

	Nunavut Planning Commission	<u>Government of Canada</u>	<u>Government of Nunavut</u>	Nunavut Tunngavik Inc.	Areas of agreement	Path Forward
<b>Marine Transportation</b>	<ul style="list-style-type: none"> <li>• Contains year round restrictions (i.e. Community areas of interest, etc.).</li> <li>• Contains seasonal restrictions (i.e. ice breaking) and marine setbacks (i.e. Key bird habitats).</li> <li>• Unduly restricts other maritime activities (i.e. emergency response, community resupply, search &amp; rescue, national defence/security)</li> <li>• Requirement robust ice bridging plan for conformity determinations when impacting on-ice transportation routes.</li> </ul>	<ul style="list-style-type: none"> <li>• Seasonal marine setbacks around specific areas of wildlife concentration may be appropriate.</li> <li>• Shipping restrictions and controls that impede emergency response, community resupply, or Department of National Defence operations should be removed from the Plan.</li> <li>• Marine transportation issues, including prohibitions on ice-breaking, should be done through the Nunavut Marine Council, rather than in the Plan.</li> <li>• The requirement for a "robust ice-bridging plans" for conformity should be removed. The mitigation of ice-bridging plans could be required for shipping activity that required an environmental</li> </ul>	<ul style="list-style-type: none"> <li>• NPC should collaborate with the federal government to determine the appropriate treatment of marine areas within the DNLUP.</li> <li>• Explore indirect methods of addressing marine concerns through its role in the Nunavut Marine Council.</li> <li>• Discuss and evaluate what other regulatory tools exist to address marine concerns.</li> <li>• Generally supportive of marine setbacks within the Plan but would have to review them on a case-by-case basis.</li> </ul>	<ul style="list-style-type: none"> <li>• Further consultations take place to confirm community concerns.</li> <li>• Depending on community feedback and advice from wildlife experts, seasonal marine setbacks around specific wildlife concentrations may be appropriate.</li> <li>• Other institutions of public government such as the Nunavut Marine Council are engaged.</li> <li>• Discuss with parties different methods that can be used to address shipping concerns. Either through the Plan or another regulatory tool.</li> </ul>	<ul style="list-style-type: none"> <li>• Recognized gaps in information exist.</li> <li>• There is a lack of infrastructure in NU / the LUP should not impede development of infrastructure.</li> <li>• Concern the restrictive provisions of the plan may make things more costly, etc.</li> <li>• The Plan is too restrictive, need to be careful how assets are restricted.</li> <li>• The Nunavut Marine Council may provide an alternate means for NPC to address issues in partnership with other parties.</li> </ul>	<ul style="list-style-type: none"> <li>• Possibly recommend parking this issue for future generations of the NLUP.</li> <li>• Pursue the Nunavut Marine Council as a venue for NPC to address concerns.</li> <li>• Identify other regulatory measures and mechanisms to address issues.</li> </ul>

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		<p>review done by the Nunavut Impact Review Board.</p> <ul style="list-style-type: none"> <li>The GOC commits to undertaking consultations with the Commission, community groups, and the shipping industry throughout the planning and management of the Arctic shipping season to achieve the lowest impact on safety and security and the environment.</li> </ul>				
<p><b>Caribou (by type of habitat and associated designation)</b></p>	<ul style="list-style-type: none"> <li>Places prohibitions on all 4 types of caribou habitat.</li> </ul>	<ul style="list-style-type: none"> <li>Seasonal (temporal) protections: prohibit activity in calving and post-calving grounds and freshwater crossings during the appropriate time of year (herd specific);</li> <li>General protections: cease certain activities when calving or post calving caribou are present in areas that are outside of the calving/post calving areas identified in the</li> </ul>	<ul style="list-style-type: none"> <li>Instead of applying restrictions through the Plan, a project-by-project approach through the NIRB process provides caribou protections</li> <li>The GN is not opposed to area/use restrictions for caribou habitat when developed through existing territorial or federal legislated avenues - with clear IIBA and consultation requirements - outside the planning context.</li> </ul>	<ul style="list-style-type: none"> <li>Various RIA's have suggested different methods to protect caribou and the Plan should consider regional approaches.</li> <li>NTI would like to see a clarification go forward to NPC that the original GN submission recommended that post-calving areas be protected through seasonal restrictions and at a minimum the NLUP should reflect the advice on post-calving areas.</li> <li>RIAs have specific views:</li> </ul>	<ul style="list-style-type: none"> <li>Outright prohibitions are not the ideal approach, while meaningful protections are necessary.</li> <li>Common interest in assessing seasonal measures.</li> <li>Mobile protection measures may be costly and stressful to the herds.</li> <li>Need to look at all the tools and see what is available (in light of the complex pressures facing the herd – disease, predators, climate change</li> </ul>	<ul style="list-style-type: none"> <li>Confirm parties are open to a seasonal approach to caribou protection, as well as potential for regionally supported approaches</li> <li>Identify other parts of the regulatory process that offer protections (e.g., GN herd management plans).</li> <li>Recognize that caribou require 'active' management, while the LUP has unavoidable limitations due to its 'static' structure.</li> </ul>

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		<p>land use plan.</p>	<p>This may be the best means of addressing caribou habitat fragmentation, which cumulatively may have serious repercussions for caribou herd productivity.</p> <ul style="list-style-type: none"> <li>• GN is considering recommending a Special Management Area designation for caribou habitats in the Draft Plan, with terms/seasonal restrictions/proponent disclaimers (not mobile protection measures as articulated by KivIA)</li> <li>• Recognizing the varied Regional Inuit Association/NTI, and wildlife co-management partner recommendation on-record, the GN is hoping to provide NPC with a shared Plan signatory recommendation on this important issue.</li> </ul>	<ul style="list-style-type: none"> <li>• KitIA: Does not support caribou protected areas and support seasonal and mobile protection measures.</li> <li>• KivIA: Supports the identification of core calving areas using IQ and science and core calving areas that overlap with areas of high mineral potential should be placed in seasonal special management areas with stringent measures based on mobile protection measures.</li> <li>• QIA: Endorses protection of caribou calving grounds and the use of mobile protection measures in post-calving grounds.</li> </ul>	<p>impacts etc.)</p> <ul style="list-style-type: none"> <li>• Monitoring is a large component of any approach taken.</li> <li>• Need to hear from the communities in more depth to ensure that their concerns in light of trade-offs and potential for regional approaches (given the different interests of the RIO.</li> </ul>

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<b>Linear Infrastructure</b>	<ul style="list-style-type: none"> <li>Year round prohibitions (i.e. Core-calving, Post-calving, Freshwater crossings, Key access corridors).</li> <li>Requires plan amendments for connecting communities (highways) and railways, unless the route is prohibited by a specific designation.</li> <li>Foreseeable infrastructure projects are not facilitated by the plan (requires a plan amendment).</li> </ul>	<ul style="list-style-type: none"> <li>Lift the general restriction on linear development in protected areas and impose explicit prohibitions only where required.</li> <li>Remove the requirement for Plan amendments for connecting communities (highways) and railways, unless the route is prohibited by a specific designation.</li> <li>Foreseeable infrastructure projects should be included and facilitated within the plan.</li> </ul>	<ul style="list-style-type: none"> <li>The Plan should not unnecessarily impede the development of the following priority GN infrastructure projects: the Grays Bay and the Kivalliq to Manitoba corridors</li> <li>-The GN does not agree with the Plan's Amendment requirement for any community linkage highway or railway.</li> <li>No apparent value added in the Commission "Robust Alternative Assessment" requirement for linear infrastructure – if included in the Plan these alternative assessments should inform potential exemptions for corridors not conforming to Plan designations. Otherwise these assessments should be excluded from the Plan due to duplication with NIRB assessments.</li> </ul>	<ul style="list-style-type: none"> <li>Support a Special Management Area designation for the Manitoba-Kivalliq road and hydro corridor.</li> <li>Support a Special Management Area designation for the Grey Bay's corridor.</li> </ul>	<ul style="list-style-type: none"> <li>The plan is too prohibitive and should not impede essential infrastructure (consistent with the provisions of the NLCA – Article 11).</li> <li>The existing infrastructure gap in Nunavut is clearly recognized as a challenge by the signatories.</li> <li>Need to open up additional opportunities for Nunavut to address social and economic disparities in communities and the territory overall.</li> </ul>	<ul style="list-style-type: none"> <li>Possibly elevate '<i>connectivity</i>' as a priority and address the existing infrastructure deficit in Nunavut as a value within the LUP.</li> <li>Discussions need to be in the context of federal, territorial and provincial governments focus on infrastructure investment, cost-shared funding programs, and the potential for associated economic opportunities.</li> </ul>

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<b>Drafting</b>	<ul style="list-style-type: none"> <li>• NPC acknowledges drafting concerns with the "Draft" Nunavut Land Use Plan.</li> <li>• Drafting concerns can be dealt with following the final public hearing (currently not defined).</li> </ul>	<ul style="list-style-type: none"> <li>• There is ambiguous, contradictory and unclear language that makes the Plan unclear.</li> <li>• The Plan does not appear to align with the legislative scheme created by the NLCA &amp; NuPPAA.</li> <li>• Approving planning parties and the Commission to review the draft Plan collectively and refine the ambiguous, contradictory and unclear language to the satisfaction of all parties.</li> <li>• Will be submitting some expert reports on questions of legislative alignment for the expert report deadline (November 15, 2016).</li> </ul>	<ul style="list-style-type: none"> <li>• The GN has concerns that the necessary steps to revise the Draft Plan in order to be approvable may exceed the time allowed in NPC's timeline.</li> <li>• Nonetheless the timely and successful completion of a NLUP is a GN priority and therefore a more iterative (while remaining transparent and meeting any consultation requirements) to the steps following a Public Hearing may be needed.</li> <li>• Land use planning must be adaptive to new information. The Plan/NPC's internal procedures must have clearer details concerning periodic review triggers (either for the Plan in its entirety or for specific designations requiring monitoring), as well as Plan Amendment processes.</li> </ul>	<ul style="list-style-type: none"> <li>• Concern regarding vague language in the draft Plan creating uncertainty. For example, there needs to be certainty provided regarding the timing of an NPC led public review of the NLUP.</li> </ul>	<ul style="list-style-type: none"> <li>• Usability, clarity and certainty for all interests are a shared concern and goal for the LUP.</li> <li>• Need to ensure editorial, legal and policy lens is applied.</li> </ul>	<ul style="list-style-type: none"> <li>• Outstanding substantive issues should be the priority followed by detailed work on drafting issues.</li> <li>• Need to scope out an opportunity to work on drafting issues collectively with NPC.</li> <li>• Use errata sheet (expand beyond errors and use to address clarity)</li> </ul>

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<b>Existing Rights</b>	<ul style="list-style-type: none"> <li>Defers to government to resolve this issue and report back to the NPC.</li> </ul>	<ul style="list-style-type: none"> <li>Identify common ground. It is a starting point that will inform the NuPPAA workshop is being organized for January 2017, which will delve into interpretation of NuPPAA.</li> <li>If agreed by the parties, the NuPPAA workshop may provide opportunity to examine the Commission's jurisdiction with respect to projects that stem from existing rights.</li> <li>Determine if the pursuit of an independent legal opinion is still desirable. If so, time can be spent discussing parameters of what that would entail.</li> </ul>	<ul style="list-style-type: none"> <li>The GN wants to ensure the Plan has an existing rights regiment which conforms to all relevant legislation, while achieving regulatory certainty and fairness - particularly for proponents holding early-stage mineral tenure.</li> <li>NPC should develop a set of conditions similar to those used in the Sahtu and Dehcho Land Use Plans to expand the current section of the DNLUP on existing rights. The conditions should, at a minimum, be explicit about Nunavut's classes of mineral rights (Crown or NTI owned) and the land use activities that are necessary to exercise those rights, which may be exempt from the Plan (but not NuPPAA).</li> </ul>	<ul style="list-style-type: none"> <li>Legal issue that requires resolution before the public hearing.</li> </ul>	<ul style="list-style-type: none"> <li>Protection of existing rights is needed for certainty and confidence for all interests. Consideration of the potential impact on future investment in Nunavut is critical.</li> <li>The protection of existing rights needs to be communicated to communities, industry and other stakeholders.</li> <li>The agreed upon level of protection of any existing needs to be more fully assessed, including consideration of legal challenges and demands for compensation.</li> </ul>	<ul style="list-style-type: none"> <li>More legal analysis needs to be undertaken to fully assess the issues, potential impacts and options.</li> <li>NuPPAA workshop in January 2017 provides an opportunity for further discussion.</li> </ul>
<b>Overlapping Designations</b>	<ul style="list-style-type: none"> <li>Overlapping designations exist with the land use plan.</li> </ul>	<ul style="list-style-type: none"> <li>Evaluate different methods to structure the GIS data/overlapping</li> </ul>	<ul style="list-style-type: none"> <li>In May 2016, the GN had recommended an approach where NPC could impose</li> </ul>	<ul style="list-style-type: none"> <li>Concern of extent of overlap of designations with prohibitions over IOLs.</li> </ul>	<ul style="list-style-type: none"> <li>While it was agreed that this is primarily a technical issue, it is essential that the LUP be clear and easy to understand.</li> </ul>	<ul style="list-style-type: none"> <li>Establish a technical working group to identify and examine the details</li> </ul>

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<ul style="list-style-type: none"> <li>• <i>Schedule A</i> of the Plan does not clearly identify where areas have overlapping designations.</li> </ul>	<p>designations for ease of use for both proponents and regulatory bodies.</p> <ul style="list-style-type: none"> <li>• Evaluate and define a method where minor variances can be granted.</li> <li>• Create a new land use designation, when there is overlapping designations, which identifies a list of prohibited land uses and any applicable terms &amp; conditions.</li> </ul>	<p>overlapping designations, simply requiring the more prohibitive restrictions apply in these areas of overlap.</p> <ul style="list-style-type: none"> <li>• Where outstanding conflicts regarding overlapping designations exist, NPC should resolve these proactively in refining the delineations of their designations and/or utilize their minor variance power to resolve overlapping designation issues.</li> <li>• Regarding land use designation overlaps with existing or proposed territorial parks, the GN is considering whether NPC is correct in implementing interim protections for these areas of known ecological/heritage value.</li> </ul>	<ul style="list-style-type: none"> <li>• Concerns regarding overlapping DNLUP designations and clarity.</li> </ul>	<p>The DLUP includes areas with overlapping multiple designations that are difficult to confirm due to the spatial scale of mapping, which creates potential inconsistencies and potential delays in review of project proposals.</p>	<p>associated with each of the areas of potential designation overlap. This includes addressing the structure of GIS data and options for minor variances.</p> <ul style="list-style-type: none"> <li>• Assess impacts and options to mitigate workload volume demand in light of capacity constraints.</li> <li>• NTI's preliminary review indicates a significant proportion of IOL (surface and sub-surface) that may be impacted by overlapping designations.</li> </ul>

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<p><b>IIBA's (for protected areas)</b></p>	<ul style="list-style-type: none"> <li>Defers to government to resolve this issue and report back to the NPC.</li> </ul>	<ul style="list-style-type: none"> <li>Inuit Impact and Benefit Agreements are not required under the Nunavut Land Claims Agreement for the protected bird habitat sites.</li> <li>Committed to meeting all of its obligations under the Nunavut Land Claims Agreement, including the requirements for Inuit Impact and Benefit Agreements for Conservation Areas, as defined in the Agreement.</li> <li>Will abide by the wishes of communities regarding zoning for key bird habitat sites in the draft Plan. If communities do not support protected area zoning for a given bird site, Canada will not pursue such zoning for that site.</li> </ul>	<ul style="list-style-type: none"> <li>The Plan must benefit Inuit. Clear signatory consensus regarding any requirements to enter into Impact Benefit Agreements for NuPPAA Section 48(2) designated areas (Protected Areas/ designations with use prohibitions) is needed.</li> <li>-Is this a realistic requirement for individual Plan designated areas when accounting for the IIBA negotiation timeframes and the potential for Plan Amendment applications?</li> </ul>	<ul style="list-style-type: none"> <li>Provisions of the Migratory Bird Sanctuaries and National Wildlife Areas IIBA are not being adhered to by the Government of Canada in the development its position that additional prohibitions are appropriate through the NLUP on MBSs and NWA's.</li> <li>Concern that creating new migratory protected areas through the NLUP circumvents the IIBA process particularly as there is no certainty regarding that the designations are "temporary". What time span constitutes "temporary"?</li> </ul>	<ul style="list-style-type: none"> <li>The issue needs further clarification and collaborative discussion.</li> <li>The parties want to work within the NLCA.</li> </ul>	<ul style="list-style-type: none"> <li>NTI to identify the designation that it would like to see IIBAs negotiated.</li> </ul>