas in the 2016 Draft Nunavut Land Use Plan, stating that these areas are of critical importance for maintaining healthy caribou populations and that they are the place where caribou are most vulnerable to disturbance.

3.1.3 Recommendation:
The GNWT supports the protection of barren-ground caribou calving grounds and recommends that the Protected Area land use designation for all core caribou calving grounds in the 2016 DNLUP, including in areas of high mineral potential, remain.

3.1.4 Rationale:
Given the role that core calving areas play in supporting barren-ground caribou reproduction, protection of these key habitats is crucial for ensuring the future sustainability of barren-ground caribou. With further study and engagement, mobile protection measures may have a legitimate role in protecting caribou from the negative impacts of development in other seasonal ranges. However, the GNWT does not support relying on the application of mobile protection measures within or around the core calving areas of any barren-ground herd. The risk associated with compromising core calving habitats is too high, therefore restricting land disturbances and new development in calving areas is a necessary precautionary approach.

3.2 Key Access Corridors, Post-Calving Areas, and Freshwater Crossings

3.2.1 Reference in DNLUP:

Page 27, sections 2.2.1.2, 2.2.1.3, and 2.2.1.4

3.2.2 Comment:

Key access corridors, post-calving areas, and freshwater crossings are currently designated Protected Areas in the 2016 Draft Nunavut Land Use Plan.

3.2.3 Recommendation:

The GNWT would support a change of land use designation to Special Management Area for post-calving areas, key access corridors, and freshwater crossings that would include:

- Herd-specific, seasonal restrictions on activities within these areas
- Conditions for developers to provide detailed plans for how impacts to post-calving and migrating caribou habitats will be monitored and mitigated
- Interim habitat disturbance thresholds in post-calving areas and/or recommendations to initiate processes to develop disturbance thresholds for all seasonal ranges for inclusion in future versions of the NLUP.
- Recommendations provided by the NPC to regulators and other authorities to initiate a process for researching and developing mobile protection measures and other standard mitigations.

3.2.4 Rationale:

The GNWT recognizes that supporting economic development opportunities will be a necessary component of the Nunavut Land Use Plan. Allowing limited levels of development within key access corridors, post-calving areas, and freshwater crossing designated areas with the above recommendations can allow the negative impacts of development on barren-ground caribou in these important areas to be reduced. The GNWT is committed to its ongoing lead role in the work of the Bathurst Caribou Range Plan and is prepared to participate in any additional collaborative barren-ground caribou management initiatives with Nunavut stakeholders and other impacted parties.

3.3 Conditions Within Seasonal Caribou Ranges

3.3.1 Reference in DNLUP:

Page 22, section 1.7.5.3 and Schedule B

3.3.2 Comment:

Seasonal barren-ground caribou ranges, such as rutting areas and migration corridors, are represented as areas of known Valued Environmental Components (VECs) in Schedule B and are assigned a Mixed Use land use designation.

3.3.3 Recommendation:

The Nunavut Planning Commission should include caribou mitigation conditions, such as minimum setback distances or a requirement to provide a plan for how negative impacts will be avoided, to land use proposals located in Mixed Use areas when they overlap with seasonal barren-ground caribou ranges represented as VECs.

3.3.4 Rationale

The GNWT supports the NPC's approach to assign these areas of known caribou VECs as Mixed Use land use designation. However, the application of specific minimal caribou mitigation conditions for projects in Mixed Use areas that overlap with known caribou VEC areas would provide greater consistency and certainty of caribou protection across herd ranges.

3.4 Terrestrial Transportation and Other Linear Infrastructure Corridors

3.4.1 Reference in DNLUP:

Pages 44-45, section 5.5.1.2

3.4.2 Comment:

The 2016 Draft Nunavut Land Use Plan currently states "Applications for corridors that are wholly on appropriate Land Use Designations will undergo a conformity determination process without plan amendment. The exception is that all applications for highways and railways will require a plan amendment, due to a high potential for significant socio-economic effects from connecting communities."

3.4.3 Recommendation:

The GNWT recommends removing the requirement for all highway and railway applications to undergo a plan amendment. The NPC should instead evaluate each application case-by-case to determine if the proposed project connects to communities in Nunavut. All highway and railway applications that do not connect to communities in Nunavut should go to the NPC for conformity review and should not require a plan amendment.

3.4.4 Rationale:

The socio-economic effects basis noted as the rationale for requiring a plan amendment for all highway and railway applications should not apply to highways and railways that will not be connected to any community in Nunavut. For potential future highways and railways connecting Nunavut with the Northwest Territories that do not connect to any community in Nunavut, railways and highways should be dealt with in the same manner as other linear corridors and not require a plan amendment.

4. Editorial Recommendations and Considerations

Page #	Description, Recommendation and Rationale
P. 10	<p><u>Definitions: General</u></p> <p>Monitoring refers to the process of periodic checks to the area that has been impacted by a former mine, in order to ensure that Closure and Remediation programs are successful.</p> <p>Recommendation:</p> <p>Monitoring refers to the process of periodic checks to the area that has been impacted by a former mine, in order to ensure that <u>impacts are occurring as</u></p>

	<p><u>predicted and that mitigation measures</u> Closure and Remediation programs are successful.</p> <p>-AND/OR-</p> <p><u>Post-Closure</u> Monitoring refers to the process of periodic checks to the area that has been impacted by a former mine, in order to ensure that Closure and Remediation programs are successful.</p> <p>Rationale for change: The current definition of ‘monitoring’ on page 10 more accurately describes post-closure monitoring and does not account for the monitoring activities that take place throughout other phases of a mining project (e.g. construction and operation). The GNWT recommends changing the definition of monitoring accordingly, and/or changing the current ‘monitoring’ definition to ‘post-closure monitoring’.</p>
P. 11	<p><u>Definitions: General</u></p> <p>Proposed Territorial Park means an area that has undergone a background and feasibility study, has community and regional Inuit association support and has been approved by Government of Nunavut to proceed in accordance to the legal obligations and processes as outlined under the NLCA and Umbrella IIBA for Territorial Parks in the NSA.</p> <p>Recommendation: Proposed Territorial Park means an area that has undergone a background and feasibility study, <u>an examination of transboundary considerations</u>, has community and regional Inuit association support and has been approved by Government of Nunavut to proceed in accordance to the legal obligations and processes as outlined under the NLCA and Umbrella IIBA for Territorial Parks in the NSA.</p> <p>Rationale for change: Depending on its geographic location, a proposed territorial park could have transboundary effects in the Northwest Territories.</p>
P. 26	<p><u>Section 2.1</u></p> <p>Highly risk intolerant species</p> <p>a) Support a percentage of national species population equal to or greater than the percentage of ‘sustainable loss’ that the population can tolerate.</p> <p>Recommendation: Specify whether “the percentage of ‘sustainable loss’ that the population can tolerate” means the total percentage of population loss that the species can tolerate, the annual percentage of population loss that the species can tolerate, or something else. *Seeking clarification. No specific wording provided.</p> <p>Rationale for change: The requested clarification could have an impact on the health and integrity of migratory bird species with transboundary habitat range.</p>
p. 27	<p><u>Section 2.2.1.3</u></p> <p>The textbox states “Core calving areas, key access corridors, and post-calving</p>

	<p>areas are assigned a Protected Area Land Use Designation that prohibits incompatible uses. For clarity, this applies to areas that are shown as having high mineral potential.”</p> <p>Recommendation: Core calving areas, key access corridors, and post-calving areas are assigned a Protected Area Land Use Designation that prohibits incompatible uses. For clarity, this applies to areas that are shown as having high mineral potential. <u>However, subject to Section 6.5, it may not apply to project proposals that are grandfathered.”</u></p> <p>Rationale for change: The requested revision adds clarity by tying together provisions from different parts of the DNLUP that need to be examined together to provide an accurate picture of the actual level of protection within barren-ground caribou herd ranges.</p>
P. 70 and P. 79	<p><u>Table 1: Land Use Designations</u></p> <p>Core Caribou Calving Areas, Post-Calving Areas, Key Access Corridors</p> <p>Prohibited Uses:</p> <ul style="list-style-type: none"> • Mineral Exploration and Production; • Oil and Gas Exploration and Production; • Obnoxious Land Use; • Quarries; • Hydro-electrical and related infrastructure; • Linear Infrastructure; and • Related research except Non-exploitive Scientific Research <p>Freshwater Caribou Crossings</p> <p>Prohibited Uses:</p> <ul style="list-style-type: none"> • Mineral Exploration and Production; • Oil and Gas Exploration and Production; • Quarries; • Hydro-electrical and related infrastructure; • Permanent tourism-related structures; • Linear Infrastructure; and • Related research except Non-exploitive Scientific Research <p>Recommendation: Core Caribou Calving Areas, Post-Calving Areas, Key Access Corridors</p> <p>Prohibited Uses:</p> <ul style="list-style-type: none"> • Mineral Exploration and Production; • Oil and Gas Exploration and Production; • Obnoxious Land Use; • Quarries; • <u>Permanent tourism-related structures;</u> • Hydro-electrical and related infrastructure;

	<ul style="list-style-type: none"> • Linear infrastructure; and • Related research except Non-exploitive Scientific Research <p>Freshwater Caribou Crossings</p> <p>Prohibited Uses:</p> <ul style="list-style-type: none"> • Mineral Exploration and Production; • Oil and Gas Exploration and Production; • <u>Obnoxious Land Use</u> • Quarries; • Hydro-electrical and related infrastructure; • Permanent tourism-related structures; • Linear Infrastructure; and • Related research except Non-exploitive Scientific Research <p>Rationale for change: Consistent list of prohibited land uses in caribou Protected Areas.</p>
P. 62	<p><u>7.5 Annex D: Example of Waste Site Clean-Up List Prioritization</u></p> <p>Site Assessment The following section outlines the method the NPC has developed for classifying potential cleanup sites. The categories have been developed based on public input and are designed to assist people in the North Baffin in developing a priority list.</p> <p>Recommendation: The following section outlines the method the NPC has developed for classifying potential cleanup sites. The categories have been developed based on public input and are designed to assist people in the North Baffin in developing a priority list. <u>The categories will also give consideration to waste sites with potential transboundary impacts.</u></p> <p>Rationale for change: Waste sites with transboundary impacts should be evaluated and managed using the same criteria discussed in Annex D of the 2016 DNLUP.</p>