



July 8 2015

Initial responses by NPC staff to technical submissions on the draft Nunavut Land Use Plan (NLUP) and to issues raised at the June 22-24 Technical Meeting

Please note that:

1. This is an initial response prepared by Nunavut Planning Commission staff that is solely intended to facilitate further discussion on a variety of issues raised by participants in preparation for, and during, the June 2015 Technical Meeting in Iqaluit. This response is made without prejudice and does not in any way bind, fetter, or otherwise indicate any prejudgment by the Nunavut Planning Commission, including its Commissioners and staff, on any issue.
2. This document is not intended to be an exhaustive summary. Recommendations or suggestions made by participants to which NPC staff do not have comments or questions are not discussed or mentioned here. Further discussion between NPC staff and the participants may also require modification to the responses contained herein.
3. Some comments made by the participants on the draft NLUP do not include a recommendation, and while noted, may require further discussion.
4. Note on acronyms:

PA – Protected Area
SMA – Special Management Area
MU – Mixed Use Area
NLUP – Nunavut Land Use Plan
GoC – Government of Canada
GN – Government of Nunavut
NTI – Nunavut Tunngavik Inc.
QIA – Qikiqtani Inuit Association
KivIA – Kivalliq Inuit Association
KitIA – Kitikmeot Inuit Association
ITPR - Independent Third Party Review
DIO – Designated Inuit Organization
IOL – Inuit Owned Land

For simplicity, NPC has prepared its responses to submissions in tabular format, starting on the next page.



GOVERNMENT OF CANADA RECOMMENDATIONS			
#	RECOMMENDATION BY PLANNING PARTNER (including location of comment in the submission).	COMMENT BY NPC	NEXT STEPS
00	3.2, page 12. Remove Fishing Gear setbacks from the plan	Revisions to wording regarding fishing gear setbacks will be reviewed by NPC staff prior to the public hearing	Further discussion with participants and consideration by NPC staff is required.
01	#4, page 14. Recommendation to ensure plan is consistent with United Nations Law of the Sea (UNCLOS).	NPC staff understanding is that UNCLOS allows for additional regional governance agreements, which may be established as per the Convention for the Protection of the Marine Environment of the North-East Atlantic, the Convention for Conservation of the Marine Living Atlantic Resources, and Regional Fisheries Management Organization and International Maritime Organization regulations. The NLUP can help guide this process. Transport Canada (TC) staff have been requested to provide the NPC with guidance as to how seasonal or permanent restrictions on access to particularly important habitat, as identified by Inuit, may be enforced.	TC undertook to provide thoughts on the role of the NLUP in guiding next-generation polar regulations and how said regulations would be enforced.
02	10.2, page 24. Issues regarding DND and GoC military and former military sites.	GoC suggests that the protection areas for the 14 contaminated sites listed in the Plan can be made smaller as the intent is to 're-use' the areas after remediation. There is uncertainty regarding the size of the seismic array area at Cambridge Bay, and necessary specific use prohibitions both here and at other DND sites.	NPC staff and DND will work together to clarify protection measures, including need for specific use prohibitions, as well as confirming the extent of the seismic array at Cambridge Bay. Discussions between NPC staff and GoC are needed to determine the size of the GC sites.
03	#11, page 25. Recommendation to identify subsistence marine harvesting areas.	The raw data to undertake this exists but requires considerable processing to be presented in map form. Harvesting areas are also highly dynamic and subject to change.	NPC staff will work toward a cartographic representation of marine subsistence areas.
04	#12.2, page 26. GoC recommends grandfathering of existing	The implications of grandfathering mineral rights require further detailed discussion.	This topic will be discussed in more detail during the Second



	mineral rights to mining stage.		Technical Workshop. See Annex E of this document.
05	Annex A, page 27. Issue of proposed transportation corridors crossing no-build protected areas.	For the most part, transportation corridors identified to date are highly speculative. No applications have been submitted to this point. As a consequence, the draft NLUP currently requires proponents of major linear infrastructure to undergo a plan amendment process, on the presumption that such developments, if they occur at all, may occur far in the future when current conditions have changed.	This topic will be discussed in more detail during the Second Technical Workshop. See Annex A of this document.
06	Annex A, page 28. GoC would prefer that “related research” not be prohibited from applicable Protected Areas and Special Management Areas.	Where a community strongly requested protection for an area, or where a value is particularly valuable, it is presently contemplated that a plan amendment will be undertaken before “related research” may be undertaken. An example is the prohibition on oil and gas around the Belcher Islands where research related to oil and gas development is currently not supported. In other cases it may be appropriate to remove the “related research” statement.	It would be helpful if the GoC would identify and discuss the rationale for each specific NLUP PA and SMA where the “related research” prohibition be removed. Further consideration of this recommendation could then follow.
07	Site 61, page 32. As for 05 above, specifically for Lancaster Sound.	See above. The draft NLUP currently includes prohibitions related to mineral, oil, and gas resource development in the proposed Lancaster Sound National Marine Conservation Area given NPC staff’s understanding of the nature of that designation.	Further discussion is required.
08	Annex B, page 34. Comments on setbacks for migratory birds.	Issues have been raised regarding the extent of setback provisions for bird colonies and how they should be applied.	This topic will be discussed in more detail during the Second Technical Workshop. See Annex D of this document.
09	Definition of transportation corridor, page 43.	NPC staff have developed linear infrastructure definitions that could collectively replace the current approach to transportation corridors (see 04 above).	This topic will be discussed in more detail during the Second Technical Workshop. See Annex A of this document.



GOVERNMENT OF NUNAVUT RECOMMENDATIONS			
#	RECOMMENDATION BY PLANNING PARTNER (including location of comment in the submission).	COMMENT BY NPC	NEXT STEPS
10	D-001. The term “minor variance” is not used consistently in the NLUP	Further clarification is required. At present, NPC staff have been unable to identify such inconsistencies.	GN is asked to provide greater clarification with respect to this concern, including specific examples where GN feels that the term is used inconsistently.
11	1-001, page 7. NPC to prepare timeline on long-term approach to incremental development of the plan.	The current NPC procedure calls for evaluation every 3 years as to whether plan revisions are required; at that time the NPC may conduct consultations on the necessity of plan revisions. The NUPPAA requires a review of the LUP every five years 	Clarification as to how the three and five year reviews will interact may be required, following further discussions.
12	1-002, page 8. Describe in more detail methodology of incorporating community priorities and values into NLUP	NPC staff will consider whether it would be advisable to add to the draft NLUP or O&R a description of the process used to acquire and incorporate community input in the draft NLUP prior to the public hearing. Detailed community-by-community consultation reports are available online.	NPC staff will consider whether adding a brief description of the community engagement process to the draft NLUP prior to the public hearing would be advisable.
13	1-003, page 9. Explain how co-planning occurs in areas of overlapping claims.	The consultations for the draft NLUP included the communities outside Nunavut affected by overlapping claims.	NPC staff encourage NTI and Nunavik Marine Planning Commission to similarly engage in regular communication.
14	2-001 to 2-005. Several recommendations were made with regard to caribou conservation, including calving ground and post-calving area protection measure.	A special caribou subcommittee has been established to plan for a caribou workshop in the fall of 2015. The workshop will address both the state of knowledge with regard to caribou in Nunavut and attempt to develop recommendations for the consideration of the NPC’s Commissioners and potential inclusion in the draft NLUP.	The subcommittee will develop the terms of reference and agenda for the workshop and prepare for the workshop itself. The workshop will be designed to facilitate the development of workable caribou-related land use regulations and designations. See Annex B of this document.



15	2-006 & 5-002 & 5-003. Removal of designation of areas of high mineral potential	The identification of areas of high mineral potential (designation 167) is intended to guide land use decisions and research. While most participants seem to agree that temporary tourist facilities should be allowed in 167, permanent tourist facilities and conservation activities require more discussion.	The discussion on Existing Rights in the 2 nd Technical Meeting will include this item.
16	2-007&008, pages 23-24. NLUP to include consideration for all transboundary watersheds, not just the Great Bear.	The low level of development in all transboundary watersheds except the Great Bear-Contwoyto watershed and the relative lack of baseline data for other watersheds guided the decision to include only the former in the draft NLUP prior to obtaining further information and evidence in the public hearing process.	NPC staff would welcome additional information that would support the need to include other watersheds.
17	3-001 to 3-011. Updates to park boundaries, status, and correct spelling.	GN raised a concern regarding the accuracy in the draft NLUP regarding park boundaries, status and the correct spelling of the park names.	GN has agreed to provide NPC with updated map shape files, spellings, and status.
18	3-012. Proposed parks to be given SMA status instead of PA.	The draft NLUP has assigned PA designation for proposed parks. In preparing the draft NLUP, NPC staff considered PA to be the appropriate designation for proposed parks, however agrees that "related research" may be appropriate.	Further discussion on the question of "related research" is warranted. Accordingly, NPC staff and GN staff will undertake further discussions.
19	5-001. Include discussion of tourism and arts sector in NLUP; do not restrict tourism in SMA 167 – High Mineral Potential	Where possible, NPC staff have used information from community consultations to inform carving stone protection. More clarity needed on how the GN's recommendation that the draft NLUP discuss the arts sector would be implemented.	Restrictions on SMA 167 to be discussed at Second Technical Meeting.
20	7-004 Role of Cumulative Effects in conformity determinations	More clarity is required in the Plan to ensure objectivity and reproducibility in cumulative effects referral criteria during conformity determinations and other standard planning processes.	NPC staff will engage in more discussions with participants prior to public hearing.
21	7-013. Describe framework of Ministerial exemption process.	The Ministerial exemption process is outside NPC jurisdiction.	The GoC is the responsible authority in this case and could be approached by the GN for clarification as to the exemption process.
22	SM-001. Unify the NLUP and O&R documents.	As per NLCA 11.3.1, NPC has developed the NLUP as a document with guidelines for development 'taking into account factors such as....'	NPC staff are prepared to work with the participants on establishing best gathering and



			packaging of background info, whether they be part of the O&R or other documents.
NUNAVUT TUNNGAVIK INC. RECOMMENDATIONS			
#	RECOMMENDATION BY PLANNING PARTNER (including location of comment in the submission).	COMMENT BY NPC	NEXT STEPS
23	4. The term “planning partners”, used by NPC to describe the parties involved in development of the NLUP, is inappropriate.	No alternative to the term “planning partner” suggested.	It would be helpful if NTI could provide alternative wording for discussion and consideration.
24	5. More baseline data should be put into NLUP.	See 22, above. One challenge is incorporating additional baseline data while maintaining the user-friendliness and brevity of the NLUP.	The second technical meeting is intended to provide a forum for discussing NTI’s concern regarding the term “planning partner” and its suggestions for the incorporation of additional baseline data in the draft NLUP.
25	6. Include demographic data in NLUP.	The ITRP, which was accepted by NTI, recommends planning partners focus on land use in the first generation NLUP. Not clear how demography would contribute to the NLUP substantively.	
26	7. As for 6. (Row 25), but including economic data.	See Row 25, above.	
27	9. As for 5. (Row 24), but focus on environmental data.	See Row 24, above.	
28	10. As for 5. and 9. (Rows 24 and 27), but on resources.	See Row 24, above.	
29	13., 14., 15. Comment on the need for excellent consultation. NPC has not shown how past consultation informed the NLUP. Past consultation have not been done to a professional standard or with appropriate pre-notification.	The community consultation reports available at Nunavut.ca summarize the consultation process undertaken by the NPC and the results that were obtained.	Further clarification by NTI as to its expectations for ongoing community engagement would be of assistance.



30	16. & 17. DIOs not adequately consulted on designations for IOL.	NTI has not identified specific instances where issues have arisen.	The 2 nd Technical Meeting and the caribou workshop are intended to address NTI's concerns, among others. See Annex C of this document. In the interim it would be helpful if NTI could identify specifically where it feels the designations are inconsistent with the reasons the IOLs were selected.
31	18. Better protections for Inuit subsistence harvesting needed in NLUP	NTI has raised an important issue. More clarity is required, including how NTI suggests the matter could be resolved.	It would be helpful if NTI could be more explicit in its concern and identify options for resolution. Further discussion is required.
32	19. Need a tool for use of priorities and values of community residents in planning decisions.	More clarity is required, including how NTI suggests the matter could be resolved.	NTI is asked to provide a clear recommendation with respect to its concern. Further discussion is required.
33	20. to 25. Concerns on key bird habitat sites	See Row 8.	The 2 nd Technical Meeting will include discussions on Key Bird Habitat concerns.
34	26. Question on how polar bear denning sites were located	See O&R and community consultation reports.	
35	27. As for 26, but with walrus haul-outs	See Row 34.	
36	30. Are Peary caribou habitat protections adjacent to Qausuittiq National Park appropriate?	Statement similar to GoC comment on Site #59, page 31. Issues raised regarding the Peary caribou habitat area east of Qausuittiq National Park, which is currently proposed to be designated a Protected Area. GN prefers the designation to remain. NTI wants the community of Resolute to confirm its preference both on the designation and the value of the IOL within this area.	NPC staff will discuss the issue with participants
37	38. Defensibility of community areas of interest and community priorities & values	See Row 32.	



38	44. Protection of transportation corridors	See Row 5 in the GoC section.	
39	46. IOLs around Cambridge DND sites.	See Row 30 & 31.	
40	47. Subsurface IOLs not included in designation 167.	NPC relied on GoC for determining the boundaries of SMA 167. Other subsurface IOLs intersect with core caribou calving areas and other areas of high ecological significance.	This issue will be discussed during the Second Technical Meeting
41	50. NPC to provide percentage of Nunavut that will be MU.	NPC staff will find the requested ratio.	NPC staff will provide the requested information.
42	51. Next steps in plan revision	To clarify an apparent misunderstanding, the NPC will consider and present the area of land withdrawn under Order in Council #PC 2013-0625 during the public hearing as an area of Mixed Use, to be re-evaluated in light of representations made during the public hearing. The Commission will make revisions to the draft plan after the public hearing to reflect the most appropriate land use designations.	This issue may be discussed during the Second Technical Meeting

REGIONAL INUIT ORGANIZATION RECOMMENDATIONS

#	RECOMMENDATION BY PLANNING PARTNER (including location of comment in the submission).	COMMENT BY NPC	NEXT STEPS
43	KivIA – SMA 167 is too geographically restricted	Further discussion and clarification of intent of SMA 167, as well as discussion on further data sources and application should be undertaken in addition to provision of data sources not already available to the NPC staff.	Further discussion is required, including during the Second Technical Meeting.
44	QIA – Comments on consultations on appropriate designations on IOL, designations for key bird habitat sites, caribou protection	See Rows 8, 14, and 36	These concerns will be discussed during the Second Technical Meeting and the caribou workshop.
45	KitIA - Comments on caribou.	See Row 14.	These concerns will be discussed during the Second



WORLD WILDLIFE FUND RECOMMENDATIONS			
#	RECOMMENDATION BY PLANNING PARTNER (including location of comment in the submission).	COMMENT BY NPC	NEXT STEPS
53	Concern on impacts of commercial shipping on Lancaster Sound	See Row 01 above.	
54	Desire to allow conservation with SMA 167 – high mineral potential	See Row 15 above.	
MAKIVIK CORPORATION RECOMMENDATIONS			
55	PA designation for areas of equal use may be too restrictive.	See Row 13 above.	
SABINA RECOMMENDATIONS			
56	Request to consider existing Sabina mineral licenses in Nunavut	One of Sabina's deposits, currently at mineral license stage, is in core caribou calving habitat south of Wager Bay.	This concern will be addressed in the discussions regarding Existing Rights and caribou during the Second Technical Meeting. See Annex E of this document.
BAFFINLAND RECOMMENDATIONS			
57	Clarity needed on Transportation Corridors	See Rows 1, 5, 9, and 38 above.	
OTHER RECOMMENDATIONS RAISED OR DISCUSSED AT FIRST TECHNICAL MEETING			
58	Public registry needs to be designed to enable the provision of advance notice to individuals and communities	The Public registry is being set up to allow for custom notifications.	NPC will continue to discuss with participants their concerns and needs regarding the notification process.
59	Dual Designations	Concerns have been raised regarding 'dual designation' on certain areas, including those raised by NTI with respect to National Wildlife Areas and Migratory Bird Sanctuaries.	NPC will continue to discuss the concerns of NTI and other participants. One option may be to create new types of designations that cover more than one factor.



created when setbacks and related overlap in a minor way with IOL. Typically in planning, a designation boundary will be matched to the nearest property boundary whenever possible, unless there is a reason to not do so. The GIS staff need to identify and discuss the “chunks” with planning staff, and the planners make recommendations on each chunk individually based on the characteristics of the PA or SMA in question.

Designation inconsistencies: these are case-specific parcels where NTI disagrees with the designation in the draft NLUP. To change the proposed designation, a rationale for a different designation, and evidence of community desire for a different designation are probably needed. In some particular cases NTI or NPC may need to engage directly with the affected community to properly inform decisions on certain parcels.

There are some large IOL parcels impacted by NLUP designations related to caribou protection. These conflicts may be best addressed during the caribou workshop. Other large IOLs raise issues related to protection of bird or polar bear conservation, fall into the mineral development-only designation (167), or are historical sites, part of the oil and gas restriction around Sanikiluaq, or part of the Kugluktuk watershed. These latter conflicts should be addressed during the Second Technical Workshop.

The parcels of concern to NTI should be identified by NTI as soon as possible in advance of the Second Technical Meeting.

4. ANNEX D: BIRD SETBACK DISCUSSION

Concerns have been raised regarding the extent and application (including through regulatory processes) of marine setbacks around important bird habitat as described in the DNLUP. Other agencies including NWMB have jurisdiction in this area and further discussion among the participants will be required to establish the best approach.

5. ANNEX E: EXISTING RIGHTS

AANDC has listed three types of existing rights (please see map next page):

- Prospecting permits
- Mineral claims
- Mineral leases

AANDC has suggested that mineral rights be grandfathered through to mine development and reclamation, even if the current right is only a prospecting permit or mineral claim. Planning practice generally considers that what is present is grandfathered, but what is new should be subject to the plan that is in effect. Further discussion is required.



ENDNOTES

ⁱ Potential definitions (for discussion) relating to transportation and communications:

“Access Roads”. All-season community-based pathways and routes, minimally engineered, located outside community boundaries, typically suitable for personal backroad vehicles. Access roads are typically not surveyed, and are normally used for traditional activities. All Access Roads constructed before 2025 shall be considered grandfathered into the Nunavut Land Use Plan. Access Roads built after 2025 may have application of seasonal or ecological-based use restrictions.

“Communication and/or Telephone Lines”. May refer to either to cables laid below, at-grade, or supported above ground, the purpose of which is to carry communications. May also refer to a linear series of repeater stations intended for wireless communication signals.

“Highways” and **“Winter Highways”**. Publicly accessible roads, maintained by a public government, for general inter-community use and designed for speeds at or above 40km/h. Seasonal or ecological-based use restrictions may be applied. Includes highways built in the winter for travel on snow and ice; for clarity, initial approvals for winter highways will carry forward to future winter seasons.

“Ice-Free Season” is the period in which the marine environment is generally open or partially open, and when ice-breaking activities are unlikely to result in ecological damage. For the purposes of the Nunavut Land Use Plan, the ice-free season in Hudson Bay, Foxe Basin, Hudson Strait, and Frobisher Bay is considered to be June 15 to December 15 every year. The ice-free season in all other waters south of the 80th Parallel excluding Nares Strait, including the Outer Land Fast Ice Zone, Northwest Passage, and Lancaster Sound is considered to be July 1 to November 30 every year. There is not considered to be an ice-free season in waters north of the 80th Parallel, except Nares Strait.

“Linear Infrastructure”. Any form of constructed infrastructure that is linear in nature. The Land Use Plan will specify which type or types of linear infrastructure are permitted when a Proposed Linear Infrastructure Corridor designation is allocated. This may include:

- Access Roads
- Communication and/or Telephone Lines
- Highways
- Marine Shipping Corridor
- Mine Servicing Roads
- Mine Bulk Hauling Roads
- Public Roads
- Pipelines
- Powerlines
- Railways
- Winter Highway
- Winter Mine Servicing Roads
- Winter Road
- Winter Skid Track

“Linear Infrastructure Corridor, Conceptual”. May also be referred to as a **“Conceptual Linear Infrastructure Corridor”**. A high-level conceptual or visionary routing of linear infrastructure over the very long (20+ year) timeframe. For clarity, this definition has no regulatory implications, and exists for discussion and research considerations only.

“Linear Infrastructure Corridor, Proposed”. May also be referred to as a **“Proposed Linear Infrastructure Corridor”**. A strip of land, typically wider than 1km and narrower than 50km, marking the overall pathway and general location for future linear infrastructure.

