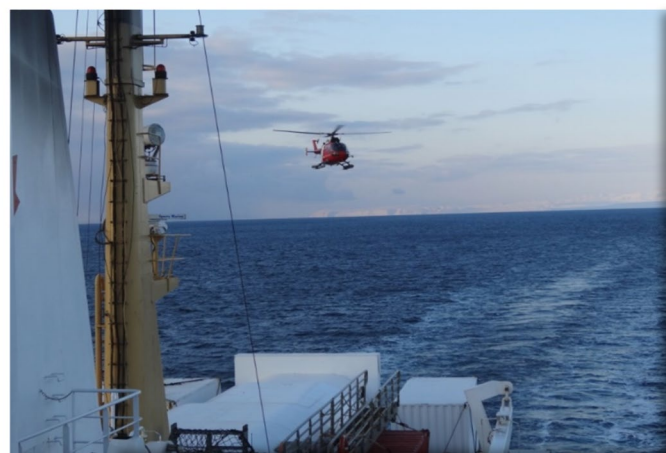




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Nunavunmi Parnaiyiit  
Nunavut Planning Commission  
Commission d'Aménagement du Nunavut

# Nunavut Land Use Plan

## Options and Recommendations



Draft – 2021



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# 1 Introduction

This introductory chapter provides an overview of relevant background information and sets out the approach used for the consideration of options and recommendations for land use issues to be addressed in the Nunavut Land Use Plan (NLUP).

Chapter 1 includes:

- Purpose of the Options and Recommendations document (2021 O&R);
- Structure of the 2021 O&R;
- Considered information;
- Nunavut Planning Commission (NPC) jurisdiction;
- Options for land use policy; and
- Rating criteria for identified geographic areas.

## 1.1 Purpose of the 2021 Options and Recommendations Document

The NLUP is intended to guide and direct resource use and development in the Nunavut Settlement Area (NSA). The NLUP is currently in draft form and the most recent version is the 2021 Draft Nunavut Land Use Plan (DNLUP).

This 2021 O&R is a companion document to the 2021 DNLUP. It summarizes the background information and rationales for the various policies and land use designations in the 2021 DNLUP. It is intended to inform participants and the public of the information and community values the NPC weighed when making recommendations about land use designations and policies. While the 2021 O&R summarizes the information collected and considered by the NPC, the complete public record is available on the NPC website under the Public Registry section, <https://lupit.nunavut.ca/portal/registry.php>.

## 1.1 Structure of the 2021 Options and Recommendations Document

The 2021 O&R describes the context, options and recommendations for the various land use policies and designations contained in the 2021 DNLUP, including constraints considered and directions by the Commissioners.

Chapter 1 explains the process that was followed in developing the options and recommendations for each issue. It also includes a timeline regarding the development of the DNLUP and mandate.

Chapters 2 to 5 describe key geographic areas and issues that have been identified regarding broad land use planning goals and present specific policy recommendations for managing these geographic areas and issues. Each geographic area has a corresponding map, titled in accordance with the section heading and located in Appendix D (Supporting Maps for Each Geographic Area).

Chapter 6 addresses the implementation strategy for the DNLUP.

The 2021 O&R also contains several tables and appendices. These attachments are as follows:

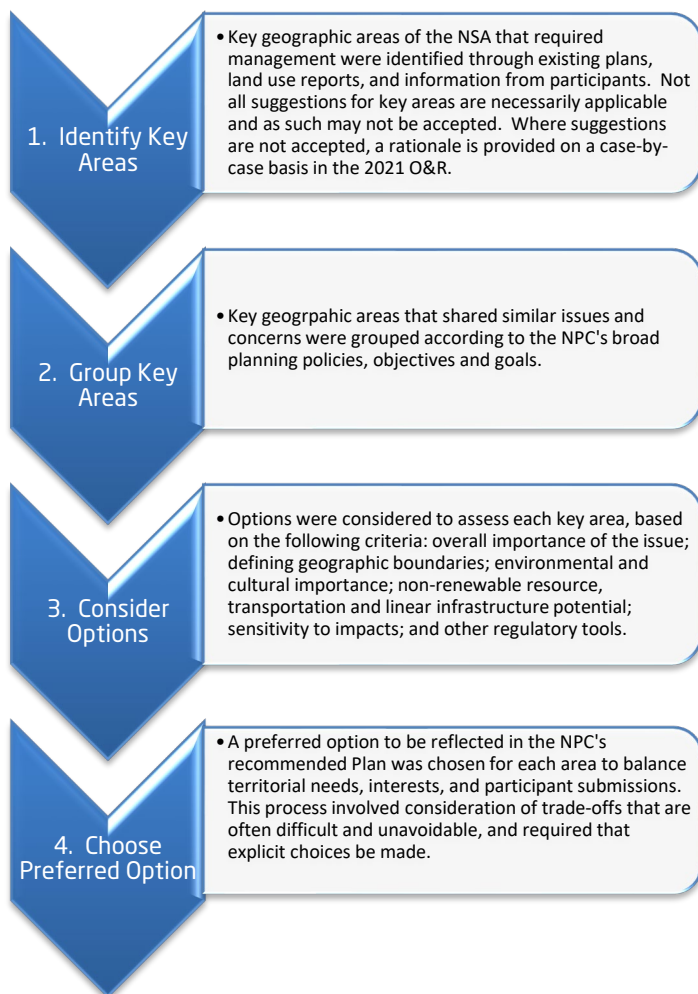
Table 1:	Migratory Bird Setbacks
Table 2:	Caribou Seasonal Restrictions
Table 3:	Seasonal Dates
Tables 4-6:	Background Information on Some Valued Components
Appendix A:	Existing Rights
Appendix B:	Migratory Bird Site Details
Appendix C:	Supporting Maps for Each Geographic Area

### 1.1.1 How Land Use Decisions Were Made

The options and recommendations contained in the 2021 O&R were developed based on the best currently available information and data. They reflect the understanding that as a ‘first-generation’ NLUP, the land use plan cannot address all issues in equal detail, may require an adaptive approach region-by-region to reflect unique circumstances and community priorities, and must evolve over time.

Policy decisions in Chapters 2 to 5 of this document were developed using a four-step decision-making framework, which is illustrated in Figure 1: Decision-Making Framework.

Figure 1: Decision-Making Framework



Draft plans recommended by the NPC are submitted to the Government of Canada (GoC), the Government of

Nunavut (GN) and Nunavut Tunngavik Incorporated (NTI) for review and approval. Once approved by the three signatories, the plan takes effect.

## 1.2 Considered Information

Pursuant to section 48(1) of the *Nunavut Planning and Project Assessment Act* (NuPPAA), the NLUP must take into account the NPC's Broad Planning Policies, Objectives and Goals, specific planning objectives and planning variables identified for all planning regions, the factors set out in section 11.3.1 of the Nunavut Agreement (NA), and Inuit objectives for Inuit Owned Lands (IOL).

The development of the DNLUP has been ongoing since 2006 and has involved extensive public engagement. A process chronology overview is included below, and associated materials referenced in this document are found on the NPC's Public Registry available at: <https://lupit.nunavut.ca/portal/registry.php>

All consultations, submissions, comments and information provided by Nunavummiut and participants in the NPC's land use planning process were reviewed and considered even if not expressly referenced or cited in this document. Where direct quotes from Planning Partner submissions are included, any emphasis in the original sources is included in the 2021 O&R.

### 1.2.1 Broad Planning Policies, Objectives and Goals

The NPC's Broad Planning Policies, Objectives and Goals (2007) informs the structure and content of the NLUP. That document is divided into five overarching goals with appendices. Each chapter is focused on a single goal, provides a summary of the goal, and includes a table with two columns that set out the objectives and policies of the NPC. The NPC's five goals and brief summary of each is as follows:

#### Goal 1: Strengthening Partnership and Institutions

This goal provides direction on the land use planning process as an aspect of good governance. The goal of strengthening governance and institutions includes recognizing and respecting the mandates and jurisdictions of all participants, decision-making through discussion and



consensus, and working together for a common cause through the integration and application of the principles of Inuit Qaujimajatuqangit (IQ).

### **Goal 2: Protecting and Sustaining the Environment**

The goal of protecting and conserving Nunavut's air, land and water – i.e., the environment, including wildlife and wildlife habitat – is of critical importance to the sustainability of Nunavut's communities and Inuit culture and the continuation of a viable long-term economy.

### **Goal 3: Encouraging Conservation Planning**

The purpose of conservation planning is to protect the natural environment, culturally significant areas and special places for the benefit of Nunavummiut and all Canadians. This will be achieved by recognizing the general desirability of establishing parks in the NSA, supporting conservation area initiatives, and by protecting areas of interest under the authority of the NLUP.

### **Goal 4: Building Healthy Communities**

The promotion and strengthening of Inuit culture and heritage is integral to the goal of building healthy communities in Nunavut. It is also one of the fundamental objectives of the NA. The protection and promotion of the well-being of Nunavut's residents and communities is the primary purpose of land use planning under Article 11 of the NA. It is also implicit in other NA provisions, and is an inherent goal in land-use-related territorial and federal statutes and policies.

### **Goal 5: Encouraging Sustainable Economic Development**

The goal of achieving the economic well-being of communities underlies many of the provisions of the NA. The goal incorporates a range of economic opportunities in relation to the renewable resources, tourism, energy, mineral and petroleum sectors. This goal is integral in the NA's objective of encouraging self-reliance and diverse economic opportunities for Nunavummiut and all Canadians, which will arise from a long-term, healthy and sustainable renewable and non-renewable resource economy.

The first goal is primarily achieved through the process of developing the NLUP. The remaining four goals and the associated Policies and Objectives form the foundation for the discussions in Chapters 2-5 of the 2021 O&R.

## **1.2.2 Nunavut Requirements**

## **Agreement**

Section 11.2.1 of the NA establishes several core principles that guide the development of planning policies, priorities and objectives. This section of the NA states in part:

"The following principles shall guide the development of planning policies, priorities and objectives:

- (a) people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation;
- (b) the primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote the existing and future well-being of those persons ordinarily resident and communities of the Nunavut Settlement Area taking into account the interests of all Canadians; special attention shall be devoted to protecting and promoting the existing and future well-being of Inuit and Inuit Owned Lands;
- (c) the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning regions ..."

Section 11.3.1 of the NA lists the factors that must be considered by the NPC in developing land use plans. This section of the NA states:

"A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following:

- (a) demographic considerations;
- (b) the natural resource base and existing patterns of natural resource use;
- (c) economic opportunities and needs;
- (d) transportation and communication services and corridors;
- (e) energy requirements, sources and availability;

- (f) community infrastructural requirements, including health, housing, education and other social services;
- (g) environmental considerations, including Parks and Conservation Areas, and wildlife habitat;
- (h) cultural factors and priorities, including the protection and preservation of archaeological sites and outpost camps; and
- (i) special local and regional considerations.”

These factors guided the development of the 2021 O&R and the 2021 DNLUP and are considered in Chapters 2 to 5 of this document.

### 1.2.3 Planning Process Chronology

The following overview provides a high-level summary of the steps taken since 2006 by the NPC in developing the 2021 DNLUP.

#### 2006-2007

Development of the Broad Planning Policies, Objectives and Goals for the NLUP as required by NA section 11.4.1(a) in partnership with the GoC, the GN and NTI. Approved November 2007.

#### July 2007-January 2008

The NPC engaged communities, Institutions of Public Government (IPGs), designated Inuit organizations (including Regional Inuit Associations (RIAs)), government and industry to identify vision, goals and priority land use planning issues to be addressed through the planning process.

#### 2008

The NPC conducted background research including the preparation of ecosystemic, socio-demographic and economic sector analysis reports.

#### January 2009-March 2010

The NPC identified detailed issues and priorities with Planning Partners to identify topics for the first-generation NLUP.

#### March 2010-May 2010

The NPC hosted technical workshops to discuss the content of the DNLUP.

#### March 2010-July 2010

The NPC distributed its Priority Areas Map to all households in Nunavut to solicit feedback on areas identified for consideration within the NLUP.

#### March 2010-September 2011

The NPC continued to focus on various aspects of the working draft NLUP.

#### September 2011-June 2012

An independent third-party review of the planning process initiated by the GoC, the GN and NTI was carried out.

#### September 2012

The 2012 DNLUP and 2012 O&R were released.

#### October 2012-April 2014

The NPC sought feedback on the 2012 DNLUP through written submissions and through in-person community meetings in all Nunavut communities and affected Nunavik and Dēnesųliné communities. Planned public hearings were delayed following recommendations from the GoC, the GN and NTI that the 2012 DNLUP be revised first, based on feedback received to date.

#### June 2014

The 2014 DNLUP and 2014 O&R were released.

#### August 2014-May 2016

The NPC sought feedback on the 2014 DNLUP through written submissions and through four in-person technical meetings. The NPC's planned public hearings were postponed based on the recommendations from the GoC, the GN and NTI that the 2014 DNLUP be revised first, based on feedback received to date.

#### June 2016

The 2016 DNLUP and 2016 O&R were released.

#### July 2016-February 2017

The NPC sought feedback on the 2016 DNLUP through written submissions and through in-person community meetings.

#### September 2016-November 2016

The NPC prepared for public hearings on the 2016 DNLUP including one pre-hearing conference in Iqaluit for all participants, and six regional pre-hearing conferences focused on designated community participants.

#### March 2017

The NPC hosted a Qikiqtani regional public hearing in Iqaluit for residents of the Qikiqtani Region and Nunavik.

#### May 2017-June 2018

The NPC postponed the remaining regional public hearings pending procedural discussions with the GoC, the GN and NTI regarding next steps.

#### July 2018-March 2019

The NPC invited additional written feedback on the 2016 DNLUP.

#### November 2019-January 2020

The NPC conducted in-person community information sessions in the Kitikmeot and Kivalliq Regions to solicit feedback on the 2016 DNLUP.

#### Summer 2021

The NPC released the 2021 DNLUP and 2021 O&R.

### 1.2.4 Previously-Approved Regional Land Use Plans

The original Lancaster Sound Regional Land Use Plan was approved in 1990. Following the establishment of the NPC in 1996, this plan was reviewed, revised for consistency with the NA and re-named the North Baffin Regional Land Use Plan (NBRLUP). The revised plan was approved in 2000.

The original Keewatin Regional Land Use Plan (KRLUP) was approved in 1994 and 1995, subsequently reviewed and revised by the NPC, and a new version was approved in 2000.

Between 2000 and 2021, the NPC implemented the two approved regional land use plans. When the NLUP is approved, it will repeal and replace the NBRLUP and the KRLUP.

The two regional land use plans were developed in the late 1980s and 1990s before the NPC's Broad Planning Policies, Objectives and Goals were approved in 2007. With the focus on the development of a single Nunavut-wide land use plan, the regional plans have not been periodically reviewed to reflect changing objectives on IOL or the results of updated community consultations carried out for the purpose of drafting a new Nunavut-wide land use plan.

Some components of the two regional land use plans may still reflect the objectives of Inuit and some may not. Conformity requirements in those plans were drafted based on interests and expectations that existed at that time that may no longer be valid. The approaches in the NBRLUP and the KRLUP were considered when reviewing the options and recommendations in Chapters 2 to 5 of this 2021 O&R.

### 1.2.5 Socio-Economic Information

In addition to the considered information noted above in this section, a number of sources of publicly available socio-economic information were also considered to provide an up-to-date understanding of current conditions in Nunavut, including:

Nunavut Bureau of Statistics (2016 census and population projections to 2035):

<http://www.stats.gov.nu.ca/en/Population%20estimate.aspx>

<http://www.stats.gov.nu.ca/en/Population%20projections.aspx>

Active mineral exploration and development interests:

<https://open.canada.ca/en>

GN Department of Finance, Business Plan (2020-2023) – Environmental Scan:

<https://www.gov.nu.ca/finance/documents/2020-23-business-plan>

The NPC believes this information does not raise any new issues not previously put before the Commissioners by Nunavummiut or the participants, and that its inclusion would not change any of the positions taken by Nunavummiut or participants in the land use planning process, and so no additional public consultations or hearings were held on the use of these information sources.

## 1.3 NPC Jurisdiction

### 1.3.1 Geographic Application

Pursuant to the NA and the NuPPAA, land use plans prepared by the NPC apply within the NSA and the Outer Land Fast Ice Zone (OLFIZ), including surface and

subsurface lands, freshwater, marine areas and the beds of these bodies of water.

Land use plans prepared by the NPC do not apply within established national parks, national marine conservation areas (NMCAs), territorial parks, and national historic sites administered by the Parks Canada Agency (PCA).

Section 11.8.2 of the NA states that the land use planning process shall apply to IOL and shall take into account Inuit goals and objectives for IOL as represented by the designated Inuit organizations.

Within municipal boundaries, land use plans prepared by the NPC apply only to certain land uses, as noted below.

### 1.3.2 Application to Land Use Activities

Under the NuPPAA, all “projects” must be submitted to the NPC for review. “Project” is defined in section 2(1) of the NuPPAA as follows:

**“project”** means the carrying out, including the construction, operation, modification, decommissioning or abandonment, of a physical work or the undertaking or carrying out of a physical activity that involves the use of land, waters or other resources. It does not include:

- (a) the undertaking or carrying out of a work or activity if its adverse ecosystemic impacts are manifestly insignificant, taking into account in particular the factors set out in paragraphs 90(a) to (i);
- (b) the undertaking or carrying out of a work or activity that is part of a class of works or activities prescribed by regulation; or
- (c) the construction, operation or maintenance of a building or the provision of a service, within a municipality, that does not have ecosystemic impacts outside the municipality and does not involve the deposit of waste by a municipality, the bulk storage of fuel, the production of nuclear or hydro-electric power or any industrial activities.”

Traditional Inuit land uses including subsistence land use and the harvest of wildlife are not “projects” and do not require a review by the NPC. For greater certainty, the

NLUP does not directly apply to any Inuit traditional land uses, but it may indirectly limit or infringe Inuit access rights protected by section 5.7.16 of the NA by permitting projects that are inconsistent with the exercise of those rights to proceed.

In addition to the land uses included in the definition of “project” noted above, under NuPPAA section 174(1) park and conservation area initiatives must also be reviewed by the NPC:

**“174 (1)** The department or agency proposing an initiative whose purpose is to establish or abolish a park or a conservation area, in whole or in part inside the designated area, or to expand or reduce its area, in whole or in part within the designated area, must submit a proposal to the Commission.”

## 1.4 Options for Land Use Policy

Early in the DNLUP planning process, it was agreed that the NLUP should include a zoning or designation-based framework to guide land use. This approach is a departure from the two approved regional land use plans which do not designate specific zoning for areas. For example, section 1.1 of the NBRLUP states:

“Given the nature of land use in the region now and in the immediate future and the fact that there are no large-scale development proposals requiring specific parcels of land, the NPC feels it would be inappropriate to allocate land uses to particular areas.”

Nunavut has undergone significant change since the NBRLUP was prepared and a new approach was reflected in the 2007 Broad Planning Policies, Objectives and Goals document. For example, under Goal 2, Policy A states that it is a policy of the NPC that land use planning “seeks balance between social development, conservation and sustainable economic development goals, through the use of zoning and appropriate terms ...”

Four options were considered for each key geographic area in the 2021 DNLUP and the 2021 O&R. Three of the options are land use designations with decreasing levels of restrictions on land use, i.e., Limited Use (LU);<sup>1</sup> Conditional Use (CU);<sup>2</sup> and Mixed Use (MU). Where land

<sup>1</sup> Formerly “Protected Area (PA)”

<sup>2</sup> Formerly “Special Management Area (SMA)”

use conditions or prohibitions are not considered appropriate for inclusion in the NLUP, a MU designation is applied, which means all land uses are permitted subject to regulatory approval. The land use designations are presented on Map A (Land Use Designations) in the DNLUP.

The fourth option applies to areas where known Valued Components (VCs) exist. VCs are presented on Map B (Valued Components of Nunavut) in the DNLUP. For these VCs, there was not enough information or justification available to include specific land use prohibitions, terms or conditions in the DNLUP (i.e., options LU or CU). However, a substantial amount of information has been collected on VCs by the NPC during the planning process and this information is flagged so that it can be considered by proponents when designing their projects and by regulatory authorities when reviewing projects.

The following subsections provide additional information on the LU, CU, MU and VC options.

### 1.4.1 Option 1 - Limited Use (LU)

- Characterized by year-round prohibition of one or more types of land uses.
- May also include conformity requirements, such as seasonal restrictions on certain land uses, or setback requirements around important features.
- Shown on Map A (Land Use Designations) of the DNLUP.
- It is prohibited to contravene applicable requirements in LU areas pursuant to NuPPAA section 74(f).

### 1.4.2 Option 2 - Conditional Use (CU)

- Characterized by conformity requirements such as seasonal restrictions on certain land uses, or setback requirements around important features.
- Shown on Map A (Land Use Designations) of the DNLUP.
- It is prohibited to contravene applicable requirements in CU areas pursuant to NuPPAA section 74(f).

### 1.4.3 Option 3 - Mixed Use (MU)

- Characterized by no prohibited uses or other conformity requirements in the DNLUP. Other regulatory authorities may set other requirements through the issuance of permits, licences and authorizations, as appropriate.
- Identified area not discussed in the DNLUP, and boundary of identified area not shown on Maps A or B of the DNLUP.
- MU designations only apply in areas that are not otherwise designated CU or LU.

### 1.4.4 Option 4 - Information on Valued Components (VCs)

- Characterized by no land use restrictions in the area, except as may be set by regulatory authorities.
- Identifies geographic areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECs). VECs and VSECs are collectively referred to as VCs.
- Shown on Map B (Valued Components of Nunavut) of the DNLUP.
- Proponents and regulatory authorities would be made aware of the importance of the sites, and the NPC would consider this information when determining whether there are potential cumulative impacts concerns regarding project proposals.

### 1.4.5 Summary of Revisions

	2014	2016	2021
<b>Option 1</b>	Protected Area (PA)	Protected Area (PA)	Limited Use (LU)
<b>Option 2</b>	Special Management Area (SMA)	Special Management Area (SMA)	Conditional Use (CU)
<b>Option 3</b>	Mixed Use (MU)	Mixed Use (MU)	Mixed Use (MU)
<b>Option 4</b>	Direction to Regulatory Authorities	Information on Valued Components (VCs)	Information on Valued Components (VCs)



## 1.5 Rating Criteria for Identified Geographic Areas

To inform the development of suitable options for an issue or geographic area and to help inform the rationale for each recommended land use designation, the following criteria are considered:

1. Overall importance of the issue;
2. Defining geographic boundaries;
3. Environmental and cultural importance;
4. Non-renewable resource, transportation and linear infrastructure potential;
5. Sensitivity to impacts; and
6. Other regulatory tools.

For each criterion, a rating of low, moderate, or high is assigned based on the factors set out below. This rating system is informed by input received from participants through the extensive consultation process and the contribution of professional planning judgment and experience.

### 1.5.1 Ratings on the Overall Importance of an Issue

The following factors are considered when rating the overall importance of an issue:

- The number of participants that identified the issue as a priority;
- The cultural importance of the issue;
- The economic importance of the issue; and
- The ecosystemic value of the issue.

This criterion is considered for the overall importance of an issue (e.g., caribou or walrus) and the criteria that follow are considered for each sub-category of identified areas (e.g., caribou calving areas, walrus terrestrial haul-outs).

### 1.5.2 Rating on Defining Geographic Boundaries

The DNLUP spans a geographic area of some 2.093 million km<sup>2</sup>, comprising 1,877,787 km<sup>2</sup> of land and 160,930 km<sup>2</sup> of water. This represents one-fifth of Canada's land mass and includes some 356,000 km<sup>2</sup> of IOL. Such a spatial scale is unprecedented for a land use plan anywhere in North America. This creates challenges with respect to defining geographic boundaries, some of which are intended to reflect a variety of unique considerations. These include areas of social, cultural and spiritual significance that may not have boundaries defined by natural features (e.g., rivers, coastlines, watershed, mountains), and seasonal ranges for various wildlife species (e.g., migration routes, calving areas).

The NPC recognizes and respects the fact that given the geographic scale of the DNLUP, there are gaps and limitations in the collective knowledge in setting land use policies and designations. The knowledge and information gaps and limitations include emergent factors, some of which may be '*disruptive*' (which may be positive or negative), such as climate change and the associated impacts (singular and/or cumulative). Monitoring by responsible authorities (e.g., through the Nunavut General Monitoring Plan (NGMP)) and mandated periodic review and amendment of the DNLUP, pursuant to NA section 11.6, will be informed by these types of impacts and changes to the knowledge base.

Within the context of the preceding observations, the following factors are considered when rating the degree of confidence in the geographic boundaries of an area or specific habitat type:

- The scale and precision with which the area can be defined by boundaries;
- Whether the information is current; and
- The level of consensus among participants regarding confidence and accuracy of the boundaries, as well as whether participants have had an opportunity to comment on the boundaries.

### 1.5.3 Ratings on Environmental and Cultural Importance

The following factors are considered when rating the environmental and cultural importance of an area or specific habitat type:

- The importance of the area to the community for hunting, fishing and/or trapping; and
- The importance of the area to wildlife including whether alternate habitat is available.

### 1.5.4 Ratings on Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

The following factors are considered when rating the potential for non-renewable resources, transportation and linear infrastructure of an area or specific habitat type:

- The potential for mineral or oil and gas resources;
- The potential for transportation and linear infrastructure development;
- Whether there are existing rights for non-renewable resource land use;
- Whether the area has subsurface IOL parcels; and
- The geographic size of the area.

### 1.5.5 Ratings on Sensitivity to Impacts

The following factors are considered when rating the sensitivity to impacts of an area or specific habitat type:

- The sensitivity to disturbance of species using these areas;
- Whether species use the areas when disturbance is likely to occur;
- Whether existing or potential land uses are sensitive to disturbance from incompatible uses; and
- Whether the concern regarding potential impacts is year-round or seasonal.

### 1.5.6 Ratings on Other Regulatory Tools

The following factors are considered when rating the benefit of including guidance in the NLUP to manage land use in a geographic area or specific habitat type:

- The extent to which other regulatory authorities address the issue; and
- The degree of overlap between existing legislation and regulations with NPC jurisdiction.

## 2 Protecting and Sustaining the Environment

*The Goal of Protecting and Sustaining the Environment is described as: “The goal of protecting and conserving Nunavut’s air, land and water, i.e. the environment, including wildlife and wildlife habitat, is of critical importance to the sustainability of Nunavut’s communities, Inuit culture and the continuation of a viable long-term economy.”*

Protecting and Sustaining the Environment is one of five planning goals in the NPC’s Broad Planning Policies, Objectives and Goals. This chapter of the 2021 O&R provides policy direction to support this goal. Specifically, this chapter:

- Identifies key areas of Nunavut that are critical to the protection and conservation of the environment, including wildlife and wildlife habitat;
- Provides options for managing these key areas; and
- Recommends a preferred option for the management of these areas that is best able to support the Goal of Protecting and Sustaining the Environment and build on the direction provided by planning policy, pertinent reports and feedback from Planning Partners.

The following themes have been identified as important to protecting and sustaining the environment:

- Migratory birds;
- Caribou (calving areas, post-calving areas, key access corridors, freshwater crossings, sea ice crossings, rutting areas, migration corridors, summer and late summer areas, winter ranges, and Peary Caribou areas);
- Polar bears (summer retreat habitat, winter/spring sea ice habitat, mating areas, and denning areas);

- Atlantic Walrus (feeding areas, calving and post-calving areas, terrestrial haul outs);
- Whales (beluga calving areas, bowhead calving areas, and narwhal calving areas);
- Fish (Arctic grayling and blue mussels, and Atlantic Cod lakes);
- Marine areas of importance (Ecologically and Biologically Significant Areas (EBSAs), polynyas, and floe edges);
- Transboundary considerations (Great Bear Lake Watershed and North Water (Sarvarjuaq/Pikialaorsuaq) Polynya); and
- Climate change effects.

The Qikiqtaaluk Wildlife Board<sup>1</sup> (QWB) requested that areas it notes are important to bearded and ring seals be added to the DNLUP, but did not provide data to support the request. The NPC welcomes additional insights from all Planning Partners on the arguments for and against adding areas deemed important to seals.

### 2.1 Migratory Birds

The NA requires a land use plan to take into account environmental considerations, including wildlife habitat.

Policy D1 of the NPC’s Goal of Protecting and Sustaining the Environment is to respect and consider ‘natural capital’ sites (sites of ecological significance) that are not officially protected, such as: polynyas, key migratory bird sites, Ramsar sites, and critical habitat that has been identified but not yet declared.

Objective F of the NPC’s Goal of Encouraging Sustainable Development is to ensure that the goals of any proposed restrictions on land use are achieved with the least possible impact on undiscovered mineral resources, while taking into account environmental and social objectives.

This section considers migratory bird habitat outside established conservation areas. Chapter 4 discusses additional areas important to birds including migratory bird sanctuaries (MBSs) and national wildlife areas (NWAs).

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-208E), (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-209E)

## 2.1.1 Importance of Migratory Birds

Some of the key migratory bird habitat sites are located in areas where there are competing land uses and/or areas where parties have identified other types of land use activity. Environment Canada and Climate Change (ECCC) stated that it will review project proposals/projects in key migratory bird habitat sites with scrutiny to ensure conformity with the *Migratory Birds Convention Act, 1994* and Regulations.

Some sites are located within the boundaries of the KRLUP. The KRLUP identifies healthy wildlife populations as vital to Inuit. It places an emphasis on the protection and preservation of wildlife and wildlife habitat. The Kivalliq Region is nationally and internationally recognized for its significant bird habitat.

The majority of communities identified migratory birds as a priority value. During the consultations, Kitikmeot and Kivalliq communities were engaged in discussions in 2019-2020 about migratory bird areas near their communities, and they confirmed that migratory birds are a priority value for their respective communities.

In 2014, the GoC<sup>1</sup> stated:

“More than 100 species of migratory birds are known to nest in the Canadian Arctic (Birds of North America 2010). Of these, over 30 species are entirely dependent on the Canadian Arctic for production of young (i.e. 100% of the nesting habitat occurs in the north). The birds’ survival and reproduction in the north requires a high level of feeding activity during a very short window of time. From their arrival in the Arctic during the spring until their departure at the end of summer, they must be able to make up for stored energy losses incurred during migration, gather enough food to support egg production, brooding and chick rearing, and then build up adequate energy stores for both chick and adult to commence migration to their wintering grounds.

“Many Arctic nesting birds are colonial, and therefore during the time that they are in the Arctic they occur in very high densities at geographically distinct sites. The high concentrations of birds at discrete sites, combined with high-energy demands during this life cycle stage and sensitivity to disturbance of birds during nesting and chick

rearing, means that conservation of Arctic migratory bird key habitat has significant implications for the long term survival of a number of species.”

In 2018, the QWB<sup>2</sup> stated:

“Migratory seabirds, waterfowl and others are important nutritional, cultural and economic resources for Inuit and their culture. These birds are also vital components of the ecology of healthy marine environments in Qikiqtaaluk Region.”

In 2017, NTI and the RIAs<sup>3</sup> submitted:

“The proposed Migratory Bird Protected Areas and Special Management Areas in the DNLUP 2016 respond to a government priority for protecting bird habitat without verification with communities that they endorse the designations. Based on the key community priorities identified in the DNLUP 2016, the protection of additional migratory bird habitat is not a priority for a 1<sup>st</sup> generation NLUP as it does not relate to access to country food, access to safe drinking water or building a stronger economy. As discussed previously, Sub-section 11.2.1 I of the Nunavut Agreement states that “the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning region.”

### Considerations

Participants generally agreed on the overall high importance and priority of migratory birds. Migratory birds are broadly recognized as an important issue to be included in the NLUP.

**The overall importance of MIGRATORY BIRDS is considered HIGH because:**

- They have been identified by many participants as a priority;
- They have a high cultural value;
- They have a moderate economic value; and
- They have a high ecosystemic value.

## 2.1.2 Types of Areas Important to Migratory Birds

In ECCC’s<sup>4</sup> April 2014 submission, the Canadian Wildlife Service (CWS) recognized two categories of key migratory bird habitat sites: Red-listed Sites and Yellow-listed Sites.

<sup>1</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-196E)

<sup>3</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>4</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

➤ **Red-listed Sites** (Highly Risk Intolerant):

- Are legislated protected areas under the *Migratory Birds Convention Act, 1994* or the *Canada Wildlife Act*; and/or
- Support a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate; and/or
- Host greater than 5% of a national population of a species exhibiting population declines as of 2005; and/or
- Have been identified, or are anticipated to be identified, as critical habitat for a migratory bird species listed as 'endangered' or 'threatened' under the *Species at Risk Act* (SARA).

➤ **Yellow-listed Sites** (Moderately Risk Intolerant):

- Support 5%-10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005; or
- Support 1-5% of the national population of one or more migratory bird species that are exhibiting population declines as of 2005.

Each of the Red-listed and Yellow-listed Sites were further categorized based on recommended prohibitions.

In 2014, ECCC-CWS<sup>1</sup> recommended access restrictions for the Red Sites and other forms of management for the Yellow-listed Sites.

In 2016, ECCC-CWS<sup>2</sup> recommended some exceptions to the terms and conditions based on a reconsideration of the types of birds present and the level of knowledge available.

In this 2021 O&R, the four types of key migratory bird habitat sites will be reviewed collectively, however, land use recommendations vary for each category. Additional details for each site are included in Appendix B.

### 2.1.2.1 'Table 2: Migratory Bird Setbacks' Description

Within the bird areas presented on the DNLUP maps, there are a number of locations where migratory birds will seasonally congregate most years. These locations are usually quite small, just a few square kilometres. Table 2: Migratory Bird Setbacks is a system of setbacks from these different types of areas important to migratory birds, proposed by ECCC. The GoC<sup>3</sup> proposed a number of edits and revisions to the original Table 2 in 2017.

### 2.1.3 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
ECCC, 2017	190,450	5.9
Kitikmeot/Kivalliq (additional), 2019/20	49,701	1.54
QWB (additional), 2018	2,376	0.07

ECCC<sup>4</sup> provided the NPC with the locations of key migratory bird habitat sites in the NSA. These areas were delineated based on their importance for sustaining and supporting terrestrial and marine migratory bird populations in the NSA.

In 2012, the Independent Review of the Draft NLUP<sup>5</sup> indicated that migratory bird areas "are sufficiently clearly delineated."

In 2018, the QWB<sup>6</sup> suggested the addition of a number of areas important to eider ducks identified by IQ. The QWB suggests these sites to be classified as community areas of interest and be treated in a manner identical to ECCC-CWS's Yellow-listed Sites with Recommended Prohibitions. For simplicity these have been added in this section.

In 2018, the QWB<sup>7</sup> also suggested the addition of several areas important to snow geese, identified by IQ. The QWB suggests the NLUP classify these as community

<sup>1</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>4</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>5</sup> (Dillon Consulting, 2012-06-21. NPC Public Registry File # 10-133E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-197E)

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-198E)



areas of interest and treat them in a manner identical to ECCC-CWS’s Yellow-listed Sites with Recommended Prohibitions. For simplicity, those areas have been added in this section.

In 2019 and 2020, the NPC led community consultations in the Kitikmeot and Kivalliq Regions. Residents were asked if they agreed with the proposed boundaries of the CWS key bird habitat sites near their communities. All communities were in agreement with the CWS proposals and some communities recommended additional areas. Where changes were suggested, they are discussed on a site-by-site basis for the particular bird habitat area in Appendix B.

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of key migratory bird habitat sites. The ECCC provided the NPC with the locations of key migratory bird habitat sites in the NSA.

***The certainty of the identified geographic boundaries of KEY MIGRATORY BIRD HABITAT SITES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is significant agreement among participants regarding the boundaries; and*
- *The information is current.*

2.1.4 Environmental and Cultural Importance

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, reviewed a number of bird species, and indicated that key migratory bird habitat sites are essential habitat components for most of the birds.

The ECCC<sup>2</sup> submission also supports the importance of these key habitats for the migratory birds.

Nunavut community residents indicated in general the importance of migratory bird areas.

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)  
<sup>2</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)  
<sup>3</sup> (Government of Canada-ECCC, 2016-11-15. NPC Public Registry File # 16-021E)

In 2016, ECCC<sup>3</sup> noted:

“We tend to think of key habitat sites in Nunavut as places for birds to breed. However, information from the tagged birds shows that key habitat sites in the southern part of Nunavut are also highly important for migrating birds.”

Considerations

Participants broadly agreed on the high environmental and cultural importance of key migratory bird habitat sites.

***The environmental and cultural importance of KEY MIGRATORY BIRD HABITAT SITES is considered HIGH because:***

- *The areas are essential to the biological productivity of migratory birds;*
- *Alternative habitat is often not available;*
- *The habitat supports concentrations of migratory birds; and*
- *The habitat is scarce.*

2.1.5 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
ECCC, 2017	198,238	22,715	2,627	4,259
NPC, 2020	52,606	7,663	350.1	118.2

Parnautit,<sup>4</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that will contribute to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>5</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)  
<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

In 2017, NTI and the RIAs<sup>1</sup> noted the identified migratory bird habitat includes “areas that have already been earmarked for [economic development] activities, particularly on IOLs.”

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in key migratory bird habitat sites is considered moderate.

***The potential for non-renewable resources, transportation and linear infrastructure in KEY MIGRATORY BIRD HABITAT SITES is considered MODERATE because:***

- *The areas overlap with areas with evidence of mineral potential;*
- *There areas have low potential for transportation and linear infrastructure;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas cover a large geographic area.*

## 2.1.6 Sensitivity to Impacts

In 2017, a representative of the GoC<sup>2</sup> stated at the Qikiqtani public hearing:

“... setbacks on activities around key nesting sites are seasonal. That is, they would only apply while birds are present, and they are subject to safety and search-and-rescue exemptions. In conclusion, the Government of Canada (GoC) believes that community views on key bird habitat sites on a site-by-site basis are equally important to ensure that the Nunavut Land Use Plan meets the expectations of those communities. While we are encouraged by the amount of community engagement and participation at this first regional public hearing, we still believe that more community consultations are warranted.”

ECCC<sup>3</sup> categorized all key migratory bird habitat areas into a Red- or Yellow-listed Site, depending on a number of criteria presented in Chapter 7. ECCC has also recommended policies to include in the land use plan for each site.

### Considerations

The NPC considers the sensitivity of highly risk intolerant (Red-Listed) migratory bird sites to impacts from incompatible uses to be high and seasonal. The NPC considers the sensitivity of moderately risk intolerant (Yellow-Listed) migratory bird sites to impacts from incompatible uses to be moderate and seasonal.

Participants broadly agreed that migratory birds are highly sensitive to impacts to their habitat when the birds are present. In addition, no party has questioned the validity of the ECCC’s categorization of the key migratory bird habitat sites, although some have disagreed with the policy recommendations.

***The sensitivity of HIGHLY RISK INTOLERANT (RED-LISTED) MIGRATORY BIRD SITES to impacts is considered HIGH and SEASONAL because:***

- *Migratory birds are highly sensitive to disturbance when using these areas; and*
- *Migratory birds use these areas seasonally when disturbance is likely to occur.*

***The sensitivity of MODERATELY RISK INTOLERANT (YELLOW-LISTED) MIGRATORY BIRD SITES to impacts is considered MODERATE and SEASONAL because:***

- *Migratory birds are moderately sensitive to disturbance when using these areas; and*
- *Migratory birds use these areas seasonally when disturbance is likely to occur.*

## 2.1.7 Other Regulatory Tools

Most migratory birds are protected under the *Migratory Birds Convention Act*.

### Considerations

Even though some migratory birds are protected under the *Migratory Birds Convention Act*, the NLUP can supplement land use guidance in key migratory bird habitat areas, both by informing prospective proponents of their locations and characteristics, and by incorporating ECCC’s recommended setbacks in the early stage of the regulatory system.

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>3</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

***The potential value of including guidance in the NLUP for KEY MIGRATORY BIRD HABITAT SITES is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

## 2.1.8 Policy Options for Migratory Bird Habitat

In 2015, NTI<sup>1</sup> stated:

“Environment Canada’s key bird habitats appear to have been accepted into the 2014 DNLUP without further analysis, resulting in extensive land areas being protected without apparent identification or integration of community and Inuit goals and priorities for those areas.

“In our view, there must be a demonstrated connection between the goals and priorities of Inuit in the communities, and the land use designations. And, there has as yet been no opportunity for community members to review the current proposed designations to assess directly how well the designations reflect their values and priorities.

“Finally, it is important to note that the participation of NTI and the RIAs in the planning process does not supplant the role of Inuit in the communities.”

### Considerations

The NPC has not categorized NTI’s comment according to the option below as it provides general information regarding the development of the NLUP. The NPC has consulted with Nunavummiut at various stages of the planning process since its beginning. In 2019 and 2020, the NPC led community consultations in the Kitikmeot and Kivalliq Regions. Nunavummiut were asked if they agreed with the proposed boundaries of the CWS key bird habitat sites near their communities and the proposed designations. Their views are incorporated in this 2021 O&R analysis.

### 2.1.8.1 Option 1 - Limited Use

In 2014, ECCC-CWS<sup>2</sup> recommended prohibitions of:

“Any activity that may cause significant alteration to migratory bird habitat, or which may cause long-term or repeated disturbance to migratory birds, nests, or eggs” for Red-Listed Migratory Bird Habitat Sites as well as aerial, marine and/or terrestrial setbacks.”

In 2016, ECCC-CWS<sup>3</sup> reiterated its previous recommendations with minor adjustments.

In 2014, the GN<sup>4</sup> submitted:

“Do not prohibit activity. Consider GN policy direction in the Commission's consideration of recommended options. In the absence of a review and assessment to determine that a site must be restricted, assign a designation for those highly risk intolerant sites that would consider a project through a plan amendment or to the plan or an impact review. In this way, the sensitivity of the site is reflected, but activities that may co-exist now or in the future can be assessed on their own merit to determine if they are potentially adverse and therefore prohibited.

“Several Key Bird Habitat Sites have been designated as Option 2 (development prohibited). However, it does not appear that oil and gas potential or other economic activity was considered in determining this designation.

“Reassess the Key Bird Habitat Sites to consider oil and gas potential or other economic activities that may benefit from having access to the areas if and where adverse impact can be minimized.”

In 2016, the World Wildlife Fund (WWF)<sup>5</sup> noted:

“We are in support of option 1 which would dictate that migratory bird setbacks in Table 2 should be implemented as conditions that project proposals must comply with. This option implies that NPC would determine if the setbacks are met during a conformity determination, rather than regulatory authorities.”

In 2018, the QWB<sup>6</sup> suggested applying prohibitions similar to Red-listed Sites to the Frobisher Bay Key Bird Habitat Site.

### Considerations

The NPC notes that there is consensus that migratory bird habitat sites are important, but there is lack of consensus as to the level of protection.

<sup>1</sup> (Nunavut Tunngavik Incorporated (NTI), 2015-02-12. NPC Public Registry File # 14-013E)

<sup>2</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>5</sup> (WWF-Canada , 2016-03-04. NPC Public Registry File # 14-160E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-213E)

### 2.1.8.2 Option 2 – Conditional Use

In 2014, ECCC-CWS<sup>1</sup> recommended CU status for Yellow-listed Sites with migratory birds aerial, terrestrial and marine setbacks conditions.

In 2016, ECCC-CWS<sup>2</sup> reiterated its previous recommendations with minor adjustments.

In 2016, NTI and the RIAs<sup>3</sup> submitted:

“NTI and the RIAs request that all other proposed migratory bird protected areas be re-designated as Special Management Areas where appropriate terms, conditions and restrictions are developed for these areas. Communities adjacent to proposed migratory bird areas must be consulted regarding the proposed areas and potential terms, conditions and restrictions. In cases where communities support protected areas, discussions should occur regarding establishing new National Wildlife Areas or Migratory Bird Sanctuaries outside the NLUP allowing for the negotiation of additional benefits under the 2016-2023 Inuit Impact and Benefit Agreement for National Wildlife Areas and Migratory Bird Sanctuaries in the Nunavut Settlement Agreement.

“NTI and the RIAs require that terms, conditions and restrictions not eliminate or hamper access to IOLs (see also page 23 of the submission).

“NTI and the RIAs recommend that NPC identify shipping routes around migratory bird areas that allow for marine access while avoiding sensitive bird colonies.

“NTI and the RIAs support Environment Canada’s preliminary proposal shared during internal discussions to rezone the Western Cumberland Sound and Frozen Straight Migratory Bird areas as Mixed Use Areas.”

In 2017, NTI and the RIAs<sup>4</sup> re-affirmed their position in their joint submission:

“NTI and RIAs recommend that the proposed Migratory Bird Protected Areas be placed in Special Management Areas where the setbacks in Table 2 of the DNLUP 2016 apply, and other terms and conditions may apply. Exceptions could be considered in cases where the

community adjacent to the proposed designation and the RIA support a specific Protected Area designation.

“For the few cases that a proposed Migratory Bird Protected Area includes a subsurface IOL parcel (see section below on Subsurface IOLs), NTI and the RIAs recommend that the bird area be designated a Special Management Area where the setbacks in Table 2 of the DNLUP 2016 apply, and other terms and conditions may apply.”

In 2016, NTI and the RIAs<sup>5</sup> agreed with making migratory bird setbacks a condition of land use planning conformity.

In 2016, the Kivalliq Inuit Association (KivIA)<sup>6</sup> noted:

“Setbacks during only part of the year could lead to destruction or disturbance of breeding habitat when the birds are not present, resulting in loss or degradation of habitat necessary for birds when they return to breed. Furthermore, the 300 m seasonal terrestrial setback from concentrations of birds may not be sufficient for all types of activities. The North Yukon Regional Land Use Plan (Vuntut Gwitchin Government and Yukon Government, 2009) has adopted land use zoning based on intensity rather than type of use. In this approach, the direct surface disturbance and linear density of proposed human activities are used to determine the overall intensity of a proposed project. Similar metrics could be used to evaluate appropriate setback distances for different activities affecting migratory birds in the DNLUP.

“It is recommended that the DNLUP require year-round terrestrial setbacks around migratory bird habitat to ensure breeding habitat is not lost or degraded during all periods of the year. It is also recommend[ed] that the intensity of proposed activities in, or in the vicinity of, migratory bird habitat be factored into the calculation of setback distance (e.g. consider the amount of area physically disturbed and the total length of linear features such as roads, access trails etc.).”

In 2016, the GoC<sup>7</sup> noted:

“The Government of Canada recommends that the NPC consider making the migratory bird setbacks a condition of conformity in the Nunavut Land Use Plan. Environment and Climate Change Canada (ECCC) will provide geospatial delineation of specific setback locations within each key

<sup>1</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>4</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>5</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>6</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>7</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

bird habitat site. This will allow the NPC to determine whether the setbacks are met during conformity determination.”

In 2018, the QWB<sup>1</sup> stated:

“We hereby recommend important changes to Table 2 ... before the NLUP is finalized. These changes should be applied within all of Qikiqtaaluk region, and potentially elsewhere in Nunavut depending on IQ teachings in other areas.

“Young seabirds and coastal waterfowl are unable to fly for most, if not all, of July and August. During this period, they spend much of their time in the water, on ice floes near their nesting sites, and within their nesting areas. Adults are also flightless for 1-2 months during the summer. The young are especially naive about how to avoid boats and ships, and may be unable to respond to boats and ships so as to avoid death and injury. Adults may be also put themselves at risk while they attempt to protect their offspring. While flightless, they often dive to avoid ships and boats and may be sucked into propellers and trapped or struck by boats and ships, and then killed or injured. Also, groups of people should not approach nesting birds on the land in ways that may cause them to escape into the water.

“Based on IQ, adequate marine setbacks will require ships to remain at least 1.5 km from all nesting colonies of seabirds, coastal waterfowl and seaducks (i.e., all categories of migratory birds except ivory gulls). Marine setbacks of at least 1.5 km should apply ... since they are most likely to be in one of the other categories in a marine environment. Motorized zodiacs, kayaks and other small launch vessels should adhere to the following requirements:

- Remain at least 500 m from any birds in the water without restricted speed, and
- Remain at least 300 m from any birds in the water and a maximum speed of 3.5 km/h (i.e., 1.9 knots) when 300-500 m from birds.

“Terrestrial setbacks should require people to remain at least 500 m from concentrations of birds for all categories of migratory birds except ivory gulls. Please note that we assume that if a zodiac, kayak, boat, and other small launch vessel goes around birds in the water to land at or near a colony or moulting area, then the people would be immediately restricted to remain at least 500 m for any

groups of birds. If that is not the case, then this should be specified in Table 2.

“Further, in the preamble for Table or as an additional setback, it should state that wind turbines for electrical generation should be prohibited within 10 km of migratory bird nesting areas until they can be proven to be safe for birds and will not impact the activities of Inuit in these areas.”

### Considerations

The NPC notes that participants generally support the proposed ECCC-CWS designations for Yellow-listed Sites. The NPC acknowledges the IQ shared by the QWB pertaining to appropriate marine setbacks required for ships around bird colonies and supports the recommendation that transiting ships maintain a setback distance of at least 1.5 km from all nesting colonies of seabirds, coastal waterfowl and sea ducks.

The NPC notes that according to NA section 11.8.2: “The land use planning process shall apply to Inuit Owned Lands. Land use plans shall take into account Inuit goals and objectives for Inuit Owned Lands.”

During recent 2019-2020 community consultations in the Kivalliq and the Kitikmeot Regions, community residents confirmed their support to ECCC-CWS proposed migratory bird habitat sites policies near their community on both Crown and IOL lands.

#### 2.1.8.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.1.8.4 Option 4 - Valued Component

In 2014, ECCC<sup>2</sup> submitted that some Migratory Bird Habitat Sites Without Recommended Prohibitions or Conditions be noted in the NLUP.

In 2015, the Northwest Territories (NWT) & Nunavut Chamber of Mines<sup>3</sup> recommended adequate measures can be developed through the Nunavut Impact Review Board (NIRB) process and that:

“... mandatory setbacks may not be appropriate. Rather, the direction in the plan could be to require regulatory

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-196E)

<sup>2</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2015-06-20. NPC Public Registry File # 14-069E)



authorities to have regard to the setbacks set out in the Plan. While it is helpful to have guidance on potential setback distances, appropriate setback distances for the circumstances should ultimately be determined on a case by case basis.”

### Considerations

The NPC notes that ECCC’s recommendation is equivalent to identifying the areas as VECs. The NPC also recognizes the Chamber’s submission, and notes that participants generally support the inclusion of conformity determination conditions in the NLUP for migratory bird habitat sites.

### 2.1.9 NPC Recommendation for Highly Risk Intolerant (Red-Listed) Migratory Bird Habitat Sites With Recommended Prohibitions - LU

Given that:

#### MIGRATORY BIRDS:

The overall importance of the issue is considered HIGH.

#### HIGHLY RISK INTOLERANT (RED-LISTED) MIGRATORY BIRD HABITAT SITES WITH RECOMMENDED PROHIBITIONS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for Highly Risk Intolerant (Red-Listed) Migratory Bird Habitat Sites with Recommended Prohibitions

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.

- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

#### LAND USE PLAN POLICY RECOMMENDATION

### HIGHLY RISK INTOLERANT (RED-LISTED) MIGRATORY BIRD HABITAT SITES WITH RECOMMENDED PROHIBITIONS

#### LIMITED USE

#### Prohibited Incompatible Uses in Marine Areas:

- Oil and gas exploration and production

#### Prohibited Incompatible Uses in All Areas:

- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

#### Conditions

- All activities must obey setbacks listed in Table 2: Migratory Bird Setbacks, except in relation to the Inuit right to unrestricted access for the purposes of harvesting pursuant to NA section 5.7.16

### 2.1.10 NPC Recommendation for Highly Risk Intolerant (Red-Listed) Migratory Bird Habitat Sites Without Recommended Conditions - VEC

Given that:

#### MIGRATORY BIRDS:

The overall importance of the issue is considered HIGH.

#### HIGHLY RISK INTOLERANT (RED-LISTED) MIGRATORY BIRD HABITAT SITES WITHOUT RECOMMENDED CONDITIONS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
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ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

**Recommendation for the Highly Risk Intolerant (Red-Listed) Migratory Bird Habitat Sites Without Recommended Conditions**

Option 4 is recommended:

- Identifies areas that are important to particular VECs or VSECs.
- Identified area shown on Map B.

**Information on VCs:** Identify the migratory bird habitat site as an area of a known VEC that should be given particular consideration.

**Rationale:** Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

LAND USE PLAN POLICY RECOMMENDATION
<b><u>HIGHLY RISK INTOLERANT (RED-LISTED)</u></b>
<b><u>MIGRATORY BIRD HABITAT SITES</u></b>
<b><u>WITHOUT RECOMMENDED CONDITIONS</u></b>
<b>VALUED ECOSYSTEM COMPONENT</b>

2.1.11 NPC Recommendation for Moderately Risk Intolerant (Yellow-Listed) Migratory Bird Habitat Sites With Recommended Conditions - CU
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Given that:

**MIGRATORY BIRDS:**

The overall importance of the issue is considered HIGH.

**MODERATELY RISK INTOLERANT (YELLOW-LISTED) MIGRATORY BIRD HABITAT SITES WITH RECOMMENDED CONDITIONS:**

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	MODERATE and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

**Recommendation for the Moderately Risk Intolerant (Yellow-Listed) Migratory Bird Habitat Sites with Recommended Conditions**

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 2 was recommended given that the areas are considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

LAND USE PLAN POLICY RECOMMENDATION
<b><u>MODERATELY RISK INTOLERANT (YELLOW-LISTED) MIGRATORY BIRD HABITAT SITES</u></b>
<b><u>WITH RECOMMENDED CONDITIONS</u></b>
<b>CONDITIONAL USE</b>
<b>Condition:</b>
• All activities must obey seasonal setbacks listed in Table 2: Migratory Bird Setbacks, except in relation to the Inuit right to unrestricted access for the purposes of harvesting pursuant to NA section 5.7.16

## 2.1.12 NPC Recommendation for Moderately Risk Intolerant (Yellow-Listed) Migratory Bird Habitat Sites Without Recommended Conditions - VEC

Given that:

### MIGRATORY BIRDS:

The overall importance of the issue is considered **HIGH**.

### MODERATELY RISK INTOLERANT (YELLOW-LISTED) MIGRATORY BIRD HABITAT SITES WITHOUT RECOMMENDED CONDITIONS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	MODERATE and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

### Recommendation for the Moderately Risk Intolerant (Yellow-Listed) Migratory Bird Habitat Sites Without Recommended Conditions

Option 4 is recommended:

- Identifies areas that are important to particular VECs or VSECs.
- Identified area shown on Map B.

**Information on VCs:** Identify the migratory bird habitat site as an area of a known VEC that should be given particular consideration.

**Rationale:** Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

### LAND USE PLAN POLICY RECOMMENDATION

## MODERATELY RISK INTOLERANT (YELLOW-LISTED) MIGRATORY BIRD HABITAT SITES WITHOUT RECOMMENDED CONDITIONS VALUED ECOSYSTEM COMPONENT

### 2.1.13 Summary of Revisions

#### KRLUP and NBRLUP

No specific conformity requirements were included in either existing regional land use plan for key migratory birds habitat sites.

The KRLUP and NBRLUP both recognize the responsibilities of the CWS with regard to the preservation of migratory birds.

#### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage key bird habitat sites, they were assigned a Protecting and Sustaining the Environment (PSE-1, PSE-2, or PSE-3) designation or recommendation PSE-R1. Further details are as follows:

- The permitted uses for the PSE-1 designation were tourism, recreation and research, and all other uses were prohibited;
- The permitted uses for the PSE-2 designation were tourism, recreation and research;
- The permitted uses for the PSE-3 designation were tourism, recreation, research, marine infrastructure, marine communications and electrical cables; and
- The PSE-R1 recommendation stated, "Project Proposals located in a Key Bird Habitat Site should take into account impacts on the migratory birds that rely on the area."

In the 2014 DNLUP:

- Key migratory bird habitat sites considered to be highly risk intolerant were assigned a PA designation that prohibited incompatible uses, included setback requirements and in marine areas, and identified cumulative impacts concerns and direction to regulatory authorities to mitigate impacts; and
- Key migratory bird habitat sites considered to be moderately risk intolerant were assigned a SMA designation that included setback requirements, and in marine areas, direction to regulatory authorities to mitigate impacts.

Significant changes were not recommended between the 2014 and 2016 DNLUP. In the 2016 DNLUP:

- Key migratory bird habitat sites considered to be highly risk intolerant were assigned a PA designation that prohibited incompatible uses, and included setback requirements;
- Key migratory bird habitat sites considered to be moderately risk intolerant were assigned a SMA designation that included setback requirements; and
- Key migratory bird habitat sites not considered to be highly risk intolerant or moderately risk intolerant were presented as VECs.

### 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation that prohibits incompatible uses to the 'highly risk intolerant migratory bird habitat sites with recommended prohibitions' is consistent, although the terminology has changed from a PA designation in the earlier version to LU in 2021.

The 2014, 2016 and 2021 recommendation to assign a land use designation with specific conditions to the 'moderately risk intolerant migratory bird habitat sites with recommended conditions' is consistent, although the terminology has changed from a SMA designation in earlier versions to CU in 2021.

Like the 2016 DNLUP, the 2021 draft identifies a third category as known VECs.

## 2.2 Caribou

The NA requires a land use plan to take into account environmental considerations, including wildlife habitat.

Objective D of the NPC's Goal of Protecting and Sustaining the Environment is to manage land use in and around areas of biological importance.

Objective F of the NPC's Goal of Encouraging Sustainable Development is to ensure that the goals of any proposed restrictions on land use are achieved with the least possible impact on undiscovered mineral resources, while taking into account environmental and social objectives.

### 2.2.1 Importance of Caribou

Caribou are an essential part of northern ecosystems and Inuit cultural heritage. Most caribou rely on vast ranges and have long migratory routes.

As stated in the 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

"Caribou pose a unique situation in respect to Land Use planning because they are highly mobile largely due to the relatively low productivity of northern ecosystems in terms of forage quantity and quality. Most mainland populations show use of multiple areas and more than one population may use the same area at different time periods. Caribou can show varied responses to disturbance, some mainland caribou herds occur in more than one jurisdiction, and most management strategies have based population estimates only on annual harvest statistics or population survey but have not determined the ecological reasons behind population changes."

Caribou habitat management is also a transboundary issue as some herds migrate across borders. Inuit communities across territories and provinces share similar cultural heritages and rely on a healthy caribou population for subsistence. Some caribou herds may be affected by projects that occur outside or partly outside the NSA due to transboundary effects.

For example, in written submissions in 2010, the Beverly and Qamanirjuaq Caribou Management Board (BQCMB)<sup>2</sup> identified the need for "effective land use planning for Nunavut" due to growing pressures of people and industry, cumulative effects, and the increasing vulnerabilities of caribou and other wildlife species. Specifically, the BQCMB noted that because of the "interjurisdictional nature of the Beverly and Qamanirjuaq caribou herds, how Nunavut plans for this increasing land use is of great interest to other governments and communities outside Nunavut", particularly the Dene, Inuit, Métis, Cree and non-aboriginal peoples from communities near caribou ranges that rely on them for a number of uses such as "subsistence harvest, commercial sport hunts,

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

commercial meat sales, and eco-tourism.” The 2010 BCQMB submission also noted the increase of mineral exploration, development activities, and a proposed all-season road connecting northern Manitoba with Nunavut near or in caribou ranges and calving and post-calving areas.”

In 2014, NTI<sup>1</sup> stated:

“The importance of vital healthy caribou populations to Inuit is beyond question.”

Working Together for Caribou,<sup>2</sup> the GN’s Nunavut Caribou Strategy, identifies caribou as a keystone species with important economic and cultural values.

In 2017, the NIRB<sup>3</sup> stated:

“It is the NIRB’s strong wish that the NLUP will strike an appropriate balance between establishing measures for conservation designed to protect the health of caribou populations while promoting the continued development of natural resources for the benefit of Nunavut communities. While impact assessment is designed to address potential impacts on a project-specific basis, land use planning is intended to address broader issues of conservation and development for various project types on a regional scale; parties will not be well-served if a NLUP avoids addressing required protection for caribou habitat and any associated restrictions on development in favour of continued deference to project-specific impact assessments by the NIRB.”

In 2017, the Hamlet of Arviat<sup>4</sup> stated:

“Caribou are extremely important to the residents of Arviat for their contribution to both our subsistence harvesting and cultural practices. Mineral development and the related economic benefits that stem from development are also very important to our community. So are other developments such as power utilities and a road-based connection to the south – these represent potential economic drivers for our community. Any protections or restrictions relating to caribou and/or to land use within the Kivalliq region and in areas used by Arviarmiut are of significant interest. It is unclear from the 2014 and 2016 versions of the NLUP, what new or changed areas of protection or high mineral potential have been considered

and incorporated or changed in the most recent version(s) of the NLUP. Without having had the benefit of NPC consulting with our community and informing us, we are not certain that our voices were heard during consultations undertaken in November 2013, nor that current matters of importance have been incorporated into the most recent draft of the NLUP and that our positions are reflected in the land use designations provided for in the NLUP.”

In 2017, the Kitikmeot Inuit Association (KitIA)<sup>5</sup> stated:

“Caribou are central to the cultural identity of Kitikmeot Inuit.”

In 2018, the QWB<sup>6</sup> stated:

“Caribou is a keystone species for the maintenance of Inuit culture and well-being, as well as for the northern ecosystem. Arctic tundra Caribou are known to go through long-term cycles, with each cycle lasting up to the entire lifetime of an elder (Ferguson et al. 1998). During these cycles, there are decades when caribou are in low abundance and very sensitive to disturbance by humans. Unlike large populations of caribou, small ones are not as resilient to disturbance, loss of habitat, and human development that may separate them from their seasonal habitats. The protection of important areas for caribou during these decades is critically important, or the populations may never return to their former abundance in future, and their natural cycles could be lost.”

Caribou is important beyond Nunavut jurisdiction as some herds migrate across borders. As stated by the BQCMB<sup>7</sup> in 2010:

“The need for effective land use planning for Nunavut has never been greater, given the growing pressures on the land by people and industry, the potential for much more activity and accelerating cumulative effects, and the increasing vulnerabilities of caribou and other wildlife species. Due to the interjurisdictional nature of the Beverly and Qamanirjuaq caribou herds, how Nunavut plans for this increasing land use is of great interest to other governments and communities outside Nunavut. Decisions made by NPC could affect the fate of caribou herds and communities that have traditionally depended on harvest of caribou.”

...

<sup>1</sup> (Nunavut Tunngavik Incorporated (NTI), 2015-02-12. NPC Public Registry File # 14-013E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-243E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>4</sup> (Hamlet of Arviat, 2017-01-13. NPC Public Registry File # 16-064E)

<sup>5</sup> (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-190E)

<sup>7</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

“Beverly and Qamanirjuaq caribou are hunted by Dene, Inuit, Métis, Cree and non-aboriginal peoples from about 20 communities on or near the caribou ranges (see Appendix 1 Map 1). The number of people resident on both caribou ranges is increasing. For example, the collective population of eight NWT and Nunavut communities that harvest Beverly and Qamanirjuaq caribou has steadily increased from less than 6,000 in 1971 to almost 10,000 in 1999, and it is expected to continue to increase to about 14,000 by the year 2020 (BQCMB 2000c). This increased human population and the greater access to caribou range provided by new and proposed roads in Saskatchewan and Manitoba may result in greater harvest of caribou from both the Beverly and Qamanirjuaq herds (BQCMB 2001a, 2001b). This is of particular concern for the Beverly herd, as harvest levels have been close to the sustainable limit for several years (BQCMB 2001c).

“The use of caribou is diversifying from primarily subsistence hunting to a mix of uses that includes subsistence harvest, commercial sport hunts, commercial meat sales, and eco-tourism. The BQCMB recognizes that “these growing and varied demands for caribou require informed and co-operative decision-making”, and has strengthened the process for cooperative management in the draft management plan for 2003-2008 (BQCMB 2004a).”

## Considerations

Participants generally agreed on the overall high importance and priority of caribou. Caribou is broadly recognized as one of the most important issues to be included in the NLUP.

***The overall importance of CARIBOU is considered HIGH because:***

- ***They have been identified by many participants as a priority;***
- ***They have a high cultural value;***
- ***They have a high economic value; and***
- ***They have a high ecosystemic value.***

## 2.2.2 Types of Areas Important to Caribou

In 2017, the Nunavut Wildlife Management Board (NWMB)<sup>1</sup> submitted a summary of the presentation of GN and NTI representatives at its 2015 caribou workshop:

“There are an estimated nineteen populations and/or subpopulations of caribou either wholly or partially within the Nunavut Settlement Area. This presentation provided information on eight of these mainland populations/subpopulations: 1) Bluenose-east, 2) Dolphin and Union, 3) Bathurst, 4) Beverly, 5) Ahlak, 6) Qamanirjuaq, 7) Lorillard, and 8) Wager Bay. All of these populations/sub-populations are classified as either mainland migratory or tundra wintering, and their annual core calving areas are either entirely or mostly within the Nunavut Settlement Area.

...

“The presentation described some of the key characteristics of the two ecotypes of mainland caribou: mainland migratory and tundra wintering. In general, mainland migratory caribou display more extensive migratory behaviour than the tundra wintering ecotype, and migrate across the tundra range in spring, returning south to the forested areas in early to late fall. In contrast, the tundra wintering ecotype rarely migrate to the treeline, spending the entire year within tundra habitat. Due to their extensive seasonal movements, it is thought that mainland migratory caribou are less able to adapt to disturbance than tundra wintering caribou. Although both ecotypes are considered sensitive to disturbance, especially during vulnerable seasons such as calving.

...

“Seasonal ranges include calving, post-calving, summer, late summer, fall migration (pre-breeding), rut, fall migration (post-breeding), winter, and spring migration.

“The Government of Nunavut – Department of Environment has defined nine seasonal ranges of importance to caribou based on collar derived caribou movement rates. During his presentation, Mitch Campbell, Kivalliq Regional Biologist, described the main characteristics of each seasonal range and sensitivities during that time of year. The below information is taken from the Government of Nunavut’s presentation “Resource Development and Caribou in Nunavut: Finding a Balance”. Throughout the workshop, participants used these definitions for each seasonal range.”

The following are excerpts from “Appendix A: Seasonal Ranges” of the same NWMB report:

### “Calving (Late May – Early June)

“Characteristics:

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)



- Spatially the most concentrated and predictable seasonal range with the lowest daily movement rates.
- Predominantly occupied by breeding and non-breeding females and newborn calves.
- Spatial extents are exclusively within tundra habitats offering limited cover to visual and/or audible disturbance.
- Characterized by low densities of predators and little to no human harvest.
- Commonly areas with few foraging opportunities but adjacent to areas that will offer foraging opportunities.

*“Sensitivities:*

- Vulnerability to all disturbance effects are at their greatest throughout this period.
- Energy demands reach a peak throughout this period while
- Flight responses to any form of visual and/or sound disturbance is at its greatest during this period.
- Susceptibility to the disruption of the cow/calf bond is at a peak throughout this period.
- The high densities of cows and calves within a small geographic area warn of the high potential for disturbance related spatial and population level impacts during this period.

**“Post-calving and Early Summer (Late June – Mid-August)**

*“Characteristics:*

- A time of year when the energy demands on cows nursing calves are extremely high.
- Calf survival depends on intact cow-calf bonds and continuous milk production.
- Generally, occurs within and directly adjacent to calving grounds.
- Primarily cow/calf and yearling groups moving together in search of high-quality forage to sustain milk production and build fat reserves.
- More extensive than calving grounds but similarly used in a temporally and spatially predictive manner.
- Biting insect emergence begins and increases through the latter half of this period.
- The most extensive daily movement rates occur during the latter half of this period.

*“Sensitivities:*

- Biting insects can significantly increase energy expenditures impacting forage intake and milk production.

- There are high energetic costs associated with the displacement of caribou from insect avoidance habitat.
- Displacement of cow-calf pairs into marginal habitats will reduce energy intake and in turn milk production.
- Susceptibility to calf abandonment throughout this period.
- Environmental stressors are generally low early in this period allowing for extensive foraging.
- Mechanized transport, aircraft, roads and their effects on increasing disturbance and human harvesting are of the greatest concern within these areas.
- General disruption of foraging behaviour of cow-calf groups will negatively affect cow health and calf survival.

**“Late Summer (Mid-August – Mid-September)**

*“Characteristics:*

- Biting insects steadily decline during this period.
- Forage intake is maximized during this period, while forage quality declines.
- A time of year when environmental stressors are low, allowing caribou to focus on forage intake and the storage of excess energy as fat.
- Geographically extensive though foraging caribou are often selecting for small patches of higher quality forage.
- Uninterrupted foraging during this period is critical to reproductive success and overwinter survival.
- Movement rates are generally low during this period.

*“Sensitivities:*

- High sensitivity to forage disruption with the potential to strongly impact energy uptake and fat production.
- Low movement rates make caribou on their late summer range particularly susceptible to roads and their characteristic of increasing hunting pressure and general disturbance.
- When disturbed forage patches can take considerable time and energy to re-locate.
- Cumulative effects, particularly centered around roads, aerial disturbance, harvesting pressure and predation, are of the greatest concern during this period.

**“Fall Migration and the Rut (Mid-September – Mid-December)**

*“Characteristics:*

- A time of year when breeding occurs.
- All ages and sexes come together.
- Generally occurs in the vicinity of the treeline for MM herds.
- Primarily cow/calf groups migrate from the tundra environment into the forested environment (MM) or into the more southerly extents of their annual range (TW).
- Cow-calf groups join up with mature and young. Though geographically extensive, caribou generally utilize these areas in a predictable manner.

*“Sensitivities:*

- Migration and breeding are energetically demanding primarily to mature bulls.
- Disruption of the breeding process will increase energy demands and impact breeding success.
- Occurs just prior to the winter season when the amount stored energy will directly affect overwinter survival/productivity.
- These ranges are generally extensive.
- Obstruction and/or diversion of pre-rut migrating caribou can substantially disrupt the breeding process.
- Cumulative effects as they apply to the disruption of migrating caribou and the breeding process are of the greatest concern within these seasonal ranges.

**“Winter (Mid-December – Mid-April)**

*“Characteristics:*

- A time of year when energetic stressors are at their greatest.
- Forage quality, quantity, and accessibility can be highly variable from year to year, but is generally low.
- Generally occurs within the treeline for MM herds.
- Movement is generally low though can vary with levels of predation, harvesting and snow conditions.
- Spatial use of winter range is highly dependent on fire history, weather, roads, and harvesting pressure.
- The most geographically extensive range.

*“Sensitivities:*

- Caribou are particularly susceptible to roads and associated harvesting pressure.

- Snow thickness, icing, forest fires and harvesting pressure can heavily impact caribou condition and survival.
- Severe winters can push caribou past stored energy thresholds reducing overall survival and/or productivity.
- Late winter yarding behaviour can concentrate caribou into small areas. Disturbing caribou within these areas can reduce survival.
- Cumulative effects particularly centered around roads and associated harvesting pressure and disturbance are of the greatest concern.

**“Spring Migration (Mid-April – Late-May)**

*“Characteristics:*

- Begins following wolf denning and pupping, restricting a pack's ability to follow migrating caribou.
- A time of year characterized by declining energy reserves and increasing energetic demands for parturient cows.
- Forage quality and accessibility along migratory corridors is generally very low.
- Primarily cow/calf and yearling groups migrate from winter grounds to calving
- Migratory corridors are generally linear and used annually in a spatially predictable manner.
- Daily movement rates are high during this period, often covering hundreds of km.

*“Sensitivities:*

- Disruption and/or diversion of migrating caribou can have serious energetic consequences.
- High susceptibility to predation during this period.
- Diversion of spring migrating caribou could delay arrival times onto calving grounds leading to calving outside of these areas and corresponding increases in predation, and reduced calving success.
- Disturbance of migrating caribou can modify spring migratory corridors and calving extents.
- Linear features, obstructions, and/or disturbance during migration can disrupt and/or divert caribou.”

In 2017, the KitIA<sup>1</sup> noted:

“Inuit thoughts on the structure of caribou herds is more fluid than how biologists describe caribou. Instead of discrete herds named after the areas in which they calve, Inuit describe a herd as a group of caribou where the majority show fidelity to certain large regions for long

<sup>1</sup> (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

periods. Occasionally herds from separate regions come together. This sharing of areas can be short-term, or it can result in amalgamation or restructuring of herds which is more long-term.

“With the advent of aerial survey technology, Mainland caribou were labelled with distinct ‘herd’ names usually in association with geographic areas where scientists found them calving at a specific time (i.e. Bathurst (after Bathurst Inlet), Bluenose East (after Bluenose Lake)). Traditionally, Inuit do not distinguish between Mainland caribou herds but there are known physical differences between certain Mainland caribou. Inuit did differentiate between Mainland, Island, and Peary Caribou which have more distinct physical appearances. ... Outside of the important calving areas, Inuit documented other calving areas as they followed caribou on their migrations. Mainland caribou calving areas occurred across the west Kitikmeot region.”

In 2018, the QWB<sup>1</sup> indicated that caribou harvesting areas are also a type of range that should be protected. This submission provided the only detailed information available for caribou on the Belcher Islands.

### Considerations

The NPC is aware of the five caribou types in Nunavut:

1. Mainland Migrating herds of Barrenland caribou summer in tundra areas and winter in taiga or forested habitat, usually in the NWT, Manitoba, or Saskatchewan.
2. Tundra Wintering Mainland herds of Barrenland caribou live all year north of the treeline, but move south in the winter and north in the summer. To some degree, the wintering ranges of the Tundra Wintering herds are similar to the summer ranges of the mainland migrating herds.
3. Tundra Wintering Island herds, which are the same species as the Mainland and Tundra Wintering herds, live all year on the tundra of the Arctic Archipelago. There are few known particular habitats for these caribou.
4. Peary Caribou, a smaller type of caribou, live mainly in the High Arctic. There are few known particular habitats for these caribou. The subgroups of Peary Caribou are listed as Threatened or Endangered.
5. Reindeer, which live on the Belcher Islands around Sanikiluaq.

The NPC is aware of 10 types of caribou seasonal ranges:

1. Calving areas – used by cows annually to drop newborn caribou.
2. Post-calving areas – where cows take young caribou for the first weeks of life, when they are the most vulnerable.
3. Key access corridors – used by cows to enter a calving area, and by cows and young caribou to leave post-calving areas.
4. Freshwater crossings – where caribou frequently cross larger bodies of freshwater, either through open water or on ice.
5. Marine sea ice crossings – where caribou typically cross between islands, or from the mainland to an island.
6. Rutting areas – where caribou typically mate.
7. Spring migration areas – the paths used by caribou at the end of winter for their annual trip north.
8. Fall migration areas – the paths used by caribou at the end of summer for their annual trip south.
9. Summer and late summer areas – used to forage.
10. Winter ranges – the widespread areas where caribou spend the winter.

The following are the known caribou herds of Nunavut:

1. Mainland Migrating
  - a. Qamanirjuaq
  - b. Bathurst
  - c. Bluenose East
  - d. Beverly
2. Tundra Wintering Mainland
  - a. Lorillard
  - b. Wager Bay
  - c. Qu. Maud Gulf
  - d. Dolphin & Union
  - e. Melville
  - f. Boothia-K. William Island
3. Tundra Wintering Island
  - a. South Baffin
  - b. North Baffin
  - c. East Baffin
  - d. Southampton
  - e. Coates

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-189E)

f. Mansel

4. Peary Caribou

a. 9 Subgroups in Nunavut, associated with island clusters in the Arctic Archipelago:

- Ellesmere Island
- Axel Heiburg Island
- Prime Minister Island
- Ringnes Island
- Bathurst Island
- Devon Island
- Melville Island
- Prince of Wales/Somerset Island
- Boothia Peninsula

5. Belcher Islands Reindeer

Policy alternatives in this document consider mainly the 10 types of caribou seasonal ranges as well as caribou types.

A small area of Bathurst Island, outside of Qausuittuq National Park, has been suggested suitable for Peary Caribou protection, along with Sabine Peninsula on Melville Island. These locations are reviewed together.

Figure 1: Geographic Distribution of Caribou and Reindeer Populations in Nunavut identifies the caribou herds as they existed in 2011.



Figure 1: Geographic Distribution of Caribou and Reindeer Populations in Nunavut. From GN Nunavut Caribou Strategy. (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-243E)



## 2.2.3 General Comments on Defining Geographic Boundaries for Caribou Ranges

For all types of mainland caribou ranges, except freshwater or marine sea ice crossings and summer areas, boundaries were submitted by the GN, based on collaring data. In 2015, the GN<sup>1</sup> in its Caribou Analysis Methods document explained:

“Different types of spatial data were compiled ...Telemetry data, showing the caribou locations over time forms the main dataset for the analyses.

“Telemetry points, collected at various intervals over the past 25 years, were supplied by the Wildlife Division of GN’s Department of Environment and GNWT’s Department of Environment and Natural Resources. Both satellite and GPS locations, from fourteen different datasets, were imported into an Access database and normalized into a common data structure ...

“The data were then examined and processed as per the following tasks:

- The non-unique animal IDs from different data sources were resolved.
- The different sample intensities were normalized to only include daily locations (i.e., removal of multiple locations per day).

...

“The locations for each subpopulation were assigned a season attribute based on date ranges specific to each subpopulation.

...

“The seasons identified in the Nagy analyses (Nagy 2011) were correlated for each subpopulation and grouped into nine seasons for this project: spring migration, calving, post-calving, summer, late summer, fall migration – pre-breeding, rut/breeding, fall migration – post-breeding, and winter. The date ranges defining the season for each subpopulation are outlined ...

“The telemetry data were analysed for each season and subpopulation. Density maps, derived from a kernel density analysis on the location data (points), were developed for the calving, post-calving, summer, late summer, rut/breeding and winter seasons. Corridor (high

movement rate) analyses were conducted on the paths (walk lines between locations) for spring, fall – pre-breeding, and fall – post-breeding migrations. The resulting derivative datasets were then used to define the core seasonal ranges. These analyses were developed separately for each subpopulation and the results merged together to derive a study area wide dataset depicting regional distribution. Where there is overlap the highest density took priority.

“The migration key life cycles represent periods of high movement. They occur in the spring when the caribou are travelling to the calving grounds and in the fall when they are travelling to their wintering grounds. A detailed analysis, based on movement rates, was conducted on each collar for each year to identify the actual start and stop dates for these periods. Yearly migration corridors were derived from transect kernel densities for individual populations for each of the migration seasons. The search radius for the corridor analysis was 20 kilometres, which is an estimate of the maximum line-of-sight that a caribou would have on relatively flat terrain ...

“The density layers (based on a kernel analysis) were derived from the caribou telemetry point datasets to identify seasonal home ranges (the area the population occupies within the specified date range). The density analysis used a search radius of 11 kilometres. This distance has found to be the threshold for avoidance behaviour for caribou related to human disturbance (Boulanger, Poole, Gunn & Wierzchowski 2012). The density surface was then grouped into classes (80%, 90%, 95%, and 100%) based on the probability of finding a caribou in the range. These probability classes represent the utilization distribution within the seasonal home range.

“Areas with a higher utilization distribution are less critical because they encompass a larger extent of the landscape. For example, within a home range there is a 100% probability of caribou being present but much of the range is not being heavily utilized at any given time. Key habitats are those with higher densities of caribou. They represent a smaller proportion of the landscape and, as a result, have lower utilization distribution values when compared to the entire home range. These smaller areas are where the higher densities of caribou are found during the specified season.

“Core seasonal ranges were determined for the each of the nine seasons for each subpopulation. The migratory seasons (spring and fall migrations) use the 80% utilization distribution boundary to define the core seasonal range.

<sup>1</sup>(Government of Nunavut (GN), 2015-07-29. NPC Public Registry File # 14-193E)



The other seasonal ranges are based on a modified version of the 95% utilization distribution boundary ....”

In 2016, the KivIA<sup>1</sup> submitted a consultant’s report which stated:

“KivIA supports GN’s mapping of core calving ranges with the following modifications and additional analyses:

1. For the purposes of caribou protection and conservation, season designations and dates should be decided through a collaborative exercise, but should consider the practicality of managing.
2. Core calving areas should address the extent of calving (peak of calving plus 3 weeks), and should consider IQ and scientific (survey, collar) data.
3. Satellite collar locations should not be arbitrarily buffered by a set distance (11-20 km with previous mapping), as the GIS mapping technique applies buffers around locations and IQ may provide information on calving area boundaries.
4. For core calving area integrate GN’s information with IQ and aerial surveys (including aerial surveys conducted for calving ground distribution or population estimates). IQ often can most readily be obtained from research conducted for environmental assessments.
5. Screen out non-breeding cows from calving area delineation (as noted above).
6. Use only the most recent 10 years of collaring data and address annual trends in seasonal ranges, especially for calving/post-calving areas. Weighting for core ranges should be equally applied among years. The satellite collars can be analysed annually to indicate the centre and dispersion of calving which adds emphasis to trends in annual use (some calving grounds have concentrated while others have more dispersed calving).”

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“From 1993 – 2009 in the Northwest Territories, Nunavut and northern Alberta, 510 barren-ground and 39 island caribou were tracked with satellite collars.

...

“No comprehensive baseline descriptions have been conducted systematically on caribou habitat throughout the north, therefore any assessments of landscape change will already reflect changes that have taken place. As well there has not been a comprehensive ground assessment of the state of the landscape to assess the quality of the vegetation on these ranges. There is currently an incomplete landscape level assessment of vegetation across Nunavut using Landsat technologies however no comprehensive assessment of habitat use by caribou has been conducted. Scale is an issue when describing key and important caribou habitat therefore, a standardization of methodologies to describe which areas is required.”

Further, in 2017, KitIA<sup>3</sup> submitted the following regarding caribou:

“KIA has a serious concern about the DNLUP 2016 regarding the static polygons proposed to protect caribou calving grounds on the mainland of the Kitikmeot region, and specifically the West Kitikmeot region. ...We believe using the GN Polygons as a proposed method of protecting caribou calving grounds is fraught with problems and inaccuracies.

...

“KIA believes that the GN Polygons designated as protected areas will have a significantly negative effect on KIA’s membership and mandate. ...The protected area status of the GN Polygons will significantly affect KIA choices for careful multiple use management of Inuit Owned Lands, and prevent benefitting from carefully planned activities on federally owned lands in areas where caribou calving is not present, or present for only a short time in a year.

...

“The evidence provided in this submission regarding how fluid caribou calving grounds are over space and time will make it apparent why KIA believes that mobile protection offers a far more effective means to manage caribou compared to delineated protected areas. One of the most important uncertainties in the DNLUP 2016 is whether there is any effect on caribou populations as a result of properly planned development. So far there is little evidence and scant scientific literature that a direct relationship exists. Observational evidence suggested that

<sup>1</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>3</sup> (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

that mineral exploration and development has occurred in the West Kitikmeot region when large and increasing populations of caribou existed. In recent years there have been caribou population declines, on the mainland of the West Kitikmeot. This decline has occurred during one of the lowest levels of mineral development activity in the Kitikmeot region in decades. West of Kugluktuk there is no development and yet the Bluenose East herd is in decline.

...

“As a summary, our assessment shows that caribou calving areas exhibit variability over short periods (i.e. 2-10 years) and are highly dynamic over a longer term. If land managers used longer timeframes of 50-100 years for management decisions of the land, it becomes obvious that using fixed delineated areas to protect caribou will be fruitless. Caribou do not respect these human-defined boundaries.

...

“With the advent of aerial survey technology, Mainland caribou were labelled with distinct ‘herd’ names usually in association with geographic areas where scientists found them calving at a specific time (i.e. Bathurst (after Bathurst Inlet), Bluenose East (after Bluenose Lake)). Traditionally, Inuit do not distinguish between Mainland caribou herds but there are known physical differences between certain Mainland caribou. Inuit did differentiate between Mainland, Island, and Peary Caribou which have more distinct physical appearances. Western scientists have recently discovered through genetic analysis, what Inuit knew already, that Mainland caribou herds are not genetically distinct, but are sub-herds of a larger Mainland herd. Inuit have always lived near caribou calving areas, and the largest and most important areas are also the locations of very old Inuit habitation.

...

“In any given year, varying portions of the GN Polygon were not used by calving or postcalving caribou, resulting in situations where some areas could unnecessarily exclude development activities; the overlap of peak calving areas was about 50-60% from year to year, demonstrating a movement of caribou calving grounds within a short timeframe. Since the GN Polygons were submitted to NPC, they appear to be obsolete. For example,

- The GN Polygons do not accurately reflect current calving areas for the Bathurst herd — which has extended eastward — and especially for the Bluenose-East herd — which has extended to the northwest.
- The peak season of calving results in a much smaller area used for calving than the GN Polygon.

- The GN Polygon extending southeast of Kugluktuk showed very limited use by calving caribou, likely because of inclusion of barren cows in the GN Polygon.

...

“Rather than treating seasonal ranges as static entities, the patterns observed suggest areas of concentrated annual use may change over time and thus should be re-examined regularly, and that use of mobile protection measures that account for annual variability in use may be more appropriate for these herds in the Kitikmeot Region.

“The GN Polygons are based on a very conservative methodology:

- 1) the GN analyzed data across all available years as one dataset, blurring annual variability and creating the impression of a large and consistently used calving area;
- 2) the GN used one month of time as the calving period, when calving typically happens in a much shorter period, which includes more caribou calving range;
- 3) The GN employed methodology also used a kernel density of 95% (the most conservative use of statistics to maximize the potential range of calving caribou; according to wildlife experts a more appropriate density is 50% to accurately capture calving caribou”; and,
- 4) some female caribou were included in the GN study that were likely not pregnant. As a result, the range of caribou calving with the GN Polygon does not show variability between years, it does not show trends of movement, or that many areas of the GN polygon are not used for calving in a particular year.

...

“Tuktut Nogait National Park, meaning “young caribou” in Inuvialuktun, was created by Parks Canada in 1996 in the Inuvialuit Settlement Region to protect the Bluenose west caribou herd and its calving and post-calving habitat. As part of this National Park Development, Parks Canada proposed to extend the park boundary east into Nunavut in order to protect the Bluenose East Calving Ground, which calved in the area of Bluenose Lake. Collar data presented in this report demonstrates that the Bluenose East herd has not used this area for calving in over two decades ...

“The special management area created for the Beverly herd protects an area where the merged Beverly-Ahiak herd no longer frequents.”

Figure 2 on the next page is extracted from Appendix 2 of the KitIA<sup>1</sup> submission and demonstrates the level of use within the GN-delineated boundaries of the Bluenose East calving area.

Similar maps were provided for post-calving area for Bluenose East, and the calving and post-calving areas for the Bathurst herd. Following these maps, the KitIA<sup>2</sup> submission states:

“Treating these seasonal ranges as static entities can result in situations where some areas that currently have low or no use as a calving area ... are unnecessarily protected from development activities, but more importantly, other areas that have experienced increasing recent use are not adequately protected ... Our analyses also showed large areas within the cumulative maps that are unused in many years. This pattern of use would lend itself to use of mobile protection measures as a more responsive way of managing disturbance to calving and post-calving caribou.

“Although the concept of concentrated calving or post-calving areas certainly has merit, how this area is delineated and applied in land use planning must be carefully considered. We suggest calving areas be defined by determining areas that are consistently used by a certain density of calving cows (e.g., 5 females/km<sup>2</sup>; Taillon et al. 2012) over a discrete period of time (e.g., 5–10 years) and are applied in combination with mobile protection measures that account for annual variability in use (e.g., Poole and Gunn 2015). As a key component of the land use planning process, it should be understood that these areas of concentrated annual use may change over time and thus should be re-examined regularly.”

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<sup>1</sup> (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

<sup>2</sup> (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

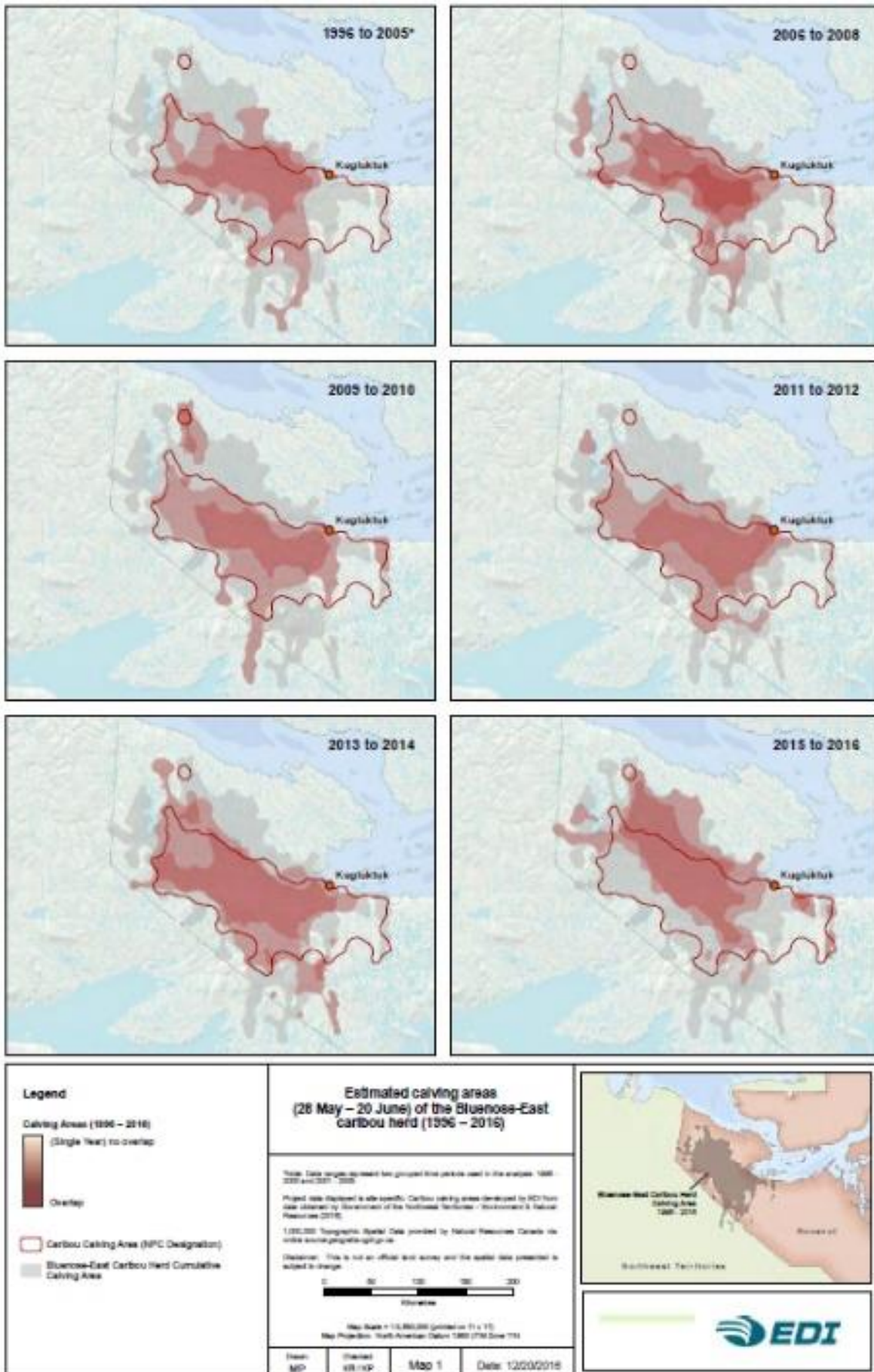


Figure 2: Excerpt from Kitikmeot Inuit Association Supplemental Information on Caribou, Final Hearing Written Submission for the 2016 Draft Nunavut Land Use Plan, January 13, 2017, page 31 of 777, Source: (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

In 2014, the BQCMB<sup>1</sup> stated:

“Our primary recommendations at this time are:

...

- 3) NPC should protect all “recently used calving and post-calving areas” defined as all areas known to be used by caribou within the last 20 years based on a) tracking caribou (collared obvious outliers removed). Delineation of these areas should be redefined based on all available information every 5 years.
- 4) If the NPC is unable to implement the land use management recommendations of the BQCMB, Kivalliq HTOs and Nunavut Regional Wildlife Boards, NPC and signatories to the land use plan should establish a clear process for resolving the issue of conflicting views concerning protection of caribou calving grounds, post-calving areas and water crossings.

...

“Regular delineation of calving grounds and post-calving areas should be undertaken.”

In 2017, the BQCMB<sup>2</sup> argued for a clearer strategy for updating of caribou seasonal range boundaries:

“An agreement should be developed between NPC and GN that outlines requirements and timeframes for providing updated information on caribou seasonal range use that will be relevant for updating the land use plan.

...

“NPC should develop, in collaboration with GN and NIRB, an objective method for identifying what extent of change in caribou seasonal ranges will be required to initiate Plan Amendments. Different thresholds may be required for the various seasonal ranges.

...

“It should be clear in the NLUP that the listing and mapping of caribou fresh water crossings will be regularly updated based on new information from various sources.”

In 2016, the NWT & Nunavut Chamber of Mines<sup>3</sup> stated that the GN methodology for determining boundaries of

caribou ranges should be amended to take into consideration these recommendations:

- “Consider using annual data to determine extent of habitat use, and layer annual ranges to determine “core” habitats
- “Provide a biological rationale for the buffers used; or do not buffer the data.
- “Provide complete description of methods including biological rationale for analytical methods and reference literature
- “Consider a habitat modeling process that incorporates habitat attributes of caribou locations, and not simply collar locations.
- “Consider reviewing on an annual, or at least on a 5-year basis to either match the Nunavut Wildlife Act or the presumed frequency of review of the final land use plan
- “Consider re-analysis of data and examining individual movement rates ...”

In 2017, the GN<sup>4</sup> stated:

“Reassess Designations’ Scales: Scientifically delineated caribou habitat data should represent one layer of many in the NPC’s determination of land use designations; competing public values surrounding development and conservation must be mediated in a reasonable manner. In certain cases minor land use designation adjustments to scientific delineations may be necessary and supported by consultations.”

In 2017, North Arrow Minerals<sup>5</sup> stated:

“A rigorous, open and transparent review of the caribou calving and post-calving ground polygons (designated protected areas) should be undertaken, on a polygon by polygon basis.

...

“As with the other caribou range polygons provided by the GN, delineation of the WBCH [Wager Bay Caribou Herd] calving and post-calving polygons is based on collar and telemetry data. However, it is important to note that the collar database used to define the WBCH polygons is only one quarter of the average database size for other caribou herds (16 individuals over 15 years, compared to an

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2016-02-25. NPC Public Registry File # 14-148E)

<sup>4</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-061E)

<sup>5</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)

average of 81 individuals over an average of 17 years for other mainland herds). Furthermore, the WBCH collar data for 14 of the 16 individual animals are already over 10 years old and, of all the mainland caribou herds, caribou of the WBCH have the lowest probability of group membership (Nagy and Campbell, 2012). The forgoing would suggest the WBCH is data deficient and this data deficiency should be taken into consideration when evaluating WBCH range polygons, particularly if any such polygon is to be designated a protected area or special management area within the land use plan.

...

“North Arrow also interprets the deficiency of caribou collar telemetry data for the WBCH as the likely reason for the large number of small, isolated calving and post-calving ground polygons reflected in Appendix A of the 2016 DNLUP. ...Many of these small polygons are related to the WBCH and likely reflect the dispersed calving behaviors of these caribou as well as the small amount of available data. North Arrow is impacted by the designation of these small polygons as protected areas within the 2016 DNLUP, in particular two small overlapping caribou calving and post-calving polygons located near our Mel Diamond Project (Appendix III), approximately 140 km south of the community of Hall Beach. These polygons combine to form an area having a maximum diameter of 20 km. In the absence of the underlying collar telemetry data it is not possible to determine if these small polygons were derived on the basis of i) a single animal occurrence in a single annual cycle or ii) by multiple individuals over multiple annual cycles. The difference between these scenarios would be important in weighing the significance and confidence one can place on these polygons truly defining a calving and post calving ground. If this polygon has been defined on the basis of a single individual (or multiple individuals) over multiple years, a strong argument can be made for an extremely high level of fidelity to this particular area. Alternatively, if the polygon is based on a single individual in one annual cycle without an evaluation of whether the particular caribou was potentially calving or not (e.g. EDI Feb 2016) then to create a protected area on such Limited data should be of great concern and worthy of a full discussion, particularly in this case as the protected area in question has the potential to sterilize an area that could host a diamond deposit.”

In 2018, the QWB<sup>1</sup> also submitted caribou polygons called “Caribou Harvesting Area”, which includes areas in the North Baffin, Melville Peninsula, and Belcher Islands. The document states:

“Caribou and reindeer may use these harvesting areas in many seasons, including but not limited to: calving, post-calving, migration, rutting and wintering.

“Native caribou disappeared from the Belchers Islands about 100 years ago. After the community asked for caribou to be reintroduced to the islands (e.g., from Coats Island), the government introduced semi-domesticated reindeer from Tuktoyaktuk in 1978. The population was left to roam freely, and it grew quickly with the first harvest occurring in 1984. The Inuit of Sanikiluaq have managed the reindeer harvest well, largely unassisted by government, even conducting their own surveys, and setting harvest seasons and restrictions. The areas that have been mapped are critical for the continued survival of the reindeer and their careful local management. This area must be protected from industrial development.

“On northeastern and northern Baffin Island, some caribou (tuktu) migrate short distances among important coastal habitats up and down mountains and between fjords, while other caribou (qungiq) live and migrate across high lands mainly inland west of the fjords (Ferguson 1989).

“On Melville Peninsula, caribou migrate, calve, summer and winter in specific areas. Inuit from Hall Beach, Igloolik and occasionally other communities harvest caribou throughout the year, and their harvesting areas are closely integrated with the seasonal movements of the caribou. The known caribou harvesting, calving and post-calving, migration corridors and sea-ice crossing areas on Melville Peninsula are all interconnected (see also maps for WS-08, 09 and 10 for a complete picture).

“In the High Arctic, Peary caribou travel throughout the year in search of forage that may be accessible through the snow and during the brief snow-free period. The abundance of caribou on northeastern and northern Baffin Island and Peary caribou fluctuates between years, between seasons and from place to place, but are rarely seen in large numbers due to sparse vegetation and very hard wind-blown snow that makes access to forage difficult. Because of their low numbers and difficult environment, these caribou are especially sensitive to disturbance by humans.”

## Considerations

While there may be some disagreement on the parameters used in the analysis of the caribou telemetry data and the extent of areas identified as core calving and post-calving habitat, there is overall general

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<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-189E)



agreement that caribou telemetry data is important for delineating core seasonal caribou habitats.

Based on all submissions, caribou calving and post-calving areas are critical habitat that may shift between years and there is significant area overlap among years.

There is also general consensus that caribou movements should continue to be tracked using satellite telemetry, the location data should be analyzed more frequently to provide up-to-date delineation of habitat boundaries as well as to understand trends and shifts in spatial behaviour, and the analytical methods and results must be reported in more detail than in the GN's<sup>1</sup> Caribou Analysis Methods document.

There appear to be two main areas of contention about core caribou habitat delineation:

1. The time period for the telemetry data that should be included in the habitat analyses. The GN used 25 years (1987-2012), which was considered by some parties to be too long and may result in delineating habitat that is no longer used by caribou. KivIA supports using 10 years of data as it provides a more recent and to their view accurate delineation of core habitats. BQCMB recommends using 20 years of data. The Chamber of Mines recommends frequent collection of new data, to track to changes in caribou habitat use (through climate change or other factors) and help determine caribou range boundaries.
2. The percent utilization distribution used to define the core area received much discussion as parties considered how much habitat protection is required for long term caribou conservation: 95%, 90%, 80% or lower. The GN recommendations were the 80% utilization distribution boundary for migratory routes and 95% for all other seasonal habitats. KivIA and BQCMB did not question the GN recommendations but the Chamber of Mines disagreed and stated that GN should provide research that justifies its approach or include more IQ in the selection of the appropriate percentage.

The QWB recommendation for caribou harvesting areas combined several different types of caribou habitats, and as such is considered to have low precision. The NPC has not heard from other parties on these proposed areas.

Also, the QWB-proposed caribou protection zone on the Melville Peninsula has moderate to low overlap with caribou areas indicated on a hand-drawn map provided by the Hall Beach Hunters and Trappers Organization (HTO)<sup>2</sup> in 2017.

## 2.2.4 General Comments on Environmental and Cultural Importance of Caribou

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>3</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“Caribou are deeply engrained in the cultures of many Northern Aboriginal people. The caribou harvest has a great social, cultural and economic value in Nunavut. The annual net value of the 2005 to 2006 harvest of the Beverly and Qamanirjuaq caribou populations was estimated at \$19.9 million (InterGroup Consultants Ltd. 2008). This figure includes the domestic harvest (\$14.7 million), harvest by outfitters and their clients (\$4.1 million), and the commercial and licensed harvests (\$1.0 million each) (InterGroup Consultants Ltd. 2008). Of the net total, Nunavut accounts for 59% or \$11.8 million of the Beverly and Qamanirjuaq harvest (InterGroup Consultants Ltd. 2008). The cultural importance of caribou to the residents of Nunavut is much harder to quantify. Caribou are an integral part of the identity of northern Aboriginal cultures and have been traditionally relied on not only for food, but also for supplies such as clothing, rope, shelter, arts, and crafts. The persistence of caribou and the caribou harvest is essential for maintaining traditional skills, knowledge and ways of life, and learning about cultural norms (principles/laws).

...

“Caribou is harvested commercially on Southampton Island. When the harvest began in 1995, the quota was set at 3,000. After 2 years it employed close to 60 people seasonally. By 2001, 3,500 caribou were brought in from the hunt. Caribou meat is nutritionally dense and low in fat. Kivalliq Arctic Foods Ltd. processes and sells a range of caribou products.”

In 2015, the Arviq HTO<sup>4</sup> submitted:

<sup>1</sup>(Government of Nunavut (GN), 2015-07-29. NPC Public Registry File # 14-193E)

<sup>2</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>3</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>4</sup> (Arviq HTO, 2015-10-20. NPC Public Registry File # 14-114E)

“Caribou hunting is very important economically to our community, both for local consumption and for sale of caribou meat to Qikiqtani Inuit.”

In 2014, the GN’s Nunavut Caribou Strategy<sup>1</sup> stated:

“Caribou are important for many reasons. Within the Arctic ecosystem, they are a keystone species supporting much of the tundra’s biodiversity. As a resource, they provide food, support social and cultural activities, and drive local economies.

“In economic terms, estimates based on the Nunavut Wildlife Management Board’s harvest study indicate that Inuit harvest over 24,500 caribou annually, with a replacement food value of well over \$22 million.<sup>1,2</sup> In addition to the value of subsistence harvesting, other activities that rely on the use of caribou such as commercial harvesting, outfitting, tourism, and arts and crafts contribute substantially to Nunavut’s economy. However, as a renewable resource, the full economic potential of caribou is the product of its current and future value. If caribou herds persist in Nunavut, the continued use of this resource, even at today’s levels, will have a cumulative value that is immeasurable.

“Use of caribou contributes significantly to the mental and physical well-being of Nunavummiut. Caribou provide a secure and reliable source of healthy and nutritious food for many people. Indirectly, the various social and cultural activities surrounding the use of caribou also promote well-being. To Nunavummiut, caribou have intrinsic value which far exceeds the economics of subsistence harvesting and other activities. The relationship with caribou is a fundamental part of Inuit identity that has been passed from one generation to the next for thousands of years. Hunting caribou is not simply a means of providing food or income. The many activities associated with hunting, such as travelling on the land, holding ceremonies and community feasts are integral to transferring and retaining knowledge about traditional culture and about caribou themselves. These activities are also about spending time with family, teaching younger generations and maintaining healthy communities.

“Everyone can agree that caribou are important to Nunavummiut. There are many different ways that the health and future of human and caribou populations are interconnected. This highlights the need to thoughtfully plan to ensure the future sustainability of caribou in the face of change and uncertainty.”

## Considerations

It was generally agreed that caribou are extremely economically valuable to Nunavut, both in terms of providing the most common source of country food, and for existing and potential sales through butcheries.

### 2.2.5 General Comments on Caribou Sensitivity

In 2010, the BQCMB<sup>2</sup> noted:

**“Increasing effects of human activities** - The accumulating and interacting effects of the following stresses, working in combination with other natural factors that exert pressures on the caribou herds (such as predation, insect harassment, disease, extreme weather events), may exceed the capability of Beverly and Qamanirjuaq caribou to cope and may contribute to population declines:

- *Increasing land use activities.* Exploration and development activities are increasing across the caribou ranges... Land use activities of concern include, but are not restricted to, industrial development. For instance, new roads built to support industrial developments often result in increasing levels of recreational and tourism activities on caribou ranges, because of the access they provide. The combined impacts from all land use activities are potential problems across the caribou ranges, but are of particular concern on calving grounds and post-calving areas, and near important water crossings.
- *Increasing caribou harvest.* Increased harvest will result from growing numbers of people resident on or near the caribou ranges, combined with improved access provided by new roads and access trails to people from outside the ranges...
- *Effects of climate change.* Among the predicted effects of climate change is an increasing frequency and severity of forest fires, which will change forage availability on caribou winter range. Negative consequences of these fires will include more frequent interruptions to caribou foraging due to mosquito and warble fly harassment, and greater incidence of other parasites and diseases. It is uncertain if and how those negative effects will be compensated for by increases in forage availability during warmer and longer summers. Changes in the timing of spring plant growth relative to the needs of cows and calves may increase stresses for cows during calving and post calving periods. Some idea of

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-243E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

how those changes may cause possible distributional shifts in calving have been modeled for the Bathurst caribou herd (Griffith et al. 2001) and may be applicable to Beverly and Qamanirjuaq herds.”

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“There are several factors that can limit caribou populations including predation, severe weather, insect harassment, disease, hunting mortality, food limitation and habitat disturbance, destruction or fragmentation...Due to their low reproductive potential, caribou are susceptible to and recover slowly from population declines. Both natural and anthropogenic disturbances can have direct and indirect effects on caribou populations. Caribou have been shown to avoid cut-overs...and infrastructure...and caribou in close proximity to linear features or harvested forests may have a higher risk of predation...Resource development on sensitive caribou range may result in increased harvest pressure and extent facilitated by the access provided by road and trail construction...thereby prolonging the depth and duration of declines even further.

...

“Caribou will likely be negatively affected by climate change in the arctic. Climate change is predicted to cause warmer, wetter winters, warmer summers with earlier spring melt, increases in extreme weather events and thawing of the perma-frost...These changes may result in earlier spring plant growth, northerly shifts in the ranges of plant communities, and increases in insect and parasite density and range, all of which may have negative impacts on caribou populations...There is the potential for trophic mismatch between the availability of preferred forage on the calving grounds and caribou arrival at their calving sites. Warmer, wetter winters may result in reduced calf weights ..., which could in turn affect vital rates of the population through higher calf mortality and reduced calf growth ... As temperatures warm, the composition of plant communities could change producing vegetation that is less favourable for caribou forage ... There is already evidence that severe weather events such as icing can have devastating effects for caribou populations on the High Arctic Islands...; an increase in icing events across the Arctic through increased winter rainfall could precipitate future mass die-offs. Finally, parasite and insect populations may increase due to increased temperatures and moisture.

Increased insect harassment could lead to less time feeding and more time engaged in avoidance activities...

...

“Although several studies have documented the potential impacts of disturbance on caribou, the long term population effects of disturbance or the potential for cumulative effects on caribou are not fully understood. What is understood is that any development increasing human access to seasonal caribou range that has not previously been accessible could increase harvest and harvest-related disturbance ...”

In 2015, a report submitted by the KivIA<sup>2</sup> noted:

“Caribou vulnerability varies seasonally...cows and calves often react more strongly and are more vulnerable during pre-calving, calving and post-calving or at water-crossings ... Similarly, as summers become warmer over years as a result of climate change and insect harassment increases, minimizing disturbance to caribou as they forage prior to the rut will become more important as caribou need uninterrupted foraging to compensate for lost foraging time during periods of insect harassment.”

In 2018, the GoC<sup>3</sup> stated:

“In a strict sense, it is much more difficult to demonstrate measurable benefits than to demonstrate negative impacts. The reason is that animals are adapted to the natural environment, so the null hypothesis is that there is nothing we (humans) can do to benefit them. We can only disturb them, and then stop disturbing them.

“Further clarification as to the length of such restrictions, the type of restrictions, and which areas would be selected would be required before such a commitment could be made. In addition, community consultations to discuss the need for these restrictions and the anticipated outcomes would need to occur before the Government of Canada would endorse these restrictions. Extensive restrictions on development could have a significant negative impact on the investment climate in and the economy of Nunavut. Uncertainty regarding the temporary nature of restrictions could also deter future investors worried about if or when these restrictions would become permanent.”

In 2018, the GoC<sup>4</sup> stated:

“The literature generally agrees that caribou are negatively affected by oil and gas development. Arthur and Vecchio (2009) found that calves had lower weight in highly

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2015-11-12. NPC Public Registry File # 14-115E)

<sup>3</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>4</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-178E)

developed areas, which correlates with lowered calf survival. Cameron et al. (1995) found that areas of high development led to decreased caribou presence. Nellemann and Cameron (1996) found caribou avoided oil and gas infrastructure and lost preferred habitat. Smith et al. (1994) found sightings from roads decreased over the course of development. Whitten and Cameron (1983) found that heavily developed areas led to significant barrier effects. In 1983, Curatolo and Murphy also found that increased insect activity contributed to greater willingness to interact with oil and gas development. Cronin et al. (1998) and Fancy (1983) report no effects of oil and gas development on caribou distribution.”

In 2017, NWMB<sup>1</sup> submitted a summary of presentations at its 2015 caribou workshop:

“The presenter defined disturbance as “Human activity resulting in the altering of an animal’s behaviour that would increase energy expenditure and/or risk of injury, while lowering overall condition and/or health”. Caribou are more vulnerable to the impacts of disturbance and/or habitat modification when their resilience (i.e., ability to cope with stress) is low. Highly resilient caribou are healthy and productive and better able to cope with environmental stress. Resilience decreases with decreasing population size. Therefore, caribou are more sensitive to disturbance at the lower end of their population cycle. Currently, many of Nunavut’s mainland caribou populations/subpopulations are experiencing a population decline or are data deficient (figure 5). Therefore, many of the herds are considered more vulnerable to disturbance at this time.”

### Considerations

In addition to the general sensitivities noted above related to human activities, climate change, harvesting and predation, caribou sensitivity to impacts varies with location and season and will be discussed on a range-by-range basis in the subsections below.

## 2.2.6 General Comments on Other Regulatory Tools

In 2014, BQCMB<sup>2</sup> stated:

“... the current practice of managing land use in caribou habitat through NIRB screenings provides a very limited opportunity for input and participation by community organizations and Nunavummiut at large.

“It is clear that the NPC is the sole Nunavut organization that has a mandate broad enough to address the concerns of the BQCMB, the Kivalliq Hunters and Trappers Organizations, the Kivalliq Wildlife Management Board, and caribou users both inside and outside of the Nunavut Settlement Area. It is clearly the role of the Nunavut Land Use Plan to provide guidance for management of caribou habitat in Nunavut.”

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>3</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“Caribou have benefited indirectly from the establishment of special wildlife management areas, sanctuaries, preserves and parks. However, because of the lower status of wildlife management areas, sanctuaries and preserves and the ability for these designations to be rescinded (High Arctic Island Game Reserve was rescinded in 1966), caribou herds will likely be exposed to increased northern development. The Thelon Game Sanctuary, established in 1927, has offered minimal protection to the calving and post-calving ranges of the Beverly caribou herd; the mineral industry has lobbied to rescind the sanctuary or to change its boundaries so that exploration and development can occur. Caribou cannot be effectively protected by reserves except seasonally or locally because of the larger areas over which they range. However, protection of calving grounds, post-calving areas, winter ranges and migration routes by special land reserve status or land use regulations could be beneficial in giving maternal cows and calves added protection during these time periods.

...

“Inuit concerns over increased uranium exploration in the 1970s prompted the Department of Indian Affairs and Northern Development (Government of Canada) in 1978 to implement Caribou Protection Measures within designated Caribou Protection Areas to protect the calving and post-calving caribou of the Beverly and Qamanirjuaq herds of barren-ground caribou. The Caribou Protection Measures essentially imposed space between land use activities and the caribou through a series of controls on where and when Land Use Permits were active. As well as Caribou Protection Areas, the Department of Indian and Northern Development (DIAND) recognizes three other designations for the distribution of calving. Traditional Calving Grounds and

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>3</sup> (Nunavut Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

Critical Wildlife Areas have long been designated, while Extent of Calving was recently added.

“The Caribou Protection Measures impose seasonal controls on land use operations inside Caribou Protection Areas. These regions used to be determined annually based on areas used by caribou during calving and post-calving periods in the previous five years. As these regions are no longer determined annually, Caribou Protection Areas currently in use are based on outdated information. Even when in place, the Measures were meant to minimize disturbance to caribou, not to provide habitat protection, and to minimize disturbance resulting only from exploration—not development. There is a need to update the Caribou Protection Areas to include habitat and incorporate the potential disturbances of development. This would offer greater protection to caribou not just on the calving grounds but during migration and on winter ranges as well.

“The Caribou Protection Measures are attached to Land Use Permits only. However, prospecting permits, quarry permits or leases, mineral claims and surface land leases are also potential sources of human activity on calving and post-calving ranges. Mineral leases give rights to minerals and on their own do not have any associated land use or activity. The extent of what this means within the caribou calving and post-calving ranges in terms of people, camps and air and ground transport is seemingly unrecorded, although the same issues were raised in 1978. Recent research suggests that the cumulative effects of relatively small-scale disturbances should not be assumed to be harmless. Additionally, the findings of some of the original research on calving grounds associated with the development of the Caribou Protection Measures described that cows and calves were responsive to helicopter landings and people on the ground. Therefore expansion of the Caribou Protection Measures to include prospecting permits, quarry permits or leases, mineral claims and surface land leases is necessary.

...

“Outdated Caribou Protection Measures are being included in terms and conditions of land use permits, which means that any protection they provide to caribou occurs by chance, rather than by design. Even if they are effective, the Measures were meant to minimize disturbance to caribou, not to provide habitat protection, and to minimize disturbance resulting only from exploration—not development. The Nunavut government has identified six

gaps that need to be addressed and these include; population monitoring using scientific and ground surveys; surveys of parasitic loads and the effects of parasitism and disease on caribou populations; comprehensive mapping of habitat to monitor the effects of habitat change; improve the understanding of predator-prey relationships; further documentation of traditional knowledge; cease the development of large scale commercial harvesting.”

In 2015, the Kivalliq Wildlife Board (KWB)<sup>1</sup> stated:

“In light of the migratory nature of barren-ground caribou, a regional and comprehensive approach to land use planning seems essential.”

In 2017, the BQCMB<sup>2</sup> stated:

“Deficiencies of standard CPM for providing protection for caribou and caribou habitat include the following:

- There is no documented evidence, particularly since 1990 when the monitoring program that was integral to CPM was discontinued, that: a) land use operators have complied with CPM; b) disturbance has been avoided or even reduced for those projects where CPM have been required; or c) application of CPM has made a difference by significantly reducing effects of mineral exploration on caribou. Application of CPM since 1990 has been largely a “paper exercise” with theoretical and unproven benefits to caribou.
- CPM are only applied through federal land use permits and Inuit land use licenses; they do not apply to activities that do not require these authorizations (e.g., sub-threshold exploration activities).
- CPM address only certain types of disturbance on a project-specific basis, and they only apply to the caribou themselves without regard for the importance of habitat.”

In 2018, the WWF<sup>3</sup> wrote:

“It has been argued that the issue of safeguarding caribou herds from the detrimental effects of industrial development can be dealt with by the Nunavut Impact Review Board (NIRB) without the need for land-based protection in the NLUP. Whether or not advanced exploration or mining should be considered within sensitive caribou habitats (or indeed any habitat sensitive

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2015-06-22. NPC Public Registry File # 14-080E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

<sup>3</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

to disturbance) is not a question that can adequately be answered by environmental assessment. The goal of land use planning is to set the direction for land uses in these sensitive areas, and in the case of the NLUP, to potentially limit mineral development and mining within those Protected and Special Management Areas deemed to be of significant importance to Nunavummiut and the environment. The NIRB is responsible to look at a project in a specific area and the significance of impacts from that one project along with mitigation measures designed to address the project-specific considerations. The first, broader consideration belongs to the NPC, and in the case of habitats sensitive to disturbance, projects with incompatible uses should be prohibited subject to a plan amendment or ministerial exemption.

“Attempting to address potential impacts to caribou herds through the environmental assessment and the regulatory approvals process on a case-by-case basis is a Limited approach that ignores and casts aside the intention of the integrated regulatory regime envisioned by the NA and legislated through NUPPAA, as well as landscape level cumulative effects that affect herd health. Proper land use planning will enhance the effectiveness of the environmental impact assessment process and will provide better guidance for development interests. The result will allow for greater clarity for development proponents for areas where certain uses are prohibited, and will prevent situations where proponents invest heavily in an environmental assessment process only to be denied on the basis of reasons which would have been apparent with a proper land use plan in place.”

The NIRB in its Screening Decision Report for File No. 15EN009 (2015-07-07) recommended the NPC consider formalized protection of important caribou habitat.

In 2016, the NWT & Nunavut Chamber of Mines<sup>1</sup> stated:

“Existing Caribou Protection Measures Are Effective

“Caribou protection measures have been in place since 1978 (e.g., described in Mychisaw 1984 and Gunn et al. 2007) and disturbance to caribou, particularly on the calving and post-calving grounds, has been addressed by those measures to date. The Kivalliq Inuit Association recently updated those protection measures in an effort to make them relevant to modern land use permitting, data availability and modern industry practices (Poole and Gunn 2015).

“There are a number of other mitigation and management tools employed by various agencies that should be considered when determining the priority of excluding industrial activity versus other forms of wildlife and land use management, including:

- The Nunavut Wildlife Act provisions and Regulations relating to harassment of caribou;
- Land use permits issued by land managers (e.g., AANDC, KivIA, KitIA, QIA);
- Recommended flight altitudes, usually presented as a component of land use permits or in Nunavut Impact Review Board (NIRB) Project terms and conditions for when and where caribou are present; ...
- Mobile, seasonal caribou protection measures (based on the intent of the Caribou Protection Measures), which are applied by Inuit land managers on all Inuit-Owned Lands, and which have typically been applied to all land uses within caribou ranges in Nunavut.
- Existing parks and conservation areas;
- Caribou herd management plans (although none are known to exist in Nunavut);
- Project specific screening, review, environmental assessment and wildlife protection and habitat reclamation plans developed by exploration and mining project proponents through the NIRB review process;
- The land and resource management systems in Nunavut established under the land claims. This includes the Nunavut Land Use planning process and general protection measures that have been included in existing land use plans.”

In 2016, the GN<sup>2</sup> stated:

“Section 65(b) of the Nunavut Wildlife Act also notes: “No person shall, without legal justification, substantially alter or damage or destroy any habitat.”

In 2017, the GN<sup>3</sup> stated:

“Although the GN remains concerned with the negative impacts associated with the long-term fragmentation of habitats critical to caribou productivity, it is confident that

<sup>1</sup> (Government of Nunavut (GN), 2017-03-06. NPC Public Registry File # 16-104M) (Environmental Dynamics Inc. (EDI), 2016-02-17. NPC Public Registry File # 14-135E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>3</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)



habitat protection may be achieved, as necessary, via Section 141 of the Wildlife Act.”

In 2017, a GN<sup>1</sup> representative stated at the Qikiqtani Hearing:

“... if there are critical habitat areas that need protection, our Government, under Section 141 of our Wildlife Act can and will enforce any habitat critical to caribou. What we are saying is when it comes to caribou calving grounds and post-calving grounds and crossings, under the Nunavut Planning Commission Draft Land Use Plan, the word “protection” that you use, we don’t want those to be in there. We want them under the Special Management to allow for case-by-case.”

In 2016, Northquest<sup>2</sup> noted:

“Nunavut Wildlife Act and Regulations already appropriately impose a rigorous process of review and conditions which must be met prior to the development of an active mine at Pistol Bay. While we are supportive of the land-use planning process and the need to determine Protected Areas, we suggest that the evidence does not support creating a broadly prohibitive Protected Area in which further mining and development activities are excluded in the area current being explored at the Pistol Bay Project. We believe that an appropriate balance can be achieved in the land use planning and legislative framework to allow for responsible development.

“Alternatively, Northquest respectfully submits that the Pistol Bay Project be fully grandfathered under the DNLUP, subject to the existing land tenure, regulatory and environmental regime as the Project progresses but not subject to staged land use compliance determination reviews under the DNLUP. While Northquest strongly prefers, as being most beneficial to the socio-economic future of Nunavut, that the DNLUP be amended by taking a more balanced land use designation approach between conservation, development, management and use of land to eliminate the uncertainty created by the broad based application of Protected Areas in the DNLUP, Northquest would suggest in order to ensure ongoing and future mineral exploration investment and potential development in Nunavut, that, as a minimum, all existing recorded mining claims and mineral leases, including Northquest’s mineral claims (and prospective mineral lease) at the Pistol Bay Project, be grandfathered from the broad application of the Protected Area land use designations and the application of the staged land use compliance determinations as each project (and related

land tenures) advance pursuant to the Nunavut Mining Regulations. Again, all subject to the existing rigorous environmental and regulatory regime in Nunavut.”

In 2017, the GoC<sup>3</sup> stated:

“... the Government of Nunavut’s implementation of its Wildlife Act) are best placed to assess the specific risks from projects on a case-by-case basis, consider mitigation, respond to the latest information on caribou, and determine the most effective management approaches for specific projects. We suggest that the draft Plan use seasonal and general protection conditions to guide exploration and development in caribou habitats, and then allow the other regulators to apply their mandates and expertise to ensure caribou are protected from other project-specific impacts.”

In 2017, the NWMB<sup>4</sup> submitted in the report of its 2015 caribou workshop:

“... there isn’t a “one size fits all solution” and that co-management partners will have to rely on a combination of strategies, such as combining protected areas and protection measures, to effectively protect these areas. It was recommended that decisions on which strategies to use should be based on caribou vulnerability, both in terms of vulnerable life history stages/times of year and specific herd vulnerability.

...

“Most participants pointed to a finalized Nunavut Land Use Plan that provides an overall starting point for proper caribou protection as a key factor of success.

....

“Points of Agreement:

“... The establishment under Nunavut’s Wildlife Act of “Special Management Areas” and accompanying regulatory safeguards appears to be an effective and appropriate legal action for the protection of caribou and caribou habitat.”

In the same report, the NWMB<sup>5</sup> submitted a summary of the GN and NTI representative’s presentation:

“The presentation concluded with a discussion on finding the balance between protected areas and protection measures as a means of removing and/or mitigating the effects of disturbance caused by industrial development on

<sup>1</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>2</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>4</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>5</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

caribou. Protected areas exclude industrial development and associated infrastructure within sensitive seasonal caribou habitat. In contrast, protection measures allow industrial development and associated infrastructure within sensitive seasonal caribou habitat but attempts to minimize its disturbance impacts. It was argued that complete protection of seasonally sensitive caribou range is 100% effective and requires few resources to monitor and enforce. In contrast, due to data deficiencies, there is little information on the effectiveness of protection measures. For example, it is unknown whether or not industrial infrastructure and associated habitat modification will evoke an avoidance response by caribou even during operational shutdowns. As well, protection measures that require aerial monitoring are only as effective as the weather is predictable. Often, aircraft require operation well below the threshold altitudes for days or weeks at a time. Therefore, considering the social, cultural and economic importance of caribou to Nunavummiut, the precautionary principle should be considered when applying protection measures to sensitive seasonal ranges, such as calving and post-calving grounds.”

### Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including the Nunavut Wildlife Act and project-by-project mitigation measures implemented through the NIRB process.

## 2.2.7 General Comments on Policy Options for Caribou

In 2014, the Environment and Natural Resources Department of the Government of the Northwest Territories (GNWT)<sup>1</sup> stated:

“One method of protection could be timing restrictions on industrial activity to exclude activity during the critical calving and post-calving periods. Another approach could be to set cumulative effects thresholds for land disturbance in these very important habitats. NPC could also consider re-instating and updating the Caribou Protection Measures that would govern industrial activity based on where the caribou are, and could give special recognition and protection to traditional water crossings.”

Several parties proposed mobile caribou protection measures (CPMs) as supplemental to, or alternatives to,

land use designations for caribou habitat. These measures are discussed in detail in a 2015 consultant document submitted by the KivIA.<sup>2</sup> The following is extracted from the Executive Summary of this document:

“Mobile caribou conservation measures are a flexible tool that can be used to reduce mining and exploration-related disturbance to caribou. Mobile measures ‘travel with’ the caribou, providing greater adaptability for protection and safeguarding caribou without unnecessary restrictions on land use activities. Here we propose Mobile Caribou Conservation Measures for use in the Kivalliq Region, Nunavut, to adaptively mitigate effects of industrial exploration on migratory barren-ground caribou. Mobile Caribou Conservation Measures, as have been called for in the past, link monitoring and site-specific mitigation with the susceptibility of caribou to disturbance, which varies seasonally. This seasonal variation in susceptibility coupled with period of exposure helps determine vulnerability and risk to caribou. For land and wildlife managers, understanding the likelihood of caribou encountering industrial exploration activities and experiencing negative effects from exposure to those activities is necessary to effectively manage disturbance to caribou without unnecessarily limiting economic development. The objectives of these proposed Mobile Caribou Conservation Measures are to reduce encounters and exposure of the caribou to disturbance and other impacts through avoiding and minimizing effects during industrial exploration activities. These proposed mobile measures can be implemented in concert with protected areas, and can also provide conservation of caribou regardless of distribution or season.

“Mobile Caribou Conservation Measures are a rules-based approach with three main components:

- (i) Agreed-upon areas within which monitoring and mitigation is directed. These areas give predictability to the land-user and land-manager as to when caribou may encounter a site;
- (ii) When caribou actually encounter the site is determined through monitoring of distribution and movements to trigger the mitigation actions; and
- (iii) The mitigation actions that apply to the land use operation are to avoid or minimize (reduce) effects on caribou.

“An outline to the development and application of these mobile Measures is:

<sup>1</sup> (NWT Environment and Natural Resources, 2014-02-13. NPC Public Registry File # 12-136E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2015-11-12. NPC Public Registry File # 14-115E)

1. Develop least risk timing windows for caribou based on seasonal difference in the predictability of caribou encounters, susceptibility and behaviour;
2. Identify seasonal Caribou Conservation Areas through collaborative mapping. These areas provide predictability as to where and when caribou are expected to occur;
3. Surveillance for caribou operates within three concentric zones, which are a hierarchy of increasing surveillance effort. The sizes of the zones are scaled to risk category as well as season, (speed and direction of movements vary seasonally);
4. Government and land use operator will establish monitoring and surveillance requirements for a proposed operation. The responsibility for monitoring will be with the operator. The monitoring may include aerial or ground-based (locally-hired) monitoring. The territorial government may provide caribou collar locations. The frequency of the monitoring influences the intensity of the mitigation – infrequent monitoring may require more intensive mitigation;
5. The mitigation thresholds or triggers will be based on season and area (susceptibility), and numbers and proximity of caribou to the operation, including monitoring thresholds for when mitigations will be stepped up or down;
6. Apply the hierarchy of mitigation — avoidance followed by minimization — to reduce encounters and exposure of caribou to operations to decrease sensory disturbance and risk of injury and death; and
7. The mobile Measures can be applied during all seasons, traditional migratory routes and water crossings.”

In 2016, the NWT & Nunavut Chamber of Mines<sup>1</sup> submitted a consultant’s report which critiqued the GN recommendations. The following are excerpts from this document:

<sup>1</sup> (Environmental Dynamics Inc. (EDI), 2016-02-17. NPC Public Registry File # 14-135E)

<sup>2</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

“The principle technical issues identified with the GN’s recommended caribou protection measures include the following:

- The recommendations are not supported by a biological rationale — The proposed protected areas are based solely on the presumption that excluding all industrial activity from calving grounds is “critical” to herd productivity, yet no supporting rationale is provided.
- The proposed measures are not supported by peer review — It is not apparent if the GN’s approach has been peer reviewed or if there is general acceptance of the approach among the scientific and traditional knowledge community with expertise in northern wildlife biology.
- The GN’s disturbance effects model is overly conservative — The model overstates potential sensory effects of industrial activities on caribou and there is no acknowledgement of the cumulative effects assessments already conducted for caribou.
- There is insufficient information regarding the process for implementation of protection measures — The proposed review period is too infrequent to respond to potential changes in caribou calving areas and there is no documentation of how calving ground habitat protection will be integrated with other population management tools (e.g., harvest monitoring, collection of population demographics, population modeling, etc.).”

In 2016, the KWB<sup>2</sup> stated:

“KWB recommends that the Nunavut Land Use Plan requires proponents to commit to abiding by “mobile caribou protection measures”. Mining and exploration activity should temporarily cease when caribou are found near the project, especially during calving, post-calving, rutting, and migration seasons.”

In 2016, the KivIA<sup>3</sup> stated:

“For other seasonal ranges (including as defined here post-calving/summer, late summer/pre-rut, fall migration/rut, winter and spring migration), apply mobile protection measures with different criteria and timing for different

<sup>3</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)

seasons within anticipated seasonal boundaries and types of exploration or development activities.”

In 2017, KivIA<sup>1</sup> stated:

“Although the, Kitikmeot Inuit Association (KitIA) and KivIA have all requested Mobile Measures in some form to manage caribou ranges, NPC does not recommend the use of Mobile Measures nor offer a rationale for not including them. The KivIA would like clarification from NPC whether Mobile Measures will be part of the conditions to be applied to Special Management Areas, Mixed Use Areas and VEC Areas.”

In 2018, NTI and the RIAs<sup>2</sup> stated:

“KivIA recommends that:

1. Mobile Measures should be part of the conditions applied to Special Management Areas, Mixed Use Areas and VEC Areas, essentially all areas where year-round Protected Area status (if implemented) is not applied ...”

In 2017, the GN<sup>3</sup> stated:

“Caribou habitat protection goals within the 2016 DNLUP must be balanced with other socio-economic goals raised by Planning Partners. The GN does not support the proposed level of land use restrictions associated to zoned caribou habitat within the 2016 DNLUP; a more balanced approach, reflective of Planning Partner input, is necessary in order to promote the long-term well-being of Nunavummiut.

...

“Government of Nunavut supports development within calving grounds, key access corridors, post-calving grounds, and freshwater crossings on a case by case basis, provided that there are sound mitigation plans, with seasonal restrictions on activities that are vetted through the appropriate regulators.

“Respecting NPC’s authority to draft the DNLUP, a range of recommendations for its consideration are provided below:

“Sunset Clauses: NPC should consider the applicability of minimum ‘sunset clauses’ (expiries) for caribou designated areas. Sunset clauses would act as recognition of the need to periodically review the accuracy of these areas. Timing of the sunset clause could begin once the Plan is in effect

and restart should the Plan undergo a full periodic review or Plan Amendment for that given area.

“Peary Caribou: Maintain the Protected Area designation for SARA identified endangered Peary caribou critical habitat (Protected Area # 43 as presented on Map A of the DNLUP). This area is designated to support the SARA listing and that should the Peary Caribou cease to be a listed species that the designation would be withdrawn and subject to the same management as any other calving and post calving area. Protections for caribou habitat which are developed via paralleling legislation should be enveloped in the DNLUP.

“Plan Amendments: NPC should develop more contextualized protocols, timelines, guidelines, and parameters for Plan Amendments, to provide applicants with a reasonable expectation that NPC may recommend relief from Plan restrictions. Likewise the NPC should develop clearer Plan Amendment parameters geared towards the continued engagement of planning partners regarding caribou habitat land use management.

“Reassess Designations’ Scales: Scientifically delineated caribou habitat data should represent one layer of many in the NPC’s determination of land use designations; competing public values surrounding development and conservation must be mediated in a reasonable manner. In certain cases minor land use designation adjustments to scientific delineations may be necessary and supported by consultations.

“Local or Regional Approaches: Moving forward - in the context of the first generation plans’ periodic review and/or the NPC’s incremental approach leading to regional or watershed scaled plans - the NPC should consider a community driven or regional approach to land use designations for caribou habitat which respects Planning Partner recommendations. The DNLUP must consider and avoid inequitable impacts to any one region/community/landowner.”

In 2017, the WWF<sup>4</sup> stated:

“Attempting to address potential impacts to caribou herds through the environmental assessment and the regulatory approvals process on a case-by-case basis is a Limited approach that ignores and casts aside the intention of the integrated regulatory regime envisioned by the NA and legislated through NUPPAA, as well as landscape level cumulative effects that affect herd health. Proper land use planning will enhance the effectiveness of the

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-061E)

<sup>4</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

environmental impact assessment process and will provide better guidance for development interests. The result will allow for greater clarity for development proponents for areas where certain uses are prohibited, and will prevent situations where proponents invest heavily in an environmental assessment process only to be denied on the basis of reasons which would have been apparent with a proper land use plan in place.

...

“We agree with the signatories’ assessment that mobile measures are too costly and stressful to the herds. We also agree that herd management plans will be an essential part of caribou management in Nunavut, and entreat the Government of Nunavut to invest in developing these plans, which currently are lacking for almost every herd in the territory. While caribou require active management, and the NLUP may be static in nature, the NLUP is one tool in a suite of measures necessary to safeguard caribou in Nunavut, and should be used to apply land-based protection for the most sensitive habitat on the caribou range.”

In 2017, the BQCMB<sup>1</sup> stated:

“The BQCMB continues to ask NPC to apply a precautionary approach and to consider risk management in land use planning for Nunavut. This is based on the overall context and need for minimizing the cumulative effects of commercial land use activities on caribou, and is particularly important in the current era of declining and highly vulnerable caribou herds, including most herds that occupy range in Nunavut for part or all of each year. More specifically, protection of habitat for caribou in the NLUP should focus on managing the risk of major negative effects on caribou over the long-term, based on actions that can be taken now, but then adjusted over time if necessary as new information becomes available. The BQCMB believes we need to reduce the risk to the herds and to caribou harvesters where we can, and that we can do so by avoiding additional pressures that we know will contribute to overall cumulative effects.

“The Board promotes a strong a precautionary position because there is no undoing the effects of mines, roads and associated human activities on caribou calving grounds and post-calving areas once they are established. We will not be able to go back and reverse changes to habitat or changes to the ability of caribou to use habitat in these areas once they occur. At this point in time, we still have an opportunity to be cautious and do our best to take care of caribou and crucial caribou habitats through actions led by and for the people of Nunavut who are creating the first

territory-wide Nunavut land use plan, and who are supported by caribou harvesters across the caribou ranges. But if we are not cautious now, and instead we allow development of mines and roads on caribou calving and post-calving areas, we will have lost this opportunity.

“The BQCMB believes that the burden of proof regarding effects of land use activities should be placed on those whose proposed actions would alter habitat and disturb caribou. That is, before any decisions are made to not provide protection through the land use plan for the most important sensitive caribou habitats (such as calving and post-calving areas and key water crossings), those arguing against protection need to provide convincing evidence that there is no risk of serious long-term effects to caribou herds resulting from leaving these areas open to their proposed activities.

...

“The BQCMB believes that what is required to protect caribou over the long-term in Nunavut is a combination of protected areas for the most sensitive and important caribou habitats plus restrictions on land use activities intended to reduce disturbance to caribou in other areas. Protected areas should prohibit specified industrial land use activities year-round. Other protective measures currently available or under development that could be used in Nunavut include seasonal restrictions on certain activities in specified areas, mobile protection measures that move with caribou and also vary seasonally, and terms and conditions on permitted land uses that are applied through the regulatory process. The Board’s position is that all the tools available to protect caribou and caribou habitat should be used in combination, and that no one tool alone is adequate.

...

“The BQCMB has been disheartened by various proposals made by other parties at the NPC’s technical meetings as well as later developments that could influence opportunities for long-term conservation for caribou in Nunavut. These proposals would also affect options for maintenance of traditional lifestyles by caribou-using peoples across northern Canada, including Indigenous peoples in two territories and two provinces who are keenly interested in seeing Nunavut take a lead on caribou habitat conservation.

“These proposals include:

- Grandfathering all existing mineral rights through all stages of mineral exploration and development, with no consideration given to

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<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

how little investment may have been expended on exploration work or to the conservation value of the area where those rights are located.

- The Nunavut Cabinet's decision to reverse the government's position on calving ground protection in March 2016, and their still unsubstantiated claim that the existing regulatory system is all that is needed to ensure caribou protection. Notably the Nunavut Cabinet's decision reversal is based neither on a public consultation process with Nunavummiut – which is blatantly contrary to its own policies - nor advice from its own caribou specialists.
- The December 15th 2016 submission by Indigenous and Northern Affairs Canada (INAC) to NPC, indicating that the agencies which are the official signatories of the final land use plan are either not supportive (Government of Nunavut, GN; INAC) or are ambivalent (Nunavut Tunngavik Incorporated, NTI) about protecting caribou habitat through designation of protected areas in the NLUP.

"This indicates to the BQCMB that these parties:

- have not been listening closely to the input from caribou-using communities at the many NPC meetings they have attended,
- do not adequately value the perspectives of traditional caribou harvesters or the importance of access to caribou as a key element of food security,
- do not believe there should be a balance in Nunavut between traditional ways of life and the wage economy, and/or
- do not agree that the NLUP should assist with maintaining the traditional lifestyle and culture of Inuit who depend on access to caribou.

"In the BQCMB's view, both the Nunavut and federal government positions are in opposition to the publicly-stated wishes of Inuit and other indigenous peoples for whom caribou are essential for cultural and spiritual survival.

"The BQCMB believes that those parties arguing against establishing protected areas in the land use plan for the most important sensitive caribou habitats (such as calving and post-calving areas and key water crossings) need to provide convincing evidence that this will not increase the

risk of serious long-term cumulative effects to caribou herds resulting from commercial land use activities such as mineral exploration and development and roads. No such evidence has been provided to date.

...

"Proposed Mobile Caribou Conservation Measures (MCCM) could be investigated and further developed with INAC and Nunavut's Regional Inuit Associations as a tool for mitigating effects of exploration and development, specifically outside calving and post-calving areas. However, whether the associated monitoring requirements and costs and the relatively complex methodology (compared to the original CPM) will be accepted by industry remains to be seen."

In 2016, the NWT & Nunavut Chamber of Mines<sup>1</sup> stated:

"With careful planning mineral exploration and development projects (and related activities such as all-weather roads) can operate within these areas in a way that does not adversely impact caribou, and that the NIRB process has been successful in implementing measures which ensure that this vital resource is protected while allowing industry to proceed. We do not believe that mineral exploration and development should be prohibited outright within areas of importance to caribou, but instead, that these areas should be identified within the land use plan for consideration at the NIRB regulatory stage. This would provide an opportunity to evaluate the effectiveness of proposed mitigations, timing windows and to evaluate the most up-to-date data on caribou populations and habitat use.

...

"It is the Chamber's view that existing data suggests not all caribou habitat is equally sensitive and areas which are especially sensitive, such as calving and post-calving areas can move over time due to many factors which are not fully understood. This creates a potential uncertainty problem for land users if development is to be restricted in calving or post-calving areas. The Chamber suggests that NPC consult with proponents and industry to ensure that no new measures brought in by the land use plan will overlap with any burden already placed on land users through various permits."

In 2016, Baffinland<sup>2</sup> stated:

"As a project proponent, our experience is that these drastic measures are not necessary in order to ensure protection of this essential resource. It should not be

<sup>1</sup> (NWT & Nunavut Chamber of Mines, 2016-01-15. NPC Public Registry File # 14-125E)

<sup>2</sup> (Baffinland Iron Mines Ltd., 2016-03-04. NPC Public Registry File # 14-155E)



assumed that resource development will cause adverse impacts and that development cannot co-exist with wildlife. Caribou protection measures with regards to helicopter use and all construction activities have been included in the North Baffin Regional Land Use Plan for many years and followed. Site specific caribou protection measures have more recently been developed in concert with the QIA during the environmental assessment process for the Mary River Project. The measures comply with NPC's North Baffin Regional Land Use Plan, providing further evidence that meaningful mitigations and avoidance techniques can be implemented alongside responsible resource development. The comprehensive environmental assessment procedures and follow up monitoring required under the NIRB process have provided good evidence that responsible resource development can proceed in a way that does not cause significant adverse effects to wildlife and more specifically to caribou."

In 2017, Sabina<sup>1</sup> stated:

"Sabina supports the development of a Nunavut Land Use Plan.

"Sabina has significant concerns that the proposed 2016 version has created too many Protected Areas as compared to previous versions. The NPC has substantially changed the designations for the protection of caribou habitat, caribou freshwater crossings and Heritage Rivers in the revised 2016 Draft Nunavut Land Use Plan from Special Management Areas to Protected Areas. It is our view that many of these zones lack the scientific and traditional knowledge evidence to make them Protected Areas and should be designated as Special Management Areas instead.

"Sabina agrees with the Government of Nunavut's position that, with effective mitigation measures and monitoring programs, mineral exploration and development activities can co-exist with sustainable development in caribou calving / post-calving grounds and access corridors.

...

"Sabina has concerns with the number, size and positioning of many Protected Areas and how these will negatively affect development while adding little more protection than a Special Management Area can provide. The Protected Areas will almost entirely eliminate potential development in key areas and thus the economic opportunities for Nunavummiut. This is a common view with the Kitikmeot Inuit Association and Government of Canada, amongst others, expressing similar concerns. During the September workshop the Government of

Canada described the restrictions and requirements for territorial infrastructure in the plan to be "...overly restrictive, given the potential for ... infrastructure development to provide opportunities and benefits to Nunavut."

In 2017, Northquest<sup>2</sup> stated:

"Northquest is wholly supportive of responsible development and in particular the protection of caribou calving and post-calving grounds.

...

"As this relates specifically to the proposed Protected Area which encompasses the Pistol Bay Project, Northquest recognizes the importance of hunting and trapping to the community of Whale Cove, but also notes that the areas of particular interest identified by the Issatik Hunters and Trappers Organization in their submission for the DNLUP, based on their traditional knowledge, is the area between Dawson Inlet, Banks Lake and Quartzite Lake. Locals from the Whale Cove community are ideally situated and experienced and knowledgeable about caribou movement in the Project area. Their traditional knowledge evidences that caribou migration and calving patterns skirt the Project property by a significant distance to the west and south of the Project location. This is consistent with Northquest's observations during the period that it has been working at the Pistol Bay Project. This area is a small subset of the whole Protected Area around Whale Cove, which has been identified in the DNLUP. This suggests that the goal of protecting the caribou herd can be achieved without designating the entire area as off-limits to development. The extensive caribou study undertaken by NWT/Nunavut Chamber of Mines and submitted to the NPC suggests that proposed Protected Areas are based on the presumption that excluding industrial activity from calving grounds is critical to herd productivity, which is not necessarily supported by biological rationale. Similarly, the report indicates that it is not clear whether there is a general acceptance of the approach taken among the scientific and traditional knowledge community with expertise in northern wildlife biology. Northquest respectfully submits that the broad-based approach taken by the NPC with the objective of protecting caribou should be revisited. We note that a significant number of broadly designated Protected Areas in the DNLUP are superimposed over areas which the DNLUP identifies as areas of high mineral potential. The importance of getting the correct balance between development and Protected Areas cannot be overstated for the future socio-economic development of Nunavut.

<sup>1</sup> (Sabina Gold and Silver Corp, 2017-01-04. NPC Public Registry File # 16-041E)

<sup>2</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

“Northquest agrees with the Chamber’s position in respect of caribou protection and respectfully suggests that the Project property area and the property be designated as either a Special Management Area or a Mixed Use Area rather than a Protected Area, subject to the existing regulatory and environmental regime as the Project progresses but not subject to staged land use compliance determination reviews under the DNLUP.”

In 2017, Agnico Eagle Mines Limited (AEM)<sup>1</sup> stated:

“Blocking exploration and mining when there is no scientific link to the decline of caribou would unnecessarily compromise the development of other opportunities for Nunavut and Nunavummiut, while not necessarily contributing to better caribou population protection. As a result, these proposed changes to the DNLUP could have a significant and long-term adverse impact on the future economic development of Nunavut.”

In 2017, the KitIA<sup>2</sup> stated:

“On May 5, 2016 KIA passed a resolution to support the development of mobile protection measures for caribou, wherever they may occur in concentration, even beyond the peak calving period.”

In 2017, the GNWT<sup>3</sup> stated:

“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.

...

“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.”

In 2018, the Rankin Inlet HTO<sup>4</sup> stated:

“It should be noted that we have observed dramatic changes in the distribution of the Qamanirjuaq herd recently and believe a larger core calving area is needed, these changes in distribution match up with what elders have told us. Calving grounds move but stay in a general area as a natural form of crop rotation. The HTO is concerned that by not protecting these areas, that we will lose our caribou. Also note, that the Nunavut Impact Review Board has made it clear on multiple screening decision reports that it is not within their mandate to protect caribou habitat. Our understanding of the EIA process also shows that this is not taken into consideration when development hits that stage. Mobile protection does not protect habitat, and also mobile protection measures as written by the Kivalliq Inuit Association actually creates the sensory disturbance that we would like to protect caribou from. Also the HTO feels that the Government of Nunavut does not have the capacity to maintain and more importantly, enforce the implementation of mobile protection measures.”

In 2016, the NWT & Nunavut Chamber of Mines<sup>5</sup> stated:

#### “7.1 SUGGESTIONS SPECIFIC TO THE NPC DNLUP REVIEW

“If ‘Caribou Core Calving Areas and Key Access Corridors’ are to remain in Schedule A as protected areas where industry activity and other disturbing activities will be excluded, recommendations are as follows:

1. The boundaries of the core calving areas and key access corridors be reconsidered.
  - Consider alternative methods of defining caribou core calving areas and other seasonal ranges.
  - Consider refining the data used to define the areas, and justify the ~ 30

<sup>1</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

<sup>2</sup> (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

<sup>3</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)

<sup>4</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>5</sup> (Government of Nunavut (GN), 2017-03-06. NPC Public Registry File # 16-104M) (Environmental Dynamics Inc. (EDI), 2016-02-17. NPC Public Registry File # 14-135E)

individual polygons identified as “core areas” for eight herds.

- Have the information and analyses reviewed by peers — make the data available to interested parties.
2. The boundaries of the seasonal ranges be made available to land users.
  3. To ensure that the management recommendation remains relevant, a regular timeline to review and update the boundaries has to be in place, either through the Land Use Plan process or through statutory reporting from the GN on the Nunavut Wildlife Act. “4. The GN Recommendation: “Caribou Core Calving Areas and Key Access Corridors” and other recommendations for seasonal ranges and land use restrictions should be supported by a detailed and peer-reviewed biological rationale.”

In 2018, the GoC<sup>1</sup> stated:

“Further clarification as to the length of such restrictions, the type of restrictions, and which areas would be selected would be required before such a commitment could be made. In addition, community consultations to discuss the need for these restrictions and the anticipated outcomes would need to occur before the Government of Canada would endorse these restrictions. Extensive restrictions on development could have a significant negative impact on the investment climate in and the economy of Nunavut. Uncertainty regarding the temporary nature of restrictions could also deter future investors worried about if or when these restrictions would become permanent.”

In 2017, a GoC<sup>2</sup> representative stated at the Qikiqtani hearing:

“We recognize, of course, and have heard so much this week about how important caribou are. There are real concerns over recent population declines, and we agree that there is a need to provide meaningful protection for caribou. At the same time, mineral development remains a vital source of economic development for the territory and for many regional communities. It also creates important employment opportunities for Nunavummiut.

“This requires careful consideration of how to place restrictions on land use that protect caribou, while having the least possible impact on economic opportunity. The approach the Government of Canada is recommending

would in many cases, replace the year-round prohibitions in the Draft Plan with two types of protection measures. First, seasonal protections would stop all activities in defined caribou habitats at specific times of the year, for example projects in core calving areas could be shut down over pre-established dates. Second, more general protection measures that are sensitive to local circumstance would stop certain activities no matter where they are located when caribou are close by.

“While the Government of Canada recognizes the specifics of both seasonal and general protections required for the discussion to include local expertise and regional considerations, together these kinds of measures could provide consistency, clarity, and certainty for proponents and for regulatory bodies. If they are worded clearly, the Nunavut Impact Review Board and other regulators could implement them successfully. In addition to these measures in the Plan, NIRB and regulators would examine the project-specific impacts to caribou and determine what other mitigation measures may be required. These measures should be developed based on up-to-date science and IQ and incorporated into the Plan.

“The Government of Nunavut has provided maps of important habitats and dates when these habitats are most likely to be used. Communities have also provided information on location and timing of use of caribou habitats. This information is a good starting point to develop these measures, but more discussion and more community is required within the planning process. Once developed, the measures should be kept up to date based on science and IQ research and monitoring to keep the measures effective. All planning partners will need to commit of a regular review of the measures and adopting an efficient approach to any required amendments to the Plan. We look forward to participating in further discussion on these measures, as invited by the Commission in their opening presentation.”

In 2017, in its report of its 2015 caribou workshop, the NWMB<sup>3</sup> submitted:

“At the conclusion of the workshop, NWMB legal counsel presented eleven points of agreement among workshop participants. ...

1. Both Inuit Qaujimajatuqangit and science provide useful information and guidance concerning caribou and caribou habitat protection issues.
2. It is necessary to incorporate both Inuit Qaujimajatuqangit and western science information

<sup>1</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>3</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

into maps addressing caribou and caribou habitat protection. Boundaries of protected or conservation areas should be reviewed and revised periodically to reflect changes in caribou distribution or knowledge.

3. Inuit Qaujimajatuqangit and science are essentially in agreement – based upon reliable and persuasive evidence – with respect to caribou and caribou habitat protection issues, particularly regarding the vital importance of:

- (a) Caribou calving areas;
- (b) Caribou post-calving areas;
- (c) Caribou water crossings; and
- (d) Caribou access corridors.

4. Currently, there appears to be no reasonable legal or policy balance between ‘development’ and ‘protection’ in core caribou habitat.
5. Establishing protected areas is generally a more effective conservation action for the protection of core caribou habitat and vulnerable caribou populations than simply establishing protection measures; however, constraints on economic development may occur.
6. Particularly considering the presently low caribou population numbers in Nunavut, the high economic, social and cultural value of caribou and caribou habitat to Inuit, and ongoing exploration and development activities throughout the territory, it is urgent that prompt and effective steps be taken by management authorities to ensure the protection of this irreplaceable natural resource.
7. The establishment under Nunavut’s Wildlife Act of “Conditional Uses” and accompanying regulatory safeguards appears to be an effective and appropriate legal action for the protection of caribou and caribou habitat.
8. A caribou ‘Zone of Influence’ is a useful concept to apply in considering overall caribou and caribou habitat protection.
9. Mobile caribou conservation measures – designed to conserve caribou use of seasonal ranges as opposed to conservation of caribou habitat – deserve further careful examination and consideration – for example, within buffer zones in the vicinity of a protected area or within other

seasonal ranges where concerns exist about disturbance to caribou but do not warrant full area protection.

10. Caribou and caribou habitat protected areas and protection measures – once decided upon – must be clearly expressed and conveyed to all those affected.
11. To help ensure effective caribou and caribou habitat protection, adequate funding is required for communications, implementation, monitoring and enforcement.”

In 2017, in its report of its 2015 caribou workshop, the NWMB<sup>1</sup> submitted:

“Table 1. A comparison of the advantages and disadvantages of using area protection as a strategy for protecting caribou and caribou habitat from the impacts of human land-use activities.

Advantages	Disadvantages
<b>Consistent with the Principles of Inuit Qaujimajatuqangit and advice from elders</b>	Calving grounds may shift between years, therefore runs the risk of not protecting the area in certain years
<b>Provides certainty for industry; they will know in advance if an area can or cannot be developed</b> <b>Cost-Effective</b>	Lost potential for immediate industrial development and the benefits associated with development (e.g., employment, infrastructure, etc.)
<b>Offers protection for other wildlife species, especially non-migratory species in the area</b>	Due to the issue of grandfathering rights, may be difficult to implement in some areas
<b>Will be guaranteed protection of caribou and important caribou habitat</b>	Has caused conflict between co-management partners who have different views on the issue
<b>Conservative approach – certain that it won’t impact caribou abundance and should allow caribou to rebound more quickly after a low point in the natural fluctuation</b>	Cannot protect all areas, therefore protected area approach alone may not be enough to sustain the population

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<b>Enforceable by current regulatory bodies</b>	
<b>Conserve caribou and other wildlife over the long term, which will indirectly maximize harvesting opportunities and increase related economic opportunities such as ecotourism and sport hunting</b>	

“Table 2. A comparison of the advantages and disadvantages between area protection implemented through the Nunavut Land Use Plan and the establishment of Conditional Uses through the Conservation Areas Regulations.

Nunavut Land Use Plan	Conditional Uses under the Conservation Areas Regulations
Advantages	
Flexible; can easily be amended if there is a change in caribou distribution or community values.	Protects sensitive habitat for the long-term
Protection at a single entry point to the regulatory process	Cannot be easily overturned
Clear process for how co-management / planning partners will be involved	
Disadvantages	
Through the Ministerial exemption process, protection is Limited and not guaranteed (e.g., icebreaking in Milne Inlet)	Have to reach agreement for the establishment and likely have to develop an Inuit Impact and Benefit Agreement
	Permanent boundaries that may be difficult to change if critical habitat shifts
	Uncertainty in the process for establishment
Any organization can request an amendment to the Nunavut Land Use Plan, therefore may only offer protection for the short-term (i.e., will be an on-going issue)	Existing rights issues likely more complicated in a legislated area versus a land use plan

	Long legal process to establish
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“Table 3. A comparison of the advantages and disadvantages of using mobile caribou conservation measures as a strategy for the management and protection of caribou and caribou habitat from the impacts of human land-use activities.

<b>Advantages</b>	<b>Disadvantages</b>
<b>Flexible (i.e., follows the caribou)</b>	Expensive
<b>Offers protection to caribou during all seasonal ranges</b>	Difficult to Enforce
<b>Opportunity for enhanced research on testing mitigation measures and developing ways to reduce disturbance on caribou</b>	To gain certainty in their effectiveness, extensive research requiring increased funding and human resources is needed
<b>Greater balance between protection and industry; which is especially important for Inuit Owned Lands</b>	Have not been fully tested, therefore uncertainty in its effectiveness (especially in sensitive habitats)
<b>Could provide an effective buffer around a year-round protected area</b>	Uncertainty for industry since they may not know how often or how long operations will need to be suspended
	Currently, regulators do not have the budget or human resource capacity necessary for the level of monitoring and enforcement required to make this strategy effective/feasible
	Does not protect habitat (i.e., inappropriately making habitat available for development)
	Unresolved monitoring issues (e.g., who is responsible, some communities are against collaring, etc.)
	If proponent is responsible for monitoring, who is responsible for monitoring their compliance?

	Open a sensitive habitat type to exploration and therefore evokes the grandfathering clause which could lead to mine development
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“Table 4. A comparison of the advantages and disadvantages of relying on the Nunavut Impact Review Board process for the management and protection of caribou and caribou habitat from the impacts of human land-use activities.

Advantages	Disadvantages
<b>Allows assessment and provision of recommendations on a case-by-case basis (i.e., project specific)</b>	Dependent on if Type A or Type B review required is; therefore may allow exploration to occur without screening
	Too technical for communities to participate meaningfully
	Hard to enforce permit terms and conditions. E.g., Meadowbank Gold Mine term and condition regarding dust suppression is not being followed effectively
	Often allows small scale exploration into calving grounds which evokes the “grandfathering clause” (e.g., Tundra Copper Coppermine project in Bluenose-east calving ground)”

The GN will continue to assess whether ‘mobile protection measures’ are a feasible tool in the land use planning context, or otherwise, coordinating with our wildlife co-management partners.”

### Considerations

There seems to be general agreement that a land use designation approach (LU or CU) is appropriate for caribou calving and post-calving areas. It is also noted that there is a considerable number of propositions for using mobile protection measures as mitigation measures for habitat management.

In KivIA’s<sup>2</sup> submission, Poole and Gunn explained that the caribou mobile protection measures approach is for the purposes of avoiding and minimizing effects during “industrial exploration activities”, and that “the proposed mobile measures can be implemented in concert with protected areas” designation. In addition, they also noted that the “mobile measures can be applied during all seasons, traditional migratory routes and water crossings.”

While some comments indicate that caribou might be adaptable, there is no statement that caribou cows can adapt and calve with the presence of vacant industrial facilities, active mine or quarry site installed within their calving grounds. According to the GN, on returning to calving areas, if anything looks or smells different from the year before, the female caribou are likely to avoid it, which will increase their biological energy demand and potentially reduce calving and rearing success.

The NPC is of the understanding that since mobile CPMs are mainly for the early stages of the mining cycle, such as prospecting and exploration, with limited usefulness during advanced exploration or active mining, their functionality is questionable to manage land use in caribou habitats. As submitted by the NWMB,<sup>3</sup> mobile CPMs are “designed to conserve caribou use of seasonal ranges as opposed to conservation of caribou habitat.” In addition, it seems reasonable to agree that when a certain area of a wildlife’s critical habitat is occupied by a permanent structure or mineral resource extraction, the area is permanently lost for the wildlife, since it cannot

In 2018, the GN<sup>1</sup> noted:

“Mobile caribou protection measures are unverified methodology in Nunavut. Where proponents are relying on these measures, the majority of compliance monitoring is currently completed by the proponent and reported at the Annual Report stage.

The GN has conducted some early-stage research into the feasibility of applying mobile protection measures. These are still theoretical approaches that may not be realistically implemented in the short-term, largely due to monitoring capacity issues.

<sup>1</sup> 16-175E-2018-11-26 GN DNLUP Final Written Submission

<sup>2</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2015-11-12. NPC Public Registry File # 14-115E)

<sup>3</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)



use that area anymore for foraging, calving or post-calving.

While recognizing the potential value of using mobile CPMs for areas such as “buffer zones in the vicinity of a protected area or within other seasonal ranges where concerns exist about disturbance to caribou but do not warrant full area protection,”<sup>1</sup> the NPC notes that mobile CPMs would require investment in real- time monitoring and application of land use restrictions as caribou move into and use habitat. It might also require the development of another collaborative regulatory regime aside of the ones currently provided by the NA and the NuPPAA for project proposals review and monitoring to ensure proper implementation of such mobile protection measures. The availability of those resources (financial, human and regulations) are yet to be guaranteed to ensure it is possible to implement mobile CPMs in the NLUP.

In the absence of information on how mobile CPMs would be implemented it is difficult to direct in a land use plan that they be implemented as a condition of proceeding with a project or a requirement put on regulatory authorities to themselves implement and monitor.

Additional research and information on how mobile CPMs could be implemented could justify adding them in a future generation of the NLUP following a periodic review.

## 2.2.8 Caribou Calving Areas

Caribou calving areas are those areas where pregnant females congregate to give birth to calves. Typically, the pregnant females exhibit little movement during this period. Calving appears to occur in advance of the insect season, while calving locations appear to be related to areas with lower numbers of predators.

### 2.2.8.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN, 2015	109,679	3

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

QWB, 2018	49693	1
Kitikmeot/Kivalliq (additional), 2020	105,924	3

The geographic boundaries of caribou calving areas were mainly submitted by the GN, based on collaring data.

In 2014, the BQCMB<sup>2</sup> stated:

“The BQCMB provides four options for consideration for defining calving and post-calving areas ...

“1) Protect all ‘traditional calving and post-calving areas’, defined as areas for which use by caribou for calving and post-calving has been documented.

*“This is the long-held position of the BQCMB, which has been supported by others, including the Athabasca Denesuline and WWF-Canada. The term ‘historic calving area’ has been used in the Draft Plan by NPC, which possibly means the same as the BQCMB’s ‘traditional calving area’, but this is not clear.*

“2) Protect all ‘recently used calving and post-calving areas’ defined as all areas known to be used by caribou within the last 20 years based on a) tracking by telemetry (collared cows) b) results of calving ground surveys and c) IQ and local knowledge, with obvious outliers removed. Delineation of these areas should be redefined based on all available telemetry and survey data every 5 years.

*“For the Beverly and Qamanirjuaq herds in 2014, this would include: a) telemetry data collected since 1996 and 1993, respectively, b) results of calving ground surveys conducted in 1994 (both herds), 2008 (Qamanirjuaq) and 2011 (Beverly), and knowledge from nearby communities (e.g., Baker Lake, Arviat, Whale Cove, Rankin Inlet).*

“3) Protect ‘recently used calving and post-calving areas’ defined by systematic and defensible data analysis of locations of collared caribou tracked by telemetry during the last 20 years.

*“For the Beverly and Qamanirjuaq herds, this would be based on analysis of telemetry data collected since 1996 and 1993, respectively.*

“4) Protect a portion of areas used by collared caribou during the calving and post-calving periods in the last 20 years that is based on systematic and defensible data analysis and which targets inclusion of all areas most intensively used by caribou.

*“For the Beverly and Qamanirjuaq herds, this would be based on analysis of telemetry data collected since 1996*

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

*and 1993, respectively, likely identifying 'core' calving and post-calving areas.*

...

"The BQCMB recommends Option 2, as it will provide the best representation of habitats used by caribou for calving and post-calving based on the most comprehensive use of all available information.

"Option 1 would be the preferred choice under ideal circumstances, as it is the best option for application of the precautionary principle and would provide maximum flexibility for caribou herds to expand back into areas not recently used during calving and post-calving periods. The BQCMB's map showing Beverly and Qamanirjuaq calving grounds, which is based on all calving surveys (1957-2011) and telemetry data (1993-2012) ... However, for several reasons related to data quality, comparability and lack of availability of information on historic post-calving areas, option 1 is currently not feasible.

"Option 3 is not the BQCMB's first choice, as it may exclude important habitat identified through rigorous calving ground surveys to have been used by calving caribou in recent years. These areas may contain important habitats that may be used again if they are protected from negative impacts of commercial land use.

"Option 4 is not recommended by the BQCMB, as it will exclude important habitats known to have been used by caribou for calving in recent years that require protection from negative impacts of commercial land use."

In 2014, the WWF<sup>1</sup> stated:

"In the past, WWF has supported the position of the BQCMB and Athabasca Dene that all industrial development (including exploration) should be prohibited in the historic calving areas. While we believe that this would still be an appropriately precautionary approach, WWF also recognizes that, based on satellite-collared animals, caribou have not been known to concentrate in significant portions of these traditional, aggregated calving areas for over 20 years. However, lack of data does not necessarily mean lack of use. In the case of the Beverly herd, there is debate as to whether this calving area is being used at all, although WWF recommends that it would be wise to protect at least the recently-known core, in case the Beverly herd re-establishes itself and re-occupies a calving area used by over 200,000 animals for decades. The core (or priority) calving and post-calving areas are those known to be utilized by 95% of calving animals every year in the recent past, which dramatically reduces the area

WWF has traditionally proposed for protection by about 2/3, compared to the historic calving grounds. In other words, we know there will continue to be some caribou calving and raising calves until the end of July outside these core areas. Furthermore, these data are based on Limited sample sizes and relatively short periods of time, compared to historical occupancy of calving areas by caribou herds in Nunavut. Therefore, WWF recommends that the spatial definition of such core areas should be updated every five years, as new data become available, and included in the scheduled overall review of the NLUP. Despite these shortcomings, in WWF's view, protecting these reduced areas represents a reasonable accommodation of the need for economic development with the ecological needs of caribou in this most sensitive of their habitats. We hope it will also break a longstanding logjam over affording greater protection to such areas where it is absolutely necessary."

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

"One of the most important findings ... was that caribou did not consistently return to "traditional" calving grounds. Over time, the location of the calving grounds can shift. The management and land use implications of this finding are that shifts in caribou breeding ground may be common and areas that are suitable for calving but are currently not being used should be managed with consideration for potential future use."

In 2015, the GN<sup>3</sup> stated:

"Caribou maintain fidelity to core calving areas and key access corridors over the long term, typically returning to the same areas consistently over many decades. However, punctuated events displaying geographic shifts in core calving areas do occur in rare circumstances.

"In those rare circumstances where punctuated shifts in core calving areas and key access corridors occur, the GN will use telemetry data over a 15-25 year period to assess the permanence of any shift that has been detected. Once the permanence has been confirmed the GN will make recommendations to the NPC to remove previous core calving area and key access corridors locations from the Protected Area land use designation and re-assign to an appropriate land use designation. At the same time, it will be also recommended that the new areas occupied as calving areas or key access corridors be upgraded to a

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

Protected Area land use designation to ensure the continued conservation of the species.

“The GN is committed to ensuring that only those areas with long-term importance as calving and key access corridors will remain under a Protected Area land use designation, and that areas abandoned be re-assigned to a more appropriate land use designation.”

In 2014, the WWF<sup>1</sup> commented on the GN maps:

“A series of density maps (based on a kernel analysis) were developed to identify locations key to nine major life cycles or seasons (spring migration, calving, post-calving, summer, late summer, fall migration/pre-breeding, rut/breeding, fall migration post-breeding, and winter) for each of the caribou subpopulations within Nunavut (Ahiak, Bathurst, Beverly, Bluenose East, Bluenose West, Lorillard, Qamanirjuaq and Wager Bay). The density maps were derived from caribou collar telemetry data collected at various times between 1993 and 2012. The seasonal density datasets were analysed to identify seasonal home ranges (the area each subpopulation occupies within a specified date range). Within each seasonal range, Core areas were identified for each of the seasons by examining the utilization distributions within each range - the probability of finding a caribou within the range within the specified season. The core areas represent those locations where there is a 95% probability of caribou being present. The calving season data range for each subpopulation is as follows: - Ahiak: 13 - 25 Jun - Bathurst: 2 - 16 Jun - Beverly: 6 - 19 Jun - Bluenose East: 28 May - 20 Jun - Bluenose West: 29 May - 23 Jun - Lorillard: 29 May - 25 Jun - Qamanirjuaq: 9 - 22 Jun - Wager Bay: 30 May - 25 Jun.”

In 2017, the GN<sup>2</sup> confirmed these WWF dates.

In 2016, the NWT & Nunavut Chamber of Mines<sup>3</sup> stated:

“Boundaries of core calving areas and key access corridors be reconsidered:

- Consider alternative methods of defining caribou core calving areas and other seasonal ranges
- Consider refining the data used to define the areas, and justify the ~ 30 individual polygons identified as “core areas” for eight herds

- Have the information and analyses reviewed by peers — make the data available to interested parties

- The boundaries of the seasonal ranges should be made available to land users
- To ensure that the management recommendation remains relevant, a regular timeline to review and update the boundaries has to be in place, either through the Land Use Plan process or through statutory reporting from the GN on the Nunavut Wildlife Act
- The GN Recommendation: “Caribou Core Calving Areas and Key Access Corridors” and other recommendations for seasonal ranges and land use restrictions should be supported by a detailed and peer-reviewed biological rationale.”

In 2013, Baker Lake<sup>4</sup> residents indicated that calving areas had changed locations: “Caribou calving grounds have moved.”

In 2015, the Baker Lake HTO<sup>5</sup> clarified:

“We know that caribou give birth in the same general areas year after year. Within these general areas, there is variation. Just like farmers let their fields lie fallow to regenerate nutrients, caribou instinctively leave parts of the calving grounds to regenerate their food supply. This entire traditional areas for calving must be protected. The Government of Nunavut and Beverly and Qamanirjuaq Caribou Management Board should have maps of these areas.”

In 2016, the KivIA<sup>6</sup> stated:

“KivIA supports identification of core calving areas using IQ, scientific survey and collar data, and temporal trends to identify the core areas used by calving and immediately post-calving caribou (during extent of calving - peak of calving plus 3 weeks).”

In 2017, the KivIA<sup>7</sup> stated:

<sup>1</sup> (WWF-Canada, 2014-04-11. NPC Public Registry File # 12-188E)

<sup>2</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2016-02-25. NPC Public Registry File # 14-148E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2014-01-21. NPC Public Registry File # 12-126E)

<sup>5</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-098E)

<sup>6</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)

<sup>7</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

“... the KivIA remains concerned that NPC’s application of land use options is reliant on a single mapping technique (Government of Nunavut’s (GN) kernel analysis of collared caribou locations) and it remains unclear if and how IQ was incorporated into the mapping. The KivIA would expect there would be documentation of IQ for mapping the core calving and seasonal caribou habitats, and recommends there should be an independent technical review of the spatial analyses to evaluate the uncertainty in their boundaries.”

In 2017, the KitIA<sup>1</sup> submitted:

“Although at times it has caused hardship, major population declines, or changes in caribou calving grounds is not a surprise to Inuit. They see such changes in calving grounds as adaptive behaviour that allow caribou to select the most optimal habitats which will ensure the survival of their calves. Some calving areas are more consistently high quality than other areas which are used until the vegetation is depleted. This is the reason that Inuit believe caribou switched from calving around Bathurst Inlet from one side to the other in the 1990s. However, as Inuit describe, all of Bathurst Inlet is one large calving area and caribou presence is affected by the year that the area is used. Large calving areas are also identified in the Queen Maud Gulf area, and east, north and west of Contwoyto Lake. There are also certain areas described by Inuit that western scientists are not aware were heavily used for calving at one time. Calving areas for the Bluenose-East herd are in an area from Tahikpak (Bluenose Lake) to Emakyoak (Great Bear Lake), but by the 1990s they calved closer to Kugluktuk.

“The use of space by animals that occupy hundreds of thousands of kilometers must be analyzed at all spatial scales. What may seem as a large shift to humans is merely a selection by tuktut of one of their many options.”

In 2018, the GoC<sup>2</sup> stated:

“[T]he Government of Canada recommends updating these core ranges in an open process before final polygons are adopted by the Commission. The Government of Canada recommends the use of a similar approach to Caslys Consulting Ltd. (2016), but to modify the approach by combining discontinuous patches of core areas in a trackable way, so that each herd would receive an equal proportion of protected core area.”

In 2018, the QWB<sup>3</sup> provided information on Baffin caribou areas and stated:

“Calving and post-calving differences between Qikiqtaaluk Region and mainland caribou: Arctic tundra caribou in Qikiqtaaluk usually calve later than on the mainland and over a longer period of time, making it difficult to distinguish between the calving and the early post-calving periods. A few calves are born on Baffin Island in early June and newborn calves of Peary caribou have been seen in late May, but calving of Baffin and Peary caribou mainly starts in mid-June and continues gradually over 3 weeks into early July. Female caribou that are giving birth are found near the edges of melting snow patches. Near melting snow patches, emerging flowers and other plants are abundant, moist and nutritious, meeting the needs of newborn calves and their mothers. Because of the great elevational changes in Qikiqtaaluk, the snow melt period continues over large areas into early July, and the caribou have adapted to utilize that variation. Days after calving, females descend with their calves to lower elevations. For 2-3 weeks, females are actively calving at higher elevations, in close vicinity of post-calving females and their calves that have moved to nearby valleys or coastal lowlands. Dense post-calving aggregations do not occur on Baffin Island and in the High Arctic, even during periods of high abundance. Because of their adaptations to their variable environment, the concept of “calving herds” is not applicable to Qikiqtaaluk, Peary and northern Melville Peninsula caribou. The calving and post-calving periods for these caribou begin about June 7 and continue until cows wean their calves usually about August 31. Therefore, this period, nursing females and calves require ready access to areas that provide high biomasses of easily digestible forage.

...

“Special Note – No Direct Access to Telemetry Data: In August and October 2018, the QWB completed applications to the Government of Nunavut (GN) to directly use caribou telemetry data from 1987-1995 on Baffin Island and from 2003-2006 for Peary caribou, to combine that information with IQ to delineate calving and post-calving areas. The GN has not approved QWB’s applications. In 2016, the GN gave the QWB some maps of calving and post-calving/summering areas on Baffin Island based on telemetry data. However, the GN apparently have added about 10 km around telemetry locations. Although the GN’s 2016 maps generally agree with Inuit Qaujimajatuqangit (IQ), the mapped areas are too large. As a result, the QWB has relied mainly on IQ to map calving and post-calving areas, as described below.

“Special Note – Natsilik Caribou Calving and Post Calving Areas: Natsilik caribou are a type of caribou on southern

<sup>1</sup> (Kitikmeot Inuit Association (KIA), 2017-01-13. NPC Public Registry File # 16-067E)

<sup>2</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-190E)

Baffin Island that migrate long distances (i.e., 250 -450 km one-way) from their wintering areas (i.e., south or near Natsilik or Nettilling Lake) to their calving and post-calving areas, which are from north of Nettilling Lake to Dewar Lakes and on to Baird Peninsula, west to the coast of Foxe Basin, and the entire Great Plain of the Koukdjuak west of Natsilik and northeast of Amadjuak Lake. Natsilik caribou usually remain below 300 m or 1000 ft above sea level (asl) year-round. As a result, they migrate long distances in order to access the variety of seasonal habitats that they need. The QWB has chosen to include these calving and post-calving areas within the West Central Baffin Multiple Values Area (see WS 11).

“Special Note – Hall Peninsula and McKeand River Plateau Caribou Calving and Post-calving Areas: Caribou on Hall Peninsula and on the plateau around the McKeand River give birth at high elevation, usually above 300 m asl, and then move into valley bottoms among the mountains or near large lakes on the plateau for the post-calving period. In the 1940s, Inuit used to hike inland to these areas in Aujaq to find caribou when they were scarce elsewhere. During calving and post-calving, cows and their calves are known to usually remain in certain valley systems or water basins; as a result, we have proposed designation of those water basins known through IQ. The GN’s 2016 maps suggested larger areas that we have proposed. Aerial surveys by the GNWT in June 1979 and 1982 found calves within our proposed areas.

“Special Note - Meta Incognita Peninsula (MIP) Caribou Calving and Post-calving Areas: Most caribou in the Kimmirut hunting area do not migration off the Peninsula to give birth. Cows migrate up onto the high plateaus to give birth, and then nurse their calves on the plateau during the summer (i.e., usually above 300 m asl). They also move onto lower areas usually within 1.6 km (1 mile) of the high land for feeding or to travel between high areas. The calving, post-calving and summering areas show on the GN’s 2016 maps was too large. We included only areas that agreed with IQ and excluded land that is farther than 1.6 km from areas that are 300 m or higher.

“Special Note – Foxe Peninsula (FP) Caribou Calving and Post-calving Areas: Foxe Peninsula is lower in elevation than the other peninsulas on southern Baffin Island; therefore, the migratory habits of caribou on the peninsula differ from those elsewhere. On Foxe Peninsula, caribou give birth mainly on the Kidlapait and Kimmik ranges, usually above 150 m asl (500 ft). After giving birth, many cows migrate north with their calves onto the lowlands along the northern shore of Foxe Peninsula, and some

continue farther to the northeast onto the Great Plain of the Koukdjuak. Some cows and calves also remain on the higher land of Kidlapait and Kimmik ranges or return there from the coast during the post-calving period. The lowlands of northern Foxe Peninsula and the Great Plain are extremely important to the health of the nursing cows and their growing calves because of the abundant summer food. Although caribou had not been plentiful on Foxe Peninsula since the early 1990s, there is evidence that they are now increasing on Foxe Peninsula, as expected according to Inuit Qaujimajatuqangit. However, because they are still not abundant, the cows and calves are very sensitive to disturbance during calving and post-calving, and they require strong land-use protection in coming years. To map this area on Foxe Peninsula, we depended largely on local historic and contemporary IQ. We consulted maps provided to the QWB by the Government of Nunavut (GN) in 2016. The areas on the GN maps appeared to large in some areas, so we depended mainly on IQ.

“Special Note – Melville Peninsula Calving and Post-calving Areas: The known caribou harvesting, calving and post-calving, migration corridors and sea-ice crossing areas on Melville Peninsula are all interconnected (see also maps for WS-07, 09 and 10 for a complete picture).”

In 2020, Naujaat<sup>1</sup> residents indicated areas around the “neck” of the Melville Peninsula that should be added to the list of caribou calving areas. They also mentioned that calving areas in the Naujaat area change rapidly.

In 2020, Arviat<sup>2</sup> residents stated that the boundaries as shown in the 2016 DNLUP are accurate.

In 2020, Baker Lake<sup>3</sup> residents noted that the areas delineated are not accurate, out of date, and do not include all information available. It was discussed that the areas are derived from GN collaring data and do not include information from previous NPC consultations or from the BQCMB or the 1970s areas developed for CPMs. Participants noted that the map does not show all of the Beverly calving area – there is more calving further north. The community has observed changes in the calving areas, now the Qamanirjuaq caribou are moving further north and the delineated areas on the map are too small. Participants also noted that these caribou are shared with other jurisdictions and that we need to be aware of

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

this and also consider the big picture of caribou conservation. Caribou do not remain in the large concentrated groups all the time. They also move in small groups at different times a year. Caribou will change their range over the longer term but will also come back to the same area over time and then needs to also be considered.

In 2020, Whale Cove<sup>1</sup> residents generally agreed with the proposed boundaries.

In 2020, Rankin Inlet<sup>2</sup> residents suggested a northward expansion of the identified caribou calving area, in line with an anticipated review of caribou boundaries from the GN.

In 2019, Taloyoak<sup>3</sup> residents suggested that the entire Boothia Peninsula should be considered essential calving and post-calving habitat.

In 2019, Gjoa Haven<sup>4</sup> residents stated that all of King William Island as well as an area southwest of and adjacent to Taloyoak should also be considered essential caribou calving and post-calving habitat.

In 2019, Kugaaruk<sup>5</sup> residents suggested adding more mainland areas to caribou calving and post-calving habitat. Some of the northern portions of these areas are similar with comments from Taloyoak.

In 2019, Cambridge Bay<sup>6</sup> residents advised on an area in east central Victoria Island as the location where caribou from the Dolphin-Union herd will calve, and also advised including the historic Bathurst herd calving grounds on the east side of Bathurst Inlet. Cambridge Bay residents also noted that caribou use one area until the feeding gets harder, then they move on, but they will come back.

In 2019, Kugluktuk<sup>7</sup> residents suggested a northwestern expansion to the calving area described in 2016 DNLUP; while others echoed the need to protect the historic Bathurst herd calving areas on the east side of Bathurst Inlet. The exact same area as had been identified by

Cambridge Bay residents was identified by Kugluktuk residents.

Ukkusiksalik National Park contains caribou calving and post-calving areas.

The Queen Maud Gulf MBS contains caribou calving areas.

The Thelon Wildlife Sanctuary contains caribou calving and post-calving areas.

### Considerations

The caribou calving areas considered below are based on the GN's 2015 delineation for mainland herds with additional 2019/2020 community-identified areas also included. Island caribou calving areas are those identified in 2018 by the QWB and 2019/2020 community-identified areas.

The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou calving areas. There seems to be agreement that while they tend to maintain fidelity to their core calving areas year after year, caribou sometimes can shift calving areas. It is not clear how much they change calving area from year to year or from herd to herd.

It is apparent that the caribou calving boundaries delineated by the GN, and supported by the BQCMB and WWF, are one of several possible options. It is also noted that the communities and the HTOs support the GN delineated boundaries, and in some cases recommended an expansion of these areas and requested a more updated survey. However, the Chamber of Mines and the KitlA are not in complete agreement with the GN's boundaries.

***The certainty of the identified geographic boundaries of CARIBOU CALVING AREAS is considered MODERATE because:***

- ***The areas are identified with moderate precision/scale;***

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)



- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

### 2.2.8.2 Environmental and Cultural Importance

Caribou calving areas were mentioned by community members as being important and needing some form of protection, during consultations undertaken by NIRB and/or NWB between 2001 and 2013.<sup>1</sup>

In 2014, the GN<sup>2</sup> stated:

*“Calving Areas and Key Access Corridors- Mainland Migratory Herds*

*“Calving grounds are widely recognized as being of critical importance for maintaining healthy caribou populations. Key Access Corridors are regularly used pathways that lead on and off the calving grounds. These corridors are essential for providing access to calving grounds. Development and/or disturbance along these routes could lead to caribou shifting or abandoning their calving grounds.”*

In 2015, the GN<sup>3</sup> stated:

*“Core-calving areas are of critical importance for maintaining healthy caribou populations. They are also the place where caribou are most vulnerable to disturbance. In places where core-calving areas and high mineral potential overlap, it becomes even more important to have protective measures in place, as it is areas of high mineral potential where exploration and development and the impacts thereof are most likely to occur.*

*“Again, it must be stressed that the impacts of exploration and development cannot be effectively mitigated in core-calving areas and that disturbance effects during calving have severe consequences for herd productivity and health.”*

In 2016, the KivIA<sup>4</sup> stated the calving areas have a ‘Crucial’ risk category.

In 2018, the QWB<sup>5</sup> stated:

*“Throughout Qikiqtaaluk Region, many places have Inuktitut names because of their value to caribou and*

caribou hunters. For example, in the Arctic Bay area, there are special places that caribou use for calving and post-calving. Some of these areas are known as ‘qillituuq’. The land ‘shines’ in the sun during calving as the females’ water breaks and placentas lay on the ground. Females and their calves use these areas for weeks after calving.”

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of caribou calving areas. Many parties agreed to the essential importance of caribou calving grounds to the future of the species, while no participant disagreed.

***The environmental and cultural importance of CARIBOU CALVING AREAS is considered HIGH because:***

- *The cultural importance of the areas to the communities is high; and*
- *The importance of the areas to caribou is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to the biological productivity of caribou; and*
  - *The habitat supports concentrations of caribou.*

### 2.2.8.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN, 2015	109,679	26,205	3,966.36	4,555
QWB, 2018	49,693	4,633	861	860
Kitikmeot/ Kivalliq (additional)	105,924	22,217	638	1,108

Parnautit,<sup>6</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

<sup>1</sup> (Dillon Consulting Limited, 2013-02-14. NPC Public Registry File # 12-027E)

<sup>2</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>3</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>4</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-190E)

<sup>6</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

Ingirrasiliqta,<sup>1</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in caribou calving areas for the Western Ahiak and Beverly herds is considered low. The potential in caribou calving areas for all other herds is considered high.

There are some existing mineral rights in caribou calving areas. There is also the potential for a transportation corridor through certain areas. Details are as follows:

- Calving grounds for almost all herds are located in or near areas with high to extremely high proven or inferred resources. The only exception is the western portion of the Ahiak herd calving and post-calving area, and most of the Beverly herd calving and post-calving area (which is contained mainly within the Queen Maud MBS).
- Some areas contain IOL.
- A portion of the proposed Kivalliq-Manitoba Road under study by the KivIA and the governments travels through the caribou calving grounds.

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU CALVING AREAS – WESTERN AHIK AND BEVERLY HERDS is considered LOW because:***

- *The areas have no known mineral potential or oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively large.*

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU CALVING AREAS – ALL OTHER HERDS is considered HIGH because:***

- *The areas have significant mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

### 2.2.8.4 Sensitivity to Impacts

In 2010, the BQCMB<sup>2</sup> stated:

"This increased human population and the greater access to caribou range provided by new and proposed roads in Saskatchewan and Manitoba may result in greater harvest of caribou from both the Beverly and Qamanirjuaq herds (BQCMB 2001a, 2001b). This is of particular concern for the Beverly herd, as harvest levels have been close to the sustainable limit for several years (BQCMB 2001c).

...

"Mineral exploration and development activities are increasing across the Canadian North, including the Beverly and Qamanirjuaq caribou ranges. Mineral exploration is ongoing in several locations on and near the traditional calving and post-calving areas of the Qamanirjuaq herd (INAC 2004b), and numerous mineral showings are found in the area (GNWT 2004).

...

"A major all-season road has been proposed to connect northern Manitoba with Nunavut through winter range and migration routes used by Qamanirjuaq caribou."

In 2014, the BQCMB<sup>3</sup> stated:

"Caribou cows during calving and post-calving are both responsive to disturbance and highly vulnerable. Recent research has shown that the cows need uninterrupted foraging time to produce milk until calves becomes foragers at about 3 weeks after birth (Russell et al. 2002). This 3-week period is the time when calves are most sensitive to the maternal and environmental conditions that affect their growth, and when they are most vulnerable to predation. Cows and calves are also particularly vulnerable during calving and post-calving periods because they gather together in groups. It is therefore critical to avoid both disturbance of cows and

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

<sup>3</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

calves during the calving and post-calving periods, and destruction of calving and post-calving habitats.”

In 2014, the GN<sup>1</sup> stated:

“Calving grounds are widely recognized as being of critical importance for maintaining healthy caribou populations. Caribou are especially vulnerable to disturbance during calving and the effects of development cannot be mitigated in these areas. Key Access Corridors are regularly used pathways that lead on and off the calving grounds. These corridors are essential for providing access to calving grounds. Development and/or disturbance along these routes could lead to caribou shifting or abandoning their calving grounds. The core calving areas and key access corridors have been combined for management purposes and appear as one file in GN supplied data.”

In 2014, the GN<sup>2</sup> stated:

“Caribou are especially vulnerable to disturbance during calving and the effects of development cannot be mitigated in these areas. Key Access Corridors are regularly used pathways that lead on and off the calving grounds. These corridors are essential for providing access to calving grounds. Development and/or disturbance along these routes could lead to caribou shifting or abandoning their calving grounds.”

In 2014, the NWMB<sup>3</sup> stated:

“Both science and Inuit Quajimajatuqangit stress the importance of protecting caribou calving and post-calving grounds. Cows and calves are most sensitive to disturbance and factors that influence growth rate during the calving and post-calving season. During this time, cows need uninterrupted foraging time to meet the increased energy demands associated with milk production. In the NWMB's opinion, disturbance during this sensitive period, and destruction of this important habitat should be prohibited. Furthermore, the NWMB is also concerned about the cumulative effects of development in caribou calving and post-calving grounds and how this may affect productivity and herd size.”

In 2014, Rankin Inlet<sup>4</sup> residents indicated concern of how the Manitoba-Kivalliq proposed road would impact the caribou calving grounds.

In 2015, the Baker Lake HTO<sup>5</sup> stated:

“Our IQ is clear - there should be no mining or exploration on calving grounds. These areas are sacred for caribou and Inuit. Caribou are very sensitive to disturbance when they give birth and immediately afterwards. Even if exploration is stopped seasonally, the disturbance to the land would impact calving. This may cause the herds to decline further.

“Baker Lake Inuit did not traditionally live or camp in calving areas. We do not hunt female caribou during calving or immediately after giving birth. We respect this sensitive area for caribou. The mining industry should do the same, and not mine and explore in calving grounds.”

In 2018, the QWB<sup>6</sup> stated:

“Impacts of exploration and development cannot be effectively mitigated in any of these critical areas during decades when their abundance or density is low. These realities are well known through IQ (although science may lag behind), and the impacts of development may be most severe for caribou populations that depend on Arctic tundra year-round.”

### Considerations

Participants broadly agreed that the sensitivity of caribou calving to impacts from incompatible uses is high and year-round. Calving areas are locations where caribou are particularly vulnerable to disturbance.

#### ***The sensitivity of CARIBOU CALVING AREAS to impacts is considered HIGH and YEAR-ROUND because:***

- ***Caribou are highly sensitive to disturbance when using these areas;***
- ***Caribou use these areas when disturbance is likely to occur; and***
- ***The concern regarding potential impacts is year-round.***

### 2.2.8.5 Other Regulatory Tools

In 2013, the IPGs<sup>7</sup> held a meeting on the Integrated Regulatory System in Nunavut. The report from this meeting stated:

“The issue of cumulative effects was discussed in relation to activities in caribou calving grounds and as a general question regarding the role of NPC and the land use plan. The IPGs recognize the assessment and management of cumulative effects as an important and challenging topic

<sup>1</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>3</sup> (Nunavut Wildlife Management Board (NWMB), 2014-05-21. NPC Public Registry File # 12-198E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2014-05-29. NPC Public Registry File # 12-204E)

<sup>5</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-098E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-190E)

<sup>7</sup> (Kennett, 2013-03-20. NPC Public Registry File # 12-032E)

for planning and regulatory decision making. Cumulative effects are addressed in sections 2.2 and 7.2 of the DNLUP. The criteria and process that NPC will use to refer activities identified in Schedule 12-1 of the NA to the NIRB for screening because of concerns about cumulative effects is a subject that should be discussed by NPC and NIRB. This procedural direction will not be included in the DNLUP because doing so would mean that changes to the criteria or process would require amending the plan.

“Land use planning can also contribute to cumulative effects management through by implementing direction on thresholds or levels of acceptable change. This approach is noted in section 2.2 of the DNLUP, which states that NPC will consider using the plan to implement thresholds or levels of acceptable change “that are supported by Government, Inuit, the NWMB, the NIRB and/or the NWB.” Experience with other northern plans, such as the draft Dehcho Land Use Plan, shows that achieving consensus on this issue is challenging. NPC has not been provided with thresholds or levels of acceptable change for Nunavut that could be included in the DNLUP. However, this topic could be the subject of further research and discussion in order to achieve buy-in for these approaches to managing cumulative effects.”

The report<sup>1</sup> also stated:

“NIRB noted that it was very interested in land use planning and the potential for the Nunavut Land Use Plan to address regulatory questions that are raised in NIRB reviews but that are outside NIRB’s jurisdiction or cannot easily be addressed on a project-by-project basis. One example is the establishment of rules governing land use in caribou calving grounds in order to address concerns about the impacts of further development in these areas. NWMB noted that it has harvesting data of potential value to the NPC and that the development of a habitat management and protection program will be a focus over the next year. Although not much detail is currently available, there may be opportunities for linking this program with the land use plan in the future.”

In 2014, the BQCMB<sup>2</sup> stated:

“Our primary recommendations at this time are:

...

- 4) If the NPC is unable to implement the land use management recommendations of the BQCMB, Kivalliq HTOs and Nunavut Regional Wildlife Boards, NPC and signatories to the land use plan

should establish a clear process for resolving the issue of conflicting views concerning protection of caribou calving grounds, post-calving areas and water crossings.”

In 2017, AEM<sup>3</sup> stated:

“The 2016 DNLUP appears to discount the fact that protective measures on core calving area (actual Keewatin Land Use Plan) are already outlined and enforced in the regulatory system through various terrestrial monitoring and management plans for mining and exploration activities. It also does not acknowledge industry’s demonstrated commitment to adopt leading practices related to impact mitigation. In our view, the changes in land use designations in comparison to the actual land use plan have not struck a balance between the goals of economic development potential and ecological conservation. The proposed plan, in its current form, does not recognize our industry’s demonstrated leadership applying technological solutions toward limiting environmental impacts on wildlife, etc.”

### Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including the Nunavut *Wildlife Act* and project-by-project mitigation measures implemented through the NIRB process.

***The potential value of including guidance in the NLUP for CARIBOU CALVING AREAS is considered HIGH because:***

- *The issue is only partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.2.8.6 Policy Options for Calving Areas

The KRLUP prohibits development activities on all public lands and waters in caribou calving areas during calving season.

The NBRLUP prohibits development in calving areas during calving season. It identifies caribou calving areas as significant areas.

<sup>1</sup> (Kennett, 2013-03-20. NPC Public Registry File # 12-032E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>3</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

The NPC recognizes the CPM designed and implemented by Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC).

In 2018, the GoC<sup>1</sup> submitted the following regarding their recommendation:

2017 Recommendation	2018 Recommendation
Allows mineral exploration and development subject to seasonal prohibitions (during key caribou life stages) and a general protection whereby project activities stop when caribou are present	We recommend that detailed place-based discussions, led by the Nunavut Planning Commission, be held with Inuit, scientists, industry and government that focus on how to effectively protect core caribou calving grounds, while providing industry the certainty it needs to continue its investments in Nunavut and minimizing the social, cultural and economic impacts to Inuit and other northerners

### Considerations

The NPC has not categorized the information above as it provides general information regarding the development of the NLUP. Many participants proposed the use of mobile CPMs. Based on the information provided by the KivIA, NWMB, WWF, Poole and Gunn, and the recommendation from the BQCMB that the precautionary approach is appropriate for caribou habitat protection (see section 2.2.1 to 2.2.7 for more detail), it is noted that there is insufficient evidence that mobile CPMs could be effectively used as a land use planning tool for caribou calving and post-calving habitat management in the NLUP.

#### 2.2.8.6.1

#### Option 1 - Limited Use

In 2013, the Athabasca Dënesųłiné Negotiation Team<sup>2</sup> stated:

"We request that the NPC give highest priority to developing ways to provide protection for caribou calving and post-calving areas during development of the final Nunavut-wide land use plan, as caribou are the lifeblood of the north. This protection should include prohibition of industrial development (including mineral exploration) from caribou calving areas and post-calving areas. We will be sending you a petition via mail, signed by over 300 AD that request "that the Nunavut government protects these herds through the protection of calving grounds.

"In addition, restrictions on land use activities should be applied to protect caribou from disturbance effects of land use activities around key water crossings and along seasonal migration routes. We have also noticed that the Caribou Protection Measures are not included within NLUP, which are currently applied through the Keewatin Regional Land Use Plan.

"We ask that you incorporate our recommendations in the final land use plan to safeguard caribou while they are in Nunavut for the thousands of users who depend on caribou for sustenance, a traditional reliance that crosses all political boundaries. Nunavut land use planning would be remiss if it did not address caribou conservation issues for all jurisdictions affected."

In 2014, the KWB<sup>3</sup> stated:

"The protection of caribou calving and post-calving grounds are very crucial to the population of barren land caribou in the Kivalliq and Nunavut region from development and exploration. Inuit knowledge and scientific knowledge combined indicate that disturbance of caribou calving and post calving grounds and range from development/exploration activity may cause detrimental and long term impacts to caribou populations.

"Kivalliq Wildlife Board is in support of Athabasca Denesuline Negotiation Team in protecting the habitat of caribou calving and post-calving grounds in all territories and provinces in which they roam."

In 2017, the Athabasca Dënesųłiné<sup>4</sup> stated:

"The AD strongly agree with the NLUP approach to protect core caribou calving areas, key access corridors and post-calving areas through an assigned Protected Area Land Use Designation that prohibits incompatible uses. Including all areas having high mineral potential.

...

<sup>1</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>2</sup> (Athabasca Denesuline, 2013-12-11. NPC Public Registry File # 12-113E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB) , 2014-01-22. NPC Public Registry File # 12-129E)

<sup>4</sup> (Athabasca Denesuline (AD), 2017-01-13. NPC Public Registry File # 16-080E)



“The AD strongly urge the NPC to keep the Protected Area Land Use Designation.”

In 2013, the KWB<sup>1</sup> stated:

“... the KWB strongly opposes any form of exploration and/or development within the Kivalliq caribou calving and post-calving grounds, and that a letter will be written to all stakeholders and Nunavut wildlife management organizations indicating this.”

In 2013, the Baker Lake HTO<sup>2</sup> stated:

“The board members as well as residents of Baker Lake oppose mining and exploring/in the Beverly and Qamanirjuaq calving grounds. Inuit of Baker Lake have a unique inland culture. We rely mostly on caribou to sustain our inland culture and lifestyle. The mining/exploration already has an impact on caribou hunting culture and lifestyle.

“Baker lake HTO is firmly and adamantly opposed to any and all mineral exploration and mining in caribou calving areas. Baker Lake HTO board of directors and the residents of Baker Lake are concerned about mining and exploration companies disturbing the caribou calving and post calving grounds”.

In 2015, the Baker Lake HTO<sup>3</sup> added:

“The Baker Lake HTO would like mining and exploration activity banned on caribou calving grounds, as well as on caribou water crossings that are important to Inuit heritage and land use. We would like to have a 25 kilometer buffer zone around these calving grounds and water crossings, where mining and exploration activity is also banned.

“This proposal for protection is based in Inuit Qaujimajatuqangit (IQ). Our ancestors had very strict rules about how calving grounds and caribou water crossings should be respected. We hope you will incorporate these traditional teachings into your land use plan.”

In 2014, Lutsel Ke First Nation<sup>4</sup> stated:

“Our recommendation is that all land use activities be restricted in these vulnerable calving and post-calving areas. We hope that more protection can also be applied to important caribou crossings, and along the entire migration route, but understand the NPC must balance land use activities. The Caribou travel across political and

territorial boundaries and it takes a concerted effort on all parties to protect various range areas.

“We believe the calving and post-calving areas are priority protection areas and therefore recommend its consideration.”

In 2014, the Arviq HTO<sup>5</sup> stated:

“Arviq HTO fully Supports Lutsel K’e Dene First Nation (LKDFN) concern regarding caribou calving and post-calving areas applied to entire migration route considering the caribou they have concern on comes to our territory.”

In 2017, North Arrow Minerals<sup>6</sup> submitted:

“North Arrow has held a number of meetings with the community and leadership of Naujaat. These meetings have highlighted that caribou are of critical importance to the community and confirm the results of earlier community mapping exercises during which community members identified the broad region around the Hamlet as a place where caribou calve. However, it is unclear if the characterization of the region as a place “where caribou calve” can be properly interpreted to fall within the definition of a “core” calving and postcalving ground as envisaged by the 2016 DNLUP. Rather, this description may better align with GN DOE reporting that WBCH calving grounds are relatively diffuse with no strong evidence of annual calving areas (Campbell, 2005). Indeed the comments heard by North Arrow during community meetings revolve around the timing of caribou migration through the area rather than when calving caribou are present in the area.

“North Arrow acknowledges that the Arviq (Naujaat) HTO made a written submission to the NPC (October 20, 2015) recommending caribou calving and post-calving grounds near Naujaat be designated as protected areas. The HTO further notes in its submission that ‘...Hunters observe caribou with newborns all around our community, not only in the small areas the government shows on its maps. Our entire area of community land use is a calving and post-calving ground.’ However, we note that during our meetings, the Arviq HTO has not opposed the ongoing evaluation of North Arrow’s Q1-4 diamond deposit. The HTO and North Arrow, together with the Hamlet council drafted and implemented a series of mutually agreeable mobile caribou mitigation measures in 2014. Furthermore, the HTO and North Arrow have discussed collaborating to implement wildlife cameras in the vicinity of the Q1-4

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2013-02-21. NPC Public Registry File # 12-028M)

<sup>2</sup> (Baker Lake HTO, 2013-11-05. NPC Public Registry File # 12-109E)

<sup>3</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-102E)

<sup>4</sup> (Lutsel K’e Dene First Nation (LKDFN), 2014-01-31. NPC Public Registry File # 12-131E)

<sup>5</sup> (Arviq Hunters and Trappers Organization, 2014-02-10. NPC Public Registry File # 12-135E)

<sup>6</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)



deposit to better document the timing of caribou movements through the project area. North Arrow therefore strongly recommends, based on our meetings with community members from Naujaat and a review of the literature available for the WBCH, that the caribou range polygons for the WBCH in Map A of the 2016 DNLUP be fully vetted by and take into account the observations of the community of Naujaat and other impacted communities.”

In 2014, the Fort Smith Metis<sup>1</sup> stated:

“The Fort Smith Metis People support the protection of the calving and post calving areas. If exploration and development were allowed in these calving areas this would add extreme pressure to the caribou in the last and most important area, the calving area which remain undisturbed at present. As caribou return to the same area to birth their young we need to protect these areas and not develop them for the future of the caribou and those who depend on them to survive.”

In 2014, the BQCMB<sup>2</sup> stated:

“The position of the Beverly and Qamanirjuaq Caribou Management Board is that “no development should be permitted in caribou calving and post-calving areas.

“Our primary recommendations at this time are:

- 1) NPC should develop land use designations that protect caribou calving areas, post-calving areas, and water crossings from negative effects of commercial land use activities.
- 2) NPC should develop a land use designation that prohibits any new exploration and development in calving and post-calving areas and limits allowed land uses to traditional uses, tourism and research. No new infrastructure related to commercial development, including roads, airstrips, exploration camp buildings or tourism lodges should be allowed in calving and post-calving areas.
- 3) NPC should protect all “recently used calving and post-calving areas” defined as all areas known to be used by caribou within the last 20 years based on a) tracking caribou (collared obvious outliers removed). Delineation of these areas should be

redefined based on all available information every 5 years.”

In 2017, the BQCMB<sup>3</sup> stated:

“The BQCMB recommends the designation of core caribou calving areas, post-calving areas, and key access corridors as protected areas be maintained in the NLUP and that the prohibition of land uses be retained as specified, with the addition of “permanent tourism related structures” as a prohibited use.”

In 2019, the BQCMB<sup>4</sup> stated:

“... calls for using mobile caribou protection measures and seasonal restrictions on activities to reduce disturbance to caribou as tools to protect calving grounds are inappropriate because these measures will not protect habitat.”

Attached to a BQCMB<sup>5</sup> document, a letter from the Kitikmeot Regional Wildlife Board stated in 2013:

“...that exploration activity is not good for these calving and post-calving grounds, therefore we do not support that these exploration activities occur in these areas.”

In 2013, attached to a BQCMB<sup>6</sup> submission, a letter from the QWB stated:

“... the Qikiqtaaluk Wildlife Board are in full support of protecting the calving grounds and/or post calving grounds as we’re currently benefiting from Kivalliq region with caribou meat.”

In 2015, the QWB<sup>7</sup> stated:

“QWB argues that all Caribou Calving and Post-Calving grounds should be listed as Option 1.”

In 2018, the QWB<sup>8</sup> stated the following for Baffin calving areas:

“Proposed Designation: Protected Area

“Proposed Restrictions:

“Prohibited Uses: The following uses are prohibited:

- Mineral Exploration and Production;

<sup>1</sup> (Fort Smith Metis Council, 2014-02-05. NPC Public Registry File # 12-132E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>3</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

<sup>4</sup> (Beverly Qamanirjuaq Caribou Management Board (BQCMB), 2019-01-25. NPC Public Registry File # 16-240E)

<sup>5</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2015-05-22. NPC Public Registry File # 14-023E)

<sup>6</sup> Qikiqtaaluk Wildlife Board are in full support of protecting the calving grounds

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2015-06-22. NPC Public Registry File # 14-084E)

<sup>8</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-190E)

- Oil and Gas Exploration and Production;
- Obnoxious Land Use;
- Quarries;
- Hydro-electrical and related infrastructure;
- Wind turbines for electrical generation and related infrastructure;
- Linear Infrastructure; and
- Related research except Non-Exploitive Scientific Research

“Conditions:

- Wind turbines for electrical generation must be at least 5 km from caribou calving and post-calving areas, and must be positioned so they are not visible from caribou calving and post-calving areas.
- Any project in Nunavut that would violate these conditions is prohibited.”

In 2014, the WWF<sup>1</sup> stated:

“WWF recommends that NPC...assign a designation that restricts (prohibits) all (new industrial) development in core calving and postcalving areas, representing 95% occupancy.”

In 2014, Mining Watch Canada<sup>2</sup> stated:

“We recommend that the Nunavut Land Use Plan exclude mineral exploration and development activities in the most critical of caribou habitats: calving and post-calving areas. This exclusion should extend to ancillary facilities and infrastructure that may be proposed for access to other areas for exploration and development.”

In 2014, Sayisi First Nation of Manitoba<sup>3</sup> stated:

“... we respectfully request that you give high priority to developing ways to provide protection for caribou calving and post-calving areas during development of the final Nunavutwide land use plan. This protection should include prohibition of industrial development (including mineral exploration) from caribou calving areas and post-calving areas. In addition, restrictions on land use activities should be applied to protect caribou from disturbance effects of

land use activities around key water crossings and along seasonal migration routes.”

In 2014, Northlands First Nation of Manitoba<sup>4</sup> stated:

“... we respectfully request that you give high priority to developing ways to improve protection for caribou calving and post-calving areas during development of the final Nunavut Land Use Plan. This protection should include prohibition of industrial development including mineral exploration from caribou calving ... and post-calving areas.”

In 2014, the GN<sup>5</sup> stated:

*“Calving Areas and Key Access Corridors- Mainland Migratory Herds*

“Recommendation: Industrial development and activity is not permitted. Prohibited activities: Mineral exploration and production, construction of roads, pipelines and transportation related infrastructure, equipment operation and permanent infrastructure relating to projects and project proposals as defined by the Nunavut Land Claims Agreement (NA) and the federal Nunavut Planning and Project Assessment Act (NUPPAA), which would be reviewed by the NPC for conformity. Seasonal restrictions on research not directly related to caribou biology and tourism would be imposed – these activities are not permitted when and where caribou are present, but would be permitted once caribou had left the area.”

In 2015, the GN<sup>6</sup> stated:

“Recommendations: Core-calving Areas and Key Access Corridors:

“Designation: Assign all core-calving areas and associated key access corridors a Protected Area land use designation where industrial development and activity are not permitted, regardless of the existence of a high mineral potential.

“Direction: Exceptions to these restrictions will include:

1. Research, and tourism directly related to the conservation of the species, to be considered on a project-specific basis;
2. Research, and tourism not directly related to caribou conservation, will be seasonally restricted to times when caribou have vacated the core calving areas and key access corridors.”

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>2</sup> (MiningWatch Canada, 2014-04-14. NPC Public Registry File # 12-189E)

<sup>3</sup> (Sayisi Dene First Nation, 2014-05-15. NPC Public Registry File # 12-196E)

<sup>4</sup> (Northlands Denesuline First Nations, 2014-05-27. NPC Public Registry File # 12-200E)

<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>6</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

In 2015, the Wek'èezhì Renewable Resources Board (WRRB)<sup>1</sup> stated:

"The WRRB believes barren-ground caribou calving and post-calving grounds should receive the highest level of protection in the DLNUP, including the possibility of creating Protected Areas. The calving grounds should not be subject to exploration or development at any time, as the calving grounds have significant importance for caribou."

In 2015, the Qikiqtani Inuit Association (QIA)<sup>2</sup> stated:

"In order to protect core calving grounds, it is QIA's position that all core caribou calving areas including areas with high mineral potential should be fully protected under the protected area designations (ID #47) in the NLUP. The recommendation to apply full protection to core calving areas aligns with the views of the Qikiqtaaluk Wildlife Board, which represent the hunters and trappers associations in the Qikiqtani region as well as the Government of Nunavut, the Nunavut Wildlife Management Board and the Kivalliq Wildlife Board. Any exploration or mining activity in a core calving ground would limit the ability to protect caribou within this area, therefore the application of mobile protection measures for core calving grounds would be insufficient due to the lack of baseline data, capacity and resources for monitoring and a lack of a system to implement such measures."

In 2015, the Aqigiq HTO of Chesterfield Inlet<sup>3</sup> stated:

"The Aqigiq HTO would like caribou calving grounds designated as protected areas..."

The Hamlet of Chesterfield Inlet<sup>4</sup> submitted a letter in support of the above statement from the HTO.

In 2015, the Arviat HTO<sup>5</sup> stated:

"We would especially like mining and exploration activity banned in and near caribou calving grounds and important caribou water crossings."

In 2015, the Issatik HTO of Whale Cove<sup>6</sup> stated:

"The Issatik (Whale Cove) HTO directors agreed that mining and exploration should be banned in caribou calving and post calving grounds for the time being."

In 2016, the KivIA<sup>7</sup> stated:

"Core calving areas (areas used by caribou from peak of calving through to 3 weeks of age – extent of calving) mapped using IQ, aerial surveys and the most recent 10 years of satellite telemetry, will be closed to development (year-round Protected Area status)."

In 2016, the Tłı̄chq Government<sup>8</sup> stated:

"Our view is that where areas in a proposed land use plan include barren-ground caribou calving and post-calving grounds, those areas need the highest level of protection, including the possibility of creating Protected Areas. Bring precautionary, calving grounds should not be subject to exploration or development, as the calving grounds have significant importance for caribou and all harvesters, especially aboriginal peoples, whose harvesting depends on the state of those calving grounds."

In 2017, the Tłı̄chq Government<sup>9</sup> stated:

"The Tłı̄chq Government is respectfully asking for the Commission to increase protections on caribou in the Bathurst range, more specifically on the entire Bathurst caribou calving grounds. We see in Map A that a large portion of calving grounds are protected and we applaud that but also feel as though there are more grounds that can be protected. When the caribou are calving they are at their most vulnerable, it is therefore crucial that these grounds are awarded full protection against development."

In 2017, the Colville Lake Renewable Resource Council<sup>10</sup> stated:

"We are providing this submission as the Bluenose East caribou ("BNE") that calve in the Nunavut area pass through our traditional territory. We recommend that the caribou areas which are protected remain protected to prohibit invasion from all external projects as defined in the NLUP."

In 2017, the KivIA<sup>11</sup> stated:

<sup>1</sup> (Wek'èezhì Renewable Resources Board (WRRB), 2015-06-09. NPC Public Registry File # 14-057E)

<sup>2</sup> (Qikiqtani Inuit Association (QIA), 2015-06-22. NPC Public Registry File # 14-083E)

<sup>3</sup> (Aqigiq HTO, 2015-09-18. NPC Public Registry File # 14-103E)

<sup>4</sup> (Chesterfield Inlet Hamlet Council, 2015-10-06. NPC Public Registry File # 14-110E)

<sup>5</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-106E)

<sup>6</sup> (Issatik HTO, 2015-05-29. NPC Public Registry File # 14-031E)

<sup>7</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)

<sup>8</sup> (Tłı̄chq Government, 2016-02-22. NPC Public Registry File # 14-144E)

<sup>9</sup> (Tłı̄chq Government, 2017-01-12. NPC Public Registry File # 16-049E)

<sup>10</sup> (Colville Lake Renewable Resources Council, 2017-01-13. NPC Public Registry File # 16-060E)

<sup>11</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

“The KivIA agrees that core calving areas should be afforded full Protected Area designation.”

In 2017, the GNWT<sup>1</sup> stated:

“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.”

In 2017, the Hall Beach HTO<sup>2</sup> wrote:

“The caribou calving areas on eastern and central Melville Peninsula (drawn in yellow) will be designated as “Core Caribou Calving Areas” under the Nunavut Land Use Plan , and that these areas will be protected from Mineral, Oil and Gas Exploration and Production, Obnoxious Land Use, Quarries, Hydro-electric and related infrastructure, Linear Infrastructure, and related research.”

In 2017, the Yellowknives Dene<sup>3</sup> stated:

“We understand that the calving grounds of the Bathurst caribou are located within your territory. We know the calving grounds to be the hospital or the nursery for the Bathurst caribou and we understand how sensitive both cows and calves can be during the calving period.

“For these reasons, we feel very strongly and urge you to do the right thing to protect the caribou of today and tomorrow so that you also safeguard our peoples today and tomorrow. Our ancestors have always worked together, in peace and friendship, and we are confident that you will do the right thing and protect calving ground [from] mineral exploration and development.”

In 2018, the Rankin Inlet HTO<sup>4</sup> stated:

“The Kangiqliniq HTO supports the Protected Area designated for caribou core calving grounds (#38 Caribou Calving Areas) along with Key access corridors.”

In 2019, during the NPC led community consultation on the 2016 DNLUP, some Cambridge Bay<sup>5</sup> residents suggested protecting caribou calving grounds through mobile CPMs, while some preferred seasonal restrictions, and others preferred year-round land use restrictions.

In 2019, during the NPC led community consultation on the 2016 DNLUP, some Kugluktuk<sup>6</sup> residents suggested protecting caribou calving ground through mobile CPMs, while some preferred year-round restrictions of activities such as mining, oil and gas, and quarries.

During the NPC led community engagements in 2019-2020, most community residents from the Kitikmeot and the Kivalliq agreed that caribou calving areas should be protected from development, year-round.

### Considerations

In 2015 and 2016, many parties either re-submitted the above comments, or re-stated their position in new letters. In the interests of brevity, not all submissions are reproduced here.

It is clear there is a strong desire amongst many participants to see strong land use protection on caribou calving grounds.

#### 2.2.8.6.2

#### Option 2 - Conditional Use

In 2015, the KitIA<sup>7</sup> stated:

“The Kitikmeot Inuit Association (KitIA) would like to be clear on this point: All Inuit organizations agreed that some measures need to be implemented to protect caribou during calving, a period of time which Inuit consider to be sacred. The difficulty for Inuit organizations is to select what measures would result in the most effective protection for caribou during this critical period.

“... As an organization, the KitIA must consider both the environmental and economic wellbeing of Kitikmeot Inuit. The potential prohibition of development on these IOLs could have substantial negative consequences on the economic wellbeing of Inuit without guaranteeing their environmental wellbeing. Therefore, the KitIA does not support the proposed Protected Area designation for core caribou calving and post-calving in the draft Land Use Plan.

“Nunavut Tunngavik Incorporated (NTI) and the Regional Inuit Associations (RIAs) have struggled with two alternatives: (1) to protect a pre-delineated caribou calving ground (i.e., a polygon on a map, or (2) to implement mobile caribou protection measures designed to protect

<sup>1</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)

<sup>2</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>3</sup> (Yellowknives Dene First Nation, 2017-03-02. NPC Public Registry File # 16-164E)

<sup>4</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>7</sup> (Kitikmeot Inuit Association (KIA), 2015-06-22. NPC Public Registry File # 14-078E)

caribou wherever they may be. The KitlA supports the implementation of mobile caribou protection measures because caribou calving should be protected in whatever area calving occurs.”

In 2016, the Kugluktuk HTO<sup>1</sup> stated:

“The Kugluktuk HTO’s version was to only have the Bathurst caribou calving grounds “protected by seasonal / restrictive activity” during peak calving/post calving seasons, as we had mentioned to Sabina GOLD/SILVER mines during their community visit to the KHTO on Feb 10., 2016.”

In 2016, the KivIA<sup>2</sup> stated:

“Core calving areas that overlap areas of High Mineral Potential should be provided seasonal Special Management Area status, within which stringent measures, based on proposed Kivalliq Mobile Caribou Conservation Measures (MCCM), will be applied for any development contemplated within those areas.”

In 2016, the GN<sup>3,4</sup> stated:

“... is no longer recommending a blanket prohibition on development activities within calving areas under the Land Use Plan, but rather a combination of seasonal restrictions and other measures. We will continue to work with all planning stakeholders on this important issue ...”

In 2017, the NWT & Nunavut Chamber of Mines<sup>5</sup> stated:

“2016 DNLUP, Section 2.2.1.1, p.27, sentence 2 [sic] be changed to “With effective mitigation measures and monitoring programs, mineral exploration and development activities can co-exist with sustainable development in caribou calving areas.”

In 2017, the GoC<sup>6</sup> stated:

“The Government of Canada recommends replacing the comprehensive prohibitions on mineral development and exploration in designated caribou habitats with a combination of seasonal and general protection conditions as follows:

- seasonal protections prohibiting activity in core calving and post-calving areas, key access

corridors, and freshwater crossings during the time of year appropriate for the herd using those habitats, and

- general protections requiring that activities identified in the Nunavut Land Use Plan be terminated when calving or post-calving caribou are present in areas that are outside of the calving and post-calving areas identified in the land use plan.”

In 2017, North Arrow Minerals<sup>7</sup> stated:

“Caribou calving and post-calving grounds that coincide with areas of defined high mineral potential and/or existing mineral right should be considered as special management areas as defined in the 2014 DNLUP.”

In 2018, AEM<sup>8</sup> stated:

“Agnico Eagle believes that with effective mitigation measures and monitoring programs, mineral exploration and development activities can co-exist with sustainable development in caribou calving ground, post-calving grounds and access corridors. It appears that no definitive and scientific link has been established between the current decline in caribou populations across the North and exploration or mining. It’s our view that many of these zones lack the scientific and traditional knowledge evidence to make them Protected area and should be designated as Special Management areas.”

In 2020, AEM<sup>9</sup> stated:

“The calving grounds identified by the Government of Nunavut recognizes the changing patterns over decades. In our opinion, the protection of the calving grounds as they evolve, would benefit greatly from the designation of SMA as it would allow for adaptive management measures required to safeguard the caribou population.”

In 2020, Naujaat<sup>10</sup> residents were split on whether restrictions on caribou calving areas should be year-round or seasonal. However, they generally agreed on the need for strong restrictions.

<sup>1</sup> (Kugluktuk HTO, 2016-02-19. NPC Public Registry File # 14-140E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2016-04-22. NPC Public Registry File # 14-179E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>5</sup> (NWT & Nunavut Chamber of Mines, 2017-01-13. NPC Public Registry File # 16-048E)

<sup>6</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>7</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)

<sup>8</sup> (Agnico Eagle Mines Ltd. (AEM), 2018-11-29. NPC Public Registry File # 16-236E)

<sup>9</sup> (Agnico Eagle Mines Limited (AEM), 2020-02-28. NPC Public Registry File # 16-278E)

<sup>10</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

In 2020, Whale Cove<sup>1</sup> residents indicated strong restrictions for May, June, and July would be appropriate for caribou calving areas.

#### Considerations

The NPC notes many participants also supported a CU designation for calving areas.

In addition, some parties proposed the use of mobile CPMs as a condition in this option. However, based on the information provided by different parties (see section 2.2.1 to 2.2.7 for more detail), there is insufficient evidence that mobile CPMs could be effectively used as a land use planning tool for caribou calving and post-calving habitat management in the NLUP.

#### 2.2.8.6.3 Option 3 - Mixed Use

In 2014, Minerals and Metals Group (MMG)<sup>2</sup> stated:

“It is understood that Project Proposal concerning caribou calving ground and post calving areas will be dealt with through the regulatory process. This calls into play sections 68 and 69 of the Nunavut Planning and Project Assessment Act as it relates to the implementation of the plan. MMG has no issue with this approach.

“Recommendation: Continue with recommendation approach for caribou habitat.”

In 2017, the NWT & Nunavut Chamber of Mines<sup>3</sup> stated:

“2016 DNLUP, Section 2.2.1.1, p.27, sentence 2 be changed to “With effective mitigation measures and monitoring programs, mineral exploration and development activities can co-exist with sustainable development in caribou calving areas.”

#### Considerations

For clarification of the context, the MMG comment was regarding the 2012 DNLUP.

#### 2.2.8.6.4 Option 4 - Valued Component

No participant recommended this option.

### 2.2.8.7 NPC Recommendation - LU

Given that:

#### CARIBOU:

**Overall importance of the issue is considered HIGH.**

#### CARIBOU CALVING AREAS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>LOW</b> (Western Ahiak and Beverly herds)
		<b>HIGH</b> (All other herds)
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

#### Recommendation for Caribou Calving Areas

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by multiple participants as areas requiring protection. In addition, although several participants recommended that the NIRB could adequately address impacts, the NIRB has recommended that formalized protection be considered and that cumulative impacts should be considered at a regional scale.

#### LAND USE PLAN POLICY RECOMMENDATION

### **CARIBOU CALVING AREAS**

### **LIMITED USE**

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>2</sup> (Minerals and Metals Group (MMG), 2014-03-20. NPC Public Registry File # 12-176E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2017-01-13. NPC Public Registry File # 16-048E)



**Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

**Condition:**

- All uses except research and tourism related to caribou conservation must cease during the applicable dates identified in Table 2.

## 2.2.8.8 Summary of Revisions

**KRLUP and NBRLUP**

The KRLUP and NBRLUP generally prohibit development activities during calving season (May 15 - July 15) and within caribou water crossings in identified caribou protection areas. The CPMs are similar to a CU designation, combined with mobile protection measures. However, it is noted that the North Baffin region Caribou Protection Areas map was never developed, to allow for the implementation of the measures within the North Baffin region.

**2012, 2014 and 2016 DNLUP**

In the 2012 DNLUP, only historic calving grounds were identified in the plan and a recommendation to land users was provided, but specific land use restrictions for caribou protection were not assigned. In particular, to manage caribou calving grounds, they were assigned recommendation PSE-R2. The specific recommendation stated, "Project Proposals located in historic caribou calving grounds should take into account impacts on caribou calving, post calving areas and migration routes."

In the 2014 DNLUP, calving and post-calving areas were grouped together. Core caribou calving areas that had not been identified for high mineral potential were assigned a PA designation that prohibited incompatible uses. Core caribou calving areas that had been identified for high mineral potential were assigned a SMA designation that identified cumulative impact concerns

and provided direction to regulatory authorities to mitigate impacts on these areas.

In 2016, calving and post-calving areas were separated. All core calving areas, regardless of mineral potential, were assigned a PA designation that prohibited incompatible uses. Areas of high mineral potential were listed separately as VSECs.

**2021 DNLUP**

The 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in the earlier version to LU in 2021

## 2.2.9 Caribou Post-Calving Areas

Post-calving areas are geographically defined areas used by caribou for the nursing of calves and nutrition uptake to sustain the high energy demands required by lactating females. Following birth, cow-calf pairs will typically move towards the post-calving areas. The cow-calf pairs are of limited mobility, and relatively vulnerable to predation, due to young age of the calves.

### 2.2.9.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN, 2015	202,023	6
Kitikmeot/Kivalliq (additional), 2020	28,766	1

The geographic boundaries of caribou post-calving areas were mainly submitted by the GN, based on collaring data.

In 2014, the BQCMB<sup>1</sup> stated:

"The BQCMB provides four options for consideration for defining calving and post-calving areas in the Nunavut land use plan.

"1) Protect all 'traditional calving and post-calving areas', defined as areas for which use by caribou for calving and post-calving has been documented.

*"This is the long-held position of the BQCMB, which has been supported by others, including the Athabasca*

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

*Denesuline and WWF-Canada. The term 'historic calving area' has been used in the Draft Plan by NPC, which possibly means the same as the BQCMB's 'traditional calving area', but this is not clear.*

"2) Protect all 'recently used calving and post-calving areas' defined as all areas known to be used by caribou within the last 20 years based on a) tracking by telemetry (collared cows) b) results of calving ground surveys and c) IQ and local knowledge, with obvious outliers removed. Delineation of these areas should be redefined based on all available telemetry and survey data every 5 years.

*"For the Beverly and Qamanirjuaq herds in 2014, this would include: a) telemetry data collected since 1996 and 1993, respectively, b) results of calving ground surveys conducted in 1994 (both herds), 2008 (Qamanirjuaq) and 2011 (Beverly), and knowledge from nearby communities (e.g., Baker Lake, Arviat, Whale Cove, Rankin Inlet).*

"3) Protect 'recently used calving and post-calving areas' defined by systematic and defensible data analysis of locations of collared caribou tracked by telemetry during the last 20 years.

"For the Beverly and Qamanirjuaq herds, this would be based on analysis of telemetry data collected since 1996 and 1993, respectively.

"4) Protect a portion of areas used by collared caribou during the calving and post-calving periods in the last 20 years that is based on systematic and defensible data analysis and which targets inclusion of all areas most intensively used by caribou.

*"For the Beverly and Qamanirjuaq herds, this would be based on analysis of telemetry data collected since 1996 and 1993, respectively, likely identifying "core" calving and post-calving areas.*

...

"The BQCMB recommends Option 2, as it will provide the best representation of habitats used by caribou for calving and post-calving based on the most comprehensive use of all available information.

"Option 1 would be the preferred choice under ideal circumstances, as it is the best option for application of the precautionary principle and would provide maximum flexibility for caribou herds to expand back into areas not recently used during calving and post-calving periods. The BQCMB's map showing Beverly and Qamanirjuaq calving grounds, which is based on all calving surveys (1957-2011) and telemetry data (1993-2012), is provided in Appendix A (Fig. 1). However, for several reasons related to data

quality, comparability and lack of availability of information on historic post-calving areas, option 1 is currently not feasible.

"Option 3 is not the BQCMB's first choice, as it may exclude important habitat identified through rigorous calving ground surveys to have been used by calving caribou in recent years. These areas may contain important habitats that may be used again if they are protected from negative impacts of commercial land use.

"Option 4 is not recommended by the BQCMB, as it will exclude important habitats known to have been used by caribou for calving in recent years that require protection from negative impacts of commercial land use.

...

"... recently used calving and post-calving areas" [should be] defined as all areas known to be used by caribou within the last 20 years based on a) tracking caribou (collared obvious outliers removed). Delineation of these areas should be redefined based on all available information every 5 years."

In 2014, the WWF<sup>1</sup> provided digital maps of caribou post-calving areas, along with the note:

"A series of density maps (based on a kernel analysis) were developed to identify locations key to nine major life cycles or seasons (spring migration, calving, post-calving, summer, late summer, fall migration/pre-breeding, rut/breeding, fall migration post-breeding, and winter) for each of the caribou subpopulations within Nunavut (Ahiak, Bathurst, Beverly, Bluenose East, Bluenose West, Lorillard, Qamanirjuaq and Wager Bay). The density maps were derived from caribou collar telemetry data collected at various times between 1993 and 2012. The seasonal density datasets were analysed to identify seasonal home ranges (the area each subpopulation occupies within a specified date range). Within each seasonal range, Core areas were identified for each of the seasons by examining the utilization distributions within each range – the probability of finding a caribou within the range within the specified season. The core areas represent those locations where there is a 95% probability of caribou being present. The post-calving season date range for each subpopulation is as follows: - Ahiak: 26 Jun – 12 Jul – Bathurst: 17 – 28 Jun – Beverly: 20 Jun – 8 Jul – Bluenose East: 21 Jun – 3 Jul – Bluenose West: 24 Jun – 3 Jul – Lorillard: 26 Jun – 13 Jul – Qamanirjuaq: 23 Jun – 3 Jul – Wager Bay: 26 Jun – 12 Jul."

<sup>1</sup> (WWF-Canada, 2014-04-11. NPC Public Registry File # 12-188E)

In 2017, the GN<sup>1</sup> confirmed the above-mentioned WWF caribou post-calving seasons.

In 2018, the QWB<sup>2</sup> submitted some calving and post-calving areas.

In 2019, Naujaat<sup>3</sup> residents indicated the post-calving area presented in the 2016 DNLUP were too small.

In 2019, Kugluktuk<sup>4</sup> residents suggested including more mainland areas north of Kugluktuk as post-calving habitat.

In 2020, Arviat<sup>5</sup> residents indicated that the proposed boundaries of post-calving areas are accurate. They also indicated that the post-calving areas tend to be very static, changing little from year to year.

In 2020, Baker Lake<sup>6</sup> residents stated they did not agree with the post-calving boundaries as presented and suggested maps should be updated to include all available information.

In 2020, Whale Cove<sup>7</sup> residents were of divided opinion. Some said the maps accurately present post-calving areas, while others said they present too large an area.

In 2020, Rankin Inlet<sup>8</sup> residents stated that GN-mapped collaring data are outdated suggested that post-calving areas should be checked against new information available with the HTO. Rankin Inlet residents suggested additional post-calving areas for inclusion.

In 2020, Taloyoak<sup>9</sup> residents suggested that the entire Boothia Peninsula should be considered essential calving and post-calving habitat.

In 2020, Gjoa Haven<sup>10</sup> residents stated that all of King William Island as well as an area southwest of, and

adjacent to, Taloyoak, should also be considered essential caribou calving and post-calving habitat.

In 2020, Kugaaruk<sup>11</sup> residents suggested adding more mainland areas to caribou calving and post-calving habitat. Some of the northern portions of these areas are similar with comments from Taloyoak.

### Considerations

The caribou post-calving areas considered below are based on the GN's 2015 delineation for mainland herds with additional 2019/2020 community-identified areas also included. The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou post-calving areas. The QWB<sup>12</sup> submissions merged calving and post-calving areas. Therefore, Qikiqtani post-calving habitat is not considered separately, and has been included in calving areas.

***The certainty of the identified geographic boundaries of CARIBOU POST-CALVING AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

### 2.2.9.2 Environmental and Cultural Importance

In 2015, the GN<sup>13</sup> stated:

"Post-calving areas are geographically defined areas used by caribou for the nursing of calves and nutrition uptake to sustain the high energy demands required by lactating females. Disturbance in these areas while caribou are present can lead to demographic impacts to populations resulting in higher calf mortality because of reduced nursing time, or cow-calf abandonment. Additionally,

<sup>1</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-061E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-190E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>8</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>9</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>10</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>11</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>12</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-190E)

<sup>13</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

adults are affected by displacement from areas with high quality forage required to maintain milk production.”

In 2016, the KivIA<sup>1</sup> stated that the post-calving areas have a ‘Crucial risk’ category.

### Considerations

Participants broadly agreed on the high environmental and cultural importance of caribou post-calving areas.

***The environmental and cultural importance of CARIBOU POST-CALVING AREAS is considered HIGH because:***

- ***The importance of the areas to the communities is high; and***
- ***The importance of the areas to caribou is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The areas are essential to the biological productivity of caribou; and***
  - ***The habitat supports concentrations of caribou.***

### 2.2.9.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN, 2014	202,023	41,134	6,637	5,845
Kitikmeot/ Kivalliq, 2020	28,766	6,9229	2,914	1,469

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in caribou post-calving areas for the Western Ahiak and Beverly herds is considered low. The potential in caribou post-calving areas for all other herds is considered high.

There are some existing mineral rights in caribou post-calving areas. Details are as follows:

- Caribou post-calving areas for almost all herds are located in or near areas with high to extremely high proven or inferred resources. The only exceptions are the western portion of the Ahiak herd calving and post-calving area, and most of the Beverly herd calving and post-calving area (which is contained mainly within the Queen Maud MBS).
- Some areas contain IOL.
- A portion of the proposed Kivalliq-Manitoba Road travels through the caribou post-calving grounds.

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU POST-CALVING AREAS – WESTERN AHIK AND BEVERLY HERDS is considered LOW because:***

- ***The areas have no known mineral potential or oil and gas significant discovery;***
- ***The areas have low potential for transportation and linear infrastructure development;***
- ***The areas have no existing rights for non-renewable resource land use;***
- ***The areas have no subsurface IOL parcels; and***
- ***The areas are relatively large.***

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU POST-CALVING AREAS – ALL OTHER HERDS is considered HIGH because:***

- ***The areas have significant known mineral potential or oil and gas significant discovery;***
- ***The areas have high potential for transportation and linear infrastructure development;***
- ***The areas have existing rights for non-renewable resource land use;***
- ***The areas have subsurface IOL parcels; and***
- ***The areas are relatively large.***

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

#### 2.2.9.4 Sensitivity to Impacts

In 2014, the NWMB<sup>1</sup> stated:

“Both science and Inuit Quajimajatuqangit stress the importance of protecting caribou calving and post-calving grounds. Cows and calves are most sensitive to disturbance and factors that influence growth rate during the calving and post-calving season. During this time, cows need uninterrupted foraging time to meet the increased energy demands associated with milk production. In the NWMB’s opinion, disturbance during this sensitive period, and destruction of this important habitat should be prohibited. Furthermore, the NWMB is also concerned about the cumulative effects of development in caribou calving and post-calving grounds and how this may affect productivity and herd size.”

In 2014, the GN<sup>2</sup> stated:

“Post-calving areas are used by caribou for nursing and nutrition uptake. Interrupting nursing and access to good forage can both negatively impact caribou body condition and productivity. Disturbance within post-calving areas can demographically impact caribou populations through higher calf mortality resulting from a reduction in nursing time. Adults can also be affected by displacement from areas with high quality forage required to maintain milk production.”

In 2014, the BQCMB<sup>3</sup> stated:

“Caribou cows during calving and post-calving are both responsive to disturbance and highly vulnerable. Recent research has shown that the cows need uninterrupted foraging time to produce milk until calves becomes foragers at about 3 weeks after birth (Russell et al. 2002). This 3-week period is the time when calves are most sensitive to the maternal and environmental conditions that affect their growth, and when they are most vulnerable to predation. Cows and calves are also particularly vulnerable during calving and post-calving periods because they gather together in groups. It is therefore critical to avoid both disturbance of cows and calves during the calving and post-calving periods, and destruction of calving and post-calving habitats.”

#### Considerations

It is clear that during the post-calving period, caribou are very sensitive to disturbance. What is not clear from the submissions is whether permanent anthropogenic

features, such as mines, buildings or roads, located within post-calving grounds would negatively impact the cow-calf pairs if the activities are stopped. Nor is it clear that the cow-calf pairs are adaptable enough to find alternative forage grounds. The NPC inclines towards the precautionary principle as it regards essential caribou habitat. As such, the NPC considers the sensitivity of caribou post-calving areas to impacts from incompatible uses to be high and seasonal.

#### ***The sensitivity of CARIBOU POST-CALVING AREAS to impacts is considered HIGH and SEASONAL because:***

- ***Caribou are highly sensitive to disturbance when using these areas;***
- ***Caribou use these areas when disturbance is likely to occur; and***
- ***The concern regarding potential impacts on the areas is year-round.***

#### 2.2.9.5 Other Regulatory Tools

In 2013, the IPGs<sup>4</sup> held a meeting on the Integrated Regulatory System in Nunavut. The report from this meeting stated:

“The issue of cumulative effects was discussed in relation to activities in caribou calving grounds and as a general question regarding the role of NPC and the land use plan. The IPGs recognize the assessment and management of cumulative effects as an important and challenging topic for planning and regulatory decision making. Cumulative effects are addressed in sections 2.2 and 7.2 of the DNLUP. The criteria and process that NPC will use to refer activities identified in Schedule 12-1 of the NA to the NIRB for screening because of concerns about cumulative effects is a subject that should be discussed by NPC and NIRB. This procedural direction will not be included in the DNLUP because doing so would mean that changes to the criteria or process would require amending the plan.

“Land use planning can also contribute to cumulative effects management though by implementing direction on thresholds or levels of acceptable change. This approach is noted in section 2.2 of the DNLUP, which states that NPC will consider using the plan to implement thresholds or levels of acceptable change “that are supported by Government, Inuit, the NWMB, the NIRB and/or the NWB.” Experience with other northern plans, such as the draft Dehcho Land Use Plan, shows that achieving consensus on

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2014-05-21. NPC Public Registry File # 12-198E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>3</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

<sup>4</sup> (Kennett, 2013-03-20. NPC Public Registry File # 12-032E)



this issue is challenging. NPC has not been provided with thresholds or levels of acceptable change for Nunavut that could be included in the DNLUP. However, this topic could be the subject of further research and discussion in order to achieve buy-in for these approaches to managing cumulative effects.”

In 2014, the BQCMB<sup>1</sup> stated:

“If the NPC is unable to implement the land use management recommendations of the BQCMB, Kivalliq HTOs and Nunavut Regional Wildlife Boards, NPC and signatories to the land use plan should establish a clear process for resolving the issue of conflicting views concerning protection of caribou calving grounds, post-calving areas and water crossings.”

In 2017, AEM<sup>2</sup> stated:

“The 2016 DNLUP appears to discount the fact that protective measures on core calving area (actual Keewatin Land Use Plan) are already outlined and enforced in the regulatory system through various terrestrial monitoring and management plans for mining and exploration activities. It also does not acknowledge industry’s demonstrated commitment to adopt leading practices related to impact mitigation. In our view, the changes in land use designations in comparison to the actual land use plan have not struck a balance between the goals of economic development potential and ecological conservation. The proposed plan, in its current form, does not recognize our industry’s demonstrated leadership applying technological solutions toward limiting environmental impacts on wildlife, etc.”

## Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including the Nunavut *Wildlife Act* and project-by-project mitigation measures implemented through the NIRB process.

***The potential value of including guidance in the NLUP for CARIBOU POST-CALVING AREAS is considered HIGH because:***

- ***The issue is only partially addressed by other regulatory authorities; and***
- ***There is low overlap of existing legislation and regulations with NPC jurisdiction.***

## 2.2.9.6 Policy Options for Post-Calving Areas

### 2.2.9.6.1 Option 1 -Limited Use

In 2010, the Athabasca Dēnesyūliné<sup>3</sup> submitted:

“As previously mentioned, the Athabasca Denesuline are extremely concerned about the protection of the Caribou and their habitats. In particular, the calving grounds and post calving grounds of the Beverly and other herds need to be addressed within the Nunavut Land Use plan in a manner that goes beyond the application of the general caribou management guidelines established by the Crown. We urge the NPC to give serious consideration to the work of the BQCMB including their 2004 position paper "Protecting Calving Grounds, Post-Calving Areas and Other Important Habitats for Beverly and Qarnanirjuaq Caribou.”

In 2014, Lutsel Ke First Nation<sup>4</sup> stated:

“Our recommendation is that all land use activities be restricted in these vulnerable calving and post-calving areas. We hope that more protection can also be applied to important caribou crossings, and along the entire migration route, but understand the NPC must balance land use activities. The Caribou travel across political and territorial boundaries and it takes a concerted effort on all parties to protect various range areas.

“We believe the calving and post-calving areas are priority protection areas and therefore recommend its consideration.”

In 2014, the Arviq HTO<sup>5</sup> stated:

“Arviq HTO fully Supports Lutsel K’e Dene First Nation (LKDFN) concern regarding caribou calving and post-calving areas applied to entire migration route considering the caribou they have concern on comes to our territory.”

In 2015, the Baker Lake HTO<sup>6</sup> stated:

“The board members as well as residents of Baker Lake oppose mining and exploring/in the Beverly and Qamanirjuaq calving grounds. Inuit of Baker Lake have a unique inland culture. We rely mostly on caribou to sustain our inland culture and lifestyle. The mining/exploration already as an impact on caribou hunting culture and lifestyle.

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>2</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

<sup>3</sup> (Athabasca Denesuline, 2010-05-28. NPC Public Registry File # 10-069E)

<sup>4</sup> (Lutsel K’e Dene First Nation (LKDFN), 2014-01-31. NPC Public Registry File # 12-131E)

<sup>5</sup> (Arviq Hunters and Trappers Organization , 2014-02-10. NPC Public Registry File # 12-135E)

<sup>6</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-102E)



“Baker lake HTO is firmly and adamantly opposed to any and all mineral exploration and mining in caribou calving areas. Baker Lake HTO board of directors and the residents of Baker Lake are concerned about mining and exploration companies disturbing the caribou calving and post calving grounds.”

In 2013, the Athabasca Dënesųłiné<sup>1</sup> Negotiation Team stated in 2013:

“We request that the NPC give highest priority to developing ways to provide protection for caribou calving and post-calving areas during development of the final Nunavut-wide land use plan, as caribou are the lifeblood of the north. This protection should include prohibition of industrial development (including mineral exploration) from caribou calving areas and post-calving areas. We will be sending you a petition via mail, signed by over 300 AD that request ‘that the Nunavut government protects these herds through the protection of calving grounds’.

“In addition, restrictions on land use activities should be applied to protect caribou from disturbance effects of land use activities around key water crossings and along seasonal migration routes. We have also noticed that the Caribou Protection Measures are not included within NLUP, which are currently applied through the Keewatin Regional Land Use Plan.

“We ask that you incorporate our recommendations in the final land use plan to safeguard caribou while they are in Nunavut for the thousands of users who depend on caribou for sustenance, a traditional reliance that crosses all political boundaries. Nunavut land use planning would be remiss if it did not address caribou conservation issues for all jurisdictions affected.”

In 2017, the Athabasca Dënesųłiné<sup>2</sup> stated:

“The AD strongly agree with the NLUP approach to protect core caribou calving areas, key access corridors and post-calving areas through an assigned Protected Area Land Use Designation that prohibits incompatible uses. Including all areas having high mineral potential.

...

“The AD strongly urge the NPC to keep the Protected Area Land Use Designation”

In 2017, the KWB<sup>3</sup> supported protection measures, described as follows:

“The protection of caribou calving and post-calving grounds are very crucial to the population of barren land caribou in the Kivalliq and Nunavut region from development and exploration. Inuit knowledge and scientific knowledge combined indicate that disturbance of caribou calving and post calving grounds and range from development/exploration activity may cause detrimental and long term impacts to caribou populations.

“Kivalliq Wildlife Board is in support of Athabasca Dënesųłiné Negotiation Team in protecting the habitat of caribou calving and post-calving grounds in all territories and provinces in which they roam.”

In 2013, the KWB<sup>4</sup> stated:

“[T]he KWB strongly opposes any form of exploration and/or development within the Kivalliq caribou calving and post-calving grounds, and that a letter will be written to all stakeholders and Nunavut wildlife management organizations indicating this.”

In 2016, the KWB<sup>5</sup> stated:

“The KWB recommends that the Nunavut Land Use Plan place seasonal restrictions on all land use on Southampton and Coates Island as interim protection, until sufficient data can be collected to properly delineate core calving and post-calving grounds on these islands. Mining and exploration activities should not be permitted during the calving and post calving season on these islands.”

In 2014, the Fort Smith Metis<sup>6</sup> stated:

“The Fort Smith Metis People support the protection of the calving and post calving areas. If exploration and development were allowed in these calving areas this would add extreme pressure to the caribou in the last and most important area, the calving area which remain undisturbed at present. As caribou return to the same area to birth their young we need to protect these areas and not develop them for the future of the caribou and those who depend on them to survive.”

In 2014, the BQCMB<sup>7</sup> stated:

<sup>1</sup> (Athabasca Denesuline, 2013-12-11. NPC Public Registry File # 12-113E)

<sup>2</sup> (Athabasca Denesuline (AD), 2017-01-13. NPC Public Registry File # 16-080E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2017-01-13. NPC Public Registry File # 16-069E)

<sup>4</sup> (Kivalliq Wildlife Board (KWB), 2013-02-21. NPC Public Registry File # 12-028M)

<sup>5</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>6</sup> (Fort Smith Metis Council, 2014-02-05. NPC Public Registry File # 12-132E)

<sup>7</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

“The position of the Beverly and Qamanirjuaq Caribou Management Board is that “no development should be permitted in caribou calving and post-calving areas.

“Our primary recommendations at this time are:

- 1) NPC should develop land use designations that protect caribou calving areas, post-calving areas, and water crossings from negative effects of commercial land use activities.
- 2) NPC should develop a land use designation that prohibits any new exploration and development in calving and post-calving areas and limits allowed land uses to traditional uses, tourism and research. No new infrastructure related to commercial development, including roads, airstrips, exploration camp buildings or tourism lodges should be allowed in calving and post-calving areas.
- 3) NPC should protect all “recently used calving and post-calving areas” defined as all areas known to be used by caribou within the last 20 years based on a) tracking caribou (collared obvious outliers removed). Delineation of these areas should be redefined based on all available information every 5 years.”

Attached to a BQCMB<sup>1</sup> document, a letter from the Kitikmeot Regional Wildlife Board stated in 2013:

“... that exploration activity is not good for these calving and post-calving grounds, therefore we do not support that these exploration activities occur in these areas.”

In 2013, attached to a BQCMB<sup>2</sup> document, a letter from the QWB stated:

“... the Qikiqtaaluk Wildlife Board are in full support of protecting the calving grounds and/or post calving grounds as we're currently benefiting from Kivalliq region with caribou meat.”

In 2017, the BQCMB<sup>3</sup> stated:

“The BQCMB recommends the designation of core caribou calving areas, post-calving areas, and key access corridors as protected areas be maintained in the NLUP and that the prohibition of land uses be retained as specified, with the addition of “permanent tourism related structures” as a prohibited use.”

In 2014, the WWF<sup>4</sup> stated:

“WWF recommends that NPC...assign a designation that restricts (prohibits) all (new industrial) development in core calving and post-calving areas, representing 95% occupancy.”

In 2014, Mining Watch Canada<sup>5</sup> stated:

“We recommend that the Nunavut Land Use Plan exclude mineral exploration and development activities in the most critical of caribou habitats: calving and post-calving areas. This exclusion should extend to ancillary facilities and infrastructure that may be proposed for access to other areas for exploration and development.”

In 2014, Sayisi First Nation<sup>6</sup> of Manitoba stated:

“[W]e respectfully request that you give high priority to developing ways to provide protection for caribou calving and post-calving areas during development of the final Nunavut wide land use plan. This protection should include prohibition of industrial development (including mineral exploration) from caribou calving areas and post-calving areas. In addition, restrictions on land use activities should be applied to protect caribou from disturbance effects of land use activities around key water crossings and along seasonal migration routes.”

In 2014, Northlands First Nation<sup>7</sup> of Manitoba stated:

“... we respectfully request that you give high priority to developing ways to improve protection for caribou calving and post-calving areas during development of the final Nunavut Land Use Plan. This protection should include prohibition of industrial development including mineral exploration from caribou calving areas and post-calving areas.”

In 2014, the NWMB<sup>8</sup> stated:

“Both science and Inuit Quajimajatuqangit stress the importance of protecting caribou calving and post-calving grounds. Cows and calves are most sensitive to disturbance and factors that influence growth rate during the calving and post-calving season. During this time, cows need uninterrupted foraging time to meet the increased energy demands associated with milk production. In the NWMB's opinion, disturbance during this sensitive period, and destruction of this important habitat should be prohibited.

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>3</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

<sup>4</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>5</sup> (MiningWatch Canada, 2014-04-14. NPC Public Registry File # 12-189E)

<sup>6</sup> (Sayisi Dene First Nation, 2014-05-15. NPC Public Registry File # 12-196E)

<sup>7</sup> (Northlands Denesuline First Nations, 2014-05-27. NPC Public Registry File # 12-200E)

<sup>8</sup> (Nunavut Wildlife Management Board (NWMB), 2014-05-21. NPC Public Registry File # 12-198E)

Furthermore, the NWMB is also concerned about the cumulative effects of development in caribou calving and post-calving grounds and how this may affect productivity and herd size.”

In 2015, the WRRB<sup>1</sup> stated:

“The WRRB believes barren-ground caribou calving and post-calving grounds should receive the highest level of protection in the DLNUP, including the possibility of creating Protected Areas. The calving grounds should not be subject to exploration or development at any time, as the calving grounds have significant importance for caribou. The protection of calving and post-calving grounds is a major concern for conservation of a number of barren-ground caribou herds, in particular the Bluenose-East and Bathurst herds.”

In 2015, the QWB<sup>2</sup> stated:

“QWB argues that all Caribou Calving and Post-Calving grounds should be listed as Option 1.”

In 2015, the Issatik HTO<sup>3</sup> stated:

“The Issatik (Whale Cove) HTO directors agreed that mining and exploration should be banned in caribou calving and post calving grounds for the time being.”

In 2016, Tłıchq<sup>4</sup> Government stated:

“Our view is that where areas in a proposed land use plan include barren-ground caribou calving and post-calving grounds, those areas need the highest level of protection, including the possibility of creating Protected Areas. Bring precautionary [*sic*], calving grounds should not be subject to exploration or development, as the calving grounds have significant importance for caribou and all harvesters, especially aboriginal peoples, whose harvesting depends on the state of those calving grounds.”

In 2019/2020, Gjoa Haven<sup>5</sup> and Nauyasat<sup>6</sup> residents were split on whether restrictions on caribou calving areas should be year-round or seasonal. However, they generally agreed on the need for strong restrictions.

Some of the Gjoa Haven residents thought it better to allow all-season roads.

In 2020, Arviat<sup>7</sup> community participants agreed that activities like mining, oil and gas, all-weather roads, hydro-electric infrastructure, and quarries should be prohibited in caribou post-calving grounds. Some participants noted that caribou could adapt to the Kivalliq-Manitoba road, or that the NPC should develop design guidelines for a caribou-friendly road.

In 2020, Baker Lake<sup>8</sup>, Kugaaruk<sup>9</sup> and Taloyoak<sup>10</sup> residents agreed that post-calving areas should be strongly protected, year-round.

In 2020, Rankin Inlet<sup>11</sup> residents were of divided opinion. Some said seasonal restrictions would be adequate. Others wanted strong protections year-round. Still others wanted to allow highways and hydro-power projects, but restrictions on everything else. Others argued for mobile CPMs.

In 2019, Kugluktuk<sup>12</sup> residents were split on whether year-round or seasonal restrictions would be more appropriate for post-calving habitat.

### Considerations

In 2015 and 2016, many parties either re-submitted the above comments, or re-stated their position in new letters. In the interest of brevity, these are not reproduced here.

It is clear there is a desire amongst many parties to see strong land use protection on caribou post-calving grounds.

Community residents of the Kivalliq Region generally support an exception for all-weather roads including the Kivalliq-Manitoba road.

<sup>1</sup> (Wek'èezhii Renewable Resources Board (WRRB), 2015-06-09. NPC Public Registry File # 14-057E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2015-06-22. NPC Public Registry File # 14-084E)

<sup>3</sup> (Issatik HTO, 2015-05-29. NPC Public Registry File # 14-031E)

<sup>4</sup> (Tłıchq Government, 2016-02-22. NPC Public Registry File # 14-144E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>8</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

<sup>9</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>10</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>11</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>12</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

In 2014, the GN<sup>1</sup> stated:

*“Post-calving areas*

“Recommendation: Seasonal restrictions (June 15-July) on development activity when and where caribou are present. Restricted activities include, but are not limited to, air and vehicle traffic, loud or repetitive noise or vibration disturbances. All *season* roads are not permitted in these areas to prevent inappropriate access to these herds during vulnerable periods. Winter access roads would be allowed.”

In 2015, the GN<sup>2</sup> stated:

“Recommendations: Post-calving Areas:

“Designation: Assign all post-calving areas a Special Management Area land use designation where seasonal restrictions on development activity apply when and where caribou are present.

“Direction: Seasonal restrictions apply to development activities when and where caribou are present (approximately June 15 – August 1).

“Seasonal restrictions would apply to exploration and production projects, research and tourism unrelated to caribou conservation, and any activity with a high likelihood of disturbance to caribou when and where they are present.”

In 2015, the QIA<sup>3</sup> stated:

“The Qikiqtani region lacks sufficient scientific data and Inuit Qaujimagatuqangit to delineate post-calving areas and the different behaviour and understanding of Baffin Island caribou. QIA supports the ongoing protection of caribou and the implementation of protection measures in post-calving areas when they are in the proximity of any activity that may disrupt their behavior such as, industrial, research or tourism. QIA is recommending that mobile protection measures be applied to post calving areas when caribou are present. Mobile measures travel with the caribou during their annual cycle so wherever the caribou are on the landscape they are protected. In order to implement mobile caribou protection measures mitigation must be developed specific to the herd and region as well as a monitoring plan to monitor caribou distribution and

movement. QIA supports mobile protection measures but in order for them to be successful a robust monitoring plan with adequate capacity and resources must be available to implement such measures.”

In 2017, the GoC<sup>4</sup> stated:

“The Government of Canada recommends replacing the comprehensive prohibitions on mineral development and exploration in designated caribou habitats with a combination of seasonal and general protection conditions as follows:

- seasonal protections prohibiting activity in core calving and post-calving areas, key access corridors, and freshwater crossings during the time of year appropriate for the herd using those habitats, and
- general protections requiring that activities identified in the Nunavut Land Use Plan be terminated when calving or post-calving caribou are present in areas that are outside of the calving and post-calving areas identified in the land use plan.”

In 2018, AEM<sup>5</sup> stated:

“Agnico Eagle believes that with effective mitigation measures and monitoring programs, mineral exploration and development activities can co-exist with sustainable development in caribou calving ground, post-calving grounds and access corridors. It appears that no definitive and scientific link has been established between the current decline in caribou populations across the North and exploration or mining. It’s our view that many of these zones lack the scientific and traditional knowledge evidence to make them Protected area and should be designated as Special Management areas.”

In 2017, North Arrow Minerals<sup>6</sup> stated:

“Caribou calving and post-calving grounds that coincide with areas of defined high mineral potential and/or existing mineral right should be considered as special management areas as defined in the 2014 DNLUP.”

In 2017, NTI and the RIAs<sup>7</sup> stated:

<sup>1</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>2</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>3</sup> (Qikiqtani Inuit Association (QIA), 2015-06-22. NPC Public Registry File # 14-083E)

<sup>4</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>5</sup> (Agnico Eagle Mines Ltd. (AEM), 2018-11-29. NPC Public Registry File # 16-236E)

<sup>6</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)

<sup>7</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

“NTI and the RIAs recommend that caribou post-calving areas be placed in Special Management Area with terms and conditions.”

In 2018, NTI<sup>1</sup> stated:

“KivIA recommends that:

3. Mobile Measures should be used to manage appropriate industrial developments within post-calving areas. These would include restricting or not allowing development activities near caribou during the post-calving period. Seasonal ranges other than calving and post-calving (and outside of Caribou Protection Areas) should be managed using Mobile Measures, which scale monitoring and mitigation to the vulnerability (sensitivity) of caribou.”

In 2018, the Rankin Inlet HTO<sup>2</sup> stated:

“Our members have expressed that the very large Protected Areas for post-calving grounds (#39 Caribou Post Calving Area) do not necessarily need full protection. They might be better designated as Special Management Areas with mobile protection measures and seasonal restrictions with dates between May 15 and July 3rd. The HTO is concerned that there are different dates that are being used by different regulatory bodies causing confusion as to where post calving grounds ends. The HTO recommends that NPC work with the regulatory bodies to determine definitive dates for post calving grounds to minimize the confusion not only for industry but also for the communities.”

In 2019, Naujaat<sup>3</sup> residents were split on whether restrictions on caribou post-calving areas should be year-round or seasonal. However, they generally agreed on the need for strong restrictions.

In 2020, Whale Cove<sup>4</sup> residents indicated strong restrictions for May, June, and July would be appropriate for caribou post-calving areas. They also stated that Kivalliq-Manitoba highway through the area would be appropriate.

In 2020, Rankin Inlet<sup>5</sup> residents were of divided opinion. Others wanted strong protections year-round. Some said

seasonal restrictions would be adequate. Others argued for mobile CPMs. Still others wanted to allow highways and hydro-power projects, but restrictions on everything else.

In 2019, Kugluktuk<sup>6</sup> residents were split on whether year-round or seasonal restrictions would be more appropriate for post-calving habitat.

### Considerations

Many participants also supported the CU designation for post-calving areas.

Some of the parties proposed the use of mobile CPMs as a condition in this option. However, based on the information provided by different parties (see sections 2.2.1 to 2.2.7 for more detail), there is insufficient evidence that mobile CPMs could be effectively used as a land use planning tool for caribou calving and post-calving habitat management in the NLUP.

#### 2.2.9.6.3

#### Option 3 - Mixed Use

In 2014, MMG<sup>7</sup> stated:

“It is understood that Project Proposal concerning caribou calving ground and post calving areas will be dealt with through the regulatory process. This calls into play sections 68 and 69 of the Nunavut Planning and Project Assessment Act as it relates to the implementation of the plan. MMG has no issue with this approach.”

### Considerations

The MMG comment was regarding the 2012 DNLUP.

#### 2.2.9.6.4

#### Option 4 - Valued Component

No participant recommended this option.

### 2.2.9.7

### NPC Recommendation - LU

Given that:

### CARIBOU:

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)

<sup>2</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>7</sup> (Minerals and Metals Group (MMG), 2014-03-20. NPC Public Registry File # 12-176E)

The overall importance of the issue is considered HIGH.

#### CARIBOU POST-CALVING AREAS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>LOW</b> (Western Ahlak and Beverly herds)
		<b>HIGH</b> (All other herds)
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

#### Recommendation for Caribou Post-Calving Areas

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by multiple participants as areas requiring protection. In addition, although several participants recommended that the NIRB could adequately address impacts, the NIRB has recommended that formalized protection be considered and that cumulative impacts should be considered at a regional scale.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **CARIBOU POST-CALVING AREAS**

#### **LIMITED USE**

##### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

#### **Condition:**

- All uses except research and tourism related to caribou conservation must cease during the applicable dates identified in Table 2.

### 2.2.9.8 Summary of Revisions

#### **KRLUP and NBRLUP**

The KRLUP and NBRLUP provide that incompatible activities should be restricted in caribou calving areas to avoid disturbing caribou.

#### **2012, 2014 and 2016 DNLUP**

In the 2012 DNLUP, historic calving grounds were identified in the plan. However, the plan stated that the post-calving area is likely to be within the historic calving area. To manage caribou calving grounds, they were assigned recommendation PSE-R2. The specific recommendation stated, "Project Proposals located in historic caribou calving grounds should take into account impacts on caribou calving, post calving areas and migration routes."

In the 2014 DNLUP, calving and post-calving areas were grouped together. Core caribou calving areas that had not been identified for high mineral potential were assigned a PA designation that prohibited incompatible uses. Core caribou calving areas that had been identified for high mineral potential were assigned a SMA designation that identified cumulative impact concerns and provided direction to regulatory authorities to mitigate impacts on these areas.

In 2016, calving and post-calving areas were separated. All post-calving areas, regardless of mineral potential, were assigned a PA designation that prohibited incompatible uses. Areas of high mineral potential were listed separately as socioeconomic VECs.

#### **2021 DNLUP**

The 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in the earlier version to LU in 2021.

### 2.2.10 Caribou Key Access Corridors

Key access corridors are the paths used by pregnant cow caribou to access the calving areas.



### 2.2.10.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN, 2015	16,672	0

The geographic boundaries of caribou key access corridors were mainly submitted by the GN, based on collaring data.

In 2015, the GN<sup>1</sup> stated:

“Caribou maintain fidelity to ...key access corridors over the long term, typically returning to the same areas consistently over many decades. However, punctuated events displaying geographic shifts in core calving areas do occur in rare circumstances.

“In those rare circumstances ... the GN will use telemetry data over a 15-25 year period to assess the permanence of any shift that has been detected. Once the permanence has been confirmed the GN will make recommendations to the NPC to remove previous core calving area and key access corridors locations from the Protected Area land use designation and re-assign to an appropriate land use designation. At the same time, it will be also recommended that the new areas occupied as calving areas or key access corridors be upgraded to a Protected Area land use designation ...

“The GN is committed to ensuring that only those areas with long-term importance as calving and key access corridors will remain under a Protected Area land use designation, and that areas abandoned be re-assigned to a more appropriate land use designation. The GN will report to the NPC at regular intervals to be decided between the two parties.”

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou key access corridors. The geographic boundaries were submitted by the GN. It is apparent that there is somewhat more consensus on the boundaries of caribou key access corridors than there is for calving areas. However, this must be tempered against the general disagreements between caribou polygon delineation

described above in the ‘Defining Geographic Boundaries for Caribou Ranges’ section.

***The certainty of the identified geographic boundaries of CARIBOU KEY ACCESS CORRIDORS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

### 2.2.10.2 Environmental and Cultural Importance

In 2014, the GN<sup>2</sup> stated:

*“Calving Areas and Key Access Corridors- Mainland Migratory Herds*

“Key Access Corridors are regularly used pathways that lead on and off the calving grounds. These corridors are essential for providing access to calving grounds. Development and/or disturbance along these routes could lead to caribou shifting or abandoning their calving grounds. The core calving areas and key access corridors have been combined for management purposes and appear as one file in GN supplied data.”

In 2015, the GN<sup>3</sup> stated:

“Key access corridors are regularly used pathways that lead on and off the calving grounds, and are essential for providing access to core-calving areas. Development and/or disturbance along these routes present an extremely high risk of causing caribou to shift or abandon their calving areas. For their combined importance in supporting caribou herd health and productivity, the GN has recommended land use designations for areas that combine core-calving areas and key access corridors.

“Allowing development to occur in core-calving areas, or the key access corridors that caribou use to reach them, will have detrimental effects on species reproductive success and subsequent rates of survival.”

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of caribou key access corridors.

<sup>1</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>3</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

***The environmental and cultural importance of CARIBOU KEY ACCESS CORRIDORS is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to caribou is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of caribou.*

- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively small.*

#### 2.2.10.4 Sensitivity to Impacts

In 2014, the GN stated:<sup>3</sup>

“Key Access Corridors are regularly used pathways that lead on and off the calving grounds. These corridors are essential for providing access to calving grounds. Development and/or disturbance along these routes could lead to caribou shifting or abandoning their calving grounds.”

##### Considerations

In some ways similar to caribou post-calving range, it is clear that during the period immediately before calving, pregnant caribou are very sensitive to disturbance. What is not clear from the submissions is whether permanent anthropogenic features such as mines, buildings or roads would negatively impact the cows, if they are vacant. Without clearer evidence from participants on this topic, the NPC should apply the precautionary approach and consider impacts from incompatible uses to be high and year-round instead of seasonal.

***The sensitivity of CARIBOU KEY ACCESS CORRIDORS to impacts is considered HIGH and SEASONAL because:***

- *Caribou are highly sensitive to disturbance when using key access corridors;*
- *Caribou use key access corridors when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

#### 2.2.10.5 Other Regulatory Tools

In 2014, the BQCMB<sup>4</sup> stated:

“4) If the NPC is unable to implement the land use management recommendations of the BQCMB, Kivalliq HTOs and Nunavut Regional Wildlife Boards, NPC and signatories to the land use plan should establish a clear process for resolving the issue of conflicting views concerning protection of caribou calving grounds, post-calving areas and water crossings.”

#### 2.2.10.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN, 2015	16,672	1,429	449	78

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

##### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in caribou key access corridors is considered high.

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU KEY ACCESS CORRIDORS is considered HIGH because:***

- *The areas have known mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>4</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

## Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including the Nunavut *Wildlife Act* and project-by-project mitigation measures implemented through the NIRB process.

***The potential value of including guidance in the NLUP for CARIBOU KEY ACCESS CORRIDORS is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.2.10.6 Policy Options for Caribou Key Access Corridors

#### 2.2.10.6.1 Option 1 - Limited Use

In 2014, the GN<sup>1</sup> stated:

*“Calving Areas and Key Access Corridors- Mainland Migratory Herds*

*“Recommendation: Industrial development and activity is not permitted. Prohibited activities: Mineral exploration and production, construction of roads, pipelines and transportation related infrastructure, equipment operation and permanent infrastructure relating to projects and project proposals as defined by the Nunavut Land Claims Agreement (NA) and the federal Nunavut Planning and Project Assessment Act (NUPPAA), which would be reviewed by the NPC for conformity. Seasonal restrictions on research not directly related to caribou biology and tourism would be imposed – these activities are not permitted when and where caribou are present, but would be permitted once caribou had left the area.”*

In 2015, the GN<sup>2</sup> stated:

*“Recommendations: Core-calving Areas and Key Access Corridors:*

*“Designation: Assign all core-calving areas and associated key access corridors a Protected Area land use designation where industrial development and activity are not*

permitted, regardless of the existence of a high mineral potential.

“Direction: Exceptions to these restrictions will include:

1. Research, and tourism directly related to the conservation of the species, to be considered on a project-specific basis;
2. Research, and tourism not directly related to caribou conservation, will be seasonally restricted to times when caribou have vacated the core calving areas and key access corridors.”

In 2016, the KWB<sup>3</sup> stated:

“The KWB recommends that the Nunavut Land Use Plan designate core calving grounds and key access corridors (as defined by the Government of Nunavut) protected areas, regardless of their mineral potential. Mining, exploration, quarries, all-season roads, and winter roads should not be permitted in these areas.”

In 2017, the Athabasca Dënesųliné<sup>4</sup> stated:

“The AD strongly agree with the NLUP approach to protect core caribou calving areas, key access corridors and post-calving areas through an assigned Protected Area Land Use Designation that prohibits incompatible uses. Including all areas having high mineral potential.

...

“The AD strongly urge the NPC to keep the Protected Area Land Use Designation.”

In 2017, the BQCMB<sup>5</sup> stated:

“The BQCMB recommends the designation of core caribou calving areas, post-calving areas, and key access corridors as protected areas be maintained in the NLUP and that the prohibition of land uses be retained as specified, with the addition of “permanent tourism related structures” as a prohibited use.”

In 2017, the Hall Beach HTO<sup>6</sup> wrote, and included related maps:

“The caribou migratory routes on eastern and western Melville Peninsula (drawn and marked with pen) will be designated as “Key Access Corridors” under the Nunavut Land Use Plan, and that these areas will be protected from

<sup>1</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>4</sup> (Athabasca Denesuline (AD), 2017-01-13. NPC Public Registry File # 16-080E)

<sup>5</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

<sup>6</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

Mineral, Oil and Gas Exploration and Production, Obnoxious Land Use, Quarries, Hydro-electric and related infrastructure, Linear Infrastructure, and related research.”

In 2017, the KRWB<sup>1</sup> supported this option, but the submission was later retracted.<sup>2</sup>

#### Considerations

Caribou key access corridors are a relatively small geographic area with a key ecological function. Comments suggest general support for protection of these access.

#### 2.2.10.6.2 Option 2 - Conditional Use

In 2018, AEM<sup>3</sup> stated:

“Agnico Eagle believes that with effective mitigation measures and monitoring programs, mineral exploration and development activities can co-exist with sustainable development in caribou calving ground, post-calving grounds and access corridors. It appears that no definitive and scientific link has been established between the current decline in caribou populations across the North and exploration or mining. It’s our view that many of these zones lack the scientific and traditional knowledge evidence to make them Protected area and should be designated as Special Management areas.”

#### 2.2.10.6.3 Option 3 - Mixed Use

In 2017, the NWT & Nunavut Chamber of Mines<sup>4</sup> stated:

“2016 DNLUP, Section 2.2.1.2, p.27, sentence 2 be changed to “With effective mitigation measures and monitoring programs, mineral exploration and development activities can co-exist with sustainable development in caribou access corridors.”

#### 2.2.10.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 2.2.10.7 NPC Recommendation - LU

Given that:

#### CARIBOU:

**The overall importance of the issue is considered HIGH.**

#### CARIBOU KEY ACCESS CORRIDORS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

#### Recommendation for Caribou Key Access Corridors

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by multiple participants as areas requiring protection. In addition, although several participants recommended that the NIRB could adequately address impacts, the NIRB has recommended that formalized protection be considered and that cumulative impacts should be considered at a regional scale.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **CARIBOU KEY ACCESS CORRIDORS**

#### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

<sup>3</sup> (Agnico Eagle Mines Ltd. (AEM), 2018-11-29. NPC Public Registry File # 16-236E)

<sup>4</sup> (NWT & Nunavut Chamber of Mines, 2017-01-13. NPC Public Registry File # 16-048E)

**Condition:**

- All uses except research and tourism related to caribou conservation must cease during the applicable dates identified in Table 2.

## 2.2.10.8 Summary of Revisions

### KRLUP and NBRLUP

The KRLUP and NBRLUP provide that incompatible activities should be restricted during migration seasons to avoid disturbing caribou.

### 2012, 2014 and 2016 DNLUP

Neither the 2012 nor 2014 DNLUP included specific plan requirements for caribou key access corridors. In the 2016 DNLUP, key access corridors were assigned a PA designation that prohibited incompatible uses.

### 2021 DNLUP

The 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in the earlier version to LU in 2021.

## 2.2.11 Caribou Freshwater Crossings

Locations where caribou regularly cross freshwater during their migration are unique areas of limited geographic extent where caribou are sensitive to disturbance.

### 2.2.11.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN Department of Environment (GN-DOE), Arviat HTO, KWB, CPM	54,916	2
Kitikmeot/Kivalliq (additional), 2020	2,355	0

CIRNAC CPMs have a number of caribou freshwater crossings, which have been identified for several decades.

In 2016, the KWB<sup>1</sup> provided addition freshwater crossing locations to the NPC, in which the locations were identified by IQ., and stated:

“Mining, exploration, quarries, all-season roads, and winter roads should not be permitted within 10km of known water crossings.”

In 2015, the Baker Lake HTO<sup>2</sup> stated:

“We would like to have a 25 kilometer buffer zone around these calving grounds and water crossings, where mining and exploration activity is also banned.”

In 2017, NTI and the RIAs<sup>3</sup> stated:

“NTI and the RIAs recommend that NPC provide a compelling explanation as to why permanent 10 km buffers are considered appropriate for freshwater caribou crossings.”

In 2017, the KWB<sup>4</sup> stated:

“KWB recommends the buffer around water crossings be reduced to 5 or 10 km.

...

“KWB recommends NPC consult with BQCMB and INAC to ensure that all recognized water crossings are protected under the Nunavut Land Use Plan.”

In 2017, the GoC<sup>5</sup> stated:

“The Thelon River Alternative Energy Infrastructure (Special Management Area 82) lies fully within a Caribou freshwater crossing area (Protected Area 159). Among the list of prohibited land uses provided for freshwater crossings in Table 1 of the draft Plan is “hydro-electrical and related infrastructure” — which is the only allowable land use in the Thelon River Special Management Area. If we followed the logic that the most restrictive land use prohibitions apply in cases of overlapping designations, then the meaning would be that hydro-related uses were not allowed in this area — a result that is clearly inconsistent with the intent of the plan for this Special Management Area.”

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>2</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-098E)

<sup>3</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>4</sup> (Kivalliq Wildlife Board (KWB), 2017-01-13. NPC Public Registry File # 16-069E)

<sup>5</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)



In 2017, the Athabasca Dënesųliné<sup>1</sup> stated:

“We urge the NPC to keep this 20 km water crossing buffer in the Final NLUP.”

In 2020, Arviat<sup>2</sup> community participants agreed with a 10 km buffer around freshwater crossings and supported the crossings shown in the 2016 DNLUP. Some participants suggested new crossings, but advised that the Arviat HTO should be asked to provide a full list.

Although Chesterfield Inlet is a saltwater inlet, because it is narrow it in some ways presents to caribou in a similar manner as a freshwater crossing. Baker Lake<sup>3</sup> residents in 2020 indicated that marine shipping seems to have reduced caribou use of the area and suggested protections similar as for a freshwater crossing.

In 2019, Kugluktuk<sup>4</sup> residents suggested the buffer for caribou freshwater crossings be reduced to between 0.5 and 1 km. They also suggested addition of new water crossing locations south of Bloody Falls Park, and upstream on the Coppermine, near Contwoyto Lake.

In 2020, Kugaaruk<sup>5</sup> residents suggested a water crossing location SE of the community.

In 2020, Rankin Inlet<sup>6</sup> residents recommended new locations for caribou freshwater crossings.

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou freshwater crossings identified by the GN, the CPM, Arviat HTO, KWB, and during 2019/2020 community consultations. There is general agreement on the location of most caribou freshwater crossings. However, there is disagreement as to the appropriate buffer that should be applied to the areas designated as freshwater crossings. As a compromise between the varying recommendations, the NPC applied a 10 km buffer.

***The certainty of the identified geographic boundaries of CARIBOU FRESHWATER CROSSINGS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 2.2.11.2 Environmental and Cultural Importance

Caribou water crossings areas were mentioned by community members as being needful of some form of protection, during consultations undertaken by the NIRB and/or NWB between 2001 and 2013.

In 2015, the Baker Lake HTO<sup>7</sup> stated:

“Before moving to the community of Baker Lake, water crossings were very important hunting areas for the Inuit that lived on the Kazan River, Thelon River, Pelly/Garry Lakes, and Baker Lake. Our ancestors would hunt caribou in qajaqs with spears when the caribou crossed rivers and lakes. Today, many hunters in Baker Lake continue to hunt caribou when they emerge from the water on the Thelon River, Kazan River, and Baker Lake. This is one of the most important hunting practices that feeds our community.”

In 2017, the KWB<sup>8</sup> stated:

“Caribou water crossings must be protected for their heritage, cultural/economic, and ecological values. Inuit Qaujimajatuqangit clearly shows that mining and mineral exploration are not appropriate activities near caribou water crossings. Inuit from Baker Lake have fought since the 1970s to ensure that these important areas are protected, and this has been recognized in the federal government’s caribou protection measures and the Kivalliq Inuit Association’s land use regulations for Inuit Owned Lands.

...

“Historically, hunting at water crossings was one of the most important subsistence activities for inland Inuit in the

<sup>1</sup> (Athabasca Denesuline (AD), 2017-01-13. NPC Public Registry File # 16-080E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>7</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-098E)

<sup>8</sup> (Kivalliq Wildlife Board (KWB), 2017-01-13. NPC Public Registry File # 16-069E)



Kivalliq. As a result, they have a strong heritage value for many Kivalliq Inuit.

“During many oral history studies, Kivalliq Inuit have explained that they harvested most of their meat for caching, and most of their furs for winter clothing, at water crossings during the fall caribou migrations. Traditionally, caribou would be hunted in the water, by qajaq, or in the ground, after they emerge from the water. Many of the most important traditional campsites were located near water crossings. A great deal of ‘archeological artefacts’ (graves, tent rings, tools, etc.) are located near caribou water crossings, and Inuit elders teach that ‘artefacts’ of this sort should not be disturbed. As a result, caribou water crossings have a strong heritage value for many Kivalliq Inuit.

“Caribou water crossings remain important for caribou hunting, especially in the communities of Baker Lake and Arviat. As a result, they have strong cultural/economic values for many Inuit.

“Numerous land use studies have shown than Baker Lake and Arviat Inuit continue to hunt at caribou water crossings, especially on the Thelon, Kazan, and Maguse Rivers, and the Chesterfield Inlet channel. It is an important part of cultural continuity for new generations of Inuit to learn how to properly hunt at water crossings, giving caribou water crossings strong cultural value. The meat harvested at water crossings is important for food security in Baker Lake and Arviat, giving caribou water crossings strong economic value.”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of caribou freshwater crossings. In addition, the Fall Caribou Crossing National Historic Site has been identified for its historic significance.

***The environmental and cultural importance of CARIBOU FRESHWATER CROSSINGS is considered HIGH because:***

- ***The importance of the areas to the communities is high; and***
- ***The importance of the areas to caribou is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The areas are essential to the biological productivity of caribou; and***
  - ***The habitat supports concentrations of caribou.***

### 2.2.11.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN-DOE, Arviat HTO, KWB, CPM	54,916	19,181	3,487	1,388
Kitikmeot/ Kivalliq (additional), 2020	2,355	192	141	25

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure at caribou freshwater crossings is considered high.

***The potential for non-renewable resources, transportation and linear infrastructure at CARIBOU FRESHWATER CROSSINGS is considered HIGH because:***

- ***The areas have significant mineral potential or oil and gas significant discovery;***
- ***The areas have high potential for transportation and linear infrastructure development;***
- ***The areas have existing rights for non-renewable resource land use;***
- ***The areas have subsurface IOL parcels; and***
- ***The total area is relatively large.***

### 2.2.11.4 Sensitivity to Impacts

In 2015, the Baker Lake HTO<sup>3</sup> stated:

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-098E)

“Caribou are very sensitive to disturbance before they cross the water. Our ancestors had many traditional rules for how we should treat water crossings, which we still respect today. We were taught not to walk, hunt, skin animals, cache meat or camp on the side of the river where caribou enter the water. We were taught to camp upstream from water crossings, and that our camps should not be visible from the crossing. We clean up all animal remains near a crossing - even blood on the ground must be buried. Dogs and people must be silent at water crossings. If Inuit must be so careful at water crossings in order to not disturb caribou, how can we allow mining in these areas?”

In 2017, the KWB<sup>1</sup> stated:

“Caribou are very sensitive to disturbance at and near water crossings. Disturbing water crossings could cause caribou to change their migration routes. This could disturb seasonal cycles, impacting the health of herds. It could also cause problems for community access to caribou herds, impacting community hunting. As a result, water crossings have important ecological values.”

### Considerations

Participants broadly agreed that the sensitivity of caribou freshwater crossings to impacts from incompatible uses is high and year-round. Caribou freshwater crossings are small locations at which caribou are highly sensitive. In addition, available IQ indicates that any anthropomorphic feature could have highly detrimental impacts to the migration patterns of the caribou.

***The sensitivity of CARIBOU FRESHWATER CROSSINGS to impacts is considered HIGH and YEAR-ROUND because:***

- *Caribou at freshwater crossings are highly sensitive to disturbance when using these areas;*
- *Caribou use freshwater crossings when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

### 2.2.11.5 Other Regulatory Tools

The Fall Caribou Crossing National Historic Site is a particular freshwater crossing that overlays with a national historic site designation.

In 2013, the GoC<sup>2</sup> stated:

“National historic sites can be found in almost any setting, from urban or industrial locales to wilderness environments. It is imperative that the land use plan recognizes the need for flexibility in incorporating National Historic Sites (NHS) in all zones and allowing for the preservation of their heritage value. Most national historic sites are relatively small in size, often commemorating a single structure, however, some sites, such as the Fall Caribou Crossing, may consist of large tracts of land.”

In 2013, the Athabasca Dēnesuḥīné Negotiation Team<sup>3</sup> stated:

“... the Caribou Protection Measures are not included within NLUP, which are currently applied through the Keewatin Regional Land Use Plan.

“We ask that you incorporate our recommendations in the final land use plan to safeguard caribou while they are in Nunavut for the thousands of users who depend on caribou for sustenance, a traditional reliance that crosses all political boundaries. Nunavut land use planning would be remiss if it did not address caribou conservation issues for all jurisdictions affected.”

In 2017, the NWB<sup>4</sup> stated:

“Although the management of caribou specifically is not within the NWB’s jurisdiction, the management of the freshwater bodies identified in the DNLUP 2016 as having freshwater caribou crossings could be subject to water licensing processes by the NWB. As the NWB anticipates that during water licensing processes the NWB will be required to consider the presence of crossings and may also hear from affected communities about changes to the locations of freshwater caribou crossings over time, the NWB would benefit from additional direction regarding how changes to the crossings as identified in the DNLUP 2016 may occur and be communicated by the Commission.”

### Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including the Nunavut *Wildlife Act* and project-by-project mitigation measures implemented through the NIRB process.

***The potential value of including guidance in the NLUP for CARIBOU FRESHWATER CROSSINGS is considered HIGH because:***

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2017-01-13. NPC Public Registry File # 16-069E)

<sup>2</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>3</sup> (Athabasca Denesuline, 2013-12-11. NPC Public Registry File # 12-113E)

<sup>4</sup> (Nunavut Water Board (NWB), 2017-01-05. NPC Public Registry File # 16-043E)

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

## 2.2.11.6 Policy Options for Freshwater Crossings

### 2.2.11.6.1 Option 1 - Limited Use

In 2015, the Baker Lake HTO<sup>1</sup> stated:

“The Baker Lake HTO would like mining and exploration activity banned on caribou calving grounds, as well as on caribou water crossings that are important to Inuit heritage and land use.

...

“This proposal for protection is based in Inuit Qaujimajatuqangit (IQ). Our ancestors had very strict rules about how calving grounds and caribou water crossings should be respected. We hope you will incorporate these traditional teachings into your land use plan.

...

“Water crossings must be protected for their heritage value, their value to Inuit hunting, and their ecological value.”

In 2015, the Arviat HTO<sup>2</sup> stated:

“We would especially like mining and exploration activity banned in and near caribou calving grounds and important caribou water crossings.”

In 2016, the KWB<sup>3</sup> stated:

“... the KWB recommends that the Nunavut Land Use Plan designate caribou water crossings protected areas.

...

“The immediate area around identified water crossings should be within year-round Protected Areas, with the size of the area tailored to traditional caribou approach characteristics based on IQ. Around water crossings we recommend a 10 km radius zone within which mobile protection measures would be applied.”

In 2017, the KWB<sup>4</sup> stated:

“Inuit have many rules to protect and respect caribou water crossings, including:

- Do not walk, hunt, skin animals, cache meat or camp on the side of the river where caribou enter the water. Even footprints will disturb caribou.
- Camp upstream from water crossings; camps should not be visible from the crossing
- Clean up all animal remains near a crossing. Even blood on the ground should be buried.
- Dogs and people should be silent at water crossings
- Do not hunt the first group of caribou that cross the water. The rest of the herd follows this leading group, and if the leaders are hunted, the others may not follow across the water at the crossing.
- Do not hunt the first caribou in the group (the leaders of the group). This will disorient the other caribou who follow. The leaders should be allowed to pass, and the followers can be hunted.

“These rules were used to ensure that caribou would return to the same water crossings year after year, with predictable migration routes, to ensure successful hunts. The archeological record shows that Inuit followed these rules carefully – there are few artefacts located near the areas where caribou enter the water, and there are large concentrations of artefacts in areas where traditional rules permit camping. Elders and older hunters reported that they continue to teach these rules to younger generations, and that they are important parts of Inuit culture.

“Inuit from other regions, as well as Dene in the NWT and Saskatchewan, have similar traditional rules to respect and protect water crossings.

“Mining and exploration activity is entirely inconsistent with these traditional rules. If Inuit were taught not to make footprints in certain areas, how could drilling, prospecting, and camp construction be allowed? If Inuit hunting camps could not be visible near water crossings, how could a mine or exploration camp be permitted nearby? If Inuit hunting camps must be especially quiet when located near a crossing, how could helicopters, blasting, and drilling be permitted?

<sup>1</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-098E)

<sup>2</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-106E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>4</sup> (Kivalliq Wildlife Board (KWB), 2017-01-13. NPC Public Registry File # 16-069E)

“Over the years, there have been many requests to protect water crossings, supported by Kivalliq Inuit.

- In 1974, Inuit from Baker Lake sent a petition to the Government of Canada, protesting exploration in important hunting areas at caribou crossings on the Kazan River, Thelon River, and Baker Lake. This was followed by a series of requests for a freeze on development until land claims could be settled, by both the community and ITC.

...

- The existing INAC Caribou Protection Measures and KIA land use regulations prohibits permanent changes to the landscape within 5-10 km of caribou water crossings.

- In 1995, a water crossing on the Kazan River system was designated a National Historic Site (NHS) by Parks Canada. It was selected because of its significance to the community of Baker Lake and the “cultural, spiritual, and economic life of the Inuit in the Keewatin Region.”

In 2017, the BQCMB<sup>1</sup> stated:

“The BQCMB recommends that the designation of Freshwater Caribou Crossings as protected areas be maintained and that the prohibition of land uses be retained as specified, with the addition of “obnoxious land use” as a prohibited use.”

In 2018, NTI<sup>2</sup> stated:

“KivIA recommends that:

4. The immediate area around identified freshwater caribou crossings should be placed within year-round Protected Area status, with the size of the area perhaps 1–3 km radius and tailored to traditional caribou approach characteristics based on IQ. Around this Protected Area of water crossings the KivIA recommends a 10 km radius Special Management zone within which Mobile Measures would be applied ...”

In 2018, the Rankin Inlet HTO<sup>3</sup> stated:

“For freshwater crossings (#159 Caribou Freshwater Crossings), the Kangiqliniq HTO wants Protected Area designation around them, but the buffer could be reduced in size (i.e. 5 – 10 km buffers.) Deciding how big a buffer should be should be handled on a case-by-case basis. Each

crossing should be assessed by the nearest community and the appropriate Regional Inuit Association to determine the proper size of the buffer.”

In 2020, Arviat<sup>4</sup> and Rankin Inlet<sup>5</sup> community participants agreed that activities like mining, oil and gas, all-weather roads, hydro-electric infrastructure, and quarries should be prohibited in caribou freshwater crossing areas year-round.

In 2020, during NPC community engagement sessions on the 2016 DNLUP, some Baker Lake<sup>6</sup> residents felt year-round protections were needed for caribou freshwater crossings, while others felt seasonal restrictions would be preferable.

In 2020, Whale Cove<sup>7</sup> residents noted that ancestors said that it is essential to never bother caribou that are using the crossings and not to bother the crossings areas. However, the residents were generally undecided on how best to protect these areas.

### Considerations

Multiple participants support year-round prohibition of some incompatible uses at freshwater crossings.

#### 2.2.11.6.2

#### Option 2 - Conditional Use

In 2013, the Athabasca Dēnesųlīné Negotiation Team<sup>8</sup> stated:

“[R]estrictions on land use activities should be applied to protect caribou from disturbance effects of land use activities around key water crossings and along seasonal migration routes.”

In 2014, Sayisi First Nation of Manitoba<sup>9</sup> stated:

“[W]e respectfully request that you give high priority to developing ways to provide protection for caribou calving and post-calving areas during development of the final Nunavut wide land use plan...restrictions on land use activities should be applied to protect caribou from disturbance effects of land use activities around key water crossings and along seasonal migration routes.”

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)

<sup>3</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>8</sup> (Athabasca Denesuline, 2013-12-11. NPC Public Registry File # 12-113E)

<sup>9</sup> (Sayisi Dene First Nation, 2014-05-15. NPC Public Registry File # 12-196E)

In 2014, the BQCMB<sup>1</sup> stated:

“Our primary recommendations at this time are:

...

5. NPC should develop a land use designation that provides seasonal restrictions on land use activities within 10 km of designated water crossings.”

In 2014, the WWF<sup>2</sup> stated:

“WWF recommends ... all traditionally-known caribou water crossings in the NSA, namely that they be assigned a designation that allows for seasonal restrictions and conditions upon industrial uses that could negatively impact the ecological significance of these sites for caribou, and that protects caribou when they are using them. WWF’s reasoning and recommendations for both industry and Inuit engagement in arriving at such restrictions/conditions for water crossings are the same as for caribou sea ice crossings above.”

In 2019, North Slave Metis Alliance<sup>3</sup> stated:

“[U]nrestricted shipping between Baker Lake and Chesterfield Inlet may impact sensitive caribou area. Furthermore. NPC should ensure conditions are in place for shipping-related activities. They are not currently taken into account for the prohibitions to protect freshwater caribou.”

In 2019, some Kugluktuk<sup>4</sup> residents stated during NPC community engagement sessions on the 2016 DNLUP that seasonal restrictions would be appropriate for freshwater crossings, some said year-round was appropriate, and others said a VEC designation would be adequate.

#### Considerations

Some participants recommend seasonal restrictions at freshwater crossings rather than year-round prohibitions. However, the NPC has not received detailed recommendations on appropriate seasonal dates applicable to freshwater crossings in different locations.

It is noted that the BQCMB, in 2017, changed its 2014 recommendation from “a land use designation that provides seasonal restrictions on land use activities

within 10 km of designated water crossings” to support for a LU designation at freshwater crossings.

#### 2.2.11.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.2.11.6.4 Option 4 - Valued Component

In 2019, some Kugluktuk<sup>5</sup> residents stated during the NPC community engagement sessions on the 2016 DNLUP that seasonal restrictions would be appropriate for freshwater crossings, some said year-round restrictions were appropriate, and others said a VEC designation would be adequate.

#### Considerations

It is noted that some Kugluktuk residents support this option.

#### 2.2.11.7 NPC Recommendation - LU

Given that:

#### CARIBOU:

**The overall importance of the issue is considered HIGH.**

#### CARIBOU FRESHWATER CROSSINGS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

#### Recommendation for Freshwater Caribou Crossings

Option 1 is recommended:

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>2</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>3</sup> (North Slave Metis Alliance (NSMA), 2019-01-25. NPC Public Registry File # 16-244E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)



- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by multiple participants as areas requiring protection, and the NPC has not received detailed recommendations on appropriate seasonal dates applicable to freshwater crossings in different locations.

#### LAND USE PLAN POLICY RECOMMENDATION

### **CARIBOU FRESHWATER CROSSINGS**

#### **LIMITED USE**

##### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

### 2.2.11.8 Summary of Revisions

#### **KRLUP and NBRLUP**

The KRLUP and NBRLUP generally prohibit development activities within caribou water crossings. The KRLUP and NBRLUP also provide that incompatible activities should be restricted during migration seasons to avoid disturbing caribou.

#### **2012, 2014 and 2016 DNLUP**

Neither the 2012 nor 2014 DNLUP included specific plan requirements for caribou freshwater crossings. In the 2016 DNLUP, freshwater caribou crossings were assigned a PA designation that prohibited all uses, with the exception of marine shipping between Chesterfield Inlet and Baker Lake.

#### **2021 DNLUP**

The 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses

is consistent, although the terminology has changed from a PA designation in the earlier version to LU in 2021.

### 2.2.12 Caribou Sea Ice Crossings

Some caribou herds migrate across the frozen sea ice to reach their calving areas. These herds are vulnerable to changing sea ice conditions, and disturbance by ice-breaking.

#### 2.2.12.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
QWB, 2018	7,635	0
Kitikmeot/Kivalliq (additional), 2020	61,750	2
WWF, 2014	61,495	2

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“Collaring of Dolphin-Union caribou was conducted between 1999 and 2004; however, collaring was discontinued and has not occurred since. There is a need to establish current population status and baseline information on their habitat is unavailable. Patterns and timing of movements and conditions for ice crossings and non-ice crossing are also unavailable. Therefore, expanding the monitoring of trends in Dolphin Union caribou populations would be useful. The implications of global warming is unknown. Cumulative effects for the Dolphin Union caribou herd are unknown relative to mining activity, oil and gas exploration and development. There is an absence of information to discriminate between effects of environmental variation and human activities.”

In 2014, the WWF<sup>2</sup> provided digital maps of this type of caribou range, along with the note:

##### ***“Peary Caribou trans-island movements Somerset Prince of Wales Island***

“Peary caribou presence data on Somerset Island, Prince of Wales Island, and the Boothia Peninsula in the mid-1960s to mid-1970s. Digitized by WWF Global Arctic Programme from Fig 4.1 of: Taylor, Alexandra D.M. 2005. Inuit Qaujimajatuqangit about Population Changes and Ecology

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (WWF-Canada, 2014-04-11. NPC Public Registry File # 12-188E)



of Peary Caribou and Muskoxen on the High Arctic Islands of Nunavut. Master's Thesis. Queens University, Ontario

*"Peary Caribou and Dolphin Union caribou herd trans-island movements"*

"Trans-island movements of island caribou on the sea ice. For the Bathurst Island Complex, the data are from Jenkins and Lecomte (2012). Movements between Prince of Wales and Somerset Island are from Miller et al. (2005). Paths between Victoria Island and the continent are from M. Dumond (Government of Nunavut) and Poole et al. (Poole et al. 2010), a possible intermediate zone between barren-ground and the Peary Caribou."

In 2018, the QWB<sup>1</sup> also suggested new caribou sea ice crossings in the high Arctic, across eastern Baffin Island fjords, and between Baffin Island and Melville Peninsula:

"Caribou move between northern Baffin Island and Melville Peninsula at two specific crossings in Fury and Hecla Strait. These crossings are important to the seasonal and interannual movements of these tundra wintering populations.

"To adapt to changing conditions of forage availability and accessibility throughout the snow-covered period, caribou on Baffin Island, Melville Peninsula and the High Arctic often move short distances across fjords and straits, and longer distances between islands as and when needed. Sea-ice crossings are critical to female caribou as they migrate to access suitable areas where they can successfully give birth to their calves, and then move to favourable post-calving areas. All of these caribou must cross fiords, inlets and straits to find wintering areas where forage may be accessible. In some areas, caribou must cross on the sea ice because of unpassable icefields and cliffs that jut out of the sea vertically up to 1600 m in elevation."

In 2019, Kugluktuk<sup>2</sup> residents agreed with the boundaries presented in the 2016 DNLUP, but advised to include also the area immediately adjacent to Kugluktuk and the mouth of the Coppermine as well as all of Bathurst Inlet as a caribou sea ice crossing.

In 2019, Cambridge Bay<sup>3</sup> residents advised expanding the caribou sea ice crossing area eastwards to King William

Island. Cambridge Bay residents also advised including Bathurst Inlet as a caribou sea ice crossing area.

In 2020, Nauyasat<sup>4</sup> residents indicated areas adjacent to the "neck" of the Melville Peninsula that should be added to the caribou sea ice crossings mapping.

In 2020, Baker Lake<sup>5</sup> residents suggested that much of Chesterfield Inlet should be considered as a caribou sea ice crossing.

In 2020, Taloyoak<sup>6</sup> residents supported the caribou sea ice designation for Peel Sound, but also added areas on either side of the "neck" of Boothia Peninsula, and areas on the east side of Bellot Strait.

In 2020, Gjoa Haven<sup>7</sup> residents suggested adding in the Rasmussen Basin as important caribou sea ice crossings.

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou sea ice crossings. Peary Caribou, the Melville herds, and the Dolphin and Union herd rely on specific locations where waterways are the narrowest for their migratory crossings. These locations do not change and are known primarily by IQ. In particular:

- Dolphin & Union herd movements have been identified between Victoria Island and the mainland;
- Peary caribou inter-island movements have been identified (Prince of Wales, Somerset and Boothia Peninsula); and
- Peary caribou inter-island movements have been identified within the Bathurst Island Complex.

***The certainty of the identified geographic boundaries of CARIBOU SEA ICE CROSSINGS is considered MODERATE because:***

- ***The areas are identified with moderate precision/scale;***
- ***There is moderate agreement among participants regarding the boundaries; and***
- ***The information is moderately current.***

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-191E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

### 2.2.12.2 Environmental and Cultural Importance

In 2013, Resolute Bay<sup>1</sup> residents stated to the NPC that they:

“[want] a marine conservation area South and West of Resolute because...there is also caribou crossing there.

“The identified caribou sea ice crossing between Somerset Island and Prince of Wales Island...is used, and caribou also cross between Prince of Wales Island and Bathurst Island.”

In 2013, Grise Fiord<sup>2</sup> residents stated to the NPC that:

“Our caribou are not the same as the Baffin Island Caribou. They calve differently, not in one area.

“Because Caribou move over the years and that they move to other places, we are very concerns as hunters about the area where they are looking for coal, as they will be doing a lot of activity up there this summer even though the Caribou are many. We are concerned”.

In 2014, the GN<sup>3</sup> stated:

“The Dolphin and Union herd was assessed as a Species of Special Concern by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) in 2004, up-listed under part 4 of Schedule 1 of the federal Species at Risk Act in 2011 (SARA). Dolphin and Union caribou major feature is their sea-ice migration. They migrate to Victoria Island in the spring where they spend the summer calving; in the fall, they migrate to the mainland to spend the winter. Since 1980, the Dolphin and Union migrate from the entire south coast of Victoria Island from the Dolphin and Union Strait to Cape Colborne without interruption. Therefore, seasonal connectivity of the sea ice between Victoria Island and the mainland is essential to their migration and is associated to a healthy and viable population that can sustain harvest opportunities. An increase in ice-breaking activity and associated shipping traffic has important negative consequences for the Dolphin and Union caribou (IUCN Threat #4.3 Shipping lanes- High Impact).

...

“Some caribou herds migrate across sea ice to reach their calving areas. These herds are vulnerable to changing sea ice conditions, and injury and increased mortality by drowning resulting from ice breaking activities.”

In 2018, the QWB<sup>4</sup> stated:

“Sea-ice crossings are critical to female caribou as they migrate to access suitable areas where they can successfully give birth to their calves, and then move to favourable post-calving areas. All of these caribou must cross fiords, inlets and straits to find wintering areas where forage may be accessible. In some areas, caribou must cross on the sea ice because of unpassable icefields and cliffs that jut out of the sea vertically up to 1600 m in elevation.”

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of caribou sea ice crossings. The herds depend on the sea ice for their migratory routes.

***The environmental and cultural importance of CARIBOU SEA ICE CROSSINGS is considered HIGH because:***

- ***The importance of the areas to the communities is high; and***
- ***The importance of the areas to caribou is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The areas are essential to the biological productivity of caribou; and***
  - ***The habitat supports concentrations of caribou.***

### 2.2.12.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
QWB, 2018	7,635	25	5	1
Kitikmeot/ Kivalliq (additional), 2020	61,750	1,714	6	12
WWF, 2014	61,495	1,495	0	95

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-072E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-076E)

<sup>3</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-191E)

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

In 2014, the GN<sup>3</sup> stated:

“Development would only be restricted from a small area. Shipping in the open water season is not affected. There is no icebreaking activity currently in these areas.”

**Considerations**

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure at caribou sea ice crossings is considered low. Of particular note, seaways are only used by the animals when ice is thick enough to support the weight of the animals, which is also when regular shipping does not currently occur. In addition, although caribou sea ice crossings do not overlap with oil and gas Significant Discovery Licences (SDLs), they do overlap with the proposed Northern Marine Transportation Corridors Initiative (NMTCI).

***The potential for non-renewable resources, transportation and linear infrastructure at CARIBOU SEA ICE CROSSINGS is considered LOW because:***

- *The areas have no known mineral potential or oil and gas significant discovery;*
- *The areas have moderate potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively large.*

2.2.12.4 Sensitivity to Impacts

In 2018, QWB<sup>4</sup> stated:

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)  
<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

“Icebreaking at or near known sea-ice crossings will have significant negative impacts on the survival of these populations of caribou. Caribou may attempt crossing icebreaker tracks, and subsequently die through injury, exhaustion, drowning, or freezing upon failure to escape the water on the far side of the track. If they do not attempt the crossing, they may never reach areas with accessible forage at various times during winter, or never reach suitable calving and post-calving areas risking the population’s reproduction.

...

“Throughout the period from freeze up to break up, ready access across sea-ice is critical to the survival of caribou on northeastern Baffin Island and in the High Arctic. Future unmanaged human impacts from winter ship traffic would be devastating.

“The Caribou Sea-Ice Crossings identified in this Written Submission are additional Crossings that should also be protected. Construction and operation of wind turbines for electrical power generation have been found to negatively impact reindeer, which are far more habituated to humans. Inuit expect such infrastructure near sea-ice crossings would have similar or greater negative impacts on tundra caribou in Qikiqtaaluk Region.”

**Considerations**

Participants broadly agreed that the sensitivity of caribou sea ice crossings to impacts from incompatible uses is high and seasonal. It is understood that the main adverse impact to caribou sea ice crossings is due to ice-breaking.

***The sensitivity of CARIBOU SEA ICE CROSSINGS to impacts is considered HIGH and SEASONAL because:***

- *Caribou at sea ice crossings are highly sensitive to disturbance when using these areas;*
- *Caribou use sea ice crossings when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

2.2.12.5 Other Regulatory Tools

In 2017, the GoC<sup>5</sup> stated:

“The Government of Canada recommends that the Commission remove the ... recommendations to register sites of caribou sea ice crossings with the IMO.”

<sup>3</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)  
<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-191E)  
<sup>5</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

In 2018, the GoC<sup>1</sup> noted:

“Review of the Dolphin-Union herd and Peary caribou are undergoing a joint process that includes the Government of Nunavut and the Government of the Northwest Territories, in cooperation with the Government of Canada and co-management partners, as well as respective co-management processes legislated by the Inuvialuit Final Agreement and the Nunavut Agreement.

“The Management Plan for Dolphin and Union caribou recognizes that they require sea ice to permit their spring and fall migrations between Victoria Island and the mainland and that icebreaking can prevent their movement. One of the objectives in the Management Plan for Dolphin and Union caribou in Canada is to: “Minimize the disturbance to habitat and preserve sea ice crossings to maintain the ability of Dolphin and Union Caribou to move freely across their range” (page 7).

“A recovery strategy for Peary Caribou is currently being developed in accordance with the Species at Risk Act. The draft recovery strategy recognizes that Peary Caribou require sea ice to travel between islands and that icebreaking at certain times can pose a threat to the caribou by disrupting their inter-island movements. As an endangered species, identifying critical habitat for Peary Caribou in the recovery strategy is required. Once the recovery strategy is finalized, the Species at Risk Act requires that critical habitat identified therein be subject to protection.”

In 2020, the GoC noted:

“As part of the PVM pilot project in Cambridge Bay, on October 8 and 9, 2019, the Ekaluktutiak Hunters and Trappers Organization (EHTO) hosted an “Ice breaking” workshop. Participants included members from local and surrounding communities of the Kitikmeot region, federal and territorial governments, non-government organizations, academia, marine stakeholders and industry. The purpose of this workshop was to proactively address local concerns around the potential impacts of ice breaking on migrating caribou, local food security, and the safety of Inuit hunters and travelers on the sea ice. As an outcome of the workshop, a Notice to Mariners (NOTMAR) was drafted to provide information to vessel operators operating vessels with ice breaking capabilities in order to proactively avoid migrating caribou or Inuit travelling on the sea ice. The NOTMAR can be shared directly with

mariners, but the content can also be communicated via a Ship Safety Bulletin. The NOTMAR can be viewed below.

“As part of the development of the NOTMAR, a communication protocol was developed. In addition to contacting relevant community contacts during voyage planning, the communication protocol includes ongoing engagement between the Government of Canada and industry in an effort to increase awareness of the impacts of ice breaking on migrating caribou, local food security and the safety of Inuit hunters and travelers on the sea ice.”

### Considerations

Although a Notice to Mariners can include voluntary measures within caribou sea ice crossings that vessels may follow to reduce speed and avoid passing in front of caribou or opening multiple leads, and future measures may be identified through the SARA process, participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat.

***The potential value of including guidance in the NLUP for CARIBOU SEA ICE CROSSINGS is considered HIGH because:***

- *The issue is lightly addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

## 2.2.12.6 Policy Options for Sea Ice Crossings

### 2.2.12.6.1 Option 1 - Limited Use

No participant recommended this option.

### 2.2.12.6.2 Option 2 - Conditional Use

In 2014, the WWF<sup>2</sup> stated:

“Assign a designation that provides seasonal restrictions and conditions on all (industrial) development, such as shipping and ice breaking, for caribou sea ice crossings, especially for the Dolphin and Union herd and Peary caribou.”

In 2014, the GN<sup>3</sup> stated:

*“Sea Ice Crossings - Mainland Migratory Herds*

<sup>1</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>2</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>3</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

“Recommendation: Seasonal restrictions on icebreaking during crossing periods and restrictions on development activity when and where caribou are staging (preparing to cross). Restricted activities include, but are not limited to, air and vehicle traffic, ... or vibration disturbances.”

In 2018, the Spence Bay Hunters and Trappers Association (HTA)<sup>1</sup> stated:

“Specifically, we would request that the Commission designate Protected Area status to areas adjacent to and further northwest of the Peninsula which are known to be essential for Peary caribou ice crossings. The areas used for ice crossings, considered as a marine component, we feel deserve Protected Area status, to most importantly prohibit any ice breaking shipping to be allowed through the Franklin Strait.

“The HTA also recommends the NPC assign a Protected Area designation for caribou sea ice crossings through Franklin Strait, and that through either a Protected Area or an amended Special Management Area designation, it prohibit ice breaking shipping through this passage, as well as prohibiting the use and carry for use, of heavy fuel oil and blends through both the Franklin and Bellot Straits and areas surrounding the Peninsula, as outlined in Appendix A.”

In 2018, the QWB<sup>2</sup> advised:

- “Closed to all ship traffic, subject to safe navigation, during Ukiq, Ukiuq, Upiqakaaq and Upiqaaq.
- “On-ice winter roads and winter skid tracks are prohibited.
- “Wind turbines...must be at least 5 km from caribou calving and post-calving areas, and must be positioned so they are not visible from caribou calving and post-calving areas.
- “Any project in Nunavut that would violate these conditions is prohibited. “

In 2018, the GoC<sup>3</sup> noted:

“Some ice-breaking restrictions for the recovery of both species is supported by both scientific studies and IQ and will likely be required when critical habitat is published in a recovery strategy, bringing with it the requirement for critical habitat protection under the Species at Risk Act. It

should be noted that exceptions to the prohibitions that protect critical habitat from destruction are found in section 83 of the *Species at Risk Act*. Those exceptions would likely include icebreaking for the purpose of search and rescue, among other prescribed circumstances.

“More generally, it is not clear that the approach taken in the draft land use plan is the best or most appropriate mechanism to implement protective measures. Therefore, at this time the Government of Canada does not endorse the specific restrictions and manner that they are proposed in the draft NLUP. Once the recovery strategies and critical habitat have been developed in collaboration with our co-management partners and the recovery strategy is published, the most appropriate regulatory mechanism can be applied. The management plan for Dolphin and Union caribou recognizes the need to work with marine/industry/transportation organizations and regulators to seek ways to preserve sea ice crossings, and to investigate mechanisms and authorities that manage shipping traffic. The draft recovery strategy also recognizes the need to develop a plan with industry stakeholders to manage the timing of shipping and ice-breaking to minimize disruption of Peary Caribou inter-island movements.”

In 2019, Cambridge Bay<sup>4</sup> residents supported seasonal restrictions on ice-breaking in the Dolphin-Union crossing area.

In 2019, Kugluktuk<sup>5</sup> residents agreed with the 2016 DNLUP proposed dates to prevent ice-breaking.

In 2020, Taloyoak<sup>6</sup> residents supported restricting ice-breaking in the Peary caribou sea ice crossing area during NPC community engagement sessions on the 2016 DNLUP.

### Considerations

Although the GoC recommends waiting for the completion of recovery plans for Peary and Dolphin Union caribou before deciding on appropriate measures, several participants support including seasonal restrictions on shipping in the NLUP to prevent the disruption of caribou sea ice crossings. The Spence Bay HTA recommendations are consistent with a LU

<sup>1</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-191E)

<sup>3</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E) (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)



designation. The QWB recommendation to prohibit ice roads and skid tracks during the entire winter season may be unnecessarily restrictive.

#### 2.2.12.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.2.12.6.4 Option 4 - Valued Component

No participant recommended this option.

### 2.2.12.7 NPC Recommendation - CU

Given that:

#### CARIBOU:

The overall importance of the issue is considered HIGH.

#### CARIBOU SEA ICE CROSSINGS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	HIGH

#### Recommendation for Caribou Sea Ice Crossings

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Rationale:** Option 2 was recommended given the particular importance and unusual form of migratory corridor, used to access calving and winter habitats, which is essential for one or two particular times each year. Seasonal restrictions are applied to ice-breaking through the caribou sea ice crossings.

#### LAND USE PLAN POLICY RECOMMENDATION

### CARIBOU SEA ICE CROSSINGS

## CONDITIONAL USE

#### Condition:

- Subject to safe navigation, no ice-breaking is permitted in the following locations during the specified times:
  1. Northwest Passage/Coronation Gulf between Victoria Island and the Mainland (Dolphin & Union herd): Ukiag and Upingaksaq
  2. Peel Sound and Franklin Strait (Peary): Ukiuq, Upingaksaq, and Upingaaq
  3. Narrow seaways between Bathurst Island and the small islands north of Bathurst Island (Peary): Ukiag, Ukiuq, Upingaksaq, and Upingaaq
- Applicable condition does not apply to community resupply and emergency response

### 2.2.12.8 Summary of Revisions

#### KRLUP and NBRLUP

The KRLUP and NBRLUP provide that incompatible activities should be restricted during migration seasons to avoid disturbing caribou.

#### 2012, 2014 and to 2016 DNLUP

In the 2012 DNLUP, to manage caribou sea ice crossings, they were assigned recommendation PSE-R3. The specific recommendation stated: "Project Proposals located in and/or near known caribou sea ice crossing areas should take into account impacts that may impede the ability of caribou to cross the ice."

In the 2014 DNLUP, caribou sea ice crossings were assigned a MU designation. Additionally, the plan gave direction to regulatory authorities to mitigate impacts on the areas.

In the 2016 DNLUP, caribou sea ice crossings were assigned a SMA designation that included seasonal restrictions preventing any and all shipping during the seasons of Ukiag and Upingaksaq. In addition, the DNLUP recommended the GoC consider registering caribou sea ice-crossing as a special area, particularly sensitive sea ice area, or area to be avoided or a combination of these to ensure international vessels respect this closure.

#### 2021 DNLUP

The 2016 and 2021 recommendation to assign a land use designation to the areas with specific conditions is



consistent, although the terminology has changed from a SMA designation in earlier versions to CU in 2021.

### 2.2.13 Caribou Rutting Areas

#### 2.2.13.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN-DOE, 2015	202,603	6

In 2015, the GN<sup>1</sup> recommended that caribou rutting areas be incorporated into the O&R and NLUP.

##### Considerations

Caribou rutting areas were provided by the GN in 2015 based on collaring data. The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou rutting areas. The discussion above in the “General Comments on Defining Geographic Boundaries for Caribou Ranges” section is also applicable here.

***The certainty of the identified geographic boundaries of CARIBOU RUTTING AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

#### 2.2.13.2 Environmental and Cultural Importance

In 2014, the GN<sup>2</sup> stated:

“Rutting areas are acknowledged as areas where caribou are particularly vulnerable to disturbance of the breeding process, which results in lower pregnancy rates. This is also an important time for breeding and pregnant cows to gain added nutrition before the winter. The GN proposes seasonal restrictions in which operators would be required to shut down and cease aircraft and vehicle use while caribou are near operations established within designated rutting areas. Development would continue to be permitted within these areas. Only seasonal restrictions

apply. Minimizing disturbances in rutting areas allows for higher reproductive rates.”

##### Considerations

Participants broadly agreed on the moderate environmental and cultural importance of caribou rutting areas. It is noted that the rutting period is essential both for the impregnation of caribou and for caribou to put on as much fat as they can before winter.

***The environmental and cultural importance of CARIBOU RUTTING AREAS is considered MODERATE because:***

- *The importance of the areas to caribou is moderate because:*
  - *The habitat supports concentrations of caribou.*

#### 2.2.13.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN-DOE, 2015	202,603	21,712	3,228	2,223

Parnautit,<sup>3</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>4</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

##### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in caribou rutting areas is considered high. Of particular note, caribou rutting areas for almost all herds are located in or near areas with mineral potential resources. There are also some existing mineral rights in

<sup>1</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

caribou rutting areas and some areas contain IOL. In addition, a portion of the proposed Kivalliq-Manitoba Road travels through the caribou rutting areas.

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU RUTTING AREAS is considered HIGH because:***

- *The areas have significant known mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

#### 2.2.13.4 Sensitivity to Impacts

In 2015, the GN<sup>1</sup> stated:

“In rutting areas, caribou are known to be particularly vulnerable to disturbance during the breeding process. This disturbance can result in lower pregnancy rates. This is also a critical time for breeding and for pregnant cows to gain added nutrition before the winter. It is important that these areas of ecological significance to the caribou lifecycle be included and accurately reflected in the NLUP and its associated maps and documents.”

In 2017, the GN<sup>2</sup> identified herd-specific occupancy dates for GN delineated habitats, which illustrate the seasonality of the habitat areas:

*“Rutting (Appendix G)*

*“Ahiak: Oct 23 – Nov 8*

*“Bathurst: Oct 17 – 31*

*“Beverly: Oct 21 – Nov 3*

*“Bluenose East: Oct 12 – Nov 4*

*“Bluenose West: Oct 13 – Nov 7*

*“Dolphin and Union: Oct 13 – Nov 7*

*“Lorillard: Oct 23 – Nov 8*

*“Qamanirjuaq: Oct 19 – Nov 6*

*“Wager Bay: Oct 23 – Nov 8”.*

#### Considerations

Participants broadly agreed that the sensitivity of caribou rutting areas to impacts from incompatible uses is high and seasonal. In rutting areas, caribou are known to be particularly vulnerable to disturbance during the breeding process. This disturbance can result in lower pregnancy rates. This is also a time for breeding and for pregnant cows to gain added nutrition before the winter.

***The sensitivity of CARIBOU RUTTING AREAS to impacts is considered HIGH and SEASONAL because:***

- *Caribou rutting areas are highly sensitive to disturbance when caribou are using these areas;*
- *Caribou use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

#### 2.2.13.5 Other Regulatory Tools

As stated in 2017 by the NWMB<sup>3</sup> in the report of its 2015 caribou workshop:

“9. Mobile caribou conservation measures – designed to conserve caribou use of seasonal ranges as opposed to conservation of caribou habitat – deserve further careful examination and consideration – for example, within buffer zones in the vicinity of a protected area or within other seasonal ranges where concerns exist about disturbance to caribou but do not warrant full area protection.”

#### Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including SARA, the Nunavut *Wildlife Act*, and project-by-project mitigation measures implemented through the NIRB process.

This could also be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by the NPC, but would be addressed by an appropriate regulatory authority.

***The potential value of including guidance in the NLUP for CARIBOU RUTTING AREAS is considered HIGH because:***

<sup>1</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>3</sup>(Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

- *The issue is only partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

## 2.2.13.6 Policy Options for Caribou Rutting Areas

### 2.2.13.6.1 Option 1 - Limited Use

No participant recommended this option.

### 2.2.13.6.2 Option 2 - Conditional Use

In 2014, in a submission that has since been departed from (see Option 4 below), the GN<sup>1</sup> stated:

*"Rutting Areas- Mainland Migratory Herds*

*"Recommendation: Seasonal restrictions (Oct. 10-Nov. 10) on development activity when and where caribou are present. Restricted activities include, but are not limited to, air and vehicle traffic, loud or repetitive noise or vibration disturbances."*

In 2015, in a submission that has since been departed from (see Option 4 below), the GN<sup>2</sup> stated:

*"It is recommended that rutting areas be assigned a Special Management land use designation where development is permitted to occur with seasonal restrictions when and where caribou are present. Seasonal restrictions would require operators to shut down and cease aircraft and vehicle use while caribou are present near operations established within designated rutting areas. In times when caribou are not present, activity would continue to be permitted within these areas. ...*

...

*"Assign all caribou rutting areas a Special Management Area land use designation that:*

- Includes a conformity requirement whereby proponents must demonstrate in their project proposal that consideration has been given to their location within a designated rutting area;
- Includes direction to proponents specifying that seasonal restrictions on development activity

apply when and where caribou are present (approximately Oct. 10 – Nov. 10), and further specifying that the restricted activities include but are not limited to: air and vehicle traffic, loud or repetitive noise, and/or vibration disturbances."

In 2016, the KivIA<sup>3</sup> stated:

*"For other seasonal ranges (including as defined here post-calving/summer, late summer/pre-rut, fall migration/rut, winter and spring migration), apply **mobile protection measures** with different criteria and timing for different seasons within anticipated seasonal boundaries and types of exploration or development activities."*

In 2017, the North Slave Métis Alliance<sup>4</sup> stated:

*"Rutting areas should be given 'Option 2: Special Management Area' protection."*

## Considerations

The NPC notes that the North Slave Métis Alliance supports this option. The NPC also notes that prior to the 2016 DNLUP, there was broad support for seasonal restrictions for caribou rutting areas.

As noted above, this could be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by the NPC, but would be addressed by an appropriate regulatory authority.

### 2.2.13.6.3 Option 3 - Mixed Use

No participant recommended this option.

### 2.2.13.6.4 Option 4 - Valued Component

In 2017, the GN<sup>5</sup> revised its previous recommendations to suggest that the NLUP should only note the seasonal windows where caribou are known to be present within other important habitats, including rutting areas. In particular, the GN stated:

*"... Proponents should note the following seasonal windows where caribou are known to be present within other important habitats:*

<sup>1</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>2</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>3</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>4</sup> (North Slave Metis Alliance (NSMA), 2017-01-13. NPC Public Registry File # 16-072E)

<sup>5</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

...

*"Rutting (Appendix G)*

*"Ahiak: Oct 23 – Nov 8*

*"Bathurst: Oct 17 – 31*

*"Beverly: Oct 21 – Nov 3*

*"Bluenose East: Oct 12 – Nov 4*

*"Bluenose West: Oct 13 – Nov 7*

*"Dolphin and Union: Oct 13 – Nov 7*

*"Lorillard: Oct 23 – Nov 8*

*"Qamanirjuaq: Oct 19 – Nov 6*

*"Wager Bay: Oct 23 – Nov 8".*

### Considerations

The NPC notes that the GN's comment is best characterized as supporting this option.

As noted above in 2.2.7, in the absence of information on how mobile CPMs would be implemented, it is difficult to direct in a land use plan that they be implemented as a condition of proceeding with a project or as a requirement put on regulatory authorities to themselves implement and monitor. Identifying the areas as VECs would support consideration of the seasonal use of these areas by caribou.

### 2.2.13.7 NPC Recommendation - VEC

Given that:

#### CARIBOU:

The overall importance of the issue is considered HIGH.

#### CARIBOU RUTTING AREAS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	MODERATE
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	HIGH

### Recommendation for Caribou Rutting Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.
- Regulatory authorities may implement mobile CPMs.

**Information on VCs:** Identify caribou rutting areas as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended for these areas given their large geographic extent, the relatively low impacts that disturbance can have (as compared to calving areas), and the theoretical state of mobile CPMs at this time and the uncertainty that a land use plan could implement them as a condition.

#### LAND USE PLAN POLICY RECOMMENDATION

### CARIBOU RUTTING AREAS

#### VALUED ECOSYSTEM COMPONENT

### 2.2.13.8 Summary of Revisions

#### KRLUP and NBRLUP

The exiting regional land use plans do not specifically discuss caribou rutting areas.

#### 2012, 2014 to 2016 DNLUP

Neither the 2012 nor 2014 DNLUP included specific plan requirements for caribou rutting areas. In 2016, they were assigned a MU designation and presented as areas of a known VEC.

#### 2021 DNLUP

Like the 2016 DNLUP, caribou rutting areas are MU in the 2021 DNLUP. In addition, the 2021 DNLUP identifies the areas as known VECs.

### 2.2.14 Caribou Migration Corridors

Migration corridors are used by caribou for movement between important areas of caribou seasonal ranges.

## 2.2.14.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
WWF, 2014	196,910	6
QWB, 2018	18,103	1
Kitikmeot/Kivalliq (additional), 2020	9.34	0

In 2014, the WWF<sup>1</sup> provided digital maps of this type of caribou range, along with the note:

### *“Fall Migration Pre-Breeding Corridors*

“A series of density maps (based on a kernel analysis) were developed to identify locations key to nine major life cycles or seasons (spring migration, calving, post-calving, summer, late summer, fall migration/pre-breeding, rut/breeding, fall migration post-breeding, and winter) for each of the caribou subpopulations within Nunavut (Ahiak, Bathurst, Beverly, Bluenose East, Bluenost West, Lorillard, Qamanirjuaq and Wager Bay). The density maps were derived from caribou collar telemetry data collected at various times between 1993 and 2012. The seasonal density datasets were analysed to identify seasonal home ranges (the area each subpopulation occupies within a specified date range). Within each seasonal range, Core areas were identified for each of the seasons by examining the utilization distributions within each range - the probability of finding a caribou within the range within the specified season. The core areas represent those locations where there is a 95% probability of caribou being present. The date ranges for fall, pre-breeding migration varies between subpopulations and have been fine-tuned based on a yearly analysis, but generally are the following: - Ahiak: 22 Sep - 22 Oct - Bathurst: 7 Sep - 16 Oct - Beverly: 12 Sep - 20 Oct - Bluenose East: 7 Sep - 11 Oct - Bluenose West: 23 Aug - 12 Oct - Lorillard: 22 Sep - 22 Oct - Qamanirjuaq: 17 Sep - 18 Oct - Wager Bay: 22 Sep - 22 Oct

### *“Fall Migration Post-Breeding Corridors*

...

### *“Spring Migration Corridors*

“A series of density maps (based on a kernel analysis) were developed to identify locations key to nine major life cycles or seasons (spring migration, calving, post-calving, summer, late summer, fall migration/pre-breeding, rut/breeding, fall migration post-breeding, and winter) for each of the caribou subpopulations within Nunavut (Ahiak,

Bathurst, Beverly, Bluenose East, Bluenost West, Lorillard, Qamanirjuaq and Wager Bay). The density maps were derived from caribou collar telemetry data collected at various times between 1993 and 2012. The seasonal density datasets were analysed to identify seasonal home ranges (the area each subpopulation occupies within a specified date range). Within each seasonal range, Core areas were identified for each of the seasons by examining the utilization distributions within each range - the probability of finding a caribou within the range within the specified season. The core areas represent those locations where there is a 95% probability of caribou being present. The date ranges for spring migration varies between subpopulations and have been fine-tuned based on a yearly analysis, but generally are the following: - Ahiak: 6 Apr - 12 Jun - Bathurst: 20 Apr - 1 Jun - Beverly: 10 Apr - 5 Jun - Bluenose East: 10 Apr - 27 May - Bluenose West: 25 Apr - 28 May - Lorillard: 5 Apr - 28 May - Qamanirjuaq: 15 Apr - 8 Jun - Wager Bay: 1 Apr - 29 May.”

In 2017, the GN<sup>2</sup> in 2017 confirmed the above seasonal dates submitted by WWF.

In 2017, the Hamlet of Cambridge Bay<sup>3</sup> stated:

“The caribou migration route of caribou is not a consistent route. Request that maps are changed to reflect the new migration route as expressed at the Breakout session of the Cambridge Bay Pre Hearing.”

In 2018, the QWB<sup>4</sup> provided information on additional migration corridors in northern Baffin Island and Melville Peninsula:

“The 2016 draft Nunavut Land Use Plan (NLUP) claimed that there is insufficient information for caribou-specific land use designations, except on the mainland of Nunavut. The QWB believes that this is not true...”

“Many Inuit know these corridors well. In some places, corridors used by caribou during snow-free months are obvious from trails well rutted into the land by decades and probably centuries of use by migrating caribou. However, corridors across some terrain leave little if any physical evidence (e.g., over bedrock and where caribou can spread out and move over broad routes). Caribou corridors in spring and early winter across snow leave little evidence on the land. Whether the land is marked by these trails or not, Inuit know where many of these corridors are.

“Tundra caribou use these corridors during most seasons, except during Ukiaq and Ukiuq when they move relatively little. Inuit harvest caribou along these corridors during

<sup>1</sup> (WWF-Canada, 2014-04-11. NPC Public Registry File # 12-188E)

<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-061E)

<sup>3</sup> (Hamlet of Cambridge Bay, 2017-01-13. NPC Public Registry File # 16-058E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-192E)



many parts of the year. Nevertheless, we believe that caribou are most susceptible to the impacts of human disturbance and development during Upingaksaq, Aujaq and Ukiaksaq. During Upingaksaq, pregnant females are migrating to places where they will give birth. During Aujaq, females are nursing and otherwise caring for their calves. In Ukiaksaq, caribou are both mating and searching for suitable wintering areas where the food will be most accessible through the snow, in preparation for Ukiuq. During Aujaq and Ukiaksaq, Inuit harvest caribou along these known routes for valued caribou hides and food. This harvesting is governed by traditional customs well known to local Inuit in order to minimize disturbance to the caribou.

“Special Note: Natsilik caribou on southern Baffin Island migrate seasonally between 250 and 450 km each way. Their migration corridors are well known to Inuit, and these are largely within the Multiple Values Area of West Central Baffin Island (see WS-11). The known caribou harvesting, calving and post-calving, migration corridors and sea-ice crossing areas on Melville Peninsula are all interconnected (see also maps for WS-07, 08 and 09 for a complete picture). Construction and operation of wind turbines for electrical power generation have been found to negatively impact reindeer, which are far more habituated to humans. Inuit expect such infrastructure near sea-ice crossings would have similar or greater negative impacts on tundra caribou in Qikiqtaaluk Region.”

In 2020, Naujaat<sup>1</sup> residents suggested a small additional area of migratory corridors.

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou migration corridors. The discussion above in the ‘General Comments on Defining Geographic Boundaries for Caribou Ranges’ section is also applicable here. The NPC notes that migration corridors marked by the Hall Beach HTO<sup>2</sup> appear to match those listed by the QWB.

***The certainty of the identified geographic boundaries of CARIBOU MIGRATION CORRIDORS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

## 2.2.14.2 Environmental and Cultural Importance

In 2015, the GN<sup>3</sup> stated:

“Migration corridors are critical for movement between important areas of caribou seasonal ranges. Disturbance and obstacles along the migration route can displace herds and alter access to critical habitat and forage. Disrupting these migratory routes can lead to a change or loss of migratory behaviour over time resulting in lower productivity and abundance, and change caribou distribution across the landscape which may impact subsistence harvesters. It is important that these areas of ecological significance to the caribou lifecycle be included and accurately reflected in the DNLUP and its associated maps and documents.

“Minimizing disturbances along the migration routes will remove factors that can cause caribou to shift or abandon their migration routes. It is recommended that migration corridors be assigned a Special Management Areas land use designation where development is permitted to occur with seasonal restrictions that apply when and where caribou are present. In times when caribou are not present, activities would continue to be permitted within these areas.”

In 2016, the KivIA<sup>4</sup> stated the Spring Migration Corridors have a ‘Cautionary’ risk category; while Fall Migration Corridors have a ‘Low’ risk category.

### Considerations

Participants broadly agreed on the moderate environmental and cultural importance of caribou migration corridors.

***The environmental and cultural importance of CARIBOU MIGRATION CORRIDORS is considered MODERATE because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is high; and*
- *The importance of the areas to caribou is moderate because:*
  - *Alternative habitat is likely to be available;*
  - *The areas are moderately essential to the biological productivity of caribou; and*
  - *The habitat supports concentrations of caribou.*

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>2</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>4</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)



### 2.2.14.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
WWF, 2014	196,910	19,060	4,225	2,567
QWB, 2018	18,103	5,683	538	110
Kitikmeot/ Kivalliq (additional), 2020	9.34	2.4	0	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in caribou migration corridors is considered high.

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU MIGRATION CORRIDORS is considered HIGH because:***

- *The areas have significant known mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

### 2.2.14.4 Sensitivity to Impacts

In 2014, the GN<sup>3</sup> stated:

#### *"Migration Corridors Mainland Migratory Herds"*

"Caribou populations rely on migration to maximize their access to forage and habitats free of disturbance and thus maximize productivity. If disturbance caused caribou to stop their traditional migratory behaviour, this would substantially lower productivity and abundance, as well as fundamentally change caribou distribution across the landscape ..."

In 2018, the QWB<sup>4</sup> stated:

"Unlike large populations of caribou, small ones are not as resilient to disturbance, loss of habitat, and human development that may separate them from their seasonal habitats. The protection of migration corridors of caribou during these decades is critically important, or the populations may never return to their former abundance in future, and their natural cycles could be lost.

...

"Impacts of exploration and development cannot be effectively mitigated in any of these critical areas during decades when their abundance or density is low. These realities are well known through IQ (although science may lag behind), and the impacts of development may be most severe for caribou populations that depend on Arctic tundra year-round."

#### Considerations

Participants broadly agreed that the sensitivity of caribou migration corridors to impacts from incompatible uses is moderate and seasonal. It is acknowledged that a case has been made that Baffin region migration corridors may be more sensitive than on the mainland, however further information would be required to understand the planning implications.

***The sensitivity of CARIBOU MIGRATION CORRIDORS to impacts is considered MODERATE and SEASONAL because:***

- *Caribou are moderately sensitive to disturbance when using migration corridors;*
- *Caribou use migration corridors when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-192E)

## 2.2.14.5 Other Regulatory Tools

As stated in 2017 by NWMB<sup>1</sup> in the report of its 2015 caribou workshop:

“Mobile caribou conservation measures – designed to conserve caribou use of seasonal ranges as opposed to conservation of caribou habitat – deserve further careful examination and consideration – for example, within buffer zones in the vicinity of a protected area or within other seasonal ranges where concerns exist about disturbance to caribou but do not warrant full area protection.”

### Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including the Nunavut *Wildlife Act* and project-by-project mitigation measures implemented through the NIRB process.

This could also be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by the NPC but would be addressed by the appropriate regulatory authority.

***The potential value of including guidance in the NLUP for CARIBOU MIGRATION CORRIDORS is considered HIGH because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is low overlap of existing legislation and regulations with NPC jurisdiction.***

## 2.2.14.6 Policy Options for Migration Areas

### 2.2.14.6.1 Option 1 - Limited Use

No participant recommended this option.

### 2.2.14.6.2 Option 2 - Conditional Use

In 2014, the Sayisi First Nation<sup>2</sup> of Manitoba stated:

“restrictions on land use activities should be applied to protect caribou from disturbance effects of land use

activities around key water crossings and along seasonal migration routes.”

In a submission that has since been departed from (see Option 4 below), the GN<sup>3</sup> stated in 2014:

#### *“Migration Corridors Mainland Migratory Herds*

“Recommendation: Seasonal restrictions on development activity when and where caribou are present. Restricted activities include, but are not limited to, air and vehicle traffic, loud or repetitive noise or vibration disturbances.”

In a submission that has since been departed from (see Option 4 below), the GN<sup>4</sup> stated in 2015:

“Assign caribou migration corridors a Special Management Areas land use designation that:

“- Includes direction to proponents specifying that seasonal restrictions on development activity apply when and where caribou are present (approximately Oct. 10 – Nov. 10 [Fall Migration], and April 15 – June 1 [Spring migration]);

“- Includes a conformity requirement whereby proponents must demonstrate in their project proposal that consideration has been given to their location within a designated migration corridor, and that any linear feature proposed within a designated migration corridor will not impede the movement of caribou;

“- Specifies the following restricted activities when and where caribou are present (list not exhaustive): air and vehicle traffic, loud or repetitive noise, and/or vibration disturbances.”

In 2015, the Baker Lake HTO<sup>5</sup> stated:

“Caribou migration routes also need some protection. If the migration routes are not protected, caribou will not be able to reach water crossings and calving grounds. Any mining or exploration activity must stop prior to when caribou herds approach, and not resume until the caribou have well passed.”

In 2016, the Kivl<sup>6</sup> stated:

“For other seasonal ranges (including as defined here post-calving/summer, late summer/pre-rut, fall migration/rut, winter and spring migration), apply mobile protection measures with different criteria and timing for different

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>2</sup> (Sayisi Dene First Nation, 2014-05-15. NPC Public Registry File # 12-196E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>4</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>5</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-098E)

<sup>6</sup> (Kivalliq Inuit Association (Kivl), 2016-05-04. NPC Public Registry File # 14-182E)

seasons within anticipated seasonal boundaries and types of exploration or development activities.

In 2016, the KWB<sup>1</sup> stated:

“the KWB recommends that the Nunavut Land Use Plan places seasonal restrictions on caribou migration routes. Mining and exploration activity should not be permitted during the migration season”

In 2017, the North Slave Metis Alliance<sup>2</sup> stated:

“Migration Corridors should receive “Option 2: Special Management Areas” protection.”

In 2018, the QWB<sup>3</sup> stated:

“Proposed Designation: Special Management Area

“Proposed Restrictions:

“Prohibited Uses: The following uses are prohibited:

- Hydro-electrical and related infrastructure;
- Linear Infrastructure; and
- Related research except Non-Exploitive Scientific Research

“Conditions:

- During Aujaq and Ukiaksaaq, closed to any activities related to: Mineral Exploration and Production; Oil and Gas Exploration and Production; and Quarries.
- Long-term projects and activities related to any of the above land uses must shut-down during Aujaq and Ukiaksaaq.
- Wind turbines for electrical generation must be at least 5 km from caribou migration corridors, and must be positioned so they are not visible from caribou migration corridors.
- Any project in Nunavut that would violate these conditions is prohibited.

“Proposed Boundaries of the Community Areas of Interest - Caribou Migration:

“These areas are approximately 10-km wide zones along the major caribou routes known to Inuit; however, some Corridors may be wider where more than one major route run parallel or at angles to each other. Caribou actually

utilize wider areas in many places or may use other routes, but the mapped areas are the most important Corridors.”

## Considerations

It would be helpful to have information on whether vacant or silent anthropogenic features would have notable impact on migrating caribou, within the primary migratory paths when cows are not heavy with calf, and the calves are half-grown.

This could also be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by NPC but would be addressed by an appropriate regulatory authority.

### 2.2.14.6.3 Option 3 - Mixed Use

No participant recommended this option.

### 2.2.14.6.4 Option 4 - Valued Component

In 2017, the GN<sup>4</sup> revised its previous recommendations to suggest that the NLUP should note the seasonal windows where caribou are known to be present within other important habitats, including rutting areas.

### 2.2.14.7 NPC Recommendation - VEC

Given that:

#### CARIBOU:

**The overall importance of the issue is considered HIGH.**

#### CARIBOU MIGRATION CORRIDORS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>MODERATE</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and SEASONAL</b> (Baffin Island and Melville Peninsula)

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>2</sup> (North Slave Metis Alliance (NSMA), 2017-01-13. NPC Public Registry File # 16-072E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-192E)

<sup>4</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

		<b>MODERATE and SEASONAL</b> (Other areas)
<b>v.</b>	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

### Recommendation for Caribou Migration Corridors

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs VSECs.
- Identified area to be included on Map B.
- Regulatory authorities may implement mobile CPMs.

**Information on VCs:** Identify caribou migration areas as areas of a known VEC that should be given particular consideration.

**Rationale:** Option 4 was recommended for these areas given the large geographic extent of the areas, and the relatively low impacts that disturbance can have (as compared to calving areas), the theoretical state of mobile CPMs at this time and the uncertainty that a land use plan could implement them as a condition at this time.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **CARIBOU MIGRATION CORRIDORS**

#### **VALUED ECOSYSTEM COMPONENT**

### 2.2.14.8 Summary of Revisions

#### KRLUP and NBRLUP

The KRLUP and NBRLUP provide that incompatible activities should be restricted during migration seasons to avoid disturbing caribou.

#### 2012, 2014 and 2016 DNLUP

Neither the 2012 nor 2014 DNLUP included specific plan requirements for caribou migratory corridors. In 2016, they were assigned a MU designation and presented as areas of a known VEC.

#### 2021 DNLUP

Like the 2016 DNLUP, the 2021 DNLUP identifies caribou migration corridors as known VECs.

### 2.2.15 Caribou Summer and Late Summer Areas

#### 2.2.15.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
Kitikmeot/Kivalliq (additional), 2020	1,133	0
WWF, 2014 (summer)	321,872	9
WWF, 2014 (late summer)	302,558	9

In 2014, the WWF<sup>1</sup> provided digital maps of this type of caribou range, along with the note:

#### *"Summer Core Range"*

"A series of density maps (based on a kernel analysis) were developed to identify locations key to nine major life cycles or seasons (spring migration, calving, post-calving, summer, late summer, fall migration/pre-breeding, rut/breeding, fall migration post-breeding, and winter) for each of the caribou subpopulations within Nunavut (Ahiak, Bathurst, Beverly, Bluenose East, Bluenose West, Lorillard, Qamanirjuaq and Wager Bay). The density maps were derived from caribou collar telemetry data collected at various times between 1993 and 2012. The seasonal density datasets were analysed to identify seasonal home ranges (the area each subpopulation occupies within a specified date range). Within each seasonal range, Core areas were identified for each of the seasons by examining the utilization distributions within each range – the probability of finding a caribou within the range within [the] specified season. The core areas represent those locations where there is a 95% probability of caribou being present. The summer season date range for each subpopulation is as follows: - Ahiak: 13 Jul - 12 Aug - Bathurst: 29 Jun - 17 Aug - Beverly: 9 Jul - 12 Aug - Bluenose East: 4 Jul - 12 Aug - Bluenose West: 4 Jul - 2 Aug - Lorillard: 14 Jul - 12 Aug - Qamanirjuaq: 4 Jul - 22 Aug - Wager Bay: 13 Jul - 12 Aug.

#### *"Late Summer Core Range"*

"A series of density maps (based on a kernel analysis) were developed to identify locations key to nine major life cycles

<sup>1</sup> (WWF-Canada, 2014-04-11. NPC Public Registry File # 12-188E)

or seasons (spring migration, calving, post-calving, summer, late summer, fall migration/pre-breeding, rut/breeding, fall migration post-breeding, and winter) for each of the caribou subpopulations within Nunavut (Ahiak, Bathurst, Beverly, Bluenose East, Bluenost West, Lorillard, Qamanirjuaq and Wager Bay). The density maps were derived from caribou collar telemetry data collected at various times between 1993 and 2012. The seasonal density datasets were analysed to identify seasonal home ranges (the area each subpopulation occupies within a specified date range). Within each seasonal range, Core areas were identified for each of the seasons by examining the utilization distributions within each range – the probability of finding a caribou within the range within the specified season. The core areas represent those locations where there is a 95% probability of caribou being present. The late summer season date range for each subpopulation is as follows: - Ahiak: 13 Aug - 21 Sep - Bathurst: 18 Aug - 6 Sep -Beverly: 13 Aug - 11 Sep - Bluenose East: 13 Aug - 6 Sep - Bluenose West: 3 - 22 Aug - Lorillard: 13 Aug - 21 Sep - Qamanirjuaq: 23 Aug - 16 Sep - Wager Bay: 13 Aug - 21 Sep.”

In 2015, the GN<sup>1</sup> confirmed the above seasonal ranges submitted by WWF.

In 2020, Kugaaruk<sup>2</sup> residents suggested an additional summer range area north of the community, on either side of Pelly Bay.

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of caribou summer and late summer areas. The discussion above in the “Defining Geographic Boundaries for Caribou Ranges” section is also applicable here.

***The certainty of the identified geographic boundaries of CARIBOU SUMMER AND LATE SUMMER AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

## 2.2.15.2 Environmental and Cultural Importance

The GN identified caribou late summer range for mainland herds based on tracking caribou (collared cows) by telemetry. In 2014, the GN<sup>3</sup> stated:

*“Seasonal Ranges- Mainland Migratory Herds*

...

*“These vast areas of Nunavut are important for the survival and success of caribou herds. It is unrealistic to restrict mineral exploration projects in these areas, however, proposed projects should include particular elements aimed at reducing disturbance to caribou wherever possible. The GN proposes that a recommendation be made to regulators and proponents to consider potential impacts that may impede the ability of caribou to effectively access summer and winter range and ensure feeding behavior is not significantly disrupted. The NPC would consider cumulative effects.”*

### Considerations

Participants broadly agreed on the moderate environmental and cultural importance of caribou summer and late summer areas.

***The environmental and cultural importance of CARIBOU SUMMER AND LATE SUMMER AREAS is considered MODERATE because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to caribou is moderate because:*
  - *Alternative habitat is likely to be available;*
  - *The areas are essential to the biological productivity of caribou; and*
  - *The habitat moderately supports concentrations of caribou.*

## 2.2.15.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km²)	IOL Surface (km²)	IOL Subsurface (km²)	Existing Rights (km²)
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<sup>1</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-061E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>3</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)



Kitikmeot/ Kivalliq (additional), 2020	1,133	840	0	3.07
WWF, 2014 (summer)	321,872	60,991	10,734	7,559
WWF, 2014 (late summer)	302,558	57,410	10,381	5,360

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in caribou summer and late summer areas is considered high. A portion of the proposed Kivalliq-Manitoba Road also overlaps with caribou summer and late summer range.

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU SUMMER AND LATE SUMMER AREAS is considered HIGH because:***

- *The areas have significant known mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

## 2.2.15.4 Sensitivity to Impacts

In 2015, the GN<sup>3</sup> stated:

“Seasonal ranges represent vast areas of Nunavut that are important for the survival and success of caribou herds. Proposed projects should include particular elements aimed at reducing disturbance to caribou wherever possible.”

In 2016, the KivIA<sup>4</sup> stated that late summer areas have a ‘cautionary’ risk category.

### Considerations

Participants broadly agreed that the sensitivity of caribou summer and late summer areas to impacts from incompatible uses is moderate and seasonal. Summer and late summer are when food is plentiful, when the caribou and calves are fully mobile, and when the caribou can move easily.

***The sensitivity of CARIBOU SUMMER AND LATE SUMMER AREAS to impacts is considered MODERATE and SEASONAL because:***

- *Caribou are moderately sensitive to disturbance when using summer and late summer areas;*
- *Caribou use summer and late summer areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

## 2.2.15.5 Other Regulatory Tools

As stated in 2017 by the NWMB<sup>5</sup> in the report of its 2015 caribou workshop:

“9. Mobile caribou conservation measures – designed to conserve caribou use of seasonal ranges as opposed to conservation of caribou habitat – deserve further careful examination and consideration – for example, within buffer zones in the vicinity of a protected area or within other seasonal ranges where concerns exist about disturbance to caribou but do not warrant full area protection.”

### Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including SARA, the Nunavut *Wildlife Act*, and project-by-project

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>4</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)

<sup>5</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)



mitigation measures implemented through the NIRB process.

This could also be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by the NPC, but would be addressed by an appropriate regulatory authority.

**The potential value of including guidance in the NLUP for CARIBOU SUMMER AND LATE SUMMER AREAS is considered HIGH because:**

- **The issue is partially addressed by other regulatory authorities; and**
- **There is low overlap of existing legislation and regulations with NPC jurisdiction.**

## 2.2.15.6 Policy Options for Summer and Late Summer Areas

### 2.2.15.6.1 Option 1 - Limited Use

In 2019, Kugaaruk<sup>1</sup> residents suggested strong protections for the summering area north of the community, during NPC community engagement sessions on the 2016 DNLUP.

#### Considerations

The NPC notes some participants support this option.

### 2.2.15.6.2 Option 2 - Conditional Use

In 2016, the KivIA<sup>2</sup> stated:

**"6. For other seasonal ranges** (including as defined here post-calving/summer, late summer/pre-rut, fall migration/rut, winter and spring migration), apply **mobile protection measures** with different criteria and timing for different seasons within anticipated seasonal boundaries and types of exploration or development activities."

In 2017, Tłjchq<sup>3</sup> stated:

"The post-calving summer range of the Bathurst caribou is important as well. We would also like to request that the Commission consider protecting the summer grounds from disturbance. To give some ideas; this protection could be seasonal, based on caribou abundance or based on biological indicators (i.e. low cow-calf ratio). ..."

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)

<sup>3</sup> (Tłjchq Government, 2017-01-12. NPC Public Registry File # 16-049E)

#### Considerations

The NPC notes some participants support this option. This could also be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by the NPC, but would be addressed by an appropriate regulatory authority.

### 2.2.15.6.3 Option 3 - Mixed Use

No participant recommended this option.

### 2.2.15.6.4 Option 4 - Valued Component

In 2014, the GN<sup>4</sup> stated:

"Seasonal Ranges- Mainland Migratory Herds

*"Recommendation: No restriction on development, but proposed projects should consider impacts on caribou and reduce disturbance as much as possible. In order to reach conformity, the project proposal must demonstrate consideration for caribou seasonal ranges in recognizing potential impacts identifying proposed mitigation measures."*

In 2015, the GN<sup>5</sup> stated:

"Assigning a Mixed Use land use designation to seasonal caribou ranges, with an accompanying conformity requirement will require regulators and proponents to consider potential impacts that may impede the ability of caribou to effectively access summer and winter range and ensure feeding behavior is not significantly disrupted."

#### Considerations

The NPC notes that the GN's comments are consistent with identifying the areas as VCs.

## 2.2.15.7 NPC Recommendation - VEC

Given that:

#### CARIBOU:

**The overall importance of the issue is considered HIGH.**

#### CARIBOU SUMMER AND LATE SUMMER AREAS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
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<sup>4</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>5</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

ii.	Environmental and Cultural Importance	MODERATE
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	MODERATE and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	HIGH

### Recommendation for Caribou Summer and Late Summer Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.
- Regulatory authorities may implement mobile CPMs.

**Information on VCs:** Identify caribou summer and late summer areas as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended for these areas given the large geographic extent of the areas, and the relatively low impacts that disturbance can have on the areas (as compared to calving areas).

LAND USE PLAN POLICY RECOMMENDATION
<b><u>CARIBOU SUMMER AND LATE SUMMER AREAS</u></b>
<b>VALUED ECOSYSTEM COMPONENT</b>

### 2.2.15.8 Summary of Revisions

#### KRLUP and NBRLUP

The existing regional land use plans do not specifically discuss caribou summer and later summer areas.

#### 2012, 2014 and 2016 DNLUP

Neither the 2012 nor 2014 DNLUP included specific plan requirements for caribou summer and late summer

areas. In 2016, they were assigned a MU designation and presented as areas of a known VEC.

#### 2021 DNLUP

Like the 2016 DNLUP, the 2021 DNLUP identifies caribou summer and late summer areas as known VECs.

### 2.2.16 Caribou Winter Ranges

#### 2.2.16.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
WWF, 2014	132,314	4
QWB, 2018	914	0

In 2018, QWB<sup>1</sup> stated:

“On Baffin Island, Inuit elders know of special places where there will be some caribou when there are no caribou anywhere else. Baffin Island caribou depend on such areas to recover during periods of cyclical low abundance. Development and disturbance of these important caribou wintering areas must be avoided at all times. Any long-term development in these special places will jeopardize the future of Baffin Island caribou for centuries to come.

“Note: The QWB and HTOs have decided to include some of these key wintering areas south and east of Nettilling Lake, east and north of Amadjuak Lake, and around Mingo Lake in the Multiple Values Area of West Central Baffin Island”

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries for caribou winter ranges. The boundaries for mainland caribou winter ranges were provided by the GN. The boundaries for island (mainly Baffin) caribou winter ranges were provided by the QWB. The discussion above in the ‘General Comments on Defining Geographic Boundaries for Caribou Ranges’ section is also applicable here.

***The certainty of the identified geographic boundaries of CARIBOU WINTER RANGES is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

## 2.2.16.2 Environmental and Cultural Importance

In 2014, the GN<sup>1</sup> stated:

*“Seasonal Ranges- Mainland Migratory Herds*

*“These vast areas of Nunavut are important for the survival and success of caribou herds. It is unrealistic to restrict mineral exploration projects in these areas, however, proposed projects should include particular elements aimed at reducing disturbance to caribou wherever possible. The GN proposes that a recommendation be made to regulators and proponents to consider potential impacts that may impede the ability of caribou to effectively access summer and winter range and ensure feeding behavior is not significantly disrupted. The NPC would consider cumulative effects.”*

In 2016, the KivIA<sup>2</sup> stated that winter ranges areas have a ‘Low’ risk category.

In 2018, the QWB<sup>3</sup> stated:

*“Further, the 2016 draft NLUP specifically excluded all caribou wintering areas from potential protection. The QWB views this as a serious error. Winter ranges are critical to the survival of Arctic tundra caribou.”*

...

*“key wintering areas south and east of Nettilling Lake, east and north of Amadjuak Lake, and around Mingo Lake in the Multiple Values Area of West Central Baffin Island”*

*“Impacts of industrial exploration and development cannot be effectively mitigated in any of these key wintering areas during decades when caribou abundance (i.e., density) is low. These realities are well known through IQ (although science may lag behind), and the impacts of development will likely be most severe for caribou populations that winter on the tundra.”*

### Considerations

Participants broadly agreed on the moderate environmental and cultural importance of caribou winter

ranges. Information on Qikiqtani caribou habitats was not received by the NPC in time for inclusion in the 2016 DNLUP.

***The environmental and cultural importance of CARIBOU WINTER RANGES is considered MODERATE because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is low; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is moderately available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

## 2.2.16.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
WWF, 2014	132,314	13,614	2,958	3,097
QWB, 2018	914	0	0	0

Parnautit,<sup>4</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>5</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in caribou winter ranges is considered

<sup>1</sup>(Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

high. A portion of the proposed Kivalliq-Manitoba Road travels through the caribou winter ranges.

***The potential for non-renewable resources, transportation and linear infrastructure in CARIBOU WINTER RANGES is considered HIGH because:***

- *The areas have significant known mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

#### 2.2.16.4 Sensitivity to Impacts

In 2015, the GN<sup>1</sup> stated:

“Seasonal ranges represent vast areas of Nunavut that are important for the survival and success of caribou herds. Proposed projects should include particular elements aimed at reducing disturbance to caribou wherever possible.”

In 2018, the QWB<sup>2</sup> stated:

“Winter ranges are critical to the survival of Arctic tundra caribou. When populations of Peary and other caribou have suffered major declines, it has occurred during severe winters. Qikiqtaaluk caribou are at low population levels due to forage limitations according to IQ, which is supported by scientific research on Baffin Island. Inuit have seen caribou dying naturally most often during winter. Future unmanaged human impacts could be devastating without protection of tundra caribou on their key wintering habitats.”

“Impacts of industrial exploration and development cannot be effectively mitigated in any of these key wintering areas during decades when caribou abundance (i.e., density) is low. These realities are well known through IQ (although science may lag behind), and the impacts of development will likely be most severe for caribou populations that winter on the tundra.”

“Inuit are well aware that the season of highest natural mortality for tundra caribou is during winter, their most stressful season. In winter, tundra caribou have great difficulty finding and digesting accessible forage, compared to summer. Lichens, the caribou’s winter forage, are very slow growing and naturally sparse on the Arctic islands, and thus susceptible to long-term grazing and human impacts.

Avoidable disturbance during winter would put populations of tundra caribou at high risk; however, disturbance effects are difficult to detect because nutritionally stressed caribou do not have the energy to respond immediately. Thus, they may not appear especially stressed or alarmed to persons who are not intimately knowledgeable about tundra caribou. IQ indicates that tundra caribou may not respond immediately to disturbance, but if they do survive, in future they will avoid important wintering areas where they have been disturbed in the past or where development occurs while at low abundance. Disturbance and development can have long-term impacts.”

“Special wintering areas are critical to the survival of tundra caribou populations, and the many Inuit families that rely on them. The protection of these areas is critical to the livelihoods of Inuit who depend on these caribou populations throughout the year, and in the future when and if populations recover. Without protection of these key wintering areas for tundra caribou, the Nunavut Land Use Plan will fail in its goal to protect and promote the well-being of all of Nunavut’s residents as a primary purpose of land use planning under Article 11 of the Nunavut Agreement.”

#### Considerations

Participants broadly agreed that the sensitivity of caribou mainland winter ranges to impacts from incompatible uses is low and seasonal, while the sensitivity of caribou island winter ranges to impacts from incompatible uses is high and seasonal.

***The sensitivity of CARIBOU MAINLAND WINTER RANGES to impacts is considered LOW and SEASONAL because:***

- *Caribou are lightly sensitive to disturbance when using mainland winter ranges;*
- *Caribou use mainland winter ranges when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

***The sensitivity of CARIBOU ISLAND WINTER RANGES to impacts is considered HIGH and SEASONAL because:***

- *Caribou are highly sensitive to disturbance when using island winter ranges;*
- *Caribou use island winter ranges when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

<sup>1</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>2</sup>(Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

### 2.2.16.5 Other Regulatory Tools

As stated in 2017 by NWMB<sup>1</sup> the report of their 2015 caribou workshop:

“Mobile caribou conservation measures – designed to conserve caribou use of seasonal ranges as opposed to conservation of caribou habitat – deserve further careful examination and consideration – for example, within buffer zones in the vicinity of a protected area or within other seasonal ranges where concerns exist about disturbance to caribou but do not warrant full area protection.”

#### Considerations

Participants generally agree that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including the Nunavut *Wildlife Act* and project-by-project mitigation measures implemented through the NIRB process. This could also be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by the NPC; but would be done by an appropriate regulatory authority.

***The potential value of including guidance in the NLUP for CARIBOU WINTER RANGES is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.2.16.6 Policy Options for Caribou Winter Ranges

#### 2.2.16.6.1 Option 1 - Limited Use

In 2018, the QWB<sup>2</sup> recommended a high level of protection for certain areas in the Baffin region as winter refuges for caribou:

“...key wintering areas south and east of Nettilling Lake, east and north of Amadjuak Lake, and around Mingo Lake in the Multiple Values Area of West Central Baffin Island”

#### Considerations

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

It is noted that QWB supports this option for island herds.

#### 2.2.16.6.2 Option 2 - Conditional Use

In 2016, the KWB<sup>3</sup> stated:

“For other seasonal ranges (including as defined here post-calving/summer, late summer/pre-rut, fall migration/rut, winter and spring migration), apply mobile protection measures with different criteria and timing for different seasons within anticipated seasonal boundaries and types of exploration or development activities.”

In 2019, the North Slave Metis Alliance<sup>4</sup> stated:

“Based on recent studies and environmental trends, we now believe that the reproductive success of barren ground caribou is strongly linked to the favourability of the overwintering conditions. Because caribou are likely to experience stressful physiological conditions through winter, we believe it is imperative to minimize added human disturbance during this period. For that reason, we recommend application of "Option 2", Special Management Area status to the core wintering habitat. To that end, we also recommend the NPC to identify core wintering habitat”

#### Considerations

This could also be a circumstance where mobile CPMs may be suitable. These measures would not be administered or enforced by NPC but would be addressed by an appropriate regulatory authority.

#### 2.2.16.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.2.16.6.4 Option 4 - Valued Component

In 2014, the GN<sup>5</sup> stated:

*“Seasonal Ranges- Mainland Migratory Herds*

“Recommendation: No restriction on development, but proposed projects should consider impacts on caribou and reduce disturbance as much as possible. In order to reach conformity, the project proposal must demonstrate consideration for caribou seasonal ranges in recognizing

<sup>4</sup> (North Slave Metis Alliance (NSMA), 2019-01-25. NPC Public Registry File # 16-244E)

<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)



potential impacts identifying proposed mitigation measures.

In 2015, the GN<sup>1</sup> stated:

“Assigning a Mixed Use land use designation to seasonal caribou ranges, with an accompanying conformity requirement will require regulators and proponents to consider potential impacts that may impede the ability of caribou to effectively access summer and winter range and ensure feeding behavior is not significantly disrupted.”

#### Considerations

It is noted that the GN’s comments are consistent with identifying the areas as VECs.

### 2.2.16.7 NPC Recommendation - LU and VEC

Given that:

#### CARIBOU:

The overall importance of the issue is considered HIGH.

#### CARIBOU WINTER RANGES:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	MODERATE
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	LOW and SEASONAL (Mainland)
		HIGH and SEASONAL (Island)
v.	Potential Value of Including Guidance in the NLUP	HIGH

#### Recommendation for Island Caribou Winter Ranges

Option 1 is recommended for:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.

- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by multiple participants as areas requiring protection. In addition, although several participants recommended that NIRB could adequately address impacts, NIRB has recommended that formalized protection be considered and that cumulative impacts should be considered at a regional scale.

#### LAND USE PLAN POLICY RECOMMENDATION

### ISLAND CARIBOU WINTER RANGES

#### LIMITED USE

#### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

#### Recommendation for Mainland Caribou Winter Ranges

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.
- Regulatory authorities may implement mobile CPMs.

**Information on VCs:** Identify caribou winter range as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended for these areas given the large geographic extent of the areas, and the relatively low impacts that disturbance can have (as compared to calving areas).

#### LAND USE PLAN POLICY RECOMMENDATION

<sup>1</sup>(Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)



## CARIBOU MAINLAND WINTER RANGES

### VALUED ECOSYSTEM COMPONENT

#### 2.2.16.8 Summary of Revisions

##### KRLUP and NBRLUP

Caribou mainland winter ranges are not specifically discussed in the existing regional land use plans.

##### 2012, 2014 and 2016 DNLUP

Neither the 2012, 2014 nor 2016 DNLUP included specific plan requirements for caribou winter ranges. The 2016 DNLUP indicates that caribou seasonal ranges are described as VECs, except winter ranges.

##### 2021 DNLUP

The 2021 DNLUP takes a different approach to caribou winter ranges than the 2012, 2014 and 2016 DNLUP. The 2021 DNLUP assigns a LU designation to island caribou winter ranges that prohibits incompatible uses. The 2021 DNLUP identifies caribou mainland winter ranges as known VECs.

#### 2.2.17 Peary Caribou Areas

##### 2.2.17.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN-DOE, 2016	1,484	0
QWB 2018	748	0
GN/NPC/QWB (additional), 2016	2,898	0

In 2013, the GoC<sup>1</sup> noted

“The area east of the proposed Qausuittuq NP boundary (currently covered by a land withdrawal) should be protected from development as decided by the Senior MERA Committee in 2002 (moratorium on mineral exploration and development until the Peary caribou recover and/or their fate is otherwise determined.)”

In 2015, the GoC<sup>2</sup> noted that the Sabine Peninsula, which was originally identified as a key migratory bird habitat

site, “is likely to be identified as Critical Habitat for Peary Caribou in the near future.”

In 2018, the QWB<sup>3</sup> suggested the addition of Cameron Island, near Bathurst Island, as it is important for Peary caribou over-wintering.

##### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of Peary caribou areas on Bathurst Island, the Sabine Peninsula and Cameron Island. The area on Bathurst Island has been identified as the area outside Qausuittuq National Park. The area on the Sabine Peninsula was originally identified as a key migratory bird habitat site and adopted as a Peary caribou area. The area on Cameron Island was identified by the QWB based on IQ.

***The certainty of the identified geographic boundaries of PEARY CARIBOU AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

##### 2.2.17.2 Environmental and Cultural Importance

In 2010, the WWF<sup>4</sup> indicated Peary caribou were ‘at risk.’

In 2018, the QWB<sup>5</sup> stated:

“Cameron Island is known to be the major annual wintering area of Peary caribou in the Bathurst Island archipelago. The 2016 draft NLUP proposed to protect the sea-ice from ice breaking to enable Bathurst Island caribou to migrate to and from their critical wintering area on Cameron Island. Qausuittuq National Park (QNP) was created to protect some important calving, post-calving and rutting areas of Bathurst Island caribou. With the support of both the QWB and the HTO of Resolute Bay, the 2016 draft NLUP further proposes to protect the population’s calving and other habitats east of QNP on northeastern Bathurst Island (NPC. 2016. Draft NLUP, Table 1, Site # 43). All of that effort will be wasted if the annual wintering area on Cameron Island is not also protected from future development. Winter is

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

known to be the season of highest natural mortality among this population of Peary caribou, an endangered species. The area of Bent Horn on southwestern Cameron Island may be excluded from the protection area, assuming that any future human access to the site is restricted to coming from the south and west. In August and October 2018, the QWB applied to the Government of Nunavut (GN) to use the shp files of Cameron Island wintering areas generated by Poole et al. (2015). The GN has not approved such use, so we could use only the small figure in their paper.”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of Peary caribou areas on Bathurst Island and the Sabine Peninsula. However, the NPC notes that knowledge of the Peary caribou is lower than for other caribou. The NPC also notes the low population numbers of Peary caribou and the scarcity of available habitat.

#### ***The environmental and cultural importance of PEARY CARIBOU AREAS is considered HIGH because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is moderate; and*
- *The importance of the areas to wildlife is moderate because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

### 2.2.17.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN-DOE, 2016	1,484	310	0	0
QWB 2018	748	0	0	0
GN/NPC/QWB (additional), 2016	2,898	0	0	0

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

The areas on the Sabine Peninsula and Cameron Island overlap with oil and gas SDLs.

In 2015, the GoC<sup>3</sup> noted northeastern Bathurst Island had high mineral development potential.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in Peary caribou areas is considered high. Mineral potential and transportation are not of note in these areas.

#### ***The potential for non-renewable resources, transportation and linear infrastructure in PEARY CARIBOU AREAS is considered HIGH because:***

- *The areas have known mineral potential and oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

### 2.2.17.4 Sensitivity to Impacts

In 2010, the WWF<sup>4</sup> indicated Peary caribou were “federally listed as being at risk.”

As stated in the 2012 Nunavut Wildlife Resource and Habitat Values<sup>5</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“Peary caribou occur in areas of polar desert (Miller 2003a) with little vegetation and select for vegetated uplands

<sup>3</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>4</sup> (WWF-Canada, 2010-08-10. NPC Public Registry File # 10-078E)

<sup>5</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

(Wilkinson *et al.* 1976; Larter and Nagy 1997). They are versatile grazers, consuming many grass and forb species as well as woody plants such as willow (Shank *et al.* 1978). As lichens are very sparse in the Arctic Islands, lichen use is rare (Shank *et al.* 1978; Thomas *et al.* 1999 in Miller 2003). ... Icing or hard-packed or heavy snow conditions can limit the amount of forage available to caribou (Tucker *et al.* 1991). ...”

During 2013 community meetings in Grise Fiord,<sup>1</sup> participants noted the following:

“Concerned with noise pollution – caribou disperse once activity starts

...

“Because Caribou move over the years and that they move to other places, we are very concerned as hunters about the area where they are looking for coal, as they will be doing a lot of activity up there this summer even though the Caribou are many. We are concerned.”

During 2013 community meetings in Resolute Bay,<sup>2</sup> participants noted the following:

“Impacts from activities are widespread. Some values extend beyond geographic areas. Oil and gas activities decreased caribou populations for 25 years. Oil and gas to the northwest will impact Resolute and surrounding area a lot.”

In 2018, the QWB<sup>3</sup> noted:

“... In the High Arctic, population fluctuations usually occur over shorter time periods, and are sometimes mediated by especially severe foraging conditions during some winters.

“During these population fluctuations and cycles, there are decades when caribou are in low abundance, and they are very sensitive to disturbance by humans. Unlike large populations of caribou, small ones are not resilient to disturbance, loss of habitat, and human disturbance and development that may separate them from their seasonal habitats. ...”

### Considerations

Participants broadly agreed that the sensitivity of Peary caribou areas to impacts from incompatible uses is high and year-round.

***The sensitivity of PEARY CARIBOU AREAS to impacts is considered HIGH and YEAR-ROUND because:***

- *Peary caribou are highly sensitive to disturbance when using Bathurst Island and the Sabine Peninsula;*
- *Peary caribou use Bathurst Island and the Sabine Peninsula when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

## 2.2.17.5 Other Regulatory Tools

In 2018, the GoC<sup>4</sup> noted:

“Environment and Climate Change Canada has jurisdiction through the federal *Species at Risk Act* and is currently reviewing the Dolphin-Union herd and Peary caribou in collaboration with the Government of Nunavut and the Government of the Northwest Territories, in cooperation with co-management partners; and respecting co-management processes established by the Inuvialuit Final Agreement and the Nunavut Agreement. The identification of critical habitat through these processes will require federal protections that are enforced under the *Species at Risk Act*.”

### Considerations

Participants generally agreed that it is necessary for the NLUP to provide guidance for land uses within caribou habitat, even though other tools exist including SARA, the Nunavut *Wildlife Act*, and project-by-project mitigation measures implemented through the NIRB process.

***The potential value of including guidance in the NLUP for PEARY CARIBOU AREAS is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

## 2.2.17.6 Policy Options for Peary Caribou Areas

### 2.2.17.6.1 Option 1 - Limited Use

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-076E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-072E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-188E)

<sup>4</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

During 2013 community meetings in Resolute Bay,<sup>1</sup> participants noted the following:

“We need to protect East side of Bathurst Island. Save the caribou”.

The WWF<sup>2,3</sup> supported this option in 2014 and again in 2016. In 2016, the WWF stated:

“We are in support of option 1, which would afford the Sabine Peninsula a Protected Area designation that would prohibit incompatible uses and retain migratory bird setbacks. Peary caribou are designated as a Threatened species by COSEWIC, with the future conservation of the species at risk primarily due to changes in food availability, industrial development, and reductions in sea ice crossing habitat. We agree with the Government of Canada that the simplest solution would be to afford this area a Protected Area status to avoid a lengthy amendment process in the future. We would add that it should be noted in the description of this Protected Area that it was conceived to accomplish two purposes: to protect a key bird habitat site, and to protect critical Peary caribou habitat. It is noted in the implications for option 1 that this [area] includes existing oil and gas significant discovery leases. The pre-existing nature of these licenses will be dealt with through discussions on grandfathering of industrial leases. To consider the existence of licenses in whether or not to create a Protected Area for conservation purposes would not be appropriate.

“In this regard, we propose that:

- a) The Sabine Peninsula Special Management Area be replaced with a Protected Area designation in recognition that this area is critical habitat for Peary caribou.”

The GN<sup>4,5</sup> supported this option in 2015 and again in 2017. In 2017, the GN stated:

“**Peary Caribou:** Maintain the Protected Area designation for SARA identified endangered Peary caribou critical habitat (Protected Area # 43 as presented on Schedule A of the DNLUP). This area is designated to support the SARA listing and that should the Peary Caribou cease to be a listed species that the designation would be withdrawn and subject to the same management as any other calving and post calving area. Protections for caribou habitat which are

developed via paralleling legislation should be enveloped in the DNLUP.”

In 2015, in a submission that was later revised (see Option 3 below), the GoC<sup>6</sup> indicated support for LU (formerly PA) status for Sabine Peninsula:

“Sabine Peninsula is likely to be identified as Critical Habitat for Peary Caribou in the near future, at which time prohibitions on land use will be needed that could require amendments to the plan, if the current proposed designation is used.

#### “Recommendation

“The Commission could consider, for efficiency, simply designating this site as a Protected Area with appropriate prohibited uses.”

In 2018, the QWB<sup>7</sup> indicated support for this option as part of a multi-value area protection.

### **Considerations**

The NPC notes that some participants, including the GN, support this option. Although there is uncertainty regarding the future identification of Peary caribou critical habitat under SARA, participants generally supported the prohibition of incompatible uses in identified Peary caribou areas in the NLUP.

#### **2.2.17.6.2**

#### **Option 2 - Conditional Use**

In 2015, the GoC<sup>8</sup> supported this option for the Bathurst Island area:

“The North-eastern part of Bathurst Island is designated as Protected Area #59 – Peary Caribou Habitat Adjacent to Proposed Qausuittuq National Park with prohibitions on mineral exploration and production, oil and gas exploration and production, quarries, hydro development, all-weather roads, and related research. While the prohibitions are an accurate capture of the current moratorium on development activities – until the longer-term needs of the Peary Caribou herd are known, AANDC is concerned that the protected area designation goes farther than is necessary for a special management regime in the area. The zoning for the area needs to recognize both the interests of protecting the sensitive caribou calving

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-072E)

<sup>2</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

<sup>3</sup> (WWF-Canada, 2016-03-04. NPC Public Registry File # 14-160E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2015-07-10. NPC Public Registry File # 14-092E)

<sup>5</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>6</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-218E)

<sup>8</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

grounds as well as the high mineral development potential of the area.

**“Recommendation**

“It is recommended that site # 59 not be listed as a Protected Area, but as a Special Management Area that maintains the prohibitions currently listed, but also identifies the need for further study by the Senior Mineral and Energy Resource Assessment (MERA) Committee, which is committed to develop management options. These options may necessitate a future plan amendment. This recognizes both the interests for protecting the sensitive caribou calving grounds as well as the high mineral development potential of the area.”

In 2016, NTI and the RIAs<sup>1</sup> supported this option:

“1. NTI and the RIAs support Option 2 as outlined at page 5 of *NPC’s Refinements Document*. The Sabine Peninsula should not be placed in a Protected Area designation in the NLUP. An amendment to the NLUP can be put forward when there is clearer direction regarding whether it will be designated as critical habitat for the Peary caribou.”

**Considerations**

The NPC notes the GN and GoC support this option for specified areas. Although they supported a CU designation for specified Peary caribou areas, no specific conditions were suggested.

**2.2.17.6.3 Option 3 - Mixed Use**

In 2016, the GoC<sup>2</sup> revised a previous recommendation for the Sabine Peninsula:

**“Reason for Change:**

“1. Sabine Peninsula is a very small portion of all entire Peary Caribou habitat in Nunavut; much larger amendments to land use plan will be required if Critical Habitat for this species is described in the Recovery Strategy. Therefore will not apply special land use planning to this small area unless a larger amendment is required.

“2. Data not yet available to zone this site on basis of shorebird population numbers.

**“Implications of change to land use plan:**

“Change zoning to ‘mixed use’.”

**Considerations**

The NPC notes that the GoC supports this option for Peary caribou areas on the Sabine Peninsula.

**2.2.17.6.4 Option 4 - Valued Component**

No participant recommended this option.

**2.2.17.7 NPC Recommendation - LU**

Given that:

**CARIBOU:**

**The overall importance of the issue is considered HIGH.**

**PEARY CARIBOU AREAS:**

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

**Recommendation for Peary Caribou Areas:**

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended because of the low population numbers of Peary caribou and the scarcity of available habitat. In addition, several participants generally support the prohibition of incompatible uses in the areas.

**LAND USE PLAN POLICY RECOMMENDATION**

**PEARY CARIBOU AREAS  
LIMITED USE**

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)



#### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

### 2.2.17.8 Summary of Revisions

#### KRLUP and NBRLUP

Peary caribou areas are not specifically discussed in the existing regional land use plans.

#### 2012, 2014 and 2016 DNLUP

The 2012, 2014 and 2016 DNLUP did not include specific plan requirements for Peary caribou areas. However, in both the 2014 and 2016 DNLUP, the area on Bathurst Island adjacent to Qausuittuq National Park was assigned a PA designation that prohibited incompatible uses. Also, the Sabine Peninsula was identified as a key migratory bird habitat site by ECCC<sup>1</sup> and included in the 2014 DNLUP as a SMA and in the 2016 DNLUP as a VEC. The 2016 DNLUP mentioned the Somerset-Prince of Wales subgroup and the Bathurst subgroup in the context of caribou sea ice crossings.

#### 2021 DNLUP

Unlike the 2012, 2014 and 2016 DNLUP, the 2021 DNLUP includes specific plan requirements for Peary caribou areas. In particular, the 2021 DNLUP assigns a LU designation to Peary caribou areas that prohibits incompatible uses.

## 2.3 Polar Bears

Section 11.3.1(g) of the NA requires a land use plan to take into account environmental considerations, including wildlife habitat.

Objective D of the NPC's Goal of Protecting and Sustaining the Environment is to manage land use in and around areas of biological importance.

### 2.3.1 Importance of Polar Bears

Polar bear habitat was identified as a priority and value by Nunavut residents in most communities during 2012-2014 and 2019-2020 NPC community consultations.

The Committee on the Status of Endangered Wildlife in Canada (COSEWIC), under SARA, has listed polar bears as 'Special Concern' and 'At Risk' due to climate warming impacts to their sea ice habitat.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, noted that polar bears:

"... have significant cultural, nutritional and economic importance to the Inuit and are hunted by almost all communities (25 out of 28) (Priest and Usher 2004). ..."

In 2014, the NIRB<sup>3</sup> recommended the NLUP should consider polar bear habitat. In addition:

"... the NIRB notes that habitat fragmentation may occur if areas of key importance are granted status as areas where all uses are permitted. ..."

In 2014, the WWF<sup>4</sup> stated:

"... The Nunavut Land Use Plan can make a significant contribution to the long-term health of polar bear populations globally by providing protection for sensitive and critical polar bear habitat."

In 2015, the QWB<sup>5</sup> stated:

"... Most often, climate change is cited as the source for polar bear decline. This rationale goes against what hunters and Inuit have been saying: that polar bear are hugely adaptable to their environment conditions, and the population in Nunavut is on the rise. ..."

In 2015, the QWB<sup>6</sup> also noted:

"8. The polar bear is an important animal for communities. Not only is [it] an important source of food and clothing, its

<sup>1</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2014-02-14. NPC Public Registry File # 12-141E)

<sup>4</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2015-06-22. NPC Public Registry File # 14-084E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2015-06-22. NPC Public Registry File # 14-084E)



an important economic source for those [who] sell their hide[s] and/or participate in sport hunts. ...”

In 2018, the QWB<sup>1</sup> added:

“Polar bears are an important part of Inuit cultural, nutritional and economic life. As a top predator, they are also critical elements in the functioning of Nunavut’s marine ecosystem. ...”

### Considerations

Participants generally agreed on the overall high importance and priority of polar bears. Polar bear is broadly recognized as an important issue to be included in the NLUP.

#### ***The overall importance of POLAR BEARS is considered HIGH because:***

- ***They have been identified by many participants as a priority;***
- ***They have a high cultural value;***
- ***They have a high economic value; and***
- ***They have a high ecosystemic value.***

## 2.3.2 Types of Areas Important to Polar Bears

Four types of polar bear habitat were identified by participants for consideration in the planning process: polar bear summer retreat habitat; polar bear winter/spring sea ice habitat; polar bear mating areas; and polar bear denning areas. After this introductory discussion, each of these areas is discussed in the subsections below.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, offered details about the types of areas important to polar bears. The document noted:

“Polar bears are found throughout Nunavut and range from the northern end of Ellesmere Island south to James Bay (COSEWIC 2008d). Their distribution varies with seasonal ice; in summer some bears remain with the pack ice, while others (e.g., in Hudson and James Bays) are restricted to land until the following freeze-up. In winter the bears are widely distributed, with the pregnant females

typically denning on land within 50 km of the coast (COSEWIC 2008d).

“There are twelve polar bear sub-populations that inhabit the Nunavut region ...

...

“Habitat requirements for polar bears include coastal (land and nearshore) and offshore open water and ice environments. Sea ice is a primary influence on habitat use. Their distribution on the ice is closely linked to the distribution of ringed seals, their primary prey and to a lesser degree the bearded seal (Stirling 1980). Specific ice habitat selection by polar bears is complex and varies by area (Regehr *et al.* 2007). During spring and summer, bears within the archipelago region used landfast ice more frequently, whereas bears in Baffin Bay used moving ice (thick first-year ice found in large floes) (Ferguson *et al.* 2000). Both ice types likely represent areas where most spring seal pupping occurred (Ferguson *et al.* 2000). Polar bears tend to select first-year ice in winter as new ice forms and multiyear ice (where found) in autumn when maximum ice melt has occurred (Ferguson *et al.* 2000; Ferguson *et al.* 2001b). Polar bears appear to anticipate seasonal fluctuations in ice. ...

...

“Pregnant females require suitable habitat to make dens so they can give birth and feed their young cubs. The majority of maternity denning occurs on land; however, multiyear ice has also provided suitable denning habitat to some pregnant females. Most maternity dens are dug into snowdrifts on south-facing slopes of hills or valleys. In more southerly populations it is not uncommon for them to be dug into the banks of creeks or lakes. ...

“Polar bears are carnivorous and hunt throughout the year in areas of multi-year ice. They prey predominantly on ringed seals, but also catch bearded seals, harp seals, hooded seals, harbor seals, and occasionally, walruses, beluga whales and narwhals (COSEWIC 2008). During the summer they will also eat grasses, lichens, mosses, and berries. Studies have shown that these bears consume the majority of the calories they need for an entire year during the spring and early summer (COSEWIC 2008).”

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-195E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

### 2.3.3 Polar Bear Summer Retreat

The WWF<sup>1,2</sup> proposed polar bear summer retreat habitat as important areas to be considered in the NLUP. In 2014, the WWF<sup>3</sup> noted:

“In regions where there is only seasonal sea ice, polar bears must retreat to land during the summer and early fall to wait until the ice reforms. Within the NSA there are 5 subpopulations (Southern Hudson Bay, Western Hudson Bay, Foxe Basin, Davis Strait, Baffin Bay) within the seasonal sea ice ecozone and two populations (Kane Basin, Lancaster Sound) within the Archipelago ecozone are increasingly becoming ice free (Vongraven et al. 2012). During the ice-free season polar bears can be found anywhere along the coastal areas of Nunavut but there are documented summer concentrations areas with high densities of bears (Atkinson & Dyck 2013; Stapleton 2013). When bears are on land they are in a fasting state, as there is limited access to their primary prey, ringed seals. Polar bears rely on their fat reserves for up to 6 months in the case of pregnant females, as such, it is important to protect the bears from disturbance. It is also critical to protect people from potentially dangerous situations in areas of high densities of bears where people and/or bears could be injured or killed.

#### **“Recommended Option for Polar Bear Summer Retreat Habitat**

**“Option 2 is recommended as it best supports the Goal of Protecting and Sustaining the Environment. Assign a designation that permits all activities but with seasonal restrictions. For conforming and approved project proposals, provide a recommendation to regulators and proponents that potential impacts on the wildlife and landscape values must be considered outside of the seasonal restrictions. Option 2 takes into account:**

- the physiological vulnerability of polar bears, especially pregnant females, during the ice-free fasting period
- acknowledges that it is important to prevent conflict between people and polar bears
- acknowledges that it is important to reduce the number of polar bear defense kills as this affects Inuit harvesting opportunities

- acknowledges that in some areas the high densities of polar bears in summer retreat areas present a significant risk to public safety
- Builds on the existing planning policy framework and addresses the lack of protection assigned to polar bear summer retreat habitat”.

In 2016, the GN<sup>4</sup> recommended the study of land use sensitivities for summer retreat habitat as priority research for future versions of the NLUP.

#### **Considerations**

The NPC needs additional records of how the proposed policies were developed and why they are needed, so that the NPC may consider why these novel arguments have not been advanced by others. Without further information, the NPC is unable to make or recommend policies in the NLUP relating to polar bear summer retreat habitat.

### 2.3.4 Polar Bear Winter/Spring Sea Ice Habitat

The WWF<sup>5,6</sup> proposed polar bear winter/spring sea ice habitat as important areas to be considered in the NLUP. In 2014, the WWF<sup>7</sup> noted:

“Polar bears can be found almost anywhere on the sea ice in the NSA but research has shown that there are areas where the density of polar bears is higher than others. The higher density regions likely correspond to high densities of the polar bear’s primary prey species: ringed seals, bearded seals and walrus. It is expected that year round shipping activities will increase with mineral, oil and gas development. It is not necessary to assign strict protection to these areas but it is important that the Plan recognize and identify high quality sea ice habitat for this important species.

#### **“Recommended Option for Polar Bear Sea Ice Habitat**

**“Option 3 is recommended as it best supports the Goal of Protecting and Sustaining the Environment while considering economic development. Assign a designation that permits all uses. For conforming and approved project proposals, provide a recommendation to**

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>2</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>3</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>5</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>6</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>7</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

regulators and proponents that potential impacts on the wildlife and landscape values must be considered[.]

“Option 3: recognizes that:

- Sea ice is critical habitat for polar bears and the maintenance of healthy populations
- that it is important to provide protection for high quality sea ice habitat
- Builds on the existing planning policy framework and addresses the lack of protection assigned to polar bear habitat”.

### Considerations

The NPC needs additional records of how the proposed policies were developed and why they are needed, so that the NPC may consider why these novel arguments have not been advanced by others. Without further information, the NPC is unable to make or recommend policies in the NLUP relating to polar bear winter/spring sea ice habitat.

## 2.3.5 Polar Bear Mating Areas

The QWB proposed polar bear mating areas as important areas to be considered in the NLUP. The QWB was the only participant to provide information on polar bear mating areas. The QWB<sup>1</sup> noted in 2018:

“Extensive sea-ice areas are used by mating polar bears from March to June. Male bears compete for and pursue females for long distances for days over several weeks. Violent conflicts occur between males. Humans must avoid mating areas unless they are being guided by knowledgeable Inuit. Some but not all mating areas may be near denning and emergence areas. We propose to designate one mating area north of Grise Fiord because of the high density of mating bears each year.”

In 2016, the GN<sup>2</sup> noted:

“There is not a lot of detailed information on how shipping will directly affect polar bears’ feeding, mating, and movements. However, it is very likely that bears are disturbed should shipping occur year-round in areas that bears prefer for feeding/breeding. Ice-breaking activities destroys ice, makes plates smaller, creates leads, is noisy and could have various negative effects on bears – however there is very little scientific data currently in existence to

demonstrate these effects because of the difficulty in obtaining such data.”

### Considerations

There has been limited input from participants other than the QWB regarding the importance of polar bear mating areas and the need for the NLUP to guide land use in these areas. Due to the lack of other evidence available at this time, the NPC will not further consider polar bear mating areas in the first generation NLUP.

## 2.3.6 Polar Bear Denning Areas

Polar bear denning areas received broad support as an important habitat that the NLUP should consider.

### 2.3.6.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN, 2016	220,608	9
Kitikmeot/Kivalliq (additional), 2020	25,550	1
QWB (actual on land), 2018	13,427	1
WWF, 2014	377,841	12.4

The KRLUP includes a map of polar bear denning areas.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>3</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, noted:

“Pregnant females require suitable habitat to make dens so they can give birth and feed their young cubs. The majority of maternity denning occurs on land; however, multiyear ice has also provided suitable denning habitat to some pregnant females. Most maternity dens are dug into snowdrifts on south-facing slopes of hills or valleys. In more southerly populations it is not uncommon for them to be dug into the banks of creeks or lakes. Van de Velde (1971) reported that dens made by pregnant females and bears of other age and sex classes tend to be found in the same areas year after year (Van de Velde *et al.* 2003). It is also believed that in coastal areas most female polar bears den within a few kilometres of the coastline (Harington 1968 and Messier *et al.* 1994, in Van de Velde *et al.* 2003).”

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-195E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>3</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

In 2014, the WWF<sup>1</sup> provided a map of polar bear denning areas.

In 2016, the GN-DOE<sup>2</sup> provided information on the location of polar bear denning and stated:

“A note on the polar bear denning area spatial data provided to the Commission by the GN’s Department of Environment:

1. The data stems from publications from the 1980s from studies conducted by the then NWT, as well as from a collection of new scientific information and IQ combined during Polar Bear Technical Committee meetings held in 2003.
2. There are ongoing efforts by GN and partnering Greenland researchers regarding updating this data.
3. Once more recent data is available the GN will potentially advocate for denning area updates via the Plan’s periodic review. However at this time there is no reason to believe that new information would result in drastic changes to these identified areas. Reversely scientific and IQ knowledge gathered to-date suggests a strong fidelity to these sites over time.”

In 2016, the GN<sup>3</sup> also stated that polar bear denning patterns:

“... likely differ across the Nunavut polar bear range and the 12 subpopulations. However, it is known from some studies and local knowledge that in most populations dens occur within 10-15km of the coastline with higher densities, and some are farther inland (up to 30-35km), but that varies by subpopulation and geography. Much more research on den characteristics (elevation, slope, snow accumulation, etc.) all across Nunavut is needed in order to gain detailed knowledge. Field observations indicate that many dens face south-west, therefore care should be taken when activities are carried out at higher snow-covered elevations. Most dens will not be recognizable during winter because they will be drifted over.”

While there appears to be general agreement regarding the areas identified by the GN, NTI and the RIAs<sup>4</sup> jointly

noted in their May 5, 2016 submission that: “The current geographic delineated area is based on polar bear denning area habitat as opposed to actual known polar bear denning sites.” NTI and RIAs<sup>5</sup> also recommend that: “Polar bear denning areas and polar bear dens should be identified in consultation with RWOs, RIAs, NTI and other wildlife organizations.”

In 2018, the QWB<sup>6</sup> provided a map of Baffin region polar bear denning areas. This map was different from that provided by other participants so far. The QWB stated:

“In this submission, the QWB presents precise and clear information, based on IQ, about specific Polar Bears Denning, Emergence and Mating areas in Qikiqtaaluk Region, so that these areas and protective conditions can be incorporated into the final Nunavut Land Use Plan.

“Polar bear denning areas are important coastal habitats where females give birth and nurture their cubs, and where they often remain for days and weeks after the cubs emerge. Dens may be distributed over very large geographic areas.

“Nevertheless, in some areas, polar bear denning is predictable from year to year and at higher density than in other areas. Such areas with predictable polar bear denning have also been found in parts of Svalbard (Larsen 1985), where the high elevation and rugged terrain is similar to that of much of Qikiqtaaluk Region, unlike that in lower elevation parts of Nunavut. In Qikiqtaaluk Region, Inuit hunters know where denning females are more predictable, known through their own observations and knowledge passed on from their elders and ancestors.”

In 2012-2014, some community members identified polar bear denning locations not shown on the GN map, specifically around Naujaat,<sup>7</sup> Resolute Bay<sup>8</sup> and Hall Beach.<sup>9</sup> These areas are geographically small and are located adjacent to the polar bear denning areas identified by the GN map.

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>3</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>5</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-195E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-193E)

<sup>8</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-072E)

<sup>9</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-077E)

In 2020, Arviat<sup>1</sup> residents proposed two additional areas of polar bear denning, one to the south of the community and another to the north. It was also recommended that a portion of the polar bear denning area identified in 2016 be removed because the habitat is not appropriate.

In 2020, Coral Harbour<sup>2</sup> residents proposed a new area of polar bear denning in the southwest of Southampton Island.

In 2020, Nauyasat<sup>3</sup> residents proposed new areas that should also be considered for polar bear denning.

In 2020, Taloyoak<sup>4</sup> residents suggested enlarging the denning area identified by the GN on Boothia Peninsula.

In 2020, Gjoa Haven<sup>5</sup> residents suggested enlarging the GN identified denning areas to include a number of small islands in the Victoria Strait.

In 2020, Cambridge Bay<sup>6</sup> residents suggested expanding the identified area at the eastern end of Collinson Peninsula, consistent with the Gjoa Haven comments.

In 2020, Kugaaruk<sup>7</sup> residents advised to enlarge the denning area identified by the GN and identified two smaller areas within that area with high densities of denning that should receive stronger protection.

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of polar bear denning areas. The NPC was provided information on polar bear denning areas from five sources: the GN; the WWF; the QWB; the KRLUP; and community consultations undertaken by the NPC. In general, these five sources are consistent with each other, with most areas being identified by more than one source. The areas identified by the WWF and the GN are similar, with the WWF boundaries generally extending farther inland, and the NPC has chosen to include the GN provided boundaries rather than those provided by the WWF. The areas identified in the KRLUP are entirely within the areas

identified by the GN and are not separately included. Areas identified in 2018 by the QWB and during the NPC's 2019-2020 community consultations are added to those identified by the GN and are considered below.

In 2016, the NPC clipped the polar bear denning areas identified by the GN to the coastline to remove marine areas. It is understood that polar bears sometimes den on sea ice, in particular in areas where there is multi-year sea ice; however, because the potential land uses considered in the 2021 O&R to be disruptive to denning areas are all land based, it was decided to limit consideration of these areas to terrestrial locations.

***The certainty of the identified geographic boundaries of POLAR BEAR DENNING AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

### 2.3.6.2 Environmental and Cultural Importance

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>8</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, noted:

"Land use planning must consider the coastal habitat required by polar bears for denning ...

...

"... Polar bears also have significant cultural, nutritional and economic importance to the Inuit and are hunted by almost all communities (25 out of 28) (Priest and Usher 2004). Over a five year period from 1996 to 2001 an annual mean of 292 polar bears were hunted (Priest and Usher 2004). Hides are sold commercially and may bring high prices in the fur market. Inuk guided hunting is also a source of income (COSEWIC 2008)."

In 2014, the WWF<sup>9</sup> noted:

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>8</sup> (Nunavut Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>9</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

“Polar bears have special cultural and economic significance for Inuit

“The framework for monitoring polar bears (Vongraven et al. 2012) recommends that denning and sea ice habitat should be protected and monitored”.

In 2015, the QWB<sup>1</sup> stated:

“8. The polar bear is an important animal for communities. Not only is [it] an important source of food and clothing, its an important economic source for those [who] sell their hide[s] and/or participate in sport hunts. ...”

### Considerations

Participants broadly agreed on the moderate environmental and cultural importance of polar bear denning areas. Many participants submitted that polar bear denning areas are important areas to population productivity; however, it is noted that the areas are usually generally defined. Because the exact locations of dens are not specifically identified and can change year-to-year depending on snow conditions, it is anticipated that there may be alternate areas to be used by the bears.

***The environmental and cultural importance of POLAR BEAR DENNING AREAS is considered MODERATE because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is moderate; and*
- *The importance of the areas to polar bears is moderate because:*
  - *Alternative habitat is likely to be available; and*
  - *Specific areas are not essential to the biological productivity of wildlife.*

### 2.3.6.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN, 2016	220,608	57,048	4,917	1,868
Kitikmeot/Kivalliq	25,550	8,344	26	0

(additional), 2020				
QWB (actual on land), 2018	13,427	4,378	86	1
WWF, 2014	377,841	81,064	6,824	3,782

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in polar bear denning areas is considered moderate. Polar bear denning areas are generally in areas not currently targeted for development, however, the proposed Kivalliq-Manitoba Road passes through the polar bear denning areas near Arviat.

***The potential for non-renewable resources, transportation and linear infrastructure in POLAR BEAR DENNING AREAS is considered MODERATE because:***

- *There is known mineral or oil and gas potential in the areas;*
- *There is a moderate potential for transportation and linear infrastructure development within the areas;*
- *There are existing rights for non-renewable resource land use within the areas;*
- *The areas have subsurface IOL parcels; and*
- *The overall polar bear denning areas are relatively large.*

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2015-06-22. NPC Public Registry File # 14-084E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



#### 2.3.6.4 Sensitivity to Impacts

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, noted:

“Increased human activity, oil and gas exploration and coastal development in the Arctic may diminish important land based maternity denning habitat and possibly spring feeding habitats at the ice edge. However, the presence of stationary drill-ships and drill-sites may attract polar bears, from increased seal presence (new breathing holes associated with rig-induced cracks/ice-management). This may increase access to their prey (Richardson and Malme 1995) but may also increase the threat of mortality (bear management in relation to human activity). As well, polar bears do not seem to be deterred from noise associated with offshore oil activities (even when swimming in the water), construction, ice-breakers or vessel traffic (Richardson *et al.* 1995). The effect of land-based activities on maternal denning is not well understood.

“... Polar bears demonstrate site fidelity and fixed home ranges which make them susceptible to changes in their habitat (Derocher *et al.* 2004). ...”

In 2016, the WWF<sup>2</sup> noted:

“... it would only be necessary to limit incompatible uses in polar bear denning areas during the late fall and winter months when female polar bears enter and remain in their dens until early spring. While the seasonality of this sensitive period differs slightly between subpopulations, a seasonal designation from the beginning of October through to the end of March would allow for a precautionary approach that would safeguard polar bears while they exploit this critical habitat. ...”

In 2016, the GN<sup>3</sup> noted:

“... Many denning areas have been used by bears for generations and it is poorly understood or known how flexible the bears will be in finding new possible denning areas should their sites be destroyed or unavailable.

In 2016, the GN's<sup>4</sup> recommendations also highlighted aspects of the denning areas' sensitivity:

“7. Activities that occur during denning periods (15 September and 15 April) in snow-covered terrain in areas

of higher altitude and facing south-west should be carefully undertaken as not to encounter or disturb bears in dens.

“8. Earth moving (blasting, grading, piling gravel and other debris) in potential denning areas shall be carried out so as to avoid unnecessary influences on snow drifts (direction, thickness, etc.) which may affect the creation of suitable denning habitat for bears. ...”

In 2018, the QWB<sup>5</sup> noted:

“Cub survival is unlikely if dens are inadvertently disturbed before females emerge naturally, and also if human disturbance inadvertently causes separation of females from their cubs during the period following den emergence. Starvation of cubs and predation of cubs by male bears are risks when they become separated from their mothers, even for short periods of time outside their maternal dens. This could be exasperated through human disturbance.

“Females may enter dens as early as mid-November and as late as early January. They remain in their dens, giving birth and nursing their cubs until they emerge usually in March and April. Females and cubs may then remain near their den sites for up to a month, hunting in nearby fiords or at nearby floe edges, but they may also move away if they are disturbed or if hunting near the denning area is not successful. Disturbance of hunting females and their prey (e.g., denning ringed seals) can jeopardize early cub survival.

“In denning and emergence habitats that are used in most years, females and their cubs should be protected from human disturbance throughout these periods, and from long-term industrial damage to denning and emergence habitats.

“Encounters between female polar bears and humans in these areas are especially dangerous, as the females must protect their young cubs at all costs. Therefore, limiting human access in critical denning and emergence habitats is also an issue of public safety.”

#### Considerations

Participants broadly agreed that the sensitivity of polar bear denning areas to impacts from incompatible uses is moderate and seasonal. In addition, while individual dens are highly sensitive to disturbance, the NPC believes the likelihood of disturbing a particular den within the identified areas is low because the density of dens is low.

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (WWF-Canada, 2016-03-04. NPC Public Registry File # 14-160E)

<sup>3</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-195E)

**The sensitivity of POLAR BEAR DENNING AREAS to impacts is considered MODERATE and SEASONAL because:**

- **Polar bears are moderately sensitive to disturbance when using these areas; and**
- **Polar bears use these areas seasonally when disturbance is moderately likely to occur.**

### 2.3.6.5 Other Regulatory Tools

In 2014, the WWF<sup>1</sup> noted:

“Polar bears are a Species-at-Risk (Schedule 1, Special Concern, [http://www.sararegistry.gc.ca/species/schedules\\_e.cfm?id=1](http://www.sararegistry.gc.ca/species/schedules_e.cfm?id=1)) and the Species-at-Risk Act directs all jurisdictions to protect and monitor important habitat for federally listed species. Section 33 states, ‘No person shall damage or destroy the residence of one or more individuals of a wildlife species that is listed as an endangered species or a threatened species, or that is listed as an extirpated species if a recovery strategy has recommended the reintroduction of the species into the wild in Canada.’ At this time there is no SARA Action Plan or Nunavut specific polar bear management plan to provide guidance on habitat protection for this species[.]

...

“The draft Federal Polar Bear Conservation Strategy for Canada (2011) identifies the need to ‘Minimize threats to polar bear and their habitat resulting from human activities’ ... and notes that ‘... terrestrial habitat is of critical importance for maternal denning, or as a summer refuge and migration corridor. However, while some important habitat areas received varying degrees of protection as national, provincial or territorial parks or wildlife areas, the vast majority of polar bear habitat currently receives no legal protection, although various initiatives are currently being explored by jurisdictions’ ... as well as that: ‘... As such, one of the biggest challenges will be to manage the harvest and other human influences (e.g. industrial activities, shipping) ...’ ...”

In 2016, the GN<sup>2</sup> advised:

“... it is also important to note the following when considering these identified areas:

- Article II of the GOC signed 1973 international Agreement on the Conservation of Polar Bears commits all parties to take appropriate action to protect polar bear ecosystems, ‘with special

attention to habitat components such as denning ... sites’;

- Section 9.7 of the 2011 Canadian National Polar Bear Conservation Strategy states that ‘appropriate action will be taken to protect polar bear habitat with special attention given to denning and feeding sites.’ Section 7.3 of this same Strategy lists the lack of legal protection for critical polar bear terrestrial habitats, such as maternal denning areas, as a major challenge to the species’ conservation;
- Section 65(b) of the Nunavut Wildlife Act also notes: ‘No person shall, without legal justification, substantially alter or damage or destroy any habitat’.
- Furthermore Section 73(1b) of the Wildlife Act explicitly prohibits the destruction of bear denning areas.”

In 2017, the NIRB<sup>3</sup> noted that its project-specific impact assessment is not the appropriate forum for determining the acceptability of the type of project being proposed:

**“Recommendation #7:** Concerns expressed by communities related to the designation and preservation of Polar Bear Denning areas should be defined within the Nunavut Land Use Plan as these types of concerns should be incorporated into consistently applied limits on land uses, rather than being left to rely on the NIRB’s project-specific impact assessment process. Considering the ongoing regulatory discussion on balancing development with conservation efforts, denning areas should be defined clearly, any restrictions on development clearly outlined, and operational limitations clearly stated with positive conformity determinations to inform the subsequent NIRB impact assessment.”

### Considerations

Although some polar bear denning areas are protected within established parks and conservation areas, and prohibitions on the destruction of denning habitat are provided through legislation, there is little guidance provided on how land should be used within the majority of denning areas. As such, the NLUP is an appropriate tool to prevent inconsistent developments in polar bear denning areas.

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

***The potential value of including guidance in POLAR BEAR DENNING AREAS in the NLUP is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.3.6.6 Policy Options for Polar Bear Denning Areas

#### 2.3.6.6.1 Option 1 - Limited Use

The KRLUP and the NBRLUP state, “Development activities shall be restricted near polar bear denning areas and walrus haul-outs”.

In 2015, the QWB<sup>1</sup> recommended a high level of land use protection on all known polar bear denning areas, and stated:

“... hunters would argue that protecting denning sites is central to respecting the integrity of Polar Bear development. Polar Bear denning, and new cub populations are important for the current research being done on polar bear, which feed into the current polar bear management regime. ...”

In 2016, the GN<sup>2</sup> noted:

“... The GN has concerns relating to the large size of the polar bear denning area polygons, and consequentially the opportunity-cost impacts to Nunavummiut that may result in applying a Protected Area designation to these areas with prohibitions on development.”

In 2016, the WWF<sup>3</sup> stated:

“We are in support of option 1, which would afford polar bear denning areas a Protected Area designation that would prohibit incompatible uses. It is noted in the implications associated with this option that this would result in many additional Protected Areas that cover a large geographic area. There are multiple factors to consider that address this implication. The first is that it would only be necessary to limit incompatible uses in polar bear denning areas during the late fall and winter months when female polar bears enter and remain in their dens until early spring. While the seasonality of this sensitive period differs

slightly between subpopulations, a seasonal designation from the beginning of October through to the end of March would allow for a precautionary approach that would safeguard polar bears while they exploit this critical habitat. ...”

In 2018, the Rankin Inlet HTO<sup>4</sup> stated:

“Kangiqliniq HTO supports protecting polar bear denning areas. However, further studies and consultations should occur to determine areas most appropriate for protection along the Western Hudson Bay coast. For now, along the Western Hudson Bay [coast] the Value Ecosystem Component (#43 Polar Bear Denning) is an appropriate designation for polar bear dens. However, in future versions of the Nunavut Land Use Plan, some of these areas should become Protected Areas.”

#### Considerations

The NPC notes that some participants made comments in support of this option, while the GN expressed concerns with the size of the areas. The NPC also notes that the WWF and QWB provided updated submissions, which are included below in support of Option 2.

The seasonal restrictions recommended by the WWF would be suited to a CU rather than a LU designation, although the specific uses that should be restricted are not identified. In consideration of the recommendations from participants, the large geographic area of the denning areas, and the understanding that the sensitivity to disturbance is seasonal, the NPC considers it unnecessarily restrictive to assign a LU designation with year-round prohibitions to polar bear denning areas.

#### 2.3.6.6.2 Option 2 - Conditional Use

In 2016, the GoC<sup>5</sup> stated:

“...while Canada is supportive of efforts that conserve polar bear populations, we consider the specifics of proposing specific designations or zoning of polar bear habitat under the Nunavut Land Use Plan as the responsibility of the Government of Nunavut. ...”

In 2016, the GN<sup>6</sup> submitted:

**“... the GN supports NPC’s 2014 Special Management Area designation of GN delineated polar bear denning areas**

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2015-06-22. NPC Public Registry File # 14-084E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>3</sup> (WWF-Canada, 2016-03-04. NPC Public Registry File # 14-160E)

<sup>4</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>5</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>6</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

**and recommends the following terms to apply to these subject areas (to be included as an appendix to NPC conformity determinations for projects within polar bear denning Special Management Areas):**

1. For industrial or high disturbance activities [t]he proponent must consult with the Government of Nunavut's Department of Environment and the local Hunters and Trappers Organization, as well as Regional Wildlife Board, in order to gauge the likelihood of dens being present in the project area;
  - a. Where consultations with wildlife co-management partners reveal there is a high probability of polar bears dens being present, active or suspected active dens must be located (either through forward-looking infrared (FLIR) or specialized scent dogs), and documented prior to any activities. These observations/documents are to be shared with all stakeholders.
2. A 1km radius exclusion zone must be observed around every known, recorded polar bear den between 15 September and 15 April, or until it is documented and reported that the den has been vacated by the family group and left the exclusion zone;
3. If previously unknown dens are being discovered and reported within 1 km of activities the Government of Nunavut Department of Environment should be contacted immediately for guidance.
4. If activities are carried out during denning season (15 September and 15 April) then proponents must have a trained polar bear monitor that can mitigate any responses to bear presence. Monitors will be an early detection system to bear proximity.
5. All bear encounters throughout the period of activities will be recorded and reported to the Government of Nunavut Department of Environment. All reporting must include:
  - a) Date and time of observation
  - b) Location (ideally GPS)
  - c) Observers name and contact information
  - d) Weather, visibility
  - e) Closest distance at approach/encounter
  - f) Description of encounter
  - g) Duration of encounter
  - h) Actions taken
  - i) Number of bears, estimated age class, sex
6. Any lethal take or injury must be reported within 24 hrs to the nearest Government of Nunavut Conservation Officer so that proper occurrence record information can be filed.
7. Activities that occur during denning periods (15 September and 15 April) in snow-covered terrain in areas of higher altitude and facing south-west should be carefully undertaken as not to encounter or disturb bears in dens.
8. Earth moving (blasting, grading, piling gravel and other debris) in potential denning areas shall be carried out so as to avoid unnecessary influences on snow drifts (direction, thickness, etc.) which may affect the creation of suitable denning habitat for bears. Before any activities requiring equipment or explosives are conducted, DOE must be consulted."

In 2016, NTI and the RIAs<sup>1</sup> stated:

"Research into the regulation of oil and gas development in Alaska within polar bear denning habitat provides a model for placing terms and conditions for the protection of polar bear dens. Before initiating exploration activities during the denning season (November to April) in known or suspected polar bear denning habitat, operators must attempt to locate occupied polar bear dens in the area around proposed operations and report all observed or suspected polar bear dens. An exclusion zone around known polar bear dens is then applied as follows:

*Operators must observe a 1-mile [1.6 km] operational exclusion zone around all known polar bear dens during the denning season (November to April, or until the female and cubs leave the areas). Should previously unknown occupied dens be discovered within 1 mile of activities, work in the immediate area must cease and the Service contacted for guidance."*

In 2017, NTI and the RIAs<sup>2</sup> stated:

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>2</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

“NTI and the RIAs do not agree with NPC’s placement of polar bear denning areas in a Mixed Use Designation contrary to the recommendations of the Qikiqtaaluk Wildlife Board (QWB), NTI, the RIAs, the GN and other land use planning participants.

“The NPC states in the DNLUP 2016 at p. 28 that polar bears are an important part of Inuit culture. In addition, NPC states in the Options and Recommendation document at p. 45 that polar bear habitat is a priority value of Nunavut residents. The placement of polar bear habitat in a Mixed Use Designation is not consistent with these statements.

“NTI and the RIAs do not agree with the statement in the DNLUP 2016 at p.28 that ‘information provided to the NPC on polar bear denning areas was not sufficiently precise to allow the NPC to recommend land use designations in specific locations’. The GN has provided NPC with spatial data of polar bear denning habitat and a viable option for protecting polar bear denning sites through a Special Management Area designation with specific terms and conditions.

### **“3.2.2 Polar Bear Denning Areas – Recommendation**

“1. NTI and the RIAs support the placement of polar bear denning areas in a Special Management Area with terms and conditions to protect polar bear dens.

### **“3.2.3 Polar Bear Denning Areas – Rationale and Supporting Documents**

“The QWB, in a previous technical written submission to NPC, indicated that hunters argue that protecting denning sites is central to respecting the integrity of polar bear management. There is no question that polar bears are vitally important to Inuit and are a significant component of the Inuit harvest in Nunavut. The GN, in its last written submission, recognized the role of polar bears culturally and ecologically and recommends that the polar bear denning areas be placed in a Special Management Area designation and recommends terms and conditions for protecting dens. The GN also indicated that the spatial data provided to the NPC of polar bear denning habitat may be updated in the future, but that ‘there is no reason to believe that new information would result in drastic changes to these identified areas’. Given the viable option provided in GN submission for protecting polar bear dens, it remains unexplained why the NPC does not believe it can create a Special Management Area designation.

“The NPC, in its Options and Recommendations document, fails to list the GN’s submission on polar bear denning areas or consider a Special Management Area designation as an option. The submission of NTI and the RIAs on polar bears

is also omitted. It remains unexplained why these omissions have occurred.

“NTI and the RIAs conclude that NPC’s decision to place polar bear denning area habitat in a Mixed Use Designation was taken without considering, or weighing adequately, all the relevant facts. The terms and conditions proposed by the GN for a Polar Bear Denning Area Special Management Area go much further in addressing the concerns raised by QWB and communities than the placement of the habitat in a Mixed Use Designation. Particularly, NTI and the RIAs support the GN’s proposal to:

- i. involve HTOs and RWOs in assessing the likelihood that there would be denning areas in a project area,
- ii. require a search for dens in areas where there is a high likelihood that dens will be found before any activities take place, and
- iii. require that a 1km radius exclusion zone be observed around every known, recorded polar bear den between 15 September and 15 April, or until it is documented and reported that the den has been vacated by the family group and left the exclusion zone.

“Overall, NTI and the RIAs support the terms and conditions put forward by the GN and recommend that they be suggested to HTOs and RWOs.”

In 2017, the GN<sup>1</sup> noted:

“Recognizing NPC’s concerns regarding the large size and sparse use of polar bear denning areas, these should still be designated Special Management Areas with appropriate Wildlife co-management partner developed terms annexed to NPC conformity determinations.

“NPC should include the following in their second paragraph of Section 2.3: ‘Proponents are advised that Section 73(1b) of the *Nunavut Wildlife Act* prohibits the unlawful destruction of carnivore dens’.”

In 2017, as noted above, the NIRB<sup>2</sup> recommended that restrictions should be included in the NLUP:

**“Recommendation #7:** Concerns expressed by communities related to the designation and preservation of Polar Bear Denning areas should be defined within the Nunavut Land Use Plan as these types of concerns should be incorporated into consistently applied limits on land uses, rather than being left to rely on the NIRB’s project-specific impact assessment process. Considering the

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>2</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

ongoing regulatory discussion on balancing development with conservation efforts, denning areas should be defined clearly, any restrictions on development clearly outlined, and operational limitations clearly stated with positive conformity determinations to inform the subsequent NIRB impact assessment.”

In 2017, the WWF<sup>1</sup> stated:

“Polar bear denning areas should be designated as Special Management Areas with specific seasonal terms for conformity determinations for projects.

...

“In the 2016 Options and Recommendations document, the NPC indicated that NIRB has advised that consideration be given to polar bear habitat, and that there is precedent in the North Baffin Regional Land Use Plan to restrict development activities near polar bear denning areas. The main reason given for not including a designation for polar bear denning areas on Schedule A was that the areas cover a large geographic extent and that use of these areas is thin and sporadic. Assigning a Special Management Area with seasonal specific terms for conformity would limit the actual land impacted by these polygons by focusing the restrictions on known and discovered denning sites. Despite the fact that the polygons will cover a large extent on the map, the actual land implications will be small in terms of restricting development, and the benefits for polar bears will be large in terms of minimizing disturbance on denning females during a seasonal portion of the year. As the polygons for polar bear denning habitat is refined through community consultation and additional scientific and TEK research, the Special Management Areas can be easily amended in the NLUP and reduced where necessary.”

For denning areas that they have identified, the QWB and HTOs<sup>2</sup> recommended a CU designation:

**“Proposed Restrictions:**

**“Conditions:**

- During Ukiaksaq (starting November 15), Ukiq, Ukiuq and Upingaksaq, Critical Polar Bear Denning, Emergence and Mating Areas must not be disturbed by any activities related to:
  - Mineral Exploration and Production;
  - Oil and Gas Exploration and Production

- Quarries;
- Hydro-electrical and related infrastructure;
- Linear Infrastructure;
- Shipping; and
- Tourism without Inuit guides.

- In these Areas, any long-term projects related to these land uses must shut-down annually during these seasons.
- No activities in other seasons related to these land uses may be developed if they may impact polar bear denning or emergence in these areas.
- Any project in Nunavut that would violate these conditions is prohibited.”

In 2020, some Kugaaruk<sup>3</sup> residents identified two small areas for which seasonal protections may be appropriate.

**Considerations**

The NPC notes that several participants, including the GN, WWF as well as NTI and the RIAs, support a CU designation for polar bear denning areas. However, the NPC has three concerns with how the proposed conditions would be implemented.

First, the NPC has concerns regarding the proposal to involve the GN-DOE, HTOs and RWOs in assessing the likelihood that there would be denning areas in a project area. The NPC does not think it would be appropriate for the NLUP to include such consultative requirements for proponents to engage with other organizations on a project-by-project basis as a condition of conformity with the plan. This work is more appropriately done during the plan development process and the currently identified denning areas may be considered as areas where there is a higher likelihood of encountering denning bears.

Second, the NPC has concerns regarding the proposal to require a search for dens in areas where there is a high likelihood that dens will be found before any activities take place. The NPC has concerns about the methods of such a survey and who would be authorized to conduct it. Other GN recommendations propose that trained

<sup>1</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-195E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)



polar bear monitors be hired for all activities taking place during denning season, but the NPC is not aware of the training requirements for such positions and if such monitors would be authorized to conduct denning surveys.

Third, the NPC has concerns regarding the proposal that a 1 km radius exclusion zone be observed around every known, recorded polar bear den between 15 September and 15 April, or until it is documented and reported that the den has been vacated by the family group and the family group has left the exclusion zone. The NPC considers that while the setback seems reasonable, ongoing monitoring and reporting would be required to assess when the den has been vacated.

In addition, the NPC believes consideration of these conditions to conduct denning surveys in advance of project activities taking place should be limited to project proposals that have the potential to cause damage to polar bear dens.

#### 2.3.6.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.3.6.6.4 Option 4 - Valued Component

In 2018, as noted above under Option 1, the Rankin Inlet HTO<sup>1</sup> supported protecting polar bear denning areas as VECs, but recommended that in future versions of the NLUP, some of these areas should be designated as PAs (now LU areas).

In 2020, residents of Kugaaruk,<sup>2</sup> Taloyoak,<sup>3</sup> Gjoa Haven,<sup>4</sup> Cambridge Bay,<sup>5</sup> Nauyasat,<sup>6</sup> Coral Harbour<sup>7</sup> and Arviat<sup>8</sup> indicated that a VC designation was appropriate for polar bear denning areas.

#### Considerations

Identifying polar bear denning areas as VCs would ensure that proponents and regulatory authorities are aware of

their location and value and would help inform the NPC when considering cumulative effects based referrals of project proposals to the NIRB for screening. However, it is noted that the NIRB has recommended that the NLUP include more specific guidance for land users in polar bear denning areas rather than relying on the NIRB's project-specific impact assessment process.

### 2.3.6.7 NPC Recommendation - CU

Given that:

#### POLAR BEARS:

**The overall importance of the issue is considered HIGH.**

#### POLAR BEAR DENNING AREAS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>MODERATE</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>MODERATE</b>
iv.	<b>Sensitivity to Impacts</b>	<b>MODERATE and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

#### Recommendation for Polar Bear Denning Areas

Option 2 is recommended:

- Includes conditions to guide land use.
- Does not prohibit uses.
- Identified area to be included on Map A.

**Rationale:** Option 2 was recommended given that these areas have been identified by multiple participants as requiring protection during particular times of the year.

#### LAND USE PLAN POLICY RECOMMENDATION

<sup>1</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>8</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

## **POLAR BEAR DENNING AREAS**

### **CONDITIONAL USE**

#### **Conditions:**

- The proponent of a project to be carried out during denning season (15 September and 15 April) must have a trained polar bear monitor on hand to mitigate any responses to bear presence
- The proponent of a project to be carried out during denning season (15 September and 15 April) that involves earth moving (e.g., blasting, grading, drilling, piling gravel and other debris) must engage a trained polar bear monitor to conduct a survey to locate active or suspected active dens in the locations where the project activities are to occur before commencing any such activities
- The proponent of a project must not carry out any activities within a 1 km radius exclusion zone around every known, recorded polar bear den between 15 September and 15 April, or until the trained polar bear monitor has documented and reported that the den has been vacated by the family group and the family group has left the exclusion zone
- The survey and the report done above must be included in the annual report of the proponent

### **2.3.6.8 Summary of Revisions**

#### **KRLUP and NBRLUP**

The existing regional land use plans restrict development activities near polar bear denning areas.

#### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP did not include specific plan requirements for polar bears. This version recognized data gaps regarding a number of species, including polar bears. The 2012 DNLUP indicated that more information was required before land use designations, terms and recommendations could be considered for additional species, such as polar bears.

The 2014 DNLUP assigned a SMA designation to polar bear denning areas that identified cumulative impact concerns and provided direction to regulatory authorities to mitigate impacts on the areas. The only

term listed for this SMA was that the NPC may refer a project proposal falling within Schedule 12-1 to the NIRB for screening, where the NPC has concerns respecting the cumulative impact of that project proposal in relation to other development activities in the planning region.

The 2016 DNLUP assigned a MU designation to polar bear denning areas and presented the sites as areas of a known VEC. This approach ensured that all proponents and regulators were aware that polar bear dens may be present during the denning season. NPC staff would consider referring project proposals to the NIRB where there was concern regarding potential cumulative impacts to polar bear dens. As such, the practical effect of the 2014 and 2016 approaches was the same.

#### **2021 DNLUP**

The 2021 DNLUP takes a different approach to polar bear denning areas than the 2014 and 2016 DNLUP. The 2021 DNLUP assigns a CU designation with seasonal conditions related to monitoring and 1 km radius exclusion zones for project specified activities.

## **2.4 Atlantic Walrus**

Section 11.3.1(g) of the NA requires a land use plan to take into account environmental considerations, including wildlife habitat.

Objective D of the NPC's Goal of Protecting and Sustaining the Environment is to manage land use in and around areas of biological importance.

### **2.4.1 Importance of Atlantic Walrus**

The Central Low Arctic and High Arctic populations of Atlantic walrus found in Nunavut are being considered for listing as 'Special Concern' by COSEWIC under SARA.

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

"Walrus was an important part of the traditional subsistence economy for the Inuit of the Nunavut (COSEWIC 2006b). The meat is an important source of protein and the ivory is harvested and sold (Hovelsrud et

<sup>1</sup> (Nunavut Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

al. 2008). Many (18 out of 28) communities in Nunavut hunt the walrus (Priest and Usher 2004a). ...

“Walrus have a major role in the marine ecosystem, strongly influencing productivity and ecological function through predation on benthic invertebrates, disturbance to bottom sediments and facilitating flow of nutrients in the water (Ray *et al.* 2006). ...”

Between 2012 to 2014, walrus habitat was identified as a priority and value of residents during NPC community consultations.

In 2018, the QWB<sup>1</sup> noted:

“Atlantic walrus are important to the nutritional, cultural and economic well-being and traditions of Inuit. They are also a vital component of the ecology of marine environments in Qikiqtaaluk Region.”

### Considerations

Participants generally agreed on the overall high importance and priority of Atlantic walrus. Atlantic walrus is broadly recognized as an important issue to be included in the NLUP.

**The overall importance of ATLANTIC WALRUS is considered HIGH because:**

- They have been identified by many participants as a priority;
- They have a high cultural value;
- They have a high economic value; and
- They have a high ecosystemic value.

## 2.4.2 Types of Areas Important to Atlantic Walrus

Three types of Atlantic walrus habitat were identified by participants for consideration in the planning process: walrus feeding areas; walrus calving and post-calving areas; and walrus terrestrial haul-outs. After this introductory discussion, each of these areas is analyzed in the subsections below.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, noted:

“Atlantic walrus require large areas of shallow water (less than 80 m) with bottom substrates that support productive bivalve communities, open water and suitable ice or land nearby upon which to haul-out (Davis *et al.* 1980).

“In winter, walrus are found hauled out on ice floes in large social groups. The rest of the year, they often gather in large herds and are associated with moving pack-ice (Richard 2001). When ice is lacking in summer and fall Atlantic walrus congregate on land in a few predictable haul-out locations ... (COSEWIC 2006b). ... Suitable land habitat is defined by low, rocky shores with steep or shelving subtidal zones where animals have easy access to the ocean for feeding activities or for escape from predators. ...”

Additional areas important to walrus were identified during community consultations between 2012 and 2014 and are considered in Chapter 4. These areas are:

- Walrus Island near Coral Harbour, which is considered as a community area of interest in large part due to its importance to walrus;
- Several important walrus areas identified by communities, which are included within the Area of Equal Use and Occupancy around the Salisbury and Nottingham Islands; and
- The Foxe Basin marine area of interest, which has been identified in part for its importance to walrus.

## 2.4.3 Walrus Feeding Areas

In 2020, Coral Harbour<sup>3</sup> and Naujaat<sup>4</sup> residents identified walrus feeding areas and noted concerns regarding impacts from shipping. Some participants noted that the concern is with larger vessels and identifying the areas as VCs would be appropriate.

### Considerations

The NPC needs additional records of how the proposed policies were developed and why they are needed, so that the NPC may consider why these novel arguments have not been advanced by others. Without further information, the NPC is unable to make or recommend policies in the NLUP relating to walrus feeding areas.

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-184E)

<sup>2</sup> (Nunavut Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

## 2.4.4 Walrus Calving and Post-Calving Areas

In 2018, the QWB<sup>1</sup> identified two sea ice habitat areas off Bathurst Island to be protected as walrus calving and post-calving areas and noted:

“Walrus calving and post-calving areas are recognized as being important habitat where pregnant females and young walruses are very sensitive. Calves are born beginning in late May, and young walruses are dependent on their mothers for about two years after birth. Mature females may give birth only once every three years at most. Given their sensitivity and low reproductive rates, it is important that known calving and post-calving areas are given strong protection.”

### Considerations

The NPC needs additional records of how the proposed policies were developed and why they are needed so that the NPC may consider why these novel arguments have not been advanced by others. Without further information, the NPC is unable to make or recommend policies in the NLUP relating to walrus calving and post-calving areas.

## 2.4.5 Walrus Terrestrial Haul-Outs

### 2.4.5.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
Department of Fisheries and Oceans Canada (DFO), 2013	1,515	0
QWB, 2018	1,610	0
NPC Consultation, 2020	169	
WWF, 2016	52	0

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-186E)

<sup>2</sup> Government of Canada (GoC), Department of Fisheries and Oceans (DFO). Stewart, R.E.A., J.W. Hamilton, and J.B. Dunn. “Results of Foxe Basin walrus surveys”; 2010- 2011. May 2013.

<sup>3</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-192E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-073E)

Some of the walrus terrestrial haul-out locations were derived from a 2013 GoC DFO<sup>2</sup> report that focused on Foxe Basin.

In 2013 and 2014, walrus haul-outs were identified during community consultations by community participants in Coral Harbour,<sup>3</sup> Iqaluit<sup>4</sup> and Qikiqtarjuaq.<sup>5</sup> These areas are consistent with those noted below.

In 2015, NTI and the RIAs<sup>6</sup> stated:

“... It is not clear how the walrus haul out boundaries were created and what sources of information were used. It is not clear whether boundaries were derived from community mapping? NPC should further explain what options were considered regarding walrus haul out areas. If consultations have not occurred with communities, HTOs, RWOs and NWMB on this specific designation, these consultations are required to obtain direction on walrus haul-out sites. Further consultation is also required with the RIAs and NTI.”

In 2016, the KWB<sup>7</sup> identified locations near Southampton Island.

In 2016, the WWF<sup>8</sup> identified 196 point locations within Nunavut based on a literature review. The locations were categorized as “Active,” “Uncertain” and “Abandoned.” The WWF noted:

“... The walrus haulouts identified and mapped by the NPC (as site #41 in the NLUP) is incomplete however, and is limited to Foxe Basin only. The NPC walrus haulout database is therefore missing a significant number of sites throughout eastern Nunavut. Many additional walrus haulout sites are reported in the literature however, and they should be added to the NPC database. ... This report describes and summarizes efforts made on behalf of WWF-Canada to prepare a database of walrus haulout locations in eastern Canada (and West Greenland for shared stocks).  
...  
...

“The walrus haulouts identified and mapped by the NPC (as site #41 in the NLUP) are from R.E.A. Stewart et al. (2013) and are based on research from the Department of

<sup>5</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-068E)

<sup>6</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>7</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-157E)

<sup>8</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

Fisheries and Oceans (DFO). This research was conducted only in northern Foxe Basin, however, and the NPC walrus haulout database is therefore missing a significant number of sites throughout eastern Nunavut. Walrus Island (site #76 is the NLUP) was identified by the community of Coral Harbour as a Community Areas of Interest, and these areas are also assigned a Protected Area Land Use Designation. This will also protect some important walrus haulout sites in the Kivalliq Region. A large number of additional walrus haulout sites are reported in the literature however, and they should be added to the NPC database.

...

“... There are a number of uncertainties related to locations, including multiple sites located close to each other (but perhaps not close enough to be effectively captured in a 5 km buffer around one point) and uncertainty in locations from different sources. These locational uncertainties, coupled with the fact that haulouts locations can shift over time, new haulouts can be started, and abandoned haulouts can be re-colonized, all point to the importance of treating this database as a start for land use planning, not the final product. ...”

In 2018, the QWB<sup>1</sup> identified a large number of new locations for walrus terrestrial haul-outs for protection. The submission also noted an important haul-out onto ice near a polynya that is considered below in the polynya section.

In 2019, the GoC<sup>2</sup> submitted an expert report<sup>3</sup> on walrus that considered the same locations as the WWF report and recommended “that the same guidelines be considered for all haul-out sites (active, uncertain, and abandoned), since the ability of walrus to recolonize abandoned sites is unknown.”

In 2020, Coral Harbour<sup>4</sup> and Naujaat<sup>5</sup> community participants agreed with the identified walrus terrestrial haul-outs included in the 2016 DNLUP (from the above noted DFO report and from the KWB).

In 2020, Naujaat<sup>6</sup> residents identified additional haul-out sites that should be included, and agreed a 5 km setback in marine areas is appropriate. Most identified sites were small; however, one location included the entire 79 km-

long coastline of Vansittart Island to the southeast of the community as a walrus haul-out.

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of walrus terrestrial haul-outs. The NPC observes the following considerations regarding locations:

- *DFO (2013) and KWB (2016)* – The 2016 DNLUP included a number of sites identified in a 2013 DFO report as well as locations identified by the KWB. These locations have generally been supported by participants and are considered below.
- *QWB* – The additional locations identified by the QWB are based on consultations with community members and are considered to be accurate and reliable and are added to the list of haul-out sites considered below.
- *Naujaat* – Most of the locations identified by Naujaat residents in 2020 are discrete locations and are added to the list of haul-out sites in the NLUP. Naujaat community participants also identified the entire island of Vansittart for inclusion as a haul-out site. On review of the WWF/DFO database, there are a number of discrete locations on the island that have been identified and these locations are included in the list of haul-out sites considered below rather than the entire island.
- *WWF/GoC* – The 196 sites identified by DFO and WWF have been compared to the above noted datasets and only those active and potential sites, not the abandoned sites, are considered below.

Regarding a marine buffer, a variety of marine setbacks are considered below under Option 1, with the largest recommended setback being 5 km, which has been added to the identified locations.

Regarding a terrestrial buffer, while most discussion has focused on marine and aerial disturbance, human activities on land near haul-out sites can also cause disturbance. When hauled-out on land, walrus congregate close to shore and do not move far inland, and terrestrial land use designation areas for walrus

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-184E)

<sup>2</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-241E)

<sup>3</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-242E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

haul-outs may parallel the coast. For consideration in 2016, the geographic boundary was set at 1 km inland, and that is also continued here.

***The certainty of the identified geographic boundaries of WALRUS TERRESTRIAL HAUL-OUTS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

## 2.4.5.2 Environmental and Cultural Importance

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“Walruses predominantly rely on sea ice and shallow water habitat; however, during the summer and fall months they tend to congregate and haul out on land at known locations, typically situated on low, rocky shores. As walruses have high site fidelity, these terrestrial haulouts need to be considered during land-use planning.”

In 2017, the Hamlet of Coral Harbour<sup>2</sup> described walrus haul-outs as “significant key areas which are important to the residents of Coral Harbour.”

In 2017, the WWF<sup>3</sup> noted:

“Atlantic walruses in the eastern Canadian Arctic require suitable areas to haul out of the water throughout the year. Sea ice is an important haulout substrate when it is available, but during the time of sea ice minimum in late summer and early fall, terrestrial haulout sites (uglit) become of critical importance to walruses.”

In 2018, the QWB<sup>4</sup> noted:

“... In summer, [walrus] haul-out and congregate on low, rocky shores, often returning to known locations annually. Many annual and alternative haul-out sites are known to Inuit. Although occasionally they may use alternative locations in some years, they will eventually return to previously used haul-outs in future. Haul-outs are often small but heavily used areas. ...

“In Inuktitut, walrus haul-outs are ulliit (ulli, singular). Habitats for ulliit are limited. Large numbers of walrus must be able to move easily, quickly and safely in and out of the water, especially in the presence of predators and human disturbance. Haul-outs must also be in close vicinity to suitable foraging habitats, mainly shellfish beds. ...”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of walrus terrestrial haul-outs. In particular, participants largely recognized walruses are culturally important for Nunavummiut and that terrestrial haul-out sites are essential for the subsistence of the Atlantic walrus, whether it is for their thermoregulation, breeding, birthing, nursing, resting, foraging, or hiding from predators.

***The environmental and cultural importance of WALRUS TERRESTRIAL HAUL-OUTS is considered HIGH because:***

- *The areas are essential to communities for hunting, fishing and/or trapping; and*
- *The areas are essential to the biological productivity of wildlife because:*
  - *Alternative habitat is often not available;*
  - *The habitat supports concentrations of wildlife; and*
  - *The habitat is scarce.*

## 2.4.5.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
DFO, 2013	1,515	836	0	0
QWB, 2018	1,610	817	9	2
NPC Consultation, 2020	169	6	0	0
WWF	52	8	2	0

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (Hamlet of Coral Harbour, 2017-02-27. NPC Public Registry File # 16-094E)

<sup>3</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-184E)



Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in walrus terrestrial haul-outs is considered low. Walrus terrestrial haul-outs are geographically small, with typically limited non-renewable resource potential, however, some of them are located near marine shipping corridors.

***The potential for non-renewable resources, transportation and linear infrastructure in WALRUS TERRESTRIAL HAUL-OUTS is considered LOW because:***

- ***The areas have no known mineral potential or oil and gas significant discovery;***
- ***The areas have low potential for transportation and linear infrastructure development;***
- ***The areas have no existing rights for non-renewable resource land use;***
- ***The areas have no subsurface IOL parcels; and***
- ***The areas are relatively small.***

#### 2.4.5.4 Sensitivity to Impacts

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>3</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

"Disturbances (e.g., anthropogenic noise, vessel presence or other human activities) may induce haul-out clearing and stampedes. This effect may increase injury and mortality risk, energy expenditure, and stress, or cause communication masking, and a change in thermoregulation (Born *et al.* 1995; Kucey 2005). These parameters are especially important for young animals and

pups. Prolonged or repeated disturbances may cause walruses to abandon their haul-outs (Mansfield and St. Aubin 1991; Richardson *et al.* 1995)."

In 2015, the QWB<sup>4</sup> stated:

"... The slightest disturbance has the potential to scare walruses away from the site [haul-outs] indefinitely. ..."

In 2016, the WWF<sup>5</sup> supported the QWB submissions describing:

"... the importance of not disturbing critical walrus haul-outs due to the high level of sensitivity of walrus to disturbance."

In 2016, the WWF<sup>6</sup> also submitted:

"Terrestrial haulout sites (*uglit* in Inuktitut) are a critically important habitat for Atlantic walruses (*Odobenus rosmarus rosmarus*) in the eastern Canadian Arctic. Such sites are limited on the landscape and are used, to varying degrees, on an annual basis during the open-water season. Walruses are sensitive to disturbance at their haulout sites, and repeated disturbance can lead to haulout abandonment. ..."

In 2016, the KWB<sup>7</sup> noted:

"... the Coral Harbour HTO raised a number of concerns with the impacts of industrial activity and ship traffic on walrus haul-outs. The HTO directors said that the community has observed increased ship traffic negatively impacts walrus haul-outs on walrus island. The HTO was also concerned that other industrial activity could impact walrus haul-outs. Board members explained that there are traditional rules in Inuit culture to protect and respect walrus haul-outs, and that Inuit are taught not to hunt walrus when they are hauled out on shore. If walrus are shot on a haul-out, the other walrus will not return to the area. ..."

In 2016, the GoC<sup>8</sup> noted:

"During community consultations in 2011 and 2014 by the walrus working group in connection with the development of the draft Walrus Plan, the priority walrus management concerns identified in each community were the potential impacts from increased shipping and tourism [Arctic Bay, Grise Fiord, Hall Beach, Igloodik, Pond Inlet and Resolute].

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2015-06-22. NPC Public Registry File # 14-084E)

<sup>5</sup> (WWF-Canada, 2016-03-04. NPC Public Registry File # 14-160E)

<sup>6</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>7</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>8</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

This was also a priority concern identified by the six Hunter Trapper Organization (HTO) members of the walrus working group.”

In 2016, the GoC<sup>1</sup> referenced the following statements from the 2016 draft Walrus Plan:

“There are a number of potential impacts and threats to walrus and walrus habitat resulting from increased development and shipping activities. These could include increased oil spills, ship strikes, disruption of migration, avoidance of ecologically or biologically important areas (e.g. birthing, mating or feeding areas), noise disturbance and the introduction of alien or invasive species through activities such as ballast water exchange. Tourism is increasing in the Arctic and concern with increased disturbance to important walrus areas (e.g. haul-outs) has been expressed.”

In 2016, the GoC<sup>2</sup> also referenced the following note associated with a consideration of amendments to the *Marine Mammal Regulations*:

“The principle for determining the approach distance to walrus is related to their possibility to escape without injuring smaller animals. When the animals are on ice with open water on all sides of the ice, the walrus can escape in any direction. If they are on ice from which escape is possible in less than 360 degrees, they are ‘more trapped’ and the approach distance by people would be greater. When on land, escape routes are further restricted.

“The minimum approach distance would be 100 m on water. ...

“The approach distance would be increased to 200 m when walrus are hauled out on floating ice ...

“Finally, the distance would be increased to 300 m when on the shore or on consolidated ice, because they are resting and they have only one escape option (back to water) and the risk is greatest that calves may be trampled.

“This also addresses the possibility that walrus may be disturbed by vessels in transit alongside land-based haul-outs. There have been examples of haul-outs being abandoned as a result of increased vessel traffic in the vicinity.”

In 2017, the WWF<sup>3</sup> noted:

“Walrus are sensitive to disturbance at uglit, and human disturbances may cause them to stampede into the water, resulting in potential mortality through trampling, increased energy expenditures and stress levels, and impaired thermoregulation. In some areas, hunting and noise disturbance has caused walrus to abandon uglit near communities in favour of less accessible islands and shores. Prolonged or repeated disturbances may cause walrus to abandon uglit, and their ability to recolonize areas and to habituate to disturbances is largely unknown.”

In 2018, the QWB<sup>4</sup> noted:

“... Traditional rules for the timing and method of approaching haul-outs are known and followed by Inuit in order to minimize disturbance.

“... Walrus are susceptible to impacts of human disturbance at and near ulliit. Repeated disturbance by people who do not have sufficient knowledge of approach methods known to Inuit may cause short or long-term abandonment of ulliit.”

In 2020, Coral Harbour<sup>5</sup> community participants noted that smaller vessels do not seem to affect walrus.

In 2020, some Nauyasat<sup>6</sup> community participants noted that it could be dangerous for smaller vessels to approach walrus haul outs, but it could be done with an Inuk guide.

### Considerations

Participants broadly agreed that the sensitivity of walrus terrestrial haul-outs to impacts from incompatible uses is high and seasonal. In particular, several participants noted that walrus are highly sensitive to impacts seasonally when hauling-out.

#### ***The sensitivity of WALRUS TERRESTRIAL HAUL-OUTS to impacts is considered HIGH and SEASONAL because:***

- ***Walrus are highly sensitive to disturbance when using these areas; and***
- ***Walrus use these areas seasonally when disturbance is likely to occur.***

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-184E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

#### 2.4.5.5 Other Regulatory Tools

Section 65(2) of the Nunavut *Wildlife Act* notes: “No person shall, without legal justification, substantially alter or damage or destroy any habitat.”

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, noted:

“Some walrus haul-out habitat is currently protected under land managed by the Government of Canada and includes:

- Polar Bear Pass, National Wildlife Area
- Nirjutiqavvik National Wildlife Area, Coburg Island
- Bylot Island Migratory Birds Sanctuary, Wallaston Islands
- East Bay Bird Sanctuary, Southampton Island
- Bowman Bay Wildlife Sanctuary, Baffin Island
- Northeast coast Bathurst Island, proposed National Park.”

In 2016, the GoC<sup>2</sup> summarized a number of tools to manage Atlantic walrus in the NSA:

“... Fisheries and Oceans Canada (DFO) manages fisheries and oceans resources in Nunavut in cooperation with co-management partners under the Nunavut Land Claim Agreement.

“In the management of fisheries, established fisheries management principles and DFO policies apply. These take into account the principles of conservation and the Precautionary Approach. DFO presented the Draft Integrated Fisheries Management Plan for Atlantic Walrus in the Nunavut Settlement Area to the Nunavut Wildlife Management Board (NWMB) for approval on March 15, 2016 ...

“Additional safeguards for fisheries are found in the *Fisheries Act*, which requires that projects avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada. This applies to work being conducted in or near waterbodies that support fish that are part of, or that support, a commercial, recreational or Aboriginal fishery. In the *Fisheries Act*, ‘fish’ is defined to include marine mammals.”

In 2016, the GoC<sup>3</sup> also added the following regarding the *Fisheries Act*:

“The current Marine Mammal Regulations (MMRs) are of limited use as a tool to address the concerns that were raised at the Technical Meeting on Marine Issues about walrus disturbance from shipping, as the regulations apply only to the management and control of fishing for marine mammals and related activities. The general disturbance prohibition contained in s.7 of the current MMRs is also, therefore, similarly limited to that management and control of fishing and related activities. Section 7 reads: ‘No person shall disturb a marine mammal except when fishing for marine mammals under the authority of these Regulations.’

“Given the limitations of the current MMRs to effectively control various activities that may disturb marine mammals, DFO has proposed amendments that would provide enhanced protection for marine mammals against human disturbances. ...”

In 2016, regarding marine shipping, the GoC<sup>4</sup> noted:

“The draft Nunavut Land Use Plan needs to be developed and applied in a way that recognizes the existing regulatory framework which reflects Canada’s international obligations with respect to shipping and navigation. The Government of Canada sees prohibitions on shipping as a last resort once all other available tools are examined.”

In 2016, the GoC<sup>5</sup> furthermore provided details on some potentially relevant options:

##### “The Northern Marine Transportation Corridors Initiative

“... The objective of the Corridors is to determine the appropriate mix of navigational services, infrastructure, knowledge and emergency response services required to meet the changing service demands of mariners across Canada’s Arctic. ... Corridors incentivizes mariners to operate within the corridors where they will receive the greatest level of services for navigation allowing mariners to manage the risks associated with sailing in the Arctic. Corridors are not intended to create restrictions on ship movements.

...

##### “The Marine Environmental Handbook

“This document, published by [DFO], is a useful reference for sailors. It provides information on marine

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>5</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

environmental issues and concerns in the Northwest Passage.

“The handbook describes some areas that have environmental sensitivities due to their importance to activities of northern residents or as habitat for wildlife species. It has information detailing species migration patterns, patterns of wildlife harvest by beneficiaries and sensitive habitat areas, including information as to times when some areas are sensitive to shipping.

...

#### **“Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP)”**

“Exploring how the annually published Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts can be used to communicate relevant and timely information to the Commission to raise awareness about local ice conditions and uses, important navigational safety matters and best practices for mariners to reduce disturbance to marine mammals.”

#### **Considerations**

Although other regulatory tools exist and some walrus haul-outs are protected within established parks and conservation areas, there is relatively little guidance on how activities should be carried out nearby to and within the majority of haul-outs. As such, the NLUP is an appropriate tool to prevent inconsistent developments in walrus terrestrial haul-out sites.

***The potential value of including guidance in the NLUP for WALRUS TERRESTRIAL HAUL-OUTS is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

### **2.4.5.6 Policy Options for Walrus Terrestrial Haul-Outs**

#### **2.4.5.6.1 Option 1 - Limited Use**

The KRLUP and the NBRLUP state, “Development activities shall be restricted near polar bear denning areas and walrus haul-outs”.

In 2016, NTI and the RIAs<sup>1</sup> stated:

#### **“Recommendation:**

1. NTI and the RIAs support Option 1 as outlined at page 3 of *NPC’s Refinements Document* that would result in walrus haul-out sites being designated as Protected Areas with year round protection within the NLUP. NTI and RIAs also support the inclusion of marine setbacks from shipping for these walrus haul-out sites.
2. NTI and the RIAs request that NPC propose a list of appropriate prohibited uses that will fulfill the objective of protecting walrus haul-out sites.
3. NTI and the RIAs recommend that NPC verify with RWOs, RIAs, NTI and other wildlife organizations that the walrus haul-out sites identified in the DNLUP 2014 are accurate and comprehensive.”

In 2017, NTI and the RIAs<sup>2</sup> added:

#### **“3.2.4 Walrus Haul-Outs – Recommendations**

1. NTI and the RIAs recommend that the NPC include other walrus haul-out sites in the proposed Protected Area designation on the request of communities, HTOs or RWOs that are made in writing or presented orally at the final public hearing.
2. NTI and the RIAs recommend that before including additional walrus haul-out sites presented by the World Wildlife Fund (WWF) that these sites be verified and endorsed by communities, HTOs and RWOs.
3. NTI and the RIAs recommend that NPC change the year-round vessel prohibition within the 5 km marine setback to a seasonal restriction based on the presence of walrus.”

In 2016, the KWB<sup>3</sup> wrote:

*“Recommendation – the KWB recommends that the Nunavut Land Use Plan provide increased protection for walrus haul-outs. Mining, exploration, and related activities should be prohibited at walrus haul-out sites. Marine shipping traffic should be required to maintain a minimum distance of 20km from walrus haul-out sites.”*

In 2017, the KWB<sup>4</sup> indicated:

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>2</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>4</sup> (Kivalliq Wildlife Board (KWB), 2017-01-13. NPC Public Registry File # 16-069E)

“3) Increase the buffer around walrus haul-outs. The draft land use plan prohibits marine shipping traffic within 5 kilometers of walrus haul-outs. The KWB does not believe 5 km is a large enough buffer. Marine shipping should be prohibited within 10km of walrus haul-outs, at minimum.”

In 2017, the WWF<sup>1</sup> supported LU status on walrus haul-outs and advised:

“Assign Protected Area status to additional known walrus haul-out sites in the NSA.”

In 2017, the GoC<sup>2</sup> stated:

“The Government of Canada recognizes that seasonal marine setbacks around specific areas containing bird breeding colonies and walrus haul-outs are appropriate in the land use plan. However, while some restrictions are necessary and appropriate to protect sensitive habitats, large areas where shipping is restricted can be problematic. The proposed marine setbacks to protect these sensitive habitats represent small and discrete marine areas that do not unduly narrow the range of routing choices available to vessels. The broader marine transportation restrictions proposed in the draft Plan, however, are of greater concern, as they could render large areas or common destinations inaccessible.

...

“The Government of Canada further recommends that the conditions under Table 1, Site 41, be changed to the following: ‘No vessel may approach within 5 km seaward of a walrus haul-out any time during the year unless, in the discretion of the master of the ship, entry into the restricted area is required for safety or emergency response, for example to secure or ensure the safety of the ship, the health and safety of mariners and of those on board the ship; to save life at sea or the vessel; or to protect the environment. Setbacks do not apply to scientific research vessels, scientific research, or hunting or fishing or other harvesting activities.’

...

“Amend the relevant condition on page 70, Table 1, Site 41, Walrus Haul-Outs, to include the following text at the end of the first sentence: ‘..., except vessels engaged in scientific research on wildlife abundance, distribution and health.’”

In 2018, the QWB<sup>3</sup> advised:

#### **“Proposed Amended Restrictions:**

**“Prohibited Uses:** The following uses are prohibited:

- Mineral Exploration and Production;
- Oil and Gas Exploration and Production;
- Seismic testing;
- Disposal at Sea;
- Quarries;
- Hydro-electrical and related infrastructure;
- Linear Infrastructure;
- Tourism; and
- Related research except Non-exploitive Scientific Research

#### **“Conditions:**

- No vessel may approach within five (5) km seaward of a walrus haul-out, any time during the year.
- When walrus are present, fixed wing aircraft must maintain a minimum vertical setback of 460 m (1500 ft) above ground level (AGL) while within 310 m (1000 ft) of a group of walruses. Helicopters should remain at altitudes greater than 910 m (3000 ft) AGL when traveling within 1,610 m (1 mile) of a group of walruses.
- When walruses are present, walruses must not be approached by terrestrial vehicles closer than 800 m (0.5 mile) while the vehicle remains out of sight of the walruses.
- Any project in Nunavut that would violate these conditions is prohibited.”

In 2016, the KWB<sup>4</sup> recommended that the NLUP:

“... provide increased protection for walrus haul-outs. Mining, exploration, and related activities should be prohibited at walrus haul-out sites. Marine shipping traffic should be required to maintain a minimum distance of 20km from walrus haul-out sites.”

In 2017, the KWB<sup>5</sup> indicated:

<sup>1</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-184E)

<sup>4</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>5</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

“Increase the buffer around walrus haul-outs. The draft land use plan prohibits marine shipping traffic within 5 kilometers of walrus haul-outs. The KWB does not believe 5 km is a large enough buffer. Marine shipping should be prohibited within 10km of walrus haul-outs, at minimum.”

NTI and the RIAs<sup>1</sup> in their May 2016 stated:

4. NTI and the RIAs support Option 1 as outlined at page 3 of NPC’s Refinements Document that would result in walrus haul-out sites being designated as Protected Areas with year round protection within the NLUP. NTI and RIAs also support the inclusion of marine setbacks from shipping for these walrus haul-out sites.
5. NTI and the RIAs request that NPC propose a list of appropriate prohibited uses that will fulfill the objective of protecting walrus haul-out sites.
6. NTI and the RIAs recommend that NPC verify with RWOs, RIAs, NTI and other wildlife organizations that the walrus haul-out sites identified in the DNLUP 2014 are accurate and comprehensive.”

NTI and the RIAs<sup>1</sup> added in 2017:

4. “NTI and the RIAs recommend that the NPC include other walrus haul-out sites in the proposed Protected Area designation on the request of communities, HTOs or RWOs that are made in writing or presented orally at the final public hearing.
5. NTI and the RIAs recommend that before including additional walrus haul-out sites presented by the World Wildlife Fund (WWF) that these sites be verified and endorsed by communities, HTOs and RWOs.
6. NTI and the RIAs recommend that NPC change the year-round vessel prohibition within the 5 km marine setback to a seasonal restriction based on the presence of walrus.”

In 2018, the Rankin Inlet HTO<sup>1</sup> stated:

“Kangiqliniq HTO would like to see walrus haul-outs and birthing areas near Rankin Inlet included as Protected Areas. NTI and KIA have maps where traditional and current hauls outs are identified. These should be Protected Areas with a 2 km buffer for these specific haul outs (larger haul outs like those near Coral Harbor and

Naujaat should be commented on by the appropriate community). Protection of these [areas] may help the WHB walrus population recover.”In 2017, the GoC<sup>1</sup> stated:

“The Government of Canada recognizes that seasonal marine setbacks around specific areas containing bird breeding colonies and walrus haul-outs are appropriate in the land use plan. However, while some restrictions are necessary and appropriate to protect sensitive habitats, large areas where shipping is restricted can be problematic. The proposed marine setbacks to protect these sensitive habitats represent small and discrete marine areas that do not unduly narrow the range of routing choices available to vessels. The broader marine transportation restrictions proposed in the draft Plan, however, are of greater concern, as they could render large areas or common destinations inaccessible.”

In 2017, the GoC<sup>2</sup> noted:

“The Government of Canada further recommends that the conditions under Table 1, Site 41, be changed to the following: “No vessel may approach within 5 km seaward of a walrus haul-out any time during the year unless, in the discretion of the master of the ship, entry into the restricted area is required for safety or emergency response, for example to secure or ensure the safety of the ship, the health and safety of mariners and of those on board the ship; to save life at sea or the vessel; or to protect the environment. Setbacks do not apply to scientific research vessels, scientific research, or hunting or fishing or other harvesting activities.

...

“Amend the relevant condition on page 70, Table 1, Site 41, Walrus Haul-Outs, to include the following text at the end of the first sentence:..., except vessels engaged in scientific research on wildlife abundance, distribution and health.”

In 2019, the GoC<sup>3</sup> submitted an expert report on walrus that stated in part:

#### “Conclusions

- Little information about walrus response to disturbance is published in the scientific literature, and most available data is for Pacific walrus. We assume disturbance reactions are similar in Pacific and Atlantic walrus.

<sup>1</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>1</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>1</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>3</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-242E)

<sup>3</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-242E)

<sup>3</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-242E)



- Further, available information is almost exclusively from adult male bachelor herds. Females and dependent young are likely to have greater sensitivity to disturbances.
- Walrus haul-outs on ice enter water when ice-breaking ships are within 1,000 m.
- Observations at Round Island, Alaska indicate vessels that remain outside the 3 mile (4.8 km) restricted zone do not cause disturbances at terrestrial walrus haul-outs.
- A larger body of research on small vessel (e.g. zodiac or skiff) disturbance indicates that walrus disperse and enter water when boats are within 800 m, with the bulk of dispersals occurring when boats are within 400 m (including landings).
- Responses to aircraft are variable, and dispersal into water is not uncommon even for jet overflights at 9000+ mAGL. Excluding jets, propeller planes and helicopters flying at ~1370 to 6100 mAGL at horizontal distances of up to 2.8 km have caused dispersal of walrus at haul-outs. Disturbance is more severe as distances decrease (including helicopter landings).
- In the absence of dedicated research on this topic in the Canadian Arctic, the information summarized above may be used as a guideline for developing buffer zones that restrict vessel and aircraft-based activity around Atlantic walrus haul-out sites. Alternatively, interim adoption of existing regulations and guidelines by the USFWS, FAA, and the ADFG for Pacific walrus in Alaska is another option.
- The USFWS Guidelines (2012) are as follows: marine vessels  $\leq 50$  ft (~ 15.2 m) in length should remain at least a 0.5 nautical mile (~ 0.9 km) away from hauled out walrus; those 50-100 ft (~ 15.2 to 30.5 m) should remain at least 1 nautical mile (~ 1.9 km) away; and those greater than 100 ft (30.5 m) should remain at least 3 nautical miles (~ 5.6 km) away. All vessels are to refrain from anchoring and other activities within 3 miles (~ 4.8 km) of hauled out walrus, and to maintain a 0.5 nautical mile (~0.9 km) exclusion zone around feeding walrus. Alaska restricts all access within 3 miles (~ 4.8 km) around Round Island. The United States National Marine Fisheries Service (NMFS) prohibits groundfish operations within 22 km of walrus haul-outs on Round Island and other locations in Bristol Bay.
- The FAA recommends that all aircraft maintain a minimum altitude of 5000 feet (~ 1524 m) above ground level within a 3-mile (~ 4.8 km) radius of Round Island and 2000 feet (~ 610 m) above ground level within a 0.5 mile (800 m) of walrus haul-outs within the Togiak National Wildlife Refuge and the Alaska Peninsula. Guidelines recommend single engine aircraft fly over or fly within 1/2 mile (~ 0.8 km) of walrus haul-outs on land or ice, and when weather or aircraft safety require flight operations within 1/2 mile (~ 0.8 km) of walrus, a 2000' (~ 610 m) minimum altitude should be maintained.
- Corresponding FAA guidelines for helicopters and multi-engine aircraft restrict flying within 1 mile of walrus haul-outs on land or ice. If flying within 1 mile (~1.6 km) of walrus is required for safety, helicopters and multi-engine aircraft should maintain a minimum altitude of 3000' (~914 m).
- Guidelines in place for haul-outs in Alaska may not be appropriate for other regions with different levels of vessel or aircraft traffic.
- Buffer zones centered around walrus haul-outs would not protect their larger habitat requirements. For example, ships could still impact walrus foraging behavior outside any designated restricted zone around haul-outs.
- It is recommended that the same guidelines be considered for all haul-out sites (active, uncertain, and, abandoned), since the ability of walrus to recolonize abandoned sites is unknown.
- A conservative approach would be to assign larger buffer zones around sites with low and moderate spatial accuracy until more accurate location data become available."

In 2020, Coral Harbour<sup>1</sup> community participants recommended that ships stay 15 km away from walrus haul outs.

### Considerations

The NPC notes that several participants support this option. In consideration of the recommendations from participants, the small geographic area of the walrus haul-outs, and the high sensitivity to disturbance, and the limited existing regulatory protections, a LU designation of the areas through the NLUP would be appropriate. The detailed setback requirements

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

developed in Alaska provide valuable guidance that could be incorporated into the NLUP and the conditions are consistent with most recommendations from participants.

#### 2.4.5.6.2 Option 2 - Conditional Use

No participant recommended this option; however, the NPC notes that potential conditions are suggested by some participants above under Option 1.

#### 2.4.5.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.4.5.6.4 Option 4 - Valued Component

In 2016, the GoC<sup>1</sup> recommended permitting all uses and providing: “Information for decision makers [that] would note that, where appropriate, impacts on walrus haul-outs be mitigated.” The GoC also noted:

“... that as additional scientific and traditional knowledge becomes available that informs approaches within the Nunavut Land Use Plan to minimize disturbance of walrus at and near haul-out sites, terms and conditions with respect to some uses may be appropriate.”

#### Considerations

The NPC notes that the GoC’s comment supports this option. It is also noted that the GoC provided updated comments in 2017 and 2019, which are included under Option 1.

While participants agree on the high value for walrus haul-outs, there is support for a land use designation that provides more specific guidance on how activities should be carried out within the identified areas, rather than only identifying the areas as VCs. It is also noted that the 2016 GoC comments were updated by later comments in 2017 and 2019 noted under Option 1.

#### 2.4.5.7 NPC Recommendation - LU

Given that:

#### WALRUS:

**The overall importance of the issue is considered HIGH.**

#### WALRUS TERRESTRIAL HAUL-OUTS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>MODERATE</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>LOW</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

#### Recommendation for Walrus Terrestrial Haul-Outs

Option 1 is recommended:

- Prohibits uses that are incompatible with existing values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given the recommendations from participants, the small geographic area of the walrus haul-outs, the areas’ sensitivity to disturbance, and the limited existing regulatory protections.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **WALRUS TERRESTRIAL HAUL-OUTS**

#### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines for electrical generation that are over 15 m in height and related infrastructure
- All-weather roads

#### **Conditions:**

- Marine vessels less than 50 ft (~ 15.2 m) in length must remain at least a 0.5 nautical mile (~ 0.9 km) away from a walrus haul-out

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

- Marine vessels 50-100 ft (~ 15.2 to 30.5 m) must remain at least 1 nautical mile (~ 1.9 km) away from a walrus haul-out
- Marine vessels greater than 100 ft (30.5 m) must remain at least 3 nautical miles (~ 5.6 km) away from a walrus haul-out
- No proponent of a project is to operate or anchor a vessel or conduct other project-related marine activities within 3 miles (~ 4.8 km) of a walrus haul-out
- No person is to pilot an aircraft at an altitude of less than 5000 feet (~ 1524 m) above ground level within 3 miles (~ 4.8 km) of a walrus haul-out, except as required for the safe operation of the aircraft
- The requirements apply to all uses except scientific research vessels or scientific research activities
- The applicable conditions do not apply to vessels engaged in community resupply or emergency response

#### 2.4.5.8 Summary of Revisions

##### KRLUP and NBRLUP

The existing regional land use plans restrict development activities near walrus terrestrial haul-outs.

##### 2012, 2014 and 2016 DNLUP

Walrus were not discussed in the 2012 DNLUP.

The 2014 DNLUP assigned a SMA designation to walrus haul-outs that identified cumulative impact concerns and provided direction to regulatory authorities to mitigate impacts on these areas. The only term for this SMA was that the NPC may refer a project proposal falling within Schedule 12-1 to the NIRB for screening, where the NPC has concerns respecting the cumulative impact of that project proposal in relation to other development activities in the planning region.

The 2016 DNLUP assigned a PA designation to walrus haul-outs that prohibited incompatible uses and included setback requirements of up to 5 km. The 2016 approach reflected the considerable amount of new information provided by participants to justify a higher level of protection. The 2016 draft also added a number of haul-out sites near Southampton Island identified by the KWB.

##### 2021 DNLUP

The 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in 2016 to LU in 2021. The 2021 DNLUP also includes a more detailed set of plan requirements.

## 2.5 Whales

Section 11.3.1(g) of the NA requires a land use plan to take into account environmental considerations, including wildlife habitat.

Objective D of the NPC's Goal of Protecting and Sustaining the Environment is to manage land use in and around areas of biological importance.

### 2.5.1 Importance of Whales

Beluga, narwhal and bowhead whales are considered important cultural and subsistence resources for Inuit.

All three whales are economically important to Inuit in Nunavut and are hunted by many communities.

Beluga, narwhal and bowhead whales are essential for a functioning and healthy Arctic ecosystem. They help regulate marine communities including the ones at the bottom of the sea and are key players in global cycling of carbon and nutrients, making them even more significant in the face of global warming and climate change.

#### Considerations

The NPC considers whales to have an overall high importance and priority. The NPC considers whales an important issue to be included in the NLUP.

***The overall importance of WHALES is considered HIGH because:***

- ***They have been identified by many participants as a priority;***
- ***They have a high cultural value;***
- ***They have a high economic value; and***
- ***They have a high ecosystemic value.***

## 2.5.2 Types of Areas Important to Whales

Information has been provided to the NPC by the WWF<sup>1,2</sup> about bowhead, beluga and narwhal, with information on several different types of habitat including calving, post-calving, migration and overwintering habitat.

The QWB<sup>3</sup> provided information on harvesting areas for beluga and narwhal, which are also considered important calving and post-calving areas.

A variety of parties have submitted information for several years on beluga calving specifically.

In 2017, the WWF<sup>4</sup> provided the following information, which stressed the importance of calving areas and activities:

“As a first step, an objective definition of what constitutes ‘critical habitat’ or ‘sensitive habitat’ is needed. The Department of Fisheries and Oceans (DFO) defines critical habitat for aquatic species at risk (SAR) as the habitat vital to the survival or recovery of wildlife species. The habitat may be an identified breeding site, nursery area or feeding ground. None of the three Arctic cetaceans (or their stocks) are listed on Schedule 1 of the Species at Risk Act (SARA), but the definition does provide guidance as to the types of habitats that should be considered for additional protection under the DNLUP.

“The SARA definition of critical habitat for aquatic SAR included spawning grounds and nursery, rearing, food supply, and migration routes. The Recovery Plan for St. Lawrence beluga whales (DFO 2012) defines critical habitat as providing the following essential functions: calving, suckling, feeding, rearing of the young, socialization, and seasonal migration.

“Data collection efforts therefore focused on calving and/or nursery/rearing habitats as a priority, and report on important feeding, migratory and socializing habitats depending on data availability. A focus on calving activities will also assist the NPC with their identified need to develop an improved understanding of when and where nursing cow whales and their young are most sensitive”

The subsections below discuss beluga calving areas, bowhead calving areas and narwhal calving areas.

## 2.5.3 Beluga Calving Areas

### 2.5.3.1 Defining Boundaries Geographic

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
KWB, 2016	350	0
QWB, 2018	804	0
WWF-Canada, 2016	85,760	3
NPC Consultation, 2020	173	0

Some of the locations of beluga calving areas were identified by the Coral Harbour HTO in a 2014 submission from the KWB.<sup>5</sup> The geographic boundaries were digitized from the KWB submission by the NPC and cropped to the shoreline.

In 2016, the WWF<sup>6</sup> provided an expert report, which identified the summer core areas for beluga in the NSA as western Cumberland Sound, the southernmost Kivalliq coast (south of Arviat), and the waters around Somerset Island.

In 2017, the WWF<sup>7</sup> provided a document which supported the Coral Harbour HTO's information. It also supported protection for beluga in Cumberland Sound, stating:

“That beluga whale stock migrates a short distance from their calving area in Clearwater Fiord to their wintering area in eastern Cumberland Sound (Richard and Stewart 2009; DFO 2015). This area is recommended for Protected Area status given the Threatened nature of the beluga stock. (COSWIC 2004a).”

In addition, the WWF<sup>8</sup> described large areas around Somerset Island and in some of the East Baffin Fjords as being essential to beluga.

<sup>1</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>2</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-201E)

<sup>4</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>5</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-157E)

<sup>6</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>7</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>8</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

In 2018, the QWB<sup>1</sup> indicated locations in the western Cumberland Sound where beluga calve:

“Cumberland Sound beluga are a distinct population of beluga that remain in or near Cumberland Sound year-round. In recent years, science has started to finally agree with the extensive Inuit Qaujimajatuqangit (IQ) about this population; however, more is known about the population than science. Government considers this population to be ‘threatened’.

...

“Clearwater Fiord and nearby inlets comprise the only known calving and post-calving habitats for this population.  
...”

In 2020, Coral Harbour<sup>2</sup> residents suggested a new bay off Southampton Island be protected for beluga calving.

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of beluga calving areas in Clearwater Fjord in Cumberland Sound and in specific bays off Southampton Island. The NPC considers there to be moderate certainty regarding the geographic boundaries of beluga calving areas adjacent to Somerset Island, the East Baffin Fjords and the Belcher Islands. Previous versions of the DNLUP included beluga calving areas, and this inclusion was not disputed by any participant.

***The certainty of the identified geographic boundaries of BELUGA CALVING AREAS IN CLEARWATER FJORD AND IN SPECIFIC BAYS OFF SOUTHAMPTON ISLAND is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is agreement among participants regarding the boundaries; and*
- *The information is current.*

***The certainty of the identified geographic boundaries of BELUGA CALVING AREAS ADJACENT TO SOMERSET ISLAND, EAST BAFFIN FJORDS AND BELCHER ISLANDS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*

- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 2.5.3.2 Environmental and Cultural Importance

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>3</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“The beluga whale is an ecologically important species as it is a part of the Arctic food web. They are preyed upon by various marine mammals of the Arctic including polar bears and killer whales.

“Beluga whales are economically important to Inuit in Nunavut and are hunted by many communities (20 out of 28) (Priest and Usher 2004). Over a five year period from 1996 to 2001 the total annual mean number of belugas taken from hunting was approximately 1,339 (Priest and Usher 2004). Inuit knowledge suggests that belugas are easier to hunt than other marine mammals (walrus) because they are not as suspicious of humans and are easily approached (Richard 2001). Beluga is used for its meat, which is mostly used for dog food and skin and blubber layer which is desirable for human consumption (Richard 2001).”

In 2018, the Spence Bay HTA<sup>4</sup> submitted:

“... based on our traditional and current knowledge of marine mammals in this area, the HTA knows that both narwhal and beluga whales frequent waters near to the Boothia Peninsula. Both of these species use areas in the vicinity specifically for calving activities, and beluga in particular use areas near the Peninsula during their moulting or skin shedding periods.”

In 2018, the QWB<sup>5</sup> submitted:

“Cumberland Sound beluga is a keystone species for the maintenance of Inuit culture and well-being for the community of Pangnirtung. It is also a keystone species for the functioning, resilience and well-being of the marine ecology of Cumberland Sound itself. The Inuit of Pangnirtung have their own system of rules and best practices to protect this vital population.”

### Considerations

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-204E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>3</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>4</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-204E)

There is little information provided to the NPC directly describing the overall essential aspect of calving areas, except for those at Southampton Island identified by KWB and Clearwater Fjord off Cumberland Sound. Based on this, the NPC considers beluga calving areas in Clearwater Fjord and in specific bays off Southampton Island to have high environmental and cultural importance, and other areas to have moderate importance.

***The environmental and cultural importance of BELUGA CALVING AREAS IN CLEARWATER FJORD AND IN SPECIFIC BAYS OFF SOUTHAMPTON ISLAND is considered HIGH because:***

- The importance of the areas to the communities for hunting, fishing and/or trapping is high; and*
- The importance of the areas to wildlife is high because:*
  - Alternative habitat is unlikely to be available;*
  - The areas are essential to the biological productivity of wildlife; and*
  - The habitat supports concentrations of wildlife.*

***The environmental and cultural importance of BELUGA CALVING AREAS ADJACENT TO SOMERSET ISLAND, EAST BAFFIN FJORDS AND BELCHER ISLANDS is considered MODERATE because:***

- The areas are important to the community for hunting, fishing and/or trapping; and*
- The areas are important to wildlife, however, there is alternative habitat that wildlife could use in the region.*

### 2.5.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
KWB, 2016	350	9	0	0
QWB, 2018	804	220	0	0
WWF-Canada, 2016	85,760	1,034	154	49
NPC Consultation, 2020	173	8	0	0

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

All identified beluga calving areas can be accessed by shipping and navigation. The expected increase in shipping traffic over the next decades may exacerbate the incompatibility between these two marine uses. Some areas such as the waters of Somerset Island are potentially more exposed to the expected increase in shipping traffic through the Northwest Passage.

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in beluga calving areas in the Clearwater Fjord and in specific bays off Southampton Island is considered low. The potential around Somerset Island, the Belcher Islands and the East Baffin Fjords is considered moderate. Although beluga calving areas do not overlap with oil and gas SDLs, they do overlap with the proposed NMTCI.

***The potential for non-renewable resources, transportation and linear infrastructure in BELUGA CALVING AREAS IN CLEARWATER FJORD AND IN SPECIFIC BAYS OFF SOUTHAMPTON ISLAND is considered LOW because:***

- The areas have no known mineral potential or oil and gas significant discovery;*
- The areas have low potential for transportation and linear infrastructure development;*
- The areas have no existing rights for non-renewable resource land use;*
- The areas have no subsurface IOL parcels; and*
- The areas are relatively small.*

***The potential for non-renewable resources, transportation and linear infrastructure in BELUGA***

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



**CALVING AREAS ADJACENT TO SOMERSET ISLAND, EAST BAFFIN FJORDS AND BELCHER ISLANDS is considered MODERATE because:**

- The areas have no known mineral potential or oil and gas significant discovery;
- The areas have moderate potential for transportation and linear infrastructure development;
- The areas have no existing rights for non-renewable resource land use;
- The areas have no subsurface IOL parcels; and
- The areas are relatively large.

### 2.5.3.4 Sensitivity to Impacts

The 2012 Nunavut Wildlife Resource and Habitat Values document,<sup>1</sup> commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

“Four populations of beluga occur in Nunavut with distinct conservation issues and status. The western Hudson Bay beluga population is approximately 50,000 animals and is assessed as a species of ‘Special Concern’ by COSEWIC (COSEWIC 2004a). There are about 21,213 eastern high arctic-Baffin Bay population which is also listed as ‘Special Concern’ (Innes *et al.* 2002). The Cumberland Sound population is listed as ‘Threatened’ and consists of approximately 1,547 animals (DFO 2002c) and the eastern Beaufort Sea population is listed as ‘Endangered’ and comprises of about 39,258 whales (Harwood *et al.* 1996). The IUCN has listed beluga whale as Near Threatened globally due to uncertainty about numbers and trends for some parts of the range.

...

“Habitat requirements of beluga whales are seasonal. During spring break-up (late spring) belugas concentrate along ice-edges and leads (Stirling 1980). In summer they concentrate in shallow estuaries and coastline environments where they may be avoiding predation from killer whales, moulting, calving and/or feeding (St. Aubin *et al.* 1990; Smith and Martin 1994; COSEWIC 2004a). Along western Hudson Bay belugas spend summers in shallow coastal areas. In August they are usually observed in waters less than 40 m deep (Martin *et al.* 2001). During their long migrations from these estuarine areas, (mid-August until mid/late September) the Eastern High Arctic and Eastern Beaufort beluga sub-populations use deep water areas

(800 m) for what appears to be intensive feeding activities (Smith and Martin 1994; Richard *et al.* 2001).

...

“Belugas inhabit shallow coastal areas and estuarine environments in the summer; thus coastal development (i.e., marine terminal construction and especially vessel traffic) may deter beluga from preferred habitat (avoidance behaviour) and could cause increased environmental contamination. Land use planning should consider sensitive times of year for belugas, site-fidelity, migration routes and local concentration areas (e.g., estuaries).

“Because of their high site-fidelity, management strategies aimed to avoid areas of high concentrating belugas in the summer and winter months should be fairly straight forward. Mitigating the disruption to migrating belugas has the potential to present certain challenges although our knowledge on general migration routes and timing is fairly established.”

In 2016, the KWB<sup>2</sup> noted that the Coral Harbour HTO:

“... indicated that calving is a sensitive time for beluga whales, and that these areas should be protected from disturbance and habitat destruction. ...”

In 2016, the WWF<sup>3</sup> submitted an expert report which stated:

“The noise emitted from engines and vibrations from vessels can travel significant distances under water. Other operational noise sources such as sonars and seismic survey equipment can generate exceptionally high amplitude sounds. Cetaceans and other animals depend on transmission of sound for social interactions, navigation, feeding, etc. Increases in vessel traffic through habitats presents a variety of risks ranging from temporary disruptions to permanent hearing loss, which would likely lead to the death of the affected animal.”

In 2016, the GoC<sup>4</sup> stated:

“... Belugas in Cumberland Sound have been designated as threatened by the Committee on the Status of Endangered Wildlife in Canada, due to a possible decline in abundance.”

In 2018, the QWB<sup>5</sup> stated:

“During the calving and post-calving season, the beluga are very sensitive to disturbance by humans.”

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)

<sup>3</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>4</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-204E)

In 2019, the GoC<sup>1</sup> submitted:

“DFO advises that most of the population of Cumberland Sound beluga is known to summer in Clearwater Fiord and the latest population estimate is 1151 whales (Marcoux et al. 2016). The population is listed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and the *Species at Risk Act* (SARA) as ‘Threatened’ and tagging data has also indicated Clearwater Fiord is an important area for beluga (Richard and Stewart 2008).”

### Considerations

Participants broadly agreed that the sensitivity of belugas and beluga calving areas to impacts from incompatible uses is high and seasonal. Information provided to the NPC also demonstrates that there are seasonal dimensions to the sensitivity of beluga habitat.

***The sensitivity of BELUGA CALVING AREAS to impacts is considered HIGH and SEASONAL because:***

- ***Belugas are highly sensitive to disturbance when using these areas; and***
- ***Belugas use these areas seasonally when disturbance is likely to occur.***

### 2.5.3.5 Other Regulatory Tools

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

“The Eastern Hudson Bay belugas are subjected to harvesting quotas and closed hunting seasons established by Nunavik and DFO. The Cumberland Sound population is managed by the Pangnirtung HTO, DFO and NWMB. ...”

In 2016, the GoC<sup>3</sup> provided details on some potentially relevant options:

#### **“The Northern Marine Transportation Corridors Initiative**

“... The objective of the Corridors is to determine the appropriate mix of navigational services, infrastructure, knowledge and emergency response services required to meet the changing service demands of mariners across Canada’s Arctic. ... Corridors incentivizes mariners to operate within the corridors where they will receive the greatest level of services for navigation allowing mariners to manage the risks associated with sailing in the Arctic.

Corridors are not intended to create restrictions on ship movements.”

...

#### **“The Marine Environmental Handbook**

“This document, published by [DFO], is a useful reference for sailors. It provides information on marine environmental issues and concerns in the Northwest Passage.

“... It has information detailing species migration patterns, patterns of wildlife harvest by beneficiaries and sensitive habitat areas, including information as to times when some areas are sensitive to shipping.

...

#### **“Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts**

“Exploring how the annually published Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts can be used to communicate relevant and timely information to the Commission to raise awareness about local ice conditions and uses, important navigational safety matters and best practices for mariners to reduce disturbance to marine mammals.

### Considerations

Belugas are subject to the provisions of the *Marine Mammal Regulations* under the *Fisheries Act*.

There are other regulatory tools in place related to quotas hunting seasons, shipping and navigation. However, the NLUP is an effective tool to regulate the land use planning aspects of beluga calving areas.

It is also noted that beluga calving areas overlap with EBSAs, which are identified as VECs elsewhere in the 2021 O&R.

***The potential value of including guidance in the NLUP for BELUGA CALVING AREAS is considered HIGH because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is low overlap of existing legislation and regulations with NPC jurisdiction.***

<sup>1</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-241E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

### 2.5.3.6 Policy Options for Beluga Calving Areas

In 2016, regarding marine shipping, the GoC<sup>1</sup> noted:

“The draft Nunavut Land Use Plan needs to be developed and applied in a way that recognizes the existing regulatory framework which reflects Canada’s international obligations with respect to shipping and navigation. The Government of Canada sees prohibitions on shipping as a last resort once all other available tools are examined.”

#### Considerations

The NPC has not categorized the GoC’s comment under the options below as it provides general information regarding the development of the NLUP.

#### 2.5.3.6.1 Option 1 - Limited Use

In 2016, the KWB<sup>2</sup> stated:

*“Recommendation – the Kivalliq Wildlife Board recommends beluga whale calving grounds near Southampton Island be designated protected areas. Mining, oil, and gas development and associated activities should be banned within 30km of these areas. Marine traffic should maintain a minimum distance of 30km from these areas.”*

In 2017, in their GIS data, compared against the Higdon paper, the WWF<sup>3</sup> stated that marine areas north and west of the Belcher Islands should be designated LU.

In 2018, the QWB<sup>4</sup> recommended a LU designation on the portion of the Cumberland Sound important to beluga calving. The QWB stated:

“The 2016 draft NLUP failed to give any protection for the critical beluga calving and post-calving area of Clearwater Fiord and nearby inlets. Any industrial development in or near this area will threaten an already officially ‘threatened’ population.

...

**“Proposed Designation:** Protected Area

**“Proposed Restrictions:**

**“Prohibited Uses:** The following uses are prohibited:

- Mineral Exploration and Production;
- Oil and Gas Exploration and Production;
- Seismic Testing;
- Sonar;
- Disposal at sea;
- Obnoxious Land Use;
- Quarries;
- Hydro-electrical and related infrastructure;
- Linear Infrastructure;
- Tourism and
- Related research except Non-Exploitive Scientific Research

#### “Conditions:

- Closed to all ship traffic, smaller vessels and watercraft year-round”

#### Considerations

The NPC notes that some participants support this option. The NPC also notes that the WWF provided comments that have been included under Option 2 below. In addition, although the KWB and QWB recommended a PA (LU) designation which would have year-round prohibitions, the beluga calving areas are only used during Ajuq season, and it may be unnecessarily restrictive to include year-round prohibitions.

#### 2.5.3.6.2 Option 2 - Conditional Use

In 2017, NTI and the RIAs<sup>5</sup> recommended:

“1. NTI and the RIAs recommend that the designation ‘Beluga calving areas’ be moved to a Special Management Area under the designation Community Areas of Interest. ...”

In 2017, the WWF<sup>6</sup> stated:

“Designate known calving and nursing areas for Arctic whales as Special Management Areas with seasonal

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Kivalliq Wildlife Board (KWB), 2016-03-07. NPC Public Registry File # 14-162E)

<sup>3</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-204E)

<sup>5</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>6</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

restriction on marine activities to avoid detrimental impacts on Arctic whale populations.

...

“In the 2016 draft of the NLUP, two areas were identified by the Coral Harbour Hunters and Trappers Organization as critical calving grounds for beluga whales. These areas were designated as Special Management Areas with seasonal restrictions. Given the importance of calving to the health of whale populations, these sensitive habitats merit seasonal restrictions in the NLUP to reduce conflict between marine activities and use of these habitats by whales. Narwhal and bowhead whales also calve and rear their young in the NSA. These three species are important to consider given their cultural significance, traditional use by communities, and their ecosystemic value.

“We commissioned an assessment of four marine areas of interest to evaluate the ecological and cultural values, the current and trending marine activities, the risk these activities pose on the key features, and recommendations to reduce impacts from these uses (VARD, 2016). One of the recommendations to reduce impact on marine mammals and their habitat is to establish ‘procedures for actual avoidance of areas/seasons and species at higher risk’. A simple restriction of shipping or other disturbances in the area when the animals are calving or nursing their young will drastically reduce the impact of vessel traffic on Arctic whales. Further to this initiative, we sought to compile all of the available spatial information from scientific and TEK studies to identify the known whale calving areas in Nunavut, along with other critical habitats (Higdon, 2017). The best available data were used to produce a GIS-based inventory of critical whale habitat spatial information within the NSA and report on the biological value of these areas. ... This report and the accompanying data can therefore assist the NPC in planning decisions regarding whale life cycles and sensitive periods.”

In 2017, the expert report included in the WWF<sup>1</sup> submission provided additional information:

“... These types of sensitive habitats should receive special protection and/or management, and WWF therefore sought to complete the spatial information to make sure all the known calving areas are identified for submission to the NPC, along with other critical whale habitats.”

In 2020, Coral Harbour<sup>2</sup> residents indicated support for seasonal restrictions on the calving areas.

## Considerations

The NPC notes that some participants, including NTI, support this option.

Although NTI and RIAs indicated that beluga calving areas should be designated as CU areas, no conditions were provided for such designation.

The WWF<sup>3</sup> submission identified multiple types of habitat for beluga, narwhal and bowhead; however, it was not clear at what times and in which locations shipping or other disturbances should be restricted in those marine areas. The WWF also provided no details on what ships should be limited or how they could potentially harm beluga. In addition, it is noted that the WWF’s VARD<sup>4</sup> and Higdon<sup>5</sup> areas marked as important for whales overlap with DFO’s EBSAs.

The restrictions recommended by the KWB would be appropriate for a CU designation if they were implemented seasonally.

### 2.5.3.6.3

### Option 3 - Mixed Use

No participant recommended this option.

## Considerations

Although no participant indicated specifically that beluga calving areas should be designated as MU, the GoC raised concerns about limiting the movement of vessels in Canadian waters. It is noted that the safety of mariners and marine vessels outweigh planning regulations.

### 2.5.3.6.4

### Option 4 - Valued Component

No participant recommended this option.

## Considerations

Participants agreed on the high value of beluga calving areas. In some locations, there is support for a land use designation that provides more specific guidance on how activities should be carried out within the identified areas, rather than only identifying the areas as VCs at this time.

<sup>1</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>3</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>4</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>5</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

### 2.5.3.7 NPC Recommendation - LU and VEC

Given that:

#### WHALES:

The overall importance of the issue is considered **HIGH**.

#### BELUGA CALVING AREAS:

i.	Certainty of the Identified Geographic Boundaries	<b>HIGH</b> (Clearwater Fjord and specific bays off Southampton Island)
		<b>MODERATE</b> (Somerset Island, East Baffin Fjords and Belcher Islands)
ii.	Environmental and Cultural Importance	<b>HIGH</b> (Clearwater Fjord and specific bays off Southampton Island)
		<b>MODERATE</b> (Somerset Island, East Baffin Fjords and Belcher Islands)
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	<b>LOW</b> (Clearwater Fjord and specific bays off Southampton Island)
		<b>MODERATE</b> (Somerset Island, East Baffin Fjords and Belcher Islands)
iv.	Sensitivity to Impacts	<b>HIGH and SEASONAL</b>
v.	Potential Value of Including Guidance in the NLUP	<b>HIGH</b>

### Recommendation for Beluga Calving Areas adjacent to Southampton Island and Clearwater Fjord

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by several participants as areas requiring protection. In addition, these areas are particularly important to beluga reproductivity, and beluga are considered to be sensitive to disturbance when using these areas.

#### LAND USE PLAN POLICY RECOMMENDATION

### **BELUGA CALVING AREAS**

### **ADJACENT TO SOUTHAMPTON ISLAND AND CLEARWATER FJORD**

#### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production

#### **Condition:**

- Except as required for safe navigation, no proponent of a project is to operate a vessel in those areas in Aujuq Season
- Applicable condition does not apply vessels engaged in community resupply or emergency response

### **Recommendation for Identified Areas Adjacent to Somerset Island, East Baffin Fjords and Belcher Islands, and Portions of Cumberland Sound Not Identified by the QWB**

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.



**Information on VCs:** Identify these other beluga calving areas as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the areas.

LAND USE PLAN POLICY RECOMMENDATION

**BELUGA CALVING AREAS**

**AREAS ADJACENT TO SOMERSET ISLAND,**

**EAST BAFFIN FJORDS AND BELCHER**

**ISLANDS, AND PORTIONS OF**

**CUMBERLAND SOUND NOT IDENTIFIED BY**

**THE QWB**

**VALUED ECOSYSTEM COMPONENT**

### 2.5.3.8 Summary of Revisions

#### KRLUP AND NBRLUP

The existing regional land use plans do not include specific conformity requirements related to beluga.

#### 2012, 2014 and 2016 DNLUP

Neither the 2012 nor 2014 DNLUP included specific plan requirements for belugas. However, the 2014 DNLUP did include recorded points for beluga whales in the NPC's use and occupancy mapping data.

The 2016 DNLUP assigned a SMA designation to beluga calving grounds that included seasonal shipping restrictions. The areas included in the 2016 draft were those identified by the KWB and reflected the new submissions that had been received since 2014.

#### 2021 DNLUP

The 2021 DNLUP takes a different approach to beluga calving areas than the 2016 DNLUP. Beluga calving areas adjacent to Southampton Island and Clearwater Fjord are assigned a LU designation that prohibits incompatible uses and places a seasonal restriction on shipping. Beluga

calving areas adjacent to Somerset Island, East Baffin Fjords and Belcher Islands, as well as portions of Cumberland Sound, are identified as known VECs.

## 2.5.4 Bowhead Calving Areas

### 2.5.4.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
WWF, 2017	114,951	0
QWB, 2018	2,567	0
NPC Consultation, 2012	4,918	0

During the 2012 community meetings, Clyde River<sup>1</sup> residents identified an area southeast of the community as an important bowhead whale area. In addition, the 2000 NWMB<sup>2</sup> Final Report of the Inuit Bowhead Knowledge Study identified the same area as bowhead calving habitat. At present, most of the community-identified area falls within the boundaries of the Ninginganiq NWA.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>3</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

"Bowhead whales occur in nearly all areas of the northern hemisphere polar region. Two recognized populations exist: the Bering-Chukchi-Beaufort population and the Eastern Canada-West Greenland population (COSEWIC 2009). The Eastern Canada-West Greenland population is widespread in Nunavut and known to summer mainly in northwestern Hudson Bay, Foxe Basin, the Lancaster Sound Region and western Baffin Bay (Dueck *et al.* 2006; Wheeler and Gilbert 2007). They likely winter in northern Hudson Bay[,] the Hudson Strait and in central Davis Strait, southern Baffin Bay and west near Greenland ...

...

"Bowhead whales occur in a variety of marine areas ranging from open water to leads, polynyas and heavy pack ice. Bowheads are capable of breaking through one foot of ice to breath if necessary (Finley 2001)."

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-066E)

<sup>2</sup> <https://www.nwmb.com/en/publications/bowhead-knowledge-study/1819-bowhead-knowledge-study-eng/file>

<sup>3</sup> (Nunavut Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)



In 2016, the WWF<sup>1</sup> submitted:

“The northern Foxe Basin, especially in the Fury and Hecla Strait area features a large proportion of bowhead juveniles and calves, suggesting it is an important nursery area. TEK also indicates that the northern Foxe Basin is an important area for bowhead whales ...”

In 2017, the WWF<sup>2</sup> provided an expert report that included a map showing bowhead whale calving primarily in the Gulf of Boothia and the northwestern Foxe Basin. This expert report also stated:

“... Bowhead whales also overwinter in and near the polynya in eastern Cumberland Sound, an area that is already defined as important overwintering habitat for the Cumberland Sound beluga whale stock ... This area is included in the database as critical overwintering habitat ...”

In 2018, the QWB<sup>3</sup> provided a map of bowhead calving areas along the northeastern shores of Cumberland Sound, generally east of Pangnirtung. In this submission, the QWB stated:

“Bowhead whales have calved and mated in the waters of eastern Cumberland Sound since time immemorial. Extensive knowledge about these whales has been passed on among Inuit of Pangnirtung and their ancestors for generations, in keeping with the oral traditions of Inuit Qaujimagatuqangit (IQ). ...”

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of bowhead calving areas in Cumberland Sound (Kingnait and two smaller fjords) and the southeastern areas near Clyde River. The NPC considers there to be moderate certainty regarding the geographic boundaries of all other identified bowhead calving areas; these other areas are the 2017 WWF data identifying bowhead calving around the Gulf of Boothia, Admiralty Inlet and northwestern Foxe basin, and between the Foxe Channel.

***The certainty of the identified geographic boundaries of BOWHEAD CALVING AREAS IN CUMBERLAND SOUND (KINGNAIT AND ADJACENT FJORDS) AND CLYDE RIVER (SOUTHEASTERN AREAS) is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

***The certainty of the identified geographic boundaries of ALL OTHER BOWHEAD CALVING AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is moderately current.*

## 2.5.4.2 Environmental and Cultural Importance

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>4</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

“... The Inuit bowhead whale hunt in Nunavut is a historic and culturally important event. One bowhead whale is harvested by Inuit in Nunavut every two to three years and represents a notable economy in these communities of Nunavut. Four out of twenty-eight communities participated in the hunt over a five year period from 1996 to 2001. The muktuk is widely distributed and consumed. The present significance of bowheads to humans can be expressed in terms of their future potential as a renewable subsistence and aesthetic resource (Reeves and Mitchell 1990).”

In 2018, the QWB<sup>5</sup> stated:

“... Beginning over 175 years ago, European whalers began to commercially exploit these and other marine mammals of Cumberland Sound, based out of the station on Kekerten Island. In less than 100 years, Europeans and Americans had depleted these important whales of Cumberland Sound.

“Nevertheless, the bowhead remained a keystone species for the Inuit culture and well-being for the community of Pangnirtung. It is also a keystone species for the functioning, resilience and well-being of the marine ecology of Cumberland Sound itself. The Inuit of Pangnirtung have their own system of rules and best practices for protection of this vital population.”

<sup>1</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>2</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-205E)

<sup>4</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-205E)

In 2019, the GoC<sup>1</sup> commented on the above mentioned QWB map:

“... From a science perspective, DFO notes the following information. The Kingnait Bowhead Calving and Mating area includes habitats that have the highest catch rates of Greenland Halibut during the open water season and these productive areas are part of a developing, community-based open water commercial Greenland Halibut fishing season. DFO longline survey data are available to document the open water distribution of Greenland Halibut in Cumberland Sound. Three years of fish tracking data are also available that document seasonal movements of Greenland Halibut within Cumberland Sound. DFO can provide this data to the Commission, upon request.”

Considerations

Participants broadly agreed on the high environmental and cultural importance of bowhead calving areas.

***The environmental and cultural importance of BOWHEAD CALVING AREAS is considered HIGH because:***

- The importance of the areas to the communities for hunting, fishing and/or trapping is high; and*
- The importance of the areas to wildlife is high because:*
  - Alternative habitat is likely to be available;*
  - The areas are essential to the biological productivity of wildlife; and*
  - The habitat supports concentrations of wildlife.*

2.5.4.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
WWF, 2017	114,951	937	6	27
QWB, 2018	2,567	25	0	0
NPC Consultation, 2012	4,918	65	0	0

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a

<sup>1</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-241E)  
<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Considerations

All identified bowhead calving areas can be accessed by shipping and navigation. The expected increase in shipping traffic over the next decades may exacerbate the incompatibility between these two marine uses.

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in bowhead calving areas is considered moderate. Although bowhead calving areas do not overlap with oil and gas SDLs, they do overlap the proposed NMTCI.

***The potential for non-renewable resources, transportation and linear infrastructure in BOWHEAD CALVING AREAS is considered MODERATE because:***

- The areas have no known mineral potential or oil and gas significant discovery;*
- The areas have some potential for transportation and linear infrastructure development;*
- The areas have no existing rights for non-renewable resource land use;*
- The areas have no subsurface IOL parcels; and*
- The areas are relatively large.*

2.5.4.4 Sensitivity to Impacts

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>4</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

“Threats to bowhead whales include predation, accidental ingestion, environmental contamination, disease, offshore oil and gas exploration, shipping, illegal hunting and tourism.

“Commercial whaling caused a severe depletion of the bowhead whale population in several parts of its range. Currently, in the eastern Canadian Arctic killer whales are

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)  
<sup>4</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

an increasing threat to bowhead whales (Finley 2001; Moshenko *et al.* 2003).

“A variety of anthropogenic inputs into the environment in Nunavut contribute to threats for the bowhead whale. Ingestion of foreign material through the process of skim feeding is a minor threat (Finley 2001). Contaminants have been shown to cause health problems and death in bowhead whales (Finley 2001). Bowheads can live > 100 years and therefore are susceptible to the accumulation of toxins over a long period of time.

“Acoustic disturbances may increase as interest in offshore developments and tourism increases. Bowhead whales use long-range communication and are sensitive to low-frequency industrial sounds (Burns *et al.* 1993). At Isabella Bay, bowheads react strongly at far distances to outboard-powered boats and ships and attempt to flee either by moving into shallow waters or traveling long distances away (Finley 2001). Migrating bowheads have been reported to stay 20 km from seismic and support vessels and drilling ships (Finley 2001).

“The bowhead whale is listed as an indicator species for climate change in the north. Climate change is predicted to cause changes in ice distribution and condition, surface temperatures, currents and mixing. Such changes in Nunavut could alter the bowhead whales’ migration patterns, feeding locations and increase their susceptibility to predation and hunting. Changes in currents and productivity have the potential to alter the feeding habitat of bowhead whales. Bowhead whale fecundity has been related to zooplankton production therefore, climatic change is likely to have an impact on population growth (negative or positive) through changes in the extent of sea ice (Finley 2001). Such changes will have direct and indirect effects [on] bowhead health, population and distribution.

#### “Land Use Planning Considerations

“Bowhead whales make use of land-fast ice edges which may be associated with established shipping routes. Increased development and land activities associated with an increase in marine transport have the potential to effect bowhead whale populations and should be taken into consideration when planning coastal developments.”

In 2016, the WWF<sup>1</sup> submitted an expert report which stated:

“The noise emitted from engines and vibrations from vessels can travel significant distances under water. Other operational noise sources such as sonars and seismic

survey equipment can generate exceptionally high amplitude sounds. Cetaceans and other animals depend on transmission of sound for social interactions, navigation, feeding, etc. Increases in vessel traffic through habitats presents a variety of risks ranging from temporary disruptions to permanent hearing loss, which would likely lead to the death of the affected animal.”

In 2018, the QWB<sup>2</sup> stated:

“The waters of eastern Cumberland Sound including Kingnait and 2 smaller fiords are critical to the maintenance of this population. During the open-water calving and mating season, the bowheads are very sensitive to disturbance by humans.”

#### Considerations

The NPC considers the sensitivity of bowhead calving areas to impacts from incompatible uses to be moderate and seasonal.

***The sensitivity of BOWHEAD CALVING AREAS to impacts is considered MODERATE and SEASONAL because:***

- ***Bowhead are moderately sensitive to disturbance when using these areas; and***
- ***Bowhead seasonally use these areas when disturbance is likely to occur.***

### 2.5.4.5 Other Regulatory Tools

In 2016, the GoC<sup>3</sup> provided details on some potentially relevant options:

#### “The Northern Marine Transportation Corridors Initiative”

“... The objective of the Corridors is to determine the appropriate mix of navigational services, infrastructure, knowledge and emergency response services required to meet the changing service demands of mariners across Canada’s Arctic. ... Corridors incentivizes mariners to operate within the corridors where they will receive the greatest level of services for navigation allowing mariners to manage the risks associated with sailing in the Arctic. Corridors are not intended to create restrictions on ship movements.”

...

#### “The Marine Environmental Handbook”

“This document, published by [DFO], is a useful reference for sailors. It provides information on marine

<sup>1</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-205E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

environmental issues and concerns in the Northwest Passage.

“... It has information detailing species migration patterns, patterns of wildlife harvest by beneficiaries and sensitive habitat areas, including information as to times when some areas are sensitive to shipping.

...

#### **“Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts**

“Exploring how the annually published Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts can be used to communicate relevant and timely information to the Commission to raise awareness about local ice conditions and uses, important navigational safety matters and best practices for mariners to reduce disturbance to marine mammals.

#### **Considerations**

Bowhead whales are subject to the provisions of the *Marine Mammal Regulations* under the *Fisheries Act*.

There are other regulatory tools in place related to quotas, hunting seasons, shipping and navigation. However, the NLUP is an effective tool to regulate the land use planning aspects of bowhead calving areas.

It is also noted that bowhead calving areas overlap with EBSAs, which are identified as VECs elsewhere in the 2021 O&R.

***The potential value of including guidance in the NLUP for BOWHEAD CALVING AREAS is considered HIGH because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is low overlap of existing legislation and regulations with NPC jurisdiction.***

### **2.5.4.6 Policy Options for Bowhead Calving Areas**

In 2016, regarding marine shipping, the GoC<sup>1</sup> noted:

“The draft Nunavut Land Use Plan needs to be developed and applied in a way that recognizes the existing regulatory framework which reflects Canada’s international obligations with respect to shipping and navigation. The

Government of Canada sees prohibitions on shipping as a last resort once all other available tools are examined.”

#### **Considerations**

The NPC has not categorized the GoC’s comment under the options below as it provides general information regarding the development of the NLUP.

##### **2.5.4.6.1**

##### **Option 1 - Limited Use**

In 2018, the QWB<sup>2</sup> stated the following about the Kingnait bowhead calving and mating community area of interest:

“The 2016 draft NLUP failed to give any protection for these critical bowhead areas. Any industrial and tourism development in or near this area will threaten this important population. Without protection of these waters and islands, the final Nunavut Land Use Plan would fail in its goal to protect and promote the well-being of all of Nunavut’s residents and communities as a primary purpose of land use planning under Article 11 of the Nunavut Agreement.

...

**“Proposed Designation:** Protected Area

**“Proposed Restrictions:**

**“Prohibited Uses:** The following uses are prohibited:

- Mineral Exploration and Production;
- Oil and Gas Exploration and Production;
- Seismic Testing;
- Sonar;
- Disposal at sea;
- Obnoxious Land Use;
- Quarries;
- Hydro-electrical and related infrastructure;
- Linear Infrastructure;
- Tourism and
- Related research except Non-Exploitive Scientific Research

**“Conditions:**

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-205E)

- Closed to all ship traffic, and smaller vessels and watercraft year-round.”

### Considerations

The NPC notes that no participant other than the QWB supported this option. Although the QWB recommended a LU designation which would have year-round prohibitions, bowhead calving areas are only used seasonally and it may be unnecessarily restrictive to include year-round prohibitions.

#### 2.5.4.6.2 Option 2 - Conditional Use

In 2017, the WWF<sup>1</sup> stated:

“Designate known calving and nursing areas for Arctic whales as Special Management Areas with seasonal restriction on marine activities to avoid detrimental impacts on Arctic whale populations.”

...

“In the 2016 draft of the NLUP, two areas were identified by the Coral Harbour Hunters and Trappers Organization as critical calving grounds for beluga whales. ... Narwhal and bowhead whales also calve and rear their young in the NSA. These three species are important to consider given their cultural significance, traditional use by communities, and their ecosystemic value.

“We commissioned an assessment of four marine areas of interest to evaluate the ecological and cultural values, the current and trending marine activities, the risk these activities pose on the key features, and recommendations to reduce impacts from these uses (VARD, 2016). One of the recommendations to reduce impact on marine mammals and their habitat is to establish ‘procedures for actual avoidance of areas/seasons and species at higher risk’. A simple restriction of shipping or other disturbances in the area when the animals are calving or nursing their young will drastically reduce the impact of vessel traffic on Arctic whales. Further to this initiative, we sought to compile all of the available spatial information from scientific and TEK studies to identify the known whale calving areas in Nunavut, along with other critical habitats (Higdon, 2017). The best available data were used to produce a GIS-based inventory of critical whale habitat spatial information within the NSA and report on the biological value of these areas. ... This report and the accompanying data can therefore assist the NPC in planning decisions regarding whale life cycles and sensitive periods.”

### Considerations

The NPC notes the WWF is the only participant that recommended seasonal restrictions for bowhead calving areas. The WWF<sup>2</sup> submission identified multiple types of habitat for beluga, narwhal and bowhead; however, it was not clear at what times and in which locations shipping or other disturbances should be restricted in those marine areas. The WWF also provided no details on what ships should be limited or how they could potentially harm bowhead whales. In addition, it is noted that the WWF’s VARD<sup>3</sup> and Higdon<sup>4</sup> areas marked as important for whales overlap with DFO’s EBSAs.

#### 2.5.4.6.3 Option 3 - Mixed Use

No participant recommended this option.

### Considerations

Although no participant indicated specifically that bowhead calving areas should be designated as MU, the GoC raised concerns about limiting the movement of vessels in Canadian waters. It is noted that the safety of mariners and marine vessels outweigh planning regulations.

#### 2.5.4.6.4 Option 4 - Valued Component

No participant recommended this option.

### Considerations

Participants agreed on the high value of bowhead calving areas. In some locations, there is support for a land use designation that provides more specific guidance on how activities should be carried out within the identified areas, rather than only identifying the areas as VCs at this time.

#### 2.5.4.7 NPC Recommendation - LU and VEC

Given that:

### WHALES:

**The overall importance of the issue is considered HIGH.**

### BOWHEAD WHALE CALVING AREAS:

<sup>1</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>2</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>3</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>4</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)



i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b> (Cumberland Sound (Kingnait and adjacent fjords) and Clyde River (southeastern areas)) <b>MODERATE</b> (All other areas)
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>MODERATE</b>
iv.	<b>Sensitivity to Impacts</b>	<b>MODERATE and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

**Recommendation for Community-Identified Bowhead Calving Areas in Cumberland Sound (Kingnait and Adjacent Fjords) and Clyde River (Southeast Areas)**

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by community participants as areas requiring protection.

LAND USE PLAN POLICY RECOMMENDATION	
<b><u>BOWHEAD CALVING AREAS</u></b>	
<b><u>CUMBERLAND SOUND (KINGNAIT AND ADJACENT FJORDS) AND CLYDE RIVER (SOUTHEAST AREAS)</u></b>	
<b>LIMITED USE</b>	
<b>Prohibited Incompatible Uses:</b>	
<ul style="list-style-type: none"> <li>• Oil and gas exploration and production</li> <li>• Disposal at sea</li> </ul>	

**Recommendation for All Non-Community-Identified Bowhead Calving Areas**

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify all non-community-identified bowhead calving areas as known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the areas.

LAND USE PLAN POLICY RECOMMENDATION
<b><u>ALL NON-COMMUNITY-IDENTIFIED BOWHEAD CALVING AREAS</u></b>
<b>VALUED ECOSYSTEM COMPONENT</b>

**2.5.4.8 Summary of Revisions**

**KRLUP and NBRLUP**

The existing regional land use plans do not include specific conformity requirements related to bowhead calving areas.

**2012, 2014 and 2016 DNLUP**

Bowhead whales were not directly considered in any previous draft of the NLUP.

**2021 DNLUP**

In the 2021 DNLUP, community-identified bowhead calving areas in Cumberland Sound (Kingnait and adjacent fjords) and Clyde River (southeast areas) are assigned a LU designation that prohibits incompatible uses. Other bowhead calving areas are identified as known VECs.



## 2.5.5 Narwhal Calving Areas

### 2.5.5.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
WWF, 2017	98,461	3
QWB, 2018	1,654	0
NPC Consultation, 2020	5,190	0

A 2017 WWF<sup>1</sup> report combined research from multiple sources, including IQ, to identify areas of narwhal calving and nursing.

The presence of narwhal calving at various locations in the East Baffin Fjords is supported by the QWB.<sup>2,3,4,5</sup>

In 2018, the QWB provided two community-identified areas deemed important for narwhal calving: PINCHA (Pond Inlet's Narwhal Calving, Post-calving and Harvesting Area) and the waters of Scott Inlet. Regarding PINCHA, the QWB<sup>6</sup> stated:

"Herein, Pond Inlet's Narwhal Calving, Post-calving and Harvesting Area (PINCHA) refers to designated areas of Navy Board Inlet, Tremblay Sound, Milne Inlet and Koluktoo Bay, and all islands in these waters ...

...

"... In summer, narwhal tend to concentrate off the western shores of PINCHA. Koluktoo Bay is well-known as a narwhal calving area. After calving, some narwhal females and calves remain in Koluktoo, while others disperse in other parts of PINCHA. ..."

Regarding Scott Inlet, the QWB<sup>7</sup> stated:

"Scott Inlet is an important area for both summering and migratory narwhal. Narwhal calve and nurse their young here. ..."

In 2019, the GoC<sup>8</sup> stated:

"... In particular, narwhals had high use areas in Franklin Strait (Heide-Jorgensen et al. 2003) and high densities of narwhals have been surveyed on the north and east side of Boothia Peninsula (Doniol-Valcroze et al. 2015). ..."

In 2020, Naujaat<sup>9</sup> residents presented an area important to narwhal but did not specify the type of habitat or seasonal use. Also, residents did not provide details on what policy options would be appropriate.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of narwhal calving areas in Scott Inlet and PINCHA, and moderate certainty regarding the geographic boundaries of all other narwhal calving areas.

***The certainty of the identified geographic boundaries of NARWHAL CALVING AREAS IN SCOTT INLET AND PINCHA is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is agreement among participants regarding the boundaries; and*
- *The information is current.*

***The certainty of the identified geographic boundaries of ALL OTHER NARWHAL CALVING AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 2.5.5.2 Environmental and Cultural Importance

In 2018, the Spence Bay HTA<sup>10</sup> submitted:

"... based on our traditional and current knowledge of marine mammals in this area, the HTA knows that both narwhal and beluga whales frequent waters near to the Boothia Peninsula. Both of these species use areas in the vicinity specifically for calving activities, and beluga in

<sup>1</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-222E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-221E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-203E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-202E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-203E)

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-221E)

<sup>8</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-241E)

<sup>9</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>10</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

particular use areas near the Peninsula during their moulting or skin shedding periods.”

In 2018, the QWB<sup>1</sup> submitted:

“PINCHA provides Inuit with both important cultural and subsistence resources, and all-season access to many of Pond Inlet’s family and community camp sites and terrestrial harvesting areas.

“PINCHA is a critical area for both summering and migratory narwhal, an extremely important cultural, nutritional and economic resource for the Inuit of Pond Inlet. ...”

In 2018, regarding Scott Inlet, the QWB<sup>2</sup> also stated:

“... Narwhal are of vital importance to the nutrition and culture of Inuit in Clyde River. Narwhal use of this area should not be affected by human development.”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of narwhal in general, and narwhal calving areas in particular. Narwhal are an iconic Arctic species, important to both Inuit art and diet.

***The environmental and cultural importance of NARWHAL CALVING AREAS is considered HIGH because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

### 2.5.5.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
WWF, 2017	98,461	959	21	37
QWB, 2018	1,654	4	0	0

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-203E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-221E)

NPC Consultation, 2020	5,190	44	0	0
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Parnautit,<sup>3</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>4</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

All identified narwhal calving areas can be accessed by shipping and navigation. The expected increase in shipping traffic over the next decades may exacerbate the incompatibility between these two marine uses.

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in narwhal calving areas is considered moderate. Although narwhal calving areas do not overlap with oil and gas SDLs, they do overlap with the proposed NMTCL.

***The potential for non-renewable resources, transportation and linear infrastructure in NARWHAL CALVING AREAS is considered MODERATE because:***

- *The areas have no known mineral potential or oil and gas significant discovery;*
- *The areas have some potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

### 2.5.5.4 Sensitivity to Impacts

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>5</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>5</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

“Threats to narwhals include ice entrapment, predation by killer whales and polar bears, disease and parasites, climate change, environmental contaminants, offshore oil and gas activities, shipping, hunting and commercial fisheries (COSEWIC 2004b; Huntington 2009). Noise and vessel presence from offshore oil and gas exploration may deter animals from their preferred habitat and migration routes. Shipping and vessel presence increases the risk of environmental contamination which has the potential to disrupt biological functions. Hunting pressure may contribute to depletion in population size or inhibit recovery and commercial fisheries may alter food webs by reducing available prey (Huntington 2009). Narwhal are sensitive to underwater sound as they use a variety of click-sounds for orientation and echolocation of prey, as well as squealing, growling, and whistling for communication (COSEWIC 2004b). As well, some Inuit hunters suggest that narwhals are sensitive to and avoid noise from industrial machines and explosions (COSEWIC 2004b). ...”

In 2016, the WWF<sup>1</sup> submitted an expert report which stated:

“The noise emitted from engines and vibrations from vessels can travel significant distances under water. Other operational noise sources such as sonars and seismic survey equipment can generate exceptionally high amplitude sounds. Cetaceans and other animals depend on transmission of sound for social interactions, navigation, feeding, etc. Increases in vessel traffic through habitats presents a variety of risks ranging from temporary disruptions to permanent hearing loss, which would likely lead to the death of the affected animal.”

In 2018, the QWB<sup>2</sup> stated:

“There is evidence that military sonar has negative effects on marine mammals (Cressey 2008). A federal US court has found that the US Navy’s use of sonar has illegally harmed numerous populations of whales, dolphins, seals and sea lions (Morell 2015). The use of sonar by any military and other ships, and smaller vessels should be prohibited from the time that they enter Navy Board Inlet from the north and Eclipse Sound until they leave.”

## Considerations

The NPC considers the sensitivity of narwhal calving areas to impacts from incompatible uses to be high and seasonal.

***The sensitivity of NARWHAL CALVING AREAS to impacts is considered HIGH and SEASONAL because:***

- ***Narwhal are highly sensitive to disturbance when using these areas; and***
- ***Narwhal use these areas seasonally when disturbance is likely to occur.***

## 2.5.5.5 Other Regulatory Tools

In 2016, the GoC<sup>3</sup> provided details on some potentially relevant options:

### **“The Northern Marine Transportation Corridors Initiative**

“... The objective of the Corridors is to determine the appropriate mix of navigational services, infrastructure, knowledge and emergency response services required to meet the changing service demands of mariners across Canada’s Arctic. ... Corridors incentivizes mariners to operate within the corridors where they will receive the greatest level of services for navigation allowing mariners to manage the risks associated with sailing in the Arctic. Corridors are not intended to create restrictions on ship movements.”

...

### **“The Marine Environmental Handbook**

“This document, published by [DFO], is a useful reference for sailors. It provides information on marine environmental issues and concerns in the Northwest Passage.

“... It has information detailing species migration patterns, patterns of wildlife harvest by beneficiaries and sensitive habitat areas, including information as to times when some areas are sensitive to shipping.

...

### **“Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts**

“Exploring how the annually published Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts can be used to communicate relevant and timely information to the Commission to raise awareness about local ice conditions and uses, important navigational safety matters and best practices for mariners to reduce disturbance to marine mammals.

## Considerations

Narwhal are subject to the provisions of the *Marine Mammal Regulations* under the *Fisheries Act*.

<sup>1</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-203E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

There are other regulatory tools in place related to quotas, hunting seasons, shipping and navigation. However, the NLUP is an effective tool to regulate the land use planning aspects of narwhal calving areas.

It is also noted that narwhal calving areas overlap with EBSAs, which are identified as VECs elsewhere in the 2021 O&R.

***The potential value of including guidance in the NLUP for NARWHAL CALVING AREAS is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.5.5.6 Policy Options for Narwhal Calving Areas

In 2016, regarding marine shipping, the GoC<sup>1</sup> noted:

“The draft Nunavut Land Use Plan needs to be developed and applied in a way that recognizes the existing regulatory framework which reflects Canada’s international obligations with respect to shipping and navigation. The Government of Canada sees prohibitions on shipping as a last resort once all other available tools are examined.”

#### Considerations

The NPC has not categorized the GoC’s comment under the options below as it provides general information regarding the development of the NLUP.

#### 2.5.5.6.1 Option 1 - Limited Use

In 2018, the QWB<sup>2,3</sup> suggested a PA (LU) designation for PINCHA and Scott Inlet with prohibited uses such as oil and gas exploration and production, seismic testing, disposal at sea and sonar, as well as seasonal restrictions on ships.

#### Considerations

The NPC notes the QWB supports this option.

#### 2.5.5.6.2 Option 2 - Conditional Use

In 2017, the WWF<sup>4</sup> stated:

“Designate known calving and nursing areas for Arctic whales as Special Management Areas with seasonal restriction on marine activities to avoid detrimental impacts on Arctic whale populations.

“In the 2016 draft of the NLUP, two areas were identified by the Coral Harbour Hunters and Trappers Organization as critical calving grounds for beluga whales. ... Narwhal and bowhead whales also calve and rear their young in the NSA. These three species are important to consider given their cultural significance, traditional use by communities, and their ecosystemic value.

“We commissioned an assessment of four marine areas of interest to evaluate the ecological and cultural values, the current and trending marine activities, the risk these activities pose on the key features, and recommendations to reduce impacts from these uses (VARD, 2016). One of the recommendations to reduce impact on marine mammals and their habitat is to establish ‘procedures for actual avoidance of areas/seasons and species at higher risk’. A simple restriction of shipping or other disturbances in the area when the animals are calving or nursing their young will drastically reduce the impact of vessel traffic on Arctic whales. Further to this initiative, we sought to compile all of the available spatial information from scientific and TEK studies to identify the known whale calving areas in Nunavut, along with other critical habitats (Higdon, 2017). The best available data were used to produce a GIS-based inventory of critical whale habitat spatial information within the NSA and report on the biological value of these areas. ... This report and the accompanying data can therefore assist the NPC in planning decisions regarding whale life cycles and sensitive periods.”

In 2020, Naujaat<sup>5</sup> community participants were concerned about shipping impacts on narwhal and suggested that ships should reduce speed or use a different route near narwhal habitats.

#### Considerations

The NPC notes that some participants support this option.

The NPC also notes the WWF<sup>6</sup> submission identified multiple types of habitat for beluga, narwhal and bowhead; however, it was not clear at what times and in

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-221E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-203E)

<sup>4</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>6</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

which locations shipping or other disturbances should be restricted in those marine areas. The WWF also provided no details on what ships should be limited or how they could potentially harm narwhal. In addition, it is noted that the WWF's VARD<sup>1</sup> and Higdon<sup>2</sup> areas marked as important for whales overlap with DFO's EBSAs.

#### 2.5.5.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### Considerations

Although no participant indicated specifically that narwhal calving areas should be designated as MU, the GoC raised concerns about limiting the movement of vessels in Canadian waters. It is noted that the safety of mariners and marine vessels outweigh planning regulations.

#### 2.5.5.6.4 Option 4 - Valued Component

No participant recommended this option.

#### Considerations

Participants agreed on the high value of narwhal calving areas. In some locations, there is support for a land use designation that provides more specific guidance on how activities should be carried out within the identified areas, rather than only identifying the areas as VCs at this time.

#### 2.5.5.7 NPC Recommendation - LU and VEC

Given that:

#### WHALES:

The overall importance of the issue is considered HIGH.

#### NARWHAL CALVING AREAS:

i.	Certainty of the Identified Geographic Boundaries	HIGH (Scott Inlet and PINCHA)
		MODERATE (All other areas)
ii.	Environmental and Cultural Importance	HIGH

iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	HIGH

#### Recommendation for Narwhal Calving Areas in Scott Inlet and PINCHA

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas have been identified by some participants as areas requiring protection. In addition, these areas are particularly important to narwhal reproductivity and narwhal are considered to be sensitive to disturbance when using these areas.

#### LAND USE PLAN POLICY RECOMMENDATION

#### NARWHAL CALVING AREAS

#### SCOTT INLET AND PINCHA

#### LIMITED USE

#### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Disposal at sea

#### Recommendation for All Other Identified Narwhal Calving Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

<sup>1</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>2</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)



**Information on VCs:** Identify all other narwhal calving areas as known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the areas.

LAND USE PLAN POLICY RECOMMENDATION

**ALL OTHER IDENTIFIED NARWHAL CALVING  
AREAS**

**VALUED ECOSYSTEM COMPONENT**

### 2.5.5.8 Summary of Revisions

#### KRLUP and NBRLUP

The existing regional land use plans do not include specific conformity requirements related to narwhal calving areas.

#### 2012, 2014 and 2016 DNLUP

Narwhal were not directly considered in any previous drafts of the NLUP. However, the 2014 and 2016 DNLUP did include recorded points for narwhal in the NPC's use and occupancy mapping data.

#### 2021 DNLUP

The 2021 DNLUP assigns a LU designation to narwhal calving areas in Scott Inlet and PINCHA that prohibits incompatible uses. Other narwhal calving areas are identified as known VECs.

## 2.6 Fish

Section 11.3.1(c) of the NA requires a land use plan to take into account economic opportunities and needs.

Section 11.3.1(g) of the NA requires a land use plan to take into account environmental considerations, including wildlife habitat.

Objective J of the NPC's Goal of Protecting and Sustaining the Environment is to protect the integrity of ecosystems, flora and wildlife habitats, paying special attention to species at risk and critical habitats.

### 2.6.1 Importance of Fish

DFO provided data on fish areas of abundance, which in some cases has been supplemented by community-based information, including use and occupancy mapping undertaken by the NPC directly.

In 2015, the GoC<sup>1</sup> stated:

"It is recommended that the plan clearly identify important subsistence fishing and other fishing and marine mammal harvesting areas."

#### Considerations

Participants generally agreed on the overall high importance and priority of fish. Fish is broadly recognized as an important issue to be included in the NLUP.

Fish are an essential component of the ecosystem and the traditional diet. They are also the most important market food source generated in Nunavut after caribou.

Fish are an essential if not foundational component of the environment. A healthy commercial fishery requires healthy and abundant fish habitat.

***The overall importance of FISH is considered HIGH because:***

- ***They have been identified by many participants as a priority;***
- ***They have a high cultural value;***
- ***They have a high economic value; and***
- ***They have a high ecosystemic value.***

### 2.6.2 Types of Areas Important to Fish

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, listed a number of commercially-important fish species, but only the first of these, halibut (also called turbot), is extensively discussed in the record. The document states:

"Greenland halibut are becoming increasingly important in developing commercial fisheries in the Eastern Arctic (Coad and Reist 2004). There has been a winter fishery for Greenland halibut in Cumberland Sound (near Pangnirtung) since 1986(Pike 1994).

<sup>1</sup>(Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup>(Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)



...

“Arctic cod are a critical component of the arctic marine food chain (Bradstreet and Cross 1982; Craig *et al.* 1982; Bradstreet *et al.* 1986; Welch *et al.* 1992). They are an important prey for many marine organisms, including seabirds, seals, whales and other fish (Bradstreet and Cross 1982; Bradstreet *et al.* 1986). There are very few commercial fisheries for Arctic cod (Coad and Reist 2004). Local food use is also limited (Coad and Reist 2004).

...

“Throughout their range, arctic grayling are a commonly targeted sport fish. They are one of the few northern fishes that can be caught fly-fishing (this is because their diet consists primarily of terrestrial insects). Arctic grayling are occasionally harvested as a food fish, and also as food for dogs (Riewe 1992b; Priest and Usher 2004b).

...

“... In Norway blue mussels are the most important food item for common eiders (Bustnes 1998). Subsistence harvested regularly for food (Stewart and Lockhart 2005). Exploratory fisheries have occurred in the past at Whale cove, Chesterfield Inlet and Arviat but none of these exploratory fisheries have resulted in commercial fisheries starting. Blue mussels are harvested and farmed in southern Canada, the United States and Europe.”

Areas important to turbot, char and freshwater cod have been discussed by various parties on the record, and so these species are considered in the NLUP. Turbot and char are important commercially and are therefore discussed in Chapter 5. After briefly discussing Arctic grayling and blue mussels, this section of the 2021 O&R focuses on Atlantic Cod lakes.

## 2.6.3 Arctic Grayling and Blue Mussels

The only references in the record to these two species, Arctic Grayling and Blue Mussels, are found in the 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process. Recommendations could be made for future land use planning if additional information or recommendations are obtained for these species.

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

## 2.6.4 Atlantic Cod Lakes

### 2.6.4.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
DFO, 2010	43	0

Small landlocked populations of Atlantic Cod have been identified in three coastal saltwater lakes on south-eastern Baffin Island. This type of cod exists here only. Other types of fish may co-exist in these lakes as well.

As the combined surface area of the lakes is approximately 46 km<sup>2</sup>, they comprise a small and unique habitat.

In 2010, DFO<sup>2</sup> submitted:

“**Habitat for Unique Species:** DFO considered whether there were habitats for unique fish or marine mammal species in the Nunavut Settlement Area that may warrant special consideration under the land use plan. At this time, DFO is recommending that the following three known lakes on southern Baffin Island containing Atlantic Cod be identified as important since the presence of this species in a lake environment is currently thought to be unique globally.

“Ogac lake, Baffin Island, Nunavut (62°52'N, 67°21'W)

“Qasigialimiq, Baffin Island, Nunavut (65°48'N, 68°10'W)

“Tarijuarusiq, Baffin Island, Nunavut (65°33'N, 67°25'W)

“Much like for the marine areas, DFO is not recommending that these areas be designated no development but rather that the lakes and an associated 1000m buffer be identified to indicate that these areas may be subject to additional scrutiny and/or restrictions during the impact assessment and regulatory review processes.”

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of Atlantic Cod lakes. The boundaries of Atlantic Cod lakes were created by the NPC using well-defined waterbodies. There has never been any disagreement among participants on the proposed boundaries.

<sup>2</sup> (Government of Canada-DFO, 2010-04-30. NPC Public Registry File # 10-068E)

***The certainty of the identified geographic boundaries of ATLANTIC COD LAKES is considered HIGH because:***

- *The areas are identified with good precision/scale;*
- *There is an agreement among participants regarding the boundaries; and*
- *The information is current.*

## 2.6.4.2 Environmental and Cultural Importance

In 2010, as noted in the previous subsection on geographic boundaries, DFO<sup>1</sup> submitted:

**“Habitat for Unique Species:** DFO considered whether there were habitats for unique fish or marine mammal species in the Nunavut Settlement Area that may warrant special consideration under the land use plan. At this time, DFO is recommending that the following three known lakes on southern Baffin Island containing Atlantic Cod be identified as important since the presence of this species in a lake environment is currently thought to be unique globally.”

### Considerations

Participants broadly agreed on the high environmental importance of Atlantic Cod lakes. Lake-bound Atlantic Cod are unique and environmentally important because they are genetically distinct from marine populations and from each other. They exist only in the Atlantic Cod lakes on Baffin Island.

***The environmental and cultural importance of ATLANTIC COD LAKES is considered HIGH because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is low; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is not available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

## 2.6.4.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
DFO, 2010	43	27	0	0

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in Atlantic Cod lakes is considered low. The sites do not have known potential for mining, oil and gas, or linear infrastructure development.

***The potential for non-renewable resources, transportation and linear infrastructure in ATLANTIC COD LAKES is considered LOW because:***

- *The areas have no known mineral potential or oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

## 2.6.4.4 Sensitivity to Impacts

In 2015, DFO<sup>4</sup> clarified that:

“... whether or not the Atlantic Cod in the Cod Lakes are listed under the SARA, the species is still considered a

<sup>1</sup> (Government of Canada-DFO, 2010-04-30. NPC Public Registry File # 10-068E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>4</sup>(Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

species at risk by the Committee on the Status of Endangered Wildlife in Canada.”

#### Considerations

The NPC considers there to be general agreement among participants that the sensitivity of Atlantic Cod lakes to impacts from incompatible uses is moderate and year-round. Lakebound Atlantic Cod are considered a ‘species at risk.’

***The sensitivity of ATLANTIC COD LAKES to impacts is considered MODERATE and YEAR-ROUND because:***

- *The lakes are small and provide unique habitat for which there is no alternative.*

### 2.6.4.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for Atlantic cod lakes.

#### Considerations

These cod are no longer being considered for listing as a species of special concern under SARA. However, the species is considered a species at risk by COSEWIC, and as with all fish habitat, the *Fisheries Act* would apply. Given that there are no specific measures in place for these unique habitats, the NLUP is able to support the management of these areas.

***The potential value of including guidance in the NLUP for ATLANTIC COD LAKES is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.6.4.6 Policy Options for Atlantic Cod Lakes

#### 2.6.4.6.1 Option 1 - Limited Use

No participant recommended this option.

#### 2.6.4.6.2 Option 2 - Conditional Use

No participant recommended this option.

#### 2.6.4.6.3

#### Option 3 - Mixed Use

No participant recommended this option.

#### Considerations

Two of the three lakes are on IOL and it is NTI’s preference that development activity should not be restricted on IOL.

#### 2.6.4.6.4

#### Option 4 - Valued Component

In 2010, as noted above, DFO<sup>1</sup> submitted:

“... DFO is not recommending that these areas be designated no development but rather that the lakes and an associated 1000m buffer be identified to indicate that these areas may be subject to additional scrutiny and/or restrictions during the impact assessment and regulatory review processes.”

#### Considerations

The NPC notes that DFO’s recommendation is consistent with identifying the areas as VCs.

### 2.6.4.7 NPC Recommendation - VEC

Given that:

#### FISH:

The overall importance of the issue is considered HIGH.

#### ATLANTIC COD LAKES:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for Atlantic Cod Lakes

Option 4 is recommended:

<sup>1</sup> (Government of Canada-DFO, 2010-04-30. NPC Public Registry File # 10-068E)

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify Atlantic Cod lakes as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended to reflect the feedback from participants that no restrictions are needed on these lakes. By identifying these lakes as known VECs, lake-bound Atlantic Cod will be considered by proponents and regulatory authorities when designing and reviewing projects near these locations.

#### LAND USE PLAN POLICY RECOMMENDATION

### **ATLANTIC COD LAKES**

#### **VALUED ECOSYSTEM COMPONENT**

## 2.6.4.8 Summary of Revisions

### **KRLUP and NBRLUP**

The existing regional land use plans do not include specific conformity requirements related to fish habitats.

### **2012, 2014 and 2016 DNLUP**

In the 2012 DNLUP, to manage the three Atlantic Cod lakes, the areas were assigned a Protecting and Sustaining the Environment (PSE-2) designation. The permitted uses for this designation were tourism, recreation and research.

The 2014 DNLUP did not include a section on the Atlantic Cod lakes.

The 2016 DNLUP assigned a MU designation to the Atlantic Cod lakes and presented the lakes as areas of a known VEC.

### **2021 DNLUP**

Like the 2016 DNLUP, Atlantic Cod lakes are MU and identified as known VECs in the 2021 DNLUP.

## 2.7 Marine Areas of Importance

Policy D1 of the NPC's Goal of Protecting and Sustaining the Environment is to respect and consider 'natural capital' sites (sites of ecological significance) that are not officially protected, such as: polynyas, key migratory bird sites, Ramsar sites, and critical habitat that has been identified but not yet declared.

### 2.7.1 Importance of Marine Areas of Importance

In 2014, the WWF<sup>1</sup> noted:

"Inuit have relied upon marine ecosystems for millennia, and today almost all Nunavut communities are located on an ocean coast. Inuit knowledge and land use and occupancy study results reflect the intricate ties between people and the marine environment (Anon 2008; Berkes et al. 2007; McDonald et al. 1997)."

### **Considerations**

Approximately 50% of the area of the NSA is marine. Marine areas in summer or winter play essential roles in the economy, lifestyle and environment of Nunavut. Based on this, the NPC considers marine areas of importance to have an overall high importance and priority, and the NPC considers marine areas of importance an important issue to be included in the NLUP.

***The overall importance of MARINE AREAS OF IMPORTANCE is considered HIGH because:***

- *They have been identified by many participants as a priority;*
- *They have a high cultural value;*
- *They have a high economic value; and*
- *They have a high ecosystemic value.*

### 2.7.2 Types of Marine Areas of Importance

Participants described three types of marine areas of importance:

<sup>1</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

1. EBSAs cover most of the marine areas of Nunavut. They provide distinct mixes of flora and fauna that are endemic to certain areas.
2. Polynyas are essential over-wintering habitat for a wide array of wildlife. Some polynyas are considered to be more essential to northern ecosystems than others.
3. Floe edges form in the spring and serve essential ecological and harvesting functions.

Each of these three areas are discussed in detail in the following subsections.

## 2.7.3 Ecologically and Biologically Significant Areas

### 2.7.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
DFO, 2011	740,737	22

In 2013, DFO<sup>1</sup> explained:

“The EBSAs are identified through a scientific and technical process, combining the best available scientific and traditional knowledge. They are evaluated against a specific set of criteria, including: uniqueness; aggregation; fitness consequence; resilience and naturalness. ... In the future, as available science and traditional knowledge about these areas expands, DFO may be able to provide additional information to NPC to assist with consideration of these areas.”

In 2016, DFO<sup>2</sup> noted the completion of a re-evaluation of EBSAs for the Eastern Arctic Biogeographic Region.

#### Considerations

The NPC considers there to be low certainty regarding the geographic boundaries of EBSAs. In 2013, DFO provided the NPC with the location of EBSAs in the NSA and provided an update in 2016.

As the locations of ESBAs in the 2021 DNLUP are based on 2013 DFO information with a partial update in 2016, and as it is expected that this information will be

improved in the future, the NPC currently considers the certainty of the locations of EBSAs to be low.

***The certainty of the identified geographic boundaries of EBSAs is considered LOW because:***

- ***The areas are identified with low precision/scale.***

### 2.7.3.2 Environmental and Cultural Importance

In 2016, DFO<sup>3</sup> noted:

“The identification of Ecologically and Biologically Significant Areas (EBSAs) is a tool used by Fisheries and Oceans Canada (DFO) to call attention to an area that has particularly high ecological or biological significance.”

#### Considerations

The EBSAs in aggregate cover much of the marine areas of Nunavut. As they comprise most of the marine environment, the NPC considers the environmental and cultural importance of these areas to be high.

***The environmental and cultural importance of EBSAs is considered HIGH because:***

- ***The areas are essential to the communities for hunting, fishing and/or trapping; and***
- ***The areas are essential to the biological productivity of wildlife because:***
  - ***Alternative habitat is often not available; and***
  - ***The habitat supports concentrations of wildlife.***

### 2.7.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
DFO, 2011	740,737	3,569	574	387

Parnautit,<sup>4</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes

<sup>1</sup>(Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)



to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>1</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

According to GoC information, the areas overlap with some oil licences, and with the proposed NMTCL.

**Considerations**

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in EBSAs is considered high. EBSAs are generally considered to have low non-renewable resource potential. However, since EBSAs cover most of the marine areas of Nunavut, they collectively overlap with most marine transportation opportunities.

***The potential for non-renewable resources, transportation and linear infrastructure in EBSAs is considered HIGH because:***

- *They cover most marine areas of Nunavut; and*
- *The potential for marine transportation in the areas is high.*

**2.7.3.4 Sensitivity to Impacts**

In 2014, the WWF<sup>2</sup> noted:

“The arctic marine ecosystems of Nunavut are diverse, productive and sensitive to human activities. Industrial and community developments in Nunavut will stress and impact (noise, spills, ocean dumping) marine ecosystems because shipping is and will continue to be the primary means to transport materials and products required to support these activities (Gavrilchuk & Lesage 2014). ...”

In 2016, DFO<sup>3</sup> noted:

“EBSAs ... facilitate the provision of a greater than usual degree of risk aversion in the management of activities within their areas ...”

**Considerations**

The large geographic extent of EBSAs creates a strong resiliency to impact, as only extremely large events could have widespread impact (most notably fuel spills, whose

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)  
<sup>2</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

prevention is mainly outside the NPC’s jurisdiction). As such, the NPC considers the sensitivity of EBSAs to impacts from incompatible uses to be low and year-round.

***The sensitivity of EBSAs to impacts is considered LOW and YEAR-ROUND because:***

- *Species are less sensitive to disturbance when using these areas; and*
- *Species use these areas year-round, but disturbance is unlikely to occur.*

**2.7.3.5 Other Regulatory Tools**

The NPC did not receive comments directly related to other regulatory tools for EBSAs.

**Considerations**

Although there are a variety of policy tools available for governance of marine areas, including EBSAs, the NLUP may complement these tools.

***The potential value of including guidance in the NLUP for EBSAs is considered LOW because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is high overlap of existing legislation and regulations with NPC jurisdiction.*

**2.7.3.6 Policy Options for EBSAs**

**2.7.3.6.1 Option 1 – Limited Use**

No participant recommended this option.

**2.7.3.6.2 Option 2 – Conditional Use**

In 2014, the WWF<sup>4</sup> recommended the NLUP:

“Assign a designation that permits all activities but with seasonal restrictions specific to each EBSA. For conforming and approved project proposals, provide a recommendation to regulators and proponents to consider potential impacts on wildlife and landscape values that must be considered outside of the seasonal restrictions.

...

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)  
<sup>4</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)



**“This option requires site-specific assessments to be undertaken for each EBSA, which will take into account:**

- **The specific biological and ecological characteristics of each EBSA**
- **The potential stressors on those significant characteristics**
- **The risks of impacts from inappropriate activities**
- **Site-specific mitigative measures, including seasonal and other restrictions**

**“WWF strongly recommends that these assessments be undertaken with some urgency, that they incorporate the best available scientific and traditional knowledge, and that they involve local interests. In light of the knowledge gaps that exist, a precautionary approach is required. Such an approach is needed to ensure that future conservation options are not foreclosed in areas that have been identified as ecologically or biologically significant. Furthermore, a precautionary approach helps to clearly identify knowledge gaps and generate a shared incentive to address these knowledge gaps, since it holds out the possibility of relaxing restrictions once the area is better understood.”**

## Considerations

The NPC notes the WWF supports this option.

### 2.7.3.6.3 Option 3 - Mixed Use

No participant recommended this option. However, in 2015, the KivIA<sup>1</sup> stated:

“... no explanation is given for designating marine features such as caribou sea ice crossings, EBSAs and polynyas as mixed use.

...

“... the NLUP recognizes that caribou sea ice crossings, Ecologically and Biologically Significant Areas (EBSA), and polynyas are all important marine features for Nunavut biodiversity. These features, however, are all assigned a Mixed Use Land Use Designation, which is the least protective land use category under the NLUP. While direction is given to regulatory authorities to mitigate impact on these areas, under the Mixed Use Designation, ‘all uses are considered to conform to the Plan, including

mineral exploration and production, commercial fisheries, oil and gas activities...[and] shipping’ ...

...

“... It is difficult to assess the adequacy of protection given to EBSAs in the Draft NLUP, since they are not defined, and currently are only identified at large spatial scales.

...

“The NLUP should provide greater clarity on the levels of protection for key marine features (i.e., caribou sea ice crossings, EBSAs, polynyas, polar bear use of sea ice) in relation to the how it may affect access and use of these features by oil and gas exploration and production and commercial shipping.

“It is recommended that EBSAs be defined in the NLUP to provide greater clarity and justification regarding why they are important components of the Plan.”

## Considerations

The NPC notes the KivIA questioned the MU designation for EBSAs and provided general information regarding the treatment of EBSAs in the NLUP.

### 2.7.3.6.4 Option 4 - Valued Component

In 2013, DFO<sup>2</sup> did not provide policy guidance on the management of all EBSAs (only those where a higher degree of risk aversion is needed), but did recommend these areas be noted in the NLUP.

In 2016, DFO<sup>3</sup> stated:

“The identification of Ecologically and Biologically Significant Areas (EBSAs) is a tool used by Fisheries and Oceans Canada (DFO) to call attention to an area that has particularly high ecological or biological significance. DFO does not use EBSAs as a general strategy to protect all habitats and marine communities that have some ecological significance and EBSAs do not establish prohibitions on activities, including shipping.”

## Considerations

The NPC notes that DFO’s comments pertain to identifying the presence of EBSAs, which can be associated with including EBSAs as VECs in the NLUP.

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2015-06-22. NPC Public Registry File # 14-086E)

<sup>2</sup>(Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

### 2.7.3.7 NPC Recommendation – VEC

Given that:

#### MARINE AREAS OF IMPORTANCE:

The overall importance of the issue is considered HIGH.

#### ENVIRONMENTALLY AND BIOLOGICALLY SIGNIFICANT AREAS:

i.	Certainty of the Identified Geographic Boundaries	LOW
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	LOW and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	LOW

#### Recommendation for Environmentally and Biologically Significant Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify EBSAs as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 is recommended given the general importance of the areas and the lack of specific prohibited uses or conditions to include in the NLUP

LAND USE PLAN POLICY RECOMMENDATION
<b><u>ECOLOGICALLY AND BIOLOGICALLY SIGNIFICANT AREAS</u></b>
<b>VALUED ECOSYSTEM COMPONENT</b>

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

### 2.7.3.8 Summary of Revisions

#### KRLUP and NBRLUP

The existing regional land use plans do not include specific conformity requirements related to EBSAs.

#### 2012, 2014 and 2016 DNLUP

EBSAs were not discussed in the 2012 DNLUP.

The 2014 DNLUP assigned a MU designation to EBSAs. In addition, direction was given to regulatory authorities to mitigate impacts on the areas.

The 2016 DNLUP assigned a MU designation to EBSAs and presented the sites as areas of a known VEC.

#### 2021 DNLUP

Like the 2014 and 2016 DNLUP, EBSAs are MU in the 2021 DNLUP. Like the 2016 DNLUP, they are identified as known VECs in the 2021 DNLUP.

### 2.7.4 Polynyas

The WWF<sup>1</sup> defined polynyas as areas of persistent open water surrounded by sea ice. Polynyas are created where strong upwelling, currents or winds prevent sea ice from forming.

This subsection of the 2021 O&R considers polynyas in the NSA in general. The North Water (Sarvarjuaq/ Pikialaorsuaq) Polynya is discussed further below in the Transboundary Considerations section. The Lancaster Sound Polynya is addressed in Chapter 3 in the under the Proposed National Marine Conservation Areas section.

#### 2.7.4.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
WWF, 2015	121,075	4
QWB, 2018	9,091	0
NPC Consultation, 2020	204	0

In 2015, the WWF<sup>2</sup> sent a written submission to clarify data sources used in their submission and the 2016 DNLUP.

<sup>2</sup> (WWF-Canada, 2015-07-17. NPC Public Registry File # 14-095E)

In 2018, the QWB<sup>1</sup> advised to enlarge the extent of the Hell Gate and Eastern Jones Sound Polynyas, based on observations from the local HTO members.

In 2018, the QWB<sup>2</sup> advised to add the Flagler Bay Polynya to the list of polynyas in the NLUP database, in effect extending the size of the North Water (Sarvarjuaq/Pikialaorsuaq) Polynya. In particular, the QWB noted:

“This area has a primary polynya open year-round at the mouth of Flagler Bay. In spring, the primary polynya usually expands to include the whole bay plus extending from the mouth into Hayes Fiord and Buchanan Bay, before open water joins Flagler Bay with Kane Basin. This polynya and the wildlife that utilize it are connected to, and north of, Pikialaorsuaq (aka the North Water), which the 2016 DNLUP described as the most northerly polynya in North America. Flagler Bay, a unique more-northerly polynya, should be considered highly risk intolerant and categorized as a Protected Area under the final NLUP.”

In 2019, Kugluktuk<sup>3</sup> residents suggested adding a polynya that forms in the Dolphin & Union strait.

### Considerations

The locations of polynyas have been identified by the WWF, the QWB and Kugluktuk residents. The NPC considers there to be high certainty regarding the geographic boundaries of polynyas. Polynyas typically form annually at similar locations every year. The locations of polynyas may change over time due to climate change and other environmental factors.

#### ***The certainty of the identified geographic boundaries of POLYNYAS is considered HIGH because:***

- ***The areas are identified with good precision/scale;***
- ***There is good agreement among participants regarding the boundaries; and***
- ***The information is current.***

## 2.7.4.2 Environmental and Cultural Importance

Tunngasaiji,<sup>4</sup> the GN’s Tourism Strategy, supports the development and enhancement of attractions through

the investment in parks, conservation areas, historic places, heritage rivers and other attractions.

According to the Nunavut Wildlife Resource and Habitat Values<sup>5</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, polynyas are important areas for many species of wildlife as they are nutrient rich, biologically productive areas.

In 2014, the WWF<sup>6</sup> submitted:

“Polynyas are areas of open water surrounded by sea ice and are created by wind, currents, tides, or upwelling and shore leads result from winds and currents (Barber et al. 2001; Hannah et al. 2009; Smith et al. 1990; Stirling 1980). These formations are variable in size and shape, from the massive North Water Polynya in northern Baffin Bay to the smaller inter-island polynya of Hell’s Gate. All are considered areas of high biological productivity and critical arctic habitat. Polynyas and shore leads are openings in the sea ice where sunlight penetrates in early spring to power the annual renewed growth of phytoplankton, powering the explosion of zooplankton that form the base of the arctic marine food web (Smith & Barber 2007). They are breathing sites for resident and migrating marine mammals, feeding sites for migrating birds and nesting colonies of sea birds, provide migration corridors and staging areas for sea birds (Laidre & Heide-Jorgensen 2011; Stirling 1980; Stirling & Cleater 1981). The high concentrations of wildlife in and near polynyas and shore leads attract foraging polar bears and other predators (HeideJorgensen et al. 2012). Many coastal archeological sites are found near polynya and today Inuit use these areas for hunting (Schledermann 1978, 1980)”.

In 2017, the WWF<sup>7</sup> stated:

“The North Water Polynya, in northern Baffin Bay between Canada and Greenland, is the largest polynya in the Canadian Arctic. It is used by the three cetacean species (and the two monodontids in particular) as important wintering habitat, from March to July (Finley and Renaud 1980; Richard et al.1998; Heide-Jørgensen et al. 2003b, 2013, 2016; DFO 2011, 2015).

In 2017, the WWF<sup>8</sup> also stated:

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-200E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-217E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-245E)

<sup>5</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>6</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>7</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>8</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

“The Hell Gate polynya is another highly recurrent and important polynya for many Valued Ecological Components (VECs) where it would be essential to reduce the impacts of disturbance by implementing seasonal restrictions on shipping and other marine activities.”

In 2017, DFO<sup>1</sup> noted:

“... A small polynya provides highly productive habitat for a wide variety of marine life. ...”

In 2018, the QWB<sup>2</sup> submitted:

“The polynya of Flagler Bay on Ellesmere Island is an important walrus haul-out and feeding area, and the islands in the bay and in its mouth into Hayes Fiord and Buchanan Bay are important nesting areas for common eiders. The bay and polynya are also important for polar bears, other marine mammals (e.g., narwhal, ringed seals, bearded seals) and birds (e.g., king eiders, red-throated loons, long-tailed ducks, glaucous gulls, black guillemots). The remains of bowhead whales have been found at old Tuniit sites around Flagler Bay.”

### Considerations

Participants broadly agreed on the moderate importance of polynyas. Polynyas are widely distributed across the Canadian Arctic Archipelago and are an important component of the physical and the biological systems in ice-covered seas.

***The environmental and cultural importance of POLYNYAS is considered MODERATE because:***

- *The areas are important to the communities for hunting, fishing and/or trapping; and*
- *The areas are important to wildlife, however, there is alternative habitat wildlife could use in the region.*

NPC Consultation, 2020	205	0	0	0
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Parnautit,<sup>3</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>4</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in polynyas in general is considered moderate. Of particular note, the Lancaster Sound Polynya is especially important for shipping as it is on the primary Northwest Passage and is the location of undersea hydrocarbon deposits; this is taken into consideration in Chapter 3. Polynyas are located in areas not overlapping with oil and gas SDLs, however, they do overlap with the proposed NMTCI.

***The potential for non-renewable resources, transportation and linear infrastructure in POLYNYAS is considered MODERATE because:***

- *The areas have no known mineral potential or oil and gas significant discovery; and*
- *The potential for marine transportation in the areas is high.*

## 2.7.4.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
WWF, 2015	121,075	407	32	1
QWB, 2018	9,091	7	1	2

## 2.7.4.4 Sensitivity to Impacts

In 2017, the WWF<sup>5</sup> noted:

“... The Hell Gate Polynya located in the High Arctic is one of the most productive area[s] of the region, alongside the North Water Polynya and the Lancaster Sound Polynya. This marine system is already identified as a Key Bird Habitat Site (#11, Hell Gate and Cardigan Strait) because of its importance to northern fulmar, common eider, and brant geese. However, the biological productivity of the site covers a much wider range of species, including

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-217E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>5</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

Atlantic walrus, polar bears, narwhal, ringed seals and bearded seals. This area was classified as a ‘Super EBSA’ during the IUCN/NRDC Workshop to Identify Areas of Ecological and Biological Significance or Vulnerability in the Arctic Marine Environment. Super EBSAs are identified when they meet most or all of the seven Convention on Biological Diversity (CBD) criteria, or when they meet one or more at a global level of significance. As proposed for the North Water Polynya and the Lancaster Sound Polynya, seasonal restrictions on shipping and other marine activities will help to maintain the integrity of the Hell Gate polynya.”

### Considerations

Participants broadly agreed that the sensitivity of polynyas to impacts from incompatible uses is moderate and seasonal. In general, polynyas are sensitive to impacts on a seasonal basis. Polynyas may be damaged by ice-breaking activities and may not reform. Pollution events at polynyas will have magnified impacts due to the concentrations of wildlife.

***The sensitivity of POLYNYAS to impacts is considered MODERATE and SEASONAL because:***

- *Species are moderately sensitive to disturbance when using these areas; and*
- *Species use these areas seasonally when disturbance is moderately likely to occur.*

### 2.7.4.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for polynyas.

### Considerations

Some of the polynyas that are the most important to migratory birds are already protected by some type of conservation regulation.<sup>1</sup>

Although there are a variety of policy tools available for governance of marine areas, including polynyas, the NLUP may complement these tools.

As discussed in Chapter 3, the Lancaster Sound Polynya will likely be encompassed by the Tallurutiup Imanga NMCA. On August 14, 2017, the PCA announced the final revised boundaries for the proposed NMCA. On August 1, 2019, the GoC and the QIA signed the Inuit Impact and Benefit Agreement (IIBA) for the establishment of the

Tallarutiup Imanga NMCA. The NLUP will not apply to the area inside the NMCA boundaries when it is established under the *Canada National Marine Conservation Areas Act*.

***The potential value of including guidance in the NLUP for POLYNYAS is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.7.4.6 Policy Options for Polynyas

#### 2.7.4.6.1

#### Option 1 - Limited Use

In 2013, DFO<sup>2</sup> noted in a GoC submission:

“... As polynyas, MCAs and Marine Protected Areas (MPA) are all highly sensitive areas, DFO strongly suggests that the impact of human activities on these environments be as minimal as possible. DFO strongly suggests that marine shipping activities and infrastructure in these polynyas not be a permitted use and that a PSE-2 designation should be considered for any area containing a polynya, MPA or MCA.”

In 2018, the QWB<sup>3</sup> stated:

“... the protective restrictions in the 2016 DNLUP are inadequate to protect the integrity of these extremely important habitat features. Therefore, we recommend the following amendments to the designations of Site # 11 – Hell Gate and Cardigan Strait, and Site # 25 – Eastern Jones Sound.

**“Prohibited Uses:** The following uses are prohibited:

- Oil and Gas Exploration and Production;
- Seismic testing;
- Disposal at sea;
- Sonar
- Related research except Non-Exploitive Scientific Research

**“Conditions:**

- Closed to all ship traffic through any and all floe edges, subject to safe navigation, during Ukiuq, Upiungakaaq, and Upiungaaq.

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-191E)

<sup>2</sup>(Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-200E)



...

In 2018, the QWB<sup>1</sup> also stated about Flagger Bay:

“... This polynya and the wildlife that utilize it are connected to, and north of, Pikialaorsuaq (aka the North Water), which the 2016 DNLUP described as the most northerly polynya in North America. Flagger Bay, a unique more-northerly polynya, should be considered highly risk intolerant and categorized as a Protected Area under the final NLUP.

...

**“Prohibited Uses:** The following uses are prohibited:

- Oil and Gas Exploration and Production;
- Seismic testing;
- Disposal at sea;
- Mineral Exploration and Production;
- Quarries;
- Obnoxious Land Use;
- Related research except Non-Exploitive Scientific Research

**“Conditions:**

- Closed to all ship traffic, subject to safe navigation, during Ukiaq, Ukiuq, Upingaksaaq, and Upingaaq.
- No vessel may approach within five (5) km seaward of a walrus haul-out, any time during the year.
- When walrus are present, fixed wing aircraft must maintain a minimum vertical setback of 460 m (1500 ft) above ground level (AGL) while within 310 m (1000 ft) of a group of walruses. Helicopters should remain at altitudes greater than 910 m (3000 ft) AGL when traveling within 1,610 m (1 mile) of a group of walruses.
- When walruses are present, walruses must not be approached by terrestrial vehicles closer than 800 m (0.5 mile) while the vehicle remains out of sight of the walruses.
- Regulatory Authorities, where appropriate, must incorporate the aerial, marine and terrestrial setbacks in a modified Table 2 for all migratory birds, all seabirds, and coastal waterfowl and sea

ducks during issuance of permits, licences, and authorizations.

- Any project in Nunavut that would violate any of these conditions is prohibited”

### Considerations

The NPC notes that some participants support this option. DFO’s 2013 recommendation is not entirely consistent with more recent submissions from the GoC; however, it is in alignment with the QWB’s recent proposed designations.

#### 2.7.4.6.2

#### Option 2 - Conditional Use

In 2014, the WWF<sup>2</sup> supported a designation for polynyas that includes:

“... seasonal restrictions & prohibits installation of year-round infrastructure. The seasonal restrictions would apply to mineral exploration, development and operations activities so as to prevent disturbance to wildlife species using polynya for breathing, resting and foraging. The seasonal restriction would extend from freeze-up to break-up – when polynyas form and disintegrate.

...

*“... The seasonal restrictions would apply to mineral exploration, development and operations activities so as to prevent disturbance to wildlife species using polynya for breathing, resting and foraging. The seasonal restriction would extend from freeze-up to break-up – when polynyas form and disintegrate.*

**“This option takes into account:**

- the ecological importance of polynyas and leads as regional drivers of marine primary productivity;
- that polynyas and leads are critical habitat for sustaining marine wildlife populations;
- the historic and current role of these formations for Inuit culture, hunting and survival; and
- that local sources of pollution (chemical, petroleum, noise) could significantly damage or destroy the ecological components of polynya and leads.”

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-217E)

<sup>2</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)



In 2015, the GoC<sup>1</sup> and KivIA<sup>2</sup> indicated it was not clear why polynyas should be presented as MU rather than SMAs.

In 2016, NTI and the RIAs<sup>3</sup> indicated the North Water Polynya should be designated SMA.

In 2017, the GoC<sup>4</sup> wrote:

“The proposed Lancaster Sound Polynya restriction extends to the middle of July. However, the RCN navigation season generally starts in mid-June and sometimes as early as the end of May, and early access to Nanisivik can only be achieved by transiting Lancaster Sound. Depending on ice conditions, the restriction could have operational impact for the RCN. Nanisivik has an existing facility that services Government of Canada and civilian vessels during the Northern shipping season. Commercial resupply vessels, Coast Guard ships and RCN warships need to have access to Nanisivik as soon as the navigation season begins in order to refill the fuel tanks. Fuel is removed from the facility at the end of each season (roughly early October) in order to protect the environment and to ensure fuel quality for the following year, so refilling the fuel tanks at the beginning of the season is crucial. The proposed restriction until mid-July would prevent the timely resupply of Nanisivik and will impact vessels’ ability to take on fuel. In particular, the patrol radius of Arctic and offshore patrol vessels could be greatly reduced, a result that would impact the surveillance of Arctic waters. Additionally, the ban extending into mid-July could impact the timely resupply of the Arctic Training Centre at Resolute Bay.

...

“.. The seasonal restrictions proposed for Site 157, Lancaster Sound Polynya, raise similar concerns. The westernmost restriction reaches far into Lancaster Sound, and historical marine transportation records demonstrate that vessels enter the proposed restricted area. It is unknown whether they do so out of necessity to ensure the safety of the vessel or if another reason exists. Lancaster Sound as a whole is a heavily used navigational channel, witness to 36 vessels making multiple voyages in the summer of 2014. Imposing the Lancaster Sound Polynya restrictions on vessel traffic may have similar unintended negative consequences for navigation and vessel safety, particularly if ice is present.”

In 2017, the WWF<sup>5</sup> recommended:

“Designate the Cardigan Strait/Hell Gate EBSA as a Special Management Area and implement seasonal restrictions to conserve the polynya, prohibiting shipping activities during Ukiaq, Ukiuq, Upingaksaq, and Upingaaq.”

Considerations

The NPC notes that some participants support this option. It is also apparent there is support for seasonal restrictions to protect the North Water (Sarvarjuaq/Pikialaorsuaq) and Lancaster Sound Polynyas; respectively, these areas are considered separately under section 2.8 Transboundary Considerations and 3.1.4 Proposed National Marine Conservation Areas.

2.7.4.6.3 Option 3 - Mixed Use

No participant recommended this option.

2.7.4.6.4 Option 4 - Valued Component

No participant recommended this option.

2.7.4.7 NPC Recommendation - VEC

Given that:

**MARINE AREAS OF IMPORTANCE:**  
The overall importance of the issue is considered HIGH.

POLYNYAS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	MODERATE
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	MODERATE and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

Recommendation for Polynyas

<sup>1</sup>(Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)  
<sup>2</sup> (Kivalliq Inuit Association (KivIA), 2015-06-22. NPC Public Registry File # 14-086E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)  
<sup>4</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)  
<sup>5</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify polynyas as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended for these biologically active areas given that limited information is available to formulate specific management options.

#### LAND USE PLAN POLICY RECOMMENDATION

### **POLYNYAS**

#### **VALUED ECOSYSTEM COMPONENT**

#### 2.7.4.8 Summary of Revisions

##### **KRLUP and NBRLUP**

The existing regional land use plans do not include specific conformity requirements related to polynyas.

##### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP did not specifically address polynyas. However, the North Water Polynya and Belcher Island Polynyas were included in the regulation of key bird habitat sites.

The 2014 DNLUP assigned a MU designation to all polynyas. In addition, the 2014 DNLUP gave direction to regulatory authorities to mitigate impacts on the areas.

In the 2016 DNLUP, the two polynyas most recognized as being essential to the environment and to the economy (the Lancaster Sound and North Water (Sarvarjuaq/Pikialaorsuaq) Polynyas) were assigned a SMA designation with seasonal restrictions on shipping. The 2016 DNLUP assigned a MU designation to all other polynyas, which are not well-understood or for which communities have not expressed as strong a set of concerns. In addition, all other polynyas were presented

as VECs so they would be considered in detail during the impact assessment process.

##### **2021 DNLUP**

In the 2021 DNLUP, polynyas are identified as known VECs. The North Water (Sarvarjuaq/Pikialaorsuaq) Polynya is included under the Transboundary Considerations section, where it is assigned a CU designation. The Lancaster Sound Polynya is included under the Proposed National Marine Conservation Areas section where the Tallurutiup Imanga NMCA is assigned a LU designation.

### 2.7.5 Floe Edges

Floe edges mark the boundary between open water and thick sea ice from the previous winter.

#### 2.7.5.1 Defining Geographic Boundaries

Source	Length (km)	% NSA & OLFIZ
DFO, 2015	761	0

In 2015, Transport Canada<sup>1</sup> suggested the NPC review the DFO's Marine Environmental Handbook, and the NPC digitized the floe edges identified in the document.

##### **Considerations**

The NPC considers there to be high certainty regarding the geographic boundaries of floe edges. However, the data provided by DFO focused on the Northwest Passage. The NPC welcomes additional information on any other floe edges that may exist.

##### ***The certainty of the identified geographic boundaries of FLOE EDGES is considered HIGH because:***

- ***Areas are identified with high precision/scale;***
- ***There is little disagreement among participants regarding the boundaries; and***
- ***The information is current.***

<sup>1</sup> (Nunavut Planning Commission (NPC), 2015-09-18. NPC Public Registry File # 14-104E)

### 2.7.5.2 Environmental and Cultural Importance

Both the KRLUP and NBRLUP discuss the importance of floe edges and have conditions to protect them against inappropriately timed shipping.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, reported that floe edges are noted as being very important during the spring and early summer to marine mammals, including ringed seals and belugas, and stated the following about belugas:

“... From traditional Inuit knowledge, belugas are reported to feed on Greenland Halibut (*Reinhardtius hippoglossoides*) at floe-edges in Cumberland Sound and Arctic Bay (Kilabuk 1998; COSEWIC 2004a). ...

“... Inuit knowledge from hunters also indicates that mating occurs along floe-edges far offshore in spring (COSEWIC 2004). ...”

In 2015, the Arviat HTO<sup>2</sup> noted:

“... The ice sea and floe edge is very important for our community’s hunting of marine mammals and travel during the winter months. It is also very important habitat for polar bears, ringed seals, bearded seals, and walrus. ...”

In 2016, the KWB<sup>3</sup> indicated:

“The floe edge is an essential site for hunting marine mammals. Damage to the floe edge from marine shipping could seriously impede the ability of communities to hunt marine mammals during the winter and spring. The Coral Harbour HTO has indicated that marine traffic has prematurely damaged the floe edge in the past, and that it had a significant impact on the community.”

In 2017, the NIRB<sup>4</sup> wrote:

“Further, premature break-up of fast ice and the floe edges could lead to possible changes in wildlife movements, which are essential to spring harvesting activities, however a non-restrictive option was given for ice floe edges within the DNLUP.”

In 2017, the WWF<sup>5</sup> wrote:

“... belugas eat Arctic cod and Greenland halibut at the floe edge in spring (Kilabuk 1998). ...

...

“Inuit in numerous other communities have identified areas where bowhead whales feed, including ... the Cumberland Sound floe edge during spring ...

...

“Inuit have observed ... bowhead whales giving birth at the floe edge near Cape Dorset. This is an area of perennially open water in the spring.

...

“Narwhal feed within Admiralty Inlet and along the floe edge. ...”

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of floe edges.

#### ***The environmental and cultural importance of FLOE EDGES is considered HIGH because:***

- ***The areas are essential to the communities for hunting, fishing and/or trapping; and***
- ***The areas are essential to the biological productivity of wildlife because:***
  - ***Alternative habitat is often not available;***
  - ***The habitat supports concentrations of wildlife; and***
  - ***The habitat is scarce.***

### 2.7.5.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Length (km)	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
DFO, 2015	761	0	2	0

Parnautit,<sup>6</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-107E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>4</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>5</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>6</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>1</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in floe edges is considered moderate. The floe edges are generally located in areas not overlapping with oil and gas SDLs, however, they do overlap with the proposed NMTCI.

***The potential for non-renewable resources, transportation and linear infrastructure in FLOE EDGES is considered MODERATE because:***

- *There is some overlap with oil and gas potential; and*
- *There is moderate potential for marine transportation in these areas.*

2.7.5.4 Sensitivity to Impacts

In 2015, the Arviat HTO<sup>2</sup> noted:

“... Icebreaking shipping could destroy this mammal habitat, as well as our hunting grounds and travel routes to Churchill, Whale Cove, and Rankin Inlet.”

In 2016, the KWB<sup>3</sup> noted:

“... Damage to the floe edge from marine shipping could seriously impede the ability of communities to hunt marine mammals during the winter and spring. ...”

In 2017, the NIRB<sup>4</sup> stated:

“... the NIRB notes that communities, governments, and interest groups are concerned about potential effects on wildlife resulting from marine shipping especially due to premature break-up of fast ice and the floe edges with possible changes in wildlife movements. This in turn could affect spring harvesting activities, which are essential to communities throughout Nunavut. The DNLUP should include a discussion why a non-restrictive option was given for ice floe edges and ice breaking.”

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)  
<sup>2</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-107E)

Considerations

Participants broadly agreed that the sensitivity of floe edges to impacts from incompatible uses is high and seasonal. Additionally, the NPC notes that ice-breaking activities through a floe edge could cause a premature collapse of the edge.

***The sensitivity of FLOE EDGES to impacts is considered HIGH and SEASONAL because:***

- *Wildlife are highly sensitive to disturbance when using these areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

2.7.5.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for floe edges.

Considerations

Floe edges are important to the ecology and people of Nunavut, and there is little formalized policy on them.

Most of the floe edges identified will likely be encompassed by the Tallurutiup Imanga NMCA. On August 14, 2017, the PCA announced the final revised boundaries for the proposed NMCA. The NLUP will not apply to the area inside the NMCA boundaries when it is established under the *Canada National Marine Conservation Areas Act*.

In addition, on August 1, 2019, the GoC and the QIA signed the IIBA for the establishment of the Tallarutiup Imanga NMCA.

***The potential value of including guidance in the NLUP for FLOE EDGES is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)  
<sup>4</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

### 2.7.5.6 Policy Options for Floe Edges

In 2017, the NIRB<sup>1</sup> stated:

**“Recommendation #9:** Ice floe edges are considered important to communities for spring harvesting activities and the NPC should consider revising the option for ice floe edges to be more restrictive to address the concerns raised by communities and interested groups.”

#### Considerations

The NPC has not categorized the NIRB’s comment under the options below as it provides general information regarding the treatment of floe edges in the NLUP.

The NPC also notes that it appears most agencies have not yet considered the preferable land use policies for floe edges.

#### 2.7.5.6.1 Option 1 - Limited Use

No participant recommended this option.

#### 2.7.5.6.2 Option 2 - Conditional Use

Section 3.5.6 of the NBRLUP includes an Action that:

“Ship traffic through and around the floe edges in April, May and June shall be minimized. Possible ways to protect the edges (such as having ships travel in convoys), shall be discussed by community representatives and the Canadian Marine Advisory Committee (Northern). [A]”

In 2016, the KWB<sup>2</sup> submitted:

*“Recommendation – the KWB recommends that the Nunavut Land Use Plan include seasonal restrictions to prohibit marine transportation that would damage the floe edge, or cause the floe edge to break up prematurely in the spring.”*

In 2018, the QWB<sup>3</sup> recommended:

#### **“Proposed Restrictions:**

#### **“Conditions:**

...

- All floe edges are closed to all ship traffic, subject to safe navigation, during Ukiag, Ukiuq, Upingaksaag, and Upingaaq without prior, informed and written consent from all of the

Hunters and Trappers Organizations (HTOs) and Regional Wildlife Organizations (RWOs) within 300 km, and subject to any conditions requested by the HTOs and RWOs. Lack of response from an HTO or RWO does not indicate consent.”

#### Considerations

The NPC notes that the KWB and QWB support this option. The KWB suggestion is consistent with seasonal restrictions that prevent avoidable ice-breaking at the floe edge.

#### 2.7.5.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.7.5.6.4 Option 4 - Valued Component

No participant recommended this option.

### 2.7.5.7 NPC Recommendation - CU

Given that:

#### **MARINE AREAS OF IMPORTANCE:**

**The overall importance of the issue is considered HIGH.**

#### **FLOE EDGES:**

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>MODERATE</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

#### **Recommendation for Floe Edges**

Option 4 is recommended:

- Does not restrict access.

<sup>1</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>2</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)



- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B of the NLUP.

**Information on VCs:** Identify floe edges as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended for these biologically active areas given that limited information is available to formulate specific management options.

#### LAND USE PLAN POLICY RECOMMENDATION

### FLOE EDGES

#### VALUED ECOSYSTEM COMPONENT

#### 2.7.5.8 Summary of Revisions

##### KRLUP and NBRLUP

The NBRLUP includes the following Action:

“Ship traffic through and around the floe edges in April, May and June shall be minimized. Possible ways to protect the edges (such as having ships travel in convoys), shall be discussed by community representatives and the Canadian Marine Advisory Committee (Northern).”

##### 2012, 2014 and 2016 DNLUP

Floe edges are not discussed in the 2012 or 2014 DNLUP. However, under additional research and studies needed to understand climate change, the 2014 DNLUP prioritized: “Identify how changing salinity levels and temperature may cause changes in the location of historic hunting grounds for sea mammals and location of floe edges and polynyas.”

The 2016 DNLUP assigned a MU designation to floe edges. This version also presented floe edges as areas of a known VEC, so they would be recognized on the DNLUP if not specifically protected by the plan.

##### 2021 DNLUP

Like the 2016 DNLUP, floe edges are MU and identified as VECs in the 2021 DNLUP.

## 2.8 Transboundary Considerations

Land uses occurring outside the NSA may impact areas inside the NSA. While these projects are outside NPC jurisdiction, Objective G of the NPC’s Goal of Protecting and Sustaining the Environment is to encourage the inter-jurisdictional management of land, air and water resources. Additionally, the NA and the NuPPAA set out how transboundary reviews are to be undertaken or triggered.

### 2.8.1 Importance of Transboundary Considerations

In 2016, the GoC<sup>1</sup> explained the following in respect of transboundary considerations:

#### “Issue and Discussion

“The issue identified in the Refinements document is whether the Nunavut Land Use Plan should identify priority transboundary considerations or provide more general guidance.

“The draft Nunavut Land Use Plan should be clear in its scope and its application only to projects within the NSA. It should be equally clear that projects outside of the NSA are not affected by the Nunavut Land Use Plan. However, projects outside of the NSA should be considered in the Commission’s assessment of cumulative impacts when it looks at project proposals inside the NSA. In addition, the Nunavut Land Use Plan should not direct government to consider requesting the Nunavut Impact Review Board to review transboundary projects. These authorities are captured under the Nunavut Land Claims Agreement and the **NUPPAA**.

#### “Preferred Option

“Clarify the scope of the draft Nunavut Land Use Plan, both within and outside the NSA.”

In 2016, the BQCMB<sup>2</sup> noted the importance of transboundary considerations in respect of caribou:

**“Transboundary Considerations** – The BQCMB recommends that the NLUP consider the transboundary nature of caribou herds, including that caribou harvesters outside of Nunavut will be affected by decisions and

<sup>1</sup>

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (QWCMB), 2016-03-04. NPC Public Registry File # 14-156E)



actions made within Nunavut and also that Nunavummiut may be affected by decisions and actions made about caribou and caribou range outside of Nunavut.”

In 2017, the GNWT<sup>1</sup> noted the importance of a number of transboundary issues in the NLUP, including shared barren-ground caribou herds, transboundary economic opportunities associated with strategic linear infrastructure developments, the effects of proposed parks, migratory bird species with transboundary habitat ranges, and the management of waste sites with transboundary impacts.

In 2017, the NIRB<sup>2</sup> stated:

“... The NLUP or the Options and Recommendations document should provide details on how transboundary projects would be treated and how the NLUP would be applied to transboundary projects.”

### Considerations

Participants generally agreed on the overall moderate importance and priority of transboundary considerations. Transboundary considerations is broadly recognized as an important issue to be included in the NLUP.

***The overall importance of TRANSBOUNDARY CONSIDERATIONS is considered MODERATE because:***

- *They have been identified by some participants as a priority;*
- *They have a high cultural value;*
- *They have a moderate economic value; and*
- *They have a high ecosystemic value.*

## 2.8.2 Types of Areas Important to Transboundary Considerations

A number of possible activities may occur outside the NSA that could have impacts inside the NSA. Through the process to develop the NLUP, the NPC has been made aware of the following transboundary considerations:

- The Great Bear Lake Watershed is shared with the NWT, and there are a number of significant mineral deposits which could drive future development pressure. The watershed (including the entire lake)

within the Déljine district has been designated by UNESCO as an International Biosphere Reserve.

- Oil and gas potential in Baffin Bay could have impacts, most notably on whales. A strategic environment assessment (SEA), led by the NIRB, is underway at the time of writing.
- The Nunavut Marine Council (NMC) requested that the National Energy Board not proceed with seismic activity related to oil and gas activity in Baffin Bay and the Davis Strait until a SEA is complete.
- The KRLUP requires that: “The possible cumulative impacts of additional hydroelectric power development in Manitoba, Ontario and Quebec on the ecosystem of Hudson Bay, James Bay and Hudson Strait must be examined before more hydroelectric development proceeds.”
- In 2014, the BQCMB<sup>3</sup> stated: “NPC should clearly describe how the Plan will consider transboundary effects when making land use planning decisions that may affect Aboriginal caribou harvesters from adjacent jurisdictions, and how planning decisions may be influenced by input from these groups. This includes parties for which consultation by NPC is directed by the Nunavut Land Claims Agreement (Manitoba and Athabasca Denesuline) and others (such as the Lutsel K’e Dene First Nation and the Northwest Territory Metis Nation).”

The NPC has only been provided with sufficient information to make a recommendation regarding the Great Bear Lake Watershed and the North Water (Sarvarjuaq/Pikialaorsuaq) Polynya. The Great Bear Lake Watershed and North Water (Sarvarjuaq/Pikialaorsuaq) Polynya are discussed further below. The NPC will continue to review other transboundary considerations when updating the NLUP in the future.

## 2.8.3 Great Bear Lake Watershed

### 2.8.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NWB	1400	0

<sup>1</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)

<sup>2</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>3</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

In 2014, a NWB<sup>1</sup> reference document indicated:

“The Great Bear Watershed boundary is described for the portions of the watershed that are in Nunavut, just north of the Nunavut-Northwest Territories border. There are five (5) small areas of the Great Bear Watershed that are within Nunavut but are separated due to the watershed boundary crisscrossing the Nunavut border ...”

Considerations

The boundary for the Great Bear Lake Watershed is taken from NRCan’s watershed basin database and the NPC considers there to be high certainty regarding the geographic boundary.

***The certainty of the identified geographic boundaries of the GREAT BEAR LAKE WATERSHED is considered HIGH because:***

- *The area is identified with good precision/scale;*
- *There is good agreement among participants regarding the boundaries; and*
- *The information is current.*

2.8.3.2 Environmental and Cultural Importance

In 2015, the GN<sup>2</sup> stated:

“The Great Bear Lake Watershed is recognized as an important area in Nunavut where inter-jurisdictional management opportunities exist. ...”

In 2017, the NIRB<sup>3</sup> noted:

“... the Great Bear Lake Watershed has been identified as an important ecological and cultural area in the Sahtu region of the Northwest Territories.”

Considerations

Participants broadly agreed on the moderate environmental and cultural importance of the portions of the Great Bear Lake Watershed within Nunavut.

***The environmental and cultural importance of the GREAT BEAR LAKE WATERSHED is considered MODERATE because:***

- *The importance of the area to the communities for hunting, fishing and/or trapping is moderate; and*

<sup>1</sup> (Nunavut Water Board (NWB), 2014-02-14. NPC Public Registry File # 12-144E)  
<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)  
<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

- ***The importance of the area to wildlife is moderate because:***
  - *Alternative habitat is likely to be available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

2.8.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NWB	1400	0	0	0

Parnautit,<sup>4</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>5</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Great Bear Lake Watershed is considered moderate.

***The potential for non-renewable resources, transportation and linear infrastructure in the GREAT BEAR LAKE WATERSHED is considered MODERATE because:***

- *The area overlaps with known mineral potential;*
- *The area does not overlap with potential transportation and linear infrastructure development;*
- *The area does not have existing rights for non-renewable resource land use;*
- *The area does not have subsurface IOL parcels; and*

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)  
<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

- *The area is relatively small.*

### 2.8.3.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Great Bear Lake Watershed to impacts. Regarding transboundary watersheds in general, in 2015 the GN<sup>1</sup> noted:

“... Due to the large area they encompass and steady growth in the number and scope of development projects in Nunavut and adjacent jurisdictions, watersheds are increasingly vulnerable to land use conflict and subsequent environmental degradation.”

#### Considerations

Participants broadly agreed that the sensitivity of the Great Bear Lake Watershed to impacts from incompatible uses is moderate and year-round.

***The sensitivity of the GREAT BEAR LAKE WATERSHED to impacts is considered MODERATE and YEAR-ROUND because:***

- *The ecological and cultural value of the watershed may be impacted by activities that affect water quality.*

### 2.8.3.5 Other Regulatory Tools

An IPG joint workshop summary report<sup>2</sup> and a NWB<sup>3</sup> document both note that there is a Great Bear Lake Watershed Management Plan.

#### Considerations

The NLUP is an appropriate tool to prevent inconsistent developments in the Great Bear Lake Watershed within Nunavut.

***The potential value of including guidance in the NLUP for the GREAT BEAR LAKE WATERSHED is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.8.3.6 Policy Options for the Great Bear Lake Watershed

#### 2.8.3.6.1 Option 1 - Limited Use

No participant recommended this option.

#### 2.8.3.6.2 Option 2 - Conditional Use

In 2017, the NIRB<sup>4</sup> stated:

“... The NPC should take into account the special management conformity requirements as outlined within the Sahtu Land Use Plan when considering a revised option for the Great Bear Lake Watershed.”

#### Considerations

There has not been further discussion in the NLUP planning process regarding the conformity requirements of the Sahtu Land Use Plan.

#### 2.8.3.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.8.3.6.4 Option 4 - Valued Component

In 2015, the GN<sup>5</sup> supported the identification of the Great Bear Lake Watershed in the DNLUP and recommended the discussion be expanded to “include all transboundary watershed resources in the NSA.”

#### Considerations

The NPC notes that the GN’s comment is best characterized as supporting this option for the Great Bear Lake Watershed. The NPC also notes the GN’s recommendation, but due to the lack of specific information and recommendations on additional transboundary watersheds beyond the boundaries identified in the NWB’s Watershed Management Areas (WMAs), other transboundary water resources are not considered further at this time.

<sup>1</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>2</sup> (Kennett, 2013-03-20. NPC Public Registry File # 12-032E)

<sup>3</sup> (Nunavut Water Board (NWB), 2013-08-14. NPC Public Registry File # 12-064E)

<sup>4</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>5</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

### 2.8.3.7 NPC Recommendation – VEC

Given that:

#### TRANSBOUNDARY CONSIDERATIONS:

The overall importance of the issue is considered **MODERATE**.

#### GREAT BEAR LAKE WATERSHED:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	MODERATE
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for the Great Bear Lake Watershed

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify the Great Bear Lake Watershed as an area of a known VEC that should be given particular consideration.

**Rationale:** Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **PORTION OF GREAT BEAR LAKE WATERSHED WITHIN THE NSA**

#### **VALUED ECOSYSTEM COMPONENT**

### 2.8.3.8 Summary of Revisions

#### KRLUP and NBRLUP

The Great Bear Lake Watershed is not specifically discussed in the existing regional land use plans.

#### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage the potential transboundary impacts of activities on the Great Bear Lake Watershed, the portion within the NSA was assigned recommendation PSE-R4. The specific recommendation stated: “Project Proposals located in portions of the Great Bear Lake watershed in Nunavut should take into account transboundary impacts that may reduce the conservation value of the watershed.”

The 2014 DNLUP assigned a MU designation to the portion of the Great Bear Lake Watershed within the NSA. In addition, direction was given to regulatory authorities to mitigate impacts on the area.

Like the 2014 version, the 2016 DNLUP assigned a MU designation to the portion of the Great Bear Lake Watershed within the NSA. It also presented this portion as an area of a VEC.

#### 2021 DNLUP

Like the 2016 DNLUP, the portion of the Great Bear Lake Watershed within the NSA identified as a known VEC in the 2021 DNLUP.

### 2.8.4 North Water (Sarvarjuaq/Pikialaorsuaq) Polynya

#### 2.8.4.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
WWF, 2014	3146	0

The WWF<sup>1</sup> provided data for polynyas across Nunavut, which are considered as whole above. The boundary considered for the North Water (Sarvarjuaq/Pikialaorsuaq) Polynya considered here is taken from this dataset.

#### Considerations

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

The North Water Polynya, known as Sarvarjuaq to Inuit in Canada and Pikialasorsuaq to Inuit in Greenland, is located between Ellesmere Island and Greenland, and is the largest polynya in the Canadian Arctic.

The NPC considers there to be high certainty regarding the geographic boundaries of Sarvarjuaq. Polynyas typically form annually at similar locations every year.

***The certainty of the identified geographic boundaries of SARVARJUAQ is considered HIGH because:***

- *The areas are identified with good precision/scale;*
- *There is good agreement among participants regarding the boundaries; and*
- *The information is current.*

2.8.4.2

Environmental and Cultural Importance

Tunngasaiji,<sup>1</sup> the GN’s Tourism Strategy, supports the development and enhancement of attractions through the investment in parks, conservation areas, historic places, heritage rivers and other attractions.

Appendix G of the NBRLUP includes a map of land values and concerns that identifies Sarvarjuaq as being essential areas for communities and wildlife.

According to the Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, polynyas are important areas for many species of wildlife as they are nutrient rich, biologically productive areas.

In 2014, the WWF<sup>3</sup> submitted:

“Polynyas are areas of open water surrounded by sea ice and are created by wind, currents, tides, or upwelling and shore leads result from winds and currents (Barber et al. 2001; Hannah et al. 2009; Smith et al. 1990; Stirling 1980). These formations are variable in size and shape, from the massive North Water Polynya in northern Baffin Bay to the smaller inter-island polynya of Hell’s Gate. All are considered areas of high biological productivity and critical arctic habitat. Polynyas and shore leads are openings in the sea ice where sunlight penetrates in early spring to power the annual renewed growth of phytoplankton, powering

the explosion of zooplankton that form the base of the arctic marine food web (Smith & Barber 2007). They are breathing sites for resident and migrating marine mammals, feeding sites for migrating birds and nesting colonies of sea birds, provide migration corridors and staging areas for sea birds (Laidre & Heide-Jorgensen 2011; Stirling 1980; Stirling & Cleater 1981). The high concentrations of wildlife in and near polynyas and shore leads attract foraging polar bears and other predators (HeideJorgensen et al. 2012). Many coastal archeological sites are found near polynya and today Inuit use these areas for hunting (Schledermann 1978, 1980).”

In 2017, the WWF<sup>4</sup> stated:

“The North Water Polynya, in northern Baffin Bay between Canada and Greenland, is the largest polynya in the Canadian Arctic. It is used by the three cetacean species (and the two monodontids in particular) as important wintering habitat, from March to July y (Finley and Renaud 1980; Richard et al.1998; Heide-Jørgensen et al. 2003b, 2013, 2016; DFO 2011, 2015).”

Considerations

Participants broadly agreed on the high environmental and cultural importance of Sarvarjuaq.

***The environmental and cultural importance of SARVARJUAQ is considered HIGH because:***

- *The areas are essential to the biological productivity of wildlife because:*
  - *Alternative habitat is often not available;*
  - *The habitat supports concentrations of wildlife; and*
  - *The habitat is scarce.*

2.8.4.3

Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	Shipping Corridor (km <sup>2</sup> )	Oil and Gas (km <sup>2</sup> )
WWF, 2014	3146	0	0

Parnautit,<sup>5</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-245E)  
<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)  
<sup>3</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>4</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)  
<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)



to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>1</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

**Considerations**

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in Sarvarjuaq is considered low.

***The potential for non-renewable resources, transportation and linear infrastructure in SARVARJUAQ is considered LOW because:***

- The potential for non-renewable resources is low; and*
- The potential for marine transportation in the areas is low.*

### 2.8.4.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of Sarvarjuaq to impacts.

**Considerations**

The NPC considers the sensitivity of Sarvarjuaq to impacts from incompatible uses to be high and seasonal. Polynyas may be damaged by ice-breaking activities and may not reform. Pollution events at polynyas will have magnified impacts due to the concentrations of wildlife.

***The sensitivity of SARVARJUAQ to impacts is considered HIGH and SEASONAL because:***

- Species are highly sensitive to disturbance when using these areas; and*
- Species use these areas often when disturbance is most likely to occur.*

### 2.8.4.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for Sarvarjuaq.

**Considerations**

Although there are a variety of policy tools available for governance of marine areas, including polynyas, the

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)  
<sup>2</sup>(Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

NLUP may complement these tools. It is also noted that Sarvarjuaq is the subject of research and consultation by the Inuit Circumpolar Commission for Inuit stewardship of this shared area.

***The potential value of including guidance in the NLUP for SARVARJUAQ is considered MODERATE because:***

- The issue is partially addressed by other regulatory authorities; and*
- There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 2.8.4.6 Policy Options for Sarvarjuaq

#### 2.8.4.6.1 Option 1 - Limited Use

In 2013, DFO<sup>2</sup> noted in a GoC submission:

“... As polynyas, MCAs and Marine Protected Areas (MPA) are all highly sensitive areas, DFO strongly suggests that the impact of human activities on these environments be as minimal as possible. DFO strongly suggests that marine shipping activities and infrastructure in these polynyas not be a permitted use and that a PSE-2 designation should be considered for any area containing a polynya, MPA or MCA.”

In 2018, the QWB<sup>3</sup> stated about Flagler Bay:

“... This polynya and the wildlife that utilize it are connected to, and north of, Pikialaorsuaq (aka the North Water), which the 2016 DNLUP described as the most northerly polynya in North America. Flagler Bay, a unique more-northerly polynya, should be considered highly risk intolerant and categorized as a Protected Area under the final NLUP.

...

**“Prohibited Uses:** The following uses are prohibited:

- Oil and Gas Exploration and Production;
- Seismic testing;
- Disposal at sea;
- Mineral Exploration and Production;
- Quarries;
- Obnoxious Land Use;

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-217E)



- Related research except Non-Exploitive Scientific Research

**“Conditions:**

- Closed to all ship traffic, subject to safe navigation, during Ukiaq, Ukiuq, Upingaksaq, and Upingaaq.
- No vessel may approach within five (5) km seaward of a walrus haul-out, any time during the year.
- When walrus are present, fixed wing aircraft must maintain a minimum vertical setback of 460 m (1500 ft) above ground level (AGL) while within 310 m (1000 ft) of a group of walruses. Helicopters should remain at altitudes greater than 910 m (3000 ft) AGL when traveling within 1,610 m (1 mile) of a group of walruses.
- When walruses are present, walruses must not be approached by terrestrial vehicles closer than 800 m (0.5 mile) while the vehicle remains out of sight of the walruses.
- Regulatory Authorities, where appropriate, must incorporate the aerial, marine and terrestrial setbacks in a modified Table 2 for all migratory birds, all seabirds, and coastal waterfowl and sea ducks during issuance of permits, licences, and authorizations.
- Any project in Nunavut that would violate any of these conditions is prohibited”

**Considerations**

The NPC notes that some participants support this option. DFO’s 2013 recommendation is not entirely consistent with more recent submissions from the GoC; however, it is in alignment with the QWB’s recent proposed designations.

**2.8.4.6.2 Option 2 - Conditional Use**

In 2014, the WWF<sup>1</sup> supported a designation for polynyas that includes:

“... seasonal restrictions & prohibits installation of year-round infrastructure. The seasonal restrictions would apply to mineral exploration, development and operations activities so as to prevent disturbance to wildlife species using polynya for breathing, resting and foraging. The

seasonal restriction would extend from freeze-up to break-up – when polynyas form and disintegrate.

...

*“... The seasonal restrictions would apply to mineral exploration, development and operations activities so as to prevent disturbance to wildlife species using polynya for breathing, resting and foraging. The seasonal restriction would extend from freeze-up to break-up – when polynyas form and disintegrate.*

**“This option takes into account:**

- the ecological importance of polynyas and leads as regional drivers of marine primary productivity;
- that polynyas and leads are critical habitat for sustaining marine wildlife populations;
- the historic and current role of these formations for Inuit culture, hunting and survival; and
- that local sources of pollution (chemical, petroleum, noise) could significantly damage or destroy the ecological components of polynya and leads.”

In 2015, the GoC<sup>2</sup> and KivIA<sup>3</sup> indicated it was not clear why polynyas should be presented as MU rather than SMAs.

In 2016, NTI and the RIAs<sup>4</sup> indicated the North Water Polynya should be designated SMA.

**Considerations**

The NPC notes that some participants support seasonal restrictions to protect Sarvarjuaq.

**2.8.4.6.3 Option 3 - Mixed Use**

No participant recommended this option.

**2.8.4.6.4 Option 4 - Valued Component**

No participant recommended this option.

<sup>1</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>2</sup>(Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>3</sup> (Kivalliq Inuit Association (KivIA), 2015-06-22. NPC Public Registry File # 14-086E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

#### 2.8.4.7 NPC Recommendation – CU

Given that:

##### TRANSBOUNDARY CONSIDERATIONS:

The overall importance of the issue is considered **MODERATE**.

##### NORTH WATER (SARVARJUAQ/PIKIALAORSUAQ) POLYNIA:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

##### Recommendation for North Water (Sarvarjuaq/Pikialaorsuaq) Polynya

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 2 was recommended to prevent disruption to the area during seasons when the area is of greatest importance.

##### LAND USE PLAN POLICY RECOMMENDATION

##### NORTH WATER (SARVARJUAQ/PIKIALAORSUAQ) POLYNIA

##### CONDITIONAL USE

##### Condition:

- Except as required for safe navigation, no person is to conduct ice-breaking activities during Ukiag, Ukiuq, Upingakaaq and Upingaaq (December 1 to July 31)
- The applicable condition does not apply to vessels engaged in community resupply or emergency response

#### 2.8.4.8 Summary of Revisions

##### KRLUP and NBRLUP

Sarvarjuaq is not specifically discussed in the existing regional land use plans.

##### 2012, 2014 and 2016 DNLUP

As mentioned above under the Polynyas subsection:

- The 2012 DNLUP did not specifically address polynyas. However, the North Water Polynya was included in the regulation of key bird habitat sites.
- The 2014 DNLUP assigned a MU designation to all polynyas. In addition, the 2014 DNLUP gave direction to regulatory authorities to mitigate impacts on the areas.
- In the 2016 DNLUP, the two polynyas most recognized as being essential to the environment and to the economy (the Lancaster Sound and North Water (Sarvarjuaq/Pikialaorsuaq) Polynyas) were assigned a SMA designation with seasonal restrictions on shipping.

##### 2021 DNLUP

Like the 2016 DNLUP, the 2021 DNLUP assigns a CU designation to the North Water (Sarvarjuaq) Polynya with seasonal restrictions on shipping.

## 2.9 Climate Change

Climate change is an important consideration in the NSA. Changing ice conditions may have an impact on residents' use of the land. Many wildlife populations can be affected by changes to the unique habitat that they rely on, which has been considered throughout the 2021 O&R. Transportation and infrastructure are also susceptible to impacts from changing ice and permafrost conditions.

Policy B of the NPC's Goal of Protecting and Sustaining the Environment is to, where appropriate, provide direction to the NIRB, government regulators and Inuit land managers to manage climate change issues, including greenhouse gas emissions.

## 2.9.1 NPC Recommendation for Climate Change

As there are currently no agreed upon terms among participants that would be appropriate to implement through the NLUP, it is recommended that no specific terms be included at this time. The NPC will continue to consider climate change when updating the NLUP in the future.

## 2.9.2 Summary of Revisions

### KRLUP and NBRLUP

The KRLUP states: “Concerns related to ... climate change are valid, but ... are beyond the scope of a regional land use plan.” The NBRLUP does not specifically discuss climate change, but includes it in the list of ecosystemic indicators in Appendix M.

### 2012, 2014 and 2016 DNLUP

The 2012 DNLUP did not include specific plan requirements related to climate change. However, the draft encouraged the Minister (and government) to advise the NIRB of potential issues or concerns regarding climate change to be considered during the review of project proposals.

The 2014 DNLUP gave direction to regulatory authorities to address the NPC’s objectives on climate change during the review of project proposals. The 2014 DNLUP also included a list of research priorities related to climate change.

The 2016 DNLUP included the following recommendation:

“The NPC recommends that in implementing the NLUP, federal or territorial ministers, departments and agencies; municipalities; the National Energy Board; Institutions of Public Government; federal environmental assessment panels; and other Regulatory Authorities ensure Proponents give reasonable consideration to minimizing their contribution to climate change, plan for, and where necessary or desirable, take reasonable steps to mitigate anticipated effects of climate change.”

The 2016 DNLUP also included recommendations for additional research and studies. This section included a list of research priorities related to climate change. After acknowledging rapid changes in the North from the

impacts of climate change, the section also included the following recommendation:

“The NPC recommends that the Canadian High Arctic Research Station and the Nunavut General Monitoring Plan, presently under the administration of INAC, work cooperatively to ensure that research of the highest priority is occurring, and in a cost-effective manner. NPC is able to assist in this either directly or through its role on the Nunavut General Monitoring Plan Steering Committee.”

### 2021 DNLUP

As mentioned above, the 2021 DNLUP does not include specific plan requirements related to climate change. However, the DNLUP includes discussion that identifies climate change as an important issue in the NSA. In addition, climate change was considered throughout the development of the plan. Among other things, the discussion also identifies the importance of mitigating and monitoring climate change impacts, and controlling greenhouse gas emissions.

## 3 Encouraging Conservation Planning

*The Goal of Encouraging Conservation Planning is described as: “The goal of conservation planning forms an important part of the land and resource management regime in Nunavut. Conservation planning recognizes that Parks and Conservation Areas may be established through legislation. The protection of other Areas of Interest may also be achieved through the application of zoning in the land use plan. The purpose of conservation planning is to protect the natural environment, culturally significant areas and special places for the benefit of Nunavummiut and all Canadians. This will be achieved by recognizing the general desirability to establish Parks in the Nunavut Settlement Area, supporting Conservation Area initiatives of Government, and by protecting Areas of Interest under the authority of the land use plan.”*

Encouraging Conservation Planning is one of five planning goals in the NPC’s Broad Planning Policies, Objectives and Goals. It is the primary aim of this chapter of the 2021 O&R to provide practical policy direction that supports this goal.

Specifically, this chapter:

- Identifies key areas of Nunavut that are known to be critical to encouraging conservation planning;
- Provides options for managing these key areas; and
- Recommends a preferred option for the management of these areas that is best able to support this goal.

Themes identified by the NPC as important to encouraging conservation planning are:

- Future parks (future national and territorial parks, and proposed NMCAs); and
- Conservation areas (Thelon Wildlife Sanctuary, MBSs, NWAs, *Oceans Act* proposed marine protected areas (MPAs), historic sites, and Canadian heritage rivers (CHRs)).

### 3.1 Future Parks

Under the NuPPAA, a park means a national park, a territorial park, or a NMCA. Once these areas are fully established, the NLUP no longer applies to these ‘parks.’ However, until the park establishment process is complete, the NPC still has jurisdiction within these areas. The NLUP can support the establishment of these initiatives by managing the areas while the required establishment processes are underway.

Section 11.3.1(g) of the NA requires a land use plan to take into account factors such as environmental considerations, including parks and conservation areas.

Objective B of the NPC’s Goal of Encouraging Conservation Planning is to provide for the establishment and continued protection of the ecological integrity of parks and conservation areas.

#### 3.1.1 Importance of Future Parks

There are several national parks, territorial parks and NMCAs in the NSA that are at various stages in their establishment.

Tunngasaiji,<sup>1</sup> the GN’s Tourism Strategy, supports the development and enhancement of attractions through the investment in parks, conservation areas, historic places, heritage rivers and other attractions.

In 2008, Terriplan’s Socio-Demographic and Economic Sector Analysis<sup>2</sup> noted:

“National and Territorial parks afford Nunavut tourists with the opportunity to participate in a range of activities including (but not limited to): camping, hiking, canoeing, sport hunting and fishing, kayaking, and wildlife observation.”

In 2015, the GN<sup>3</sup> noted:

“The following information is relevant for understanding the Recommendation for Proposed Territorial Parks:

- Proposed Territorial Parks have undergone considerable background and feasibility study, have community and Regional Inuit Association support and have been approved by the GN to

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-245E)

<sup>2</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

proceed in accordance to the legal obligations and planning processes as outlined under the *Nunavut Land Claims Agreement* (NLCA) and approved *Umbrella Inuit Impact and Benefit Agreement for Territorial Parks in the Nunavut Settlement Area* (IIBA)."

In 2016, the GoC<sup>1</sup> submitted:

**"National Marine Conservation Areas (NMCAs)** are designated under the National Marine Conservation Areas Act and managed by the Parks Canada Agency (PCA). NMCAs are geographically defined areas established to protect and conserve marine areas representative of Canada's natural heritage and to encourage public understanding, appreciation and enjoyment of this marine heritage. NMCAs are managed for sustainable use and contain zones of high protection. They include seabed, its subsoil and overlying water column and may encompass wetlands, estuaries, islands and other coastal lands. While activities such as undersea mining, oil and gas exploration and extraction, and ocean dumping are not permitted within the boundaries of NMCAs, most traditional fishing and hunting activities, managed on a sustainable basis, would continue."

### Considerations

Participants generally agreed on the overall high importance and priority of future parks. The establishment of future parks is broadly recognized as an important issue to be included in the NLUP. Additionally, it is recognized that the NLUP can support government efforts to establish new parks in the NSA.

***The overall importance of FUTURE PARKS is considered HIGH because:***

- ***They have been identified by many participants as a priority;***
- ***They have a high cultural value;***
- ***They have a moderate economic value; and***
- ***They have a high ecosystemic value.***

## 3.1.2 Types of Areas Important to Future Parks

Two key categories of areas have been identified with regard to future parks: future national and territorial parks; and proposed NMCAs. These two key categories of future parks are analyzed in the subsections below.

## 3.1.3 Future National and Territorial Parks

Within the category of future national and territorial parks, there are four subcategories: national parks awaiting full establishment; territorial parks awaiting full establishment; proposed national parks; and proposed territorial parks.

### 3.1.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN, 2015 (awaiting full establishment)	1,576	0
GN, 2015 (proposed)	17,944	1
GoC	50	0

**National Parks Awaiting Full Establishment:** The PCA<sup>2</sup> identified Ward Hunt Island as a national park awaiting full establishment, and an area around Sila Lodge as an area for future incorporation into Ukkusiksalik National Park.

**Territorial Parks Awaiting Full Establishment:** The GN<sup>3</sup> identified the following as areas awaiting full establishment as territorial parks:

#### Baffin Region

- Katannilik Territorial Park (Kimmirut/Iqaluit)
- Mallikjuaq Territorial Park (Kinngait)
- Sylvia Grinnell Territorial Park (Iqaluit)
- Pisuktinu Tunngavik Territorial Park Campground (Pangnirtung)
- Tamaarvik Territorial Park Campground (Pond Inlet)
- Taqaiqsirvik Territorial Park Campground (Kimmirut)
- Tupirvik Territorial Park Campground (Resolute Bay)

#### Kitikmeot Region

- Kugluk (Bloody Falls) Territorial Park (Kugluktuk)

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Government of Canada, 2010-09-16. NPC Public Registry File # 10-093E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

- Ovayok Territorial Park (Cambridge Bay)

#### Kivalliq Region

- Iqalugaarjuup Nunanga Territorial Park (Rankin Inlet)
- Inuujaarvik Territorial Park Campground (Baker Lake)

**Proposed National Parks:** There are currently no proposed national parks in the NSA. The PCA previously identified an area in the Kitikmeot Region in the Bluenose Lake Area, contiguous to the existing Tukturn Nogait National Park. However, this area is no longer being considered as a proposed national park.

**Proposed Territorial Parks:** The GN identified proposed territorial parks in the NSA, including the Aggutinni (Clyde River), Nuvuk (Arviat), Kingaluuk-Sitiapiit (Sanikiluaq) and Napartulik/Napaaqtulik (Axel Heiberg Island). Proposed territorial parks have undergone considerable background and feasibility study, have community and RIA support, and have been approved by the GN to proceed in accordance with the legal obligations and planning processes outlined under the NA and IIBA for territorial parks.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of future national and territorial parks. The geographic boundaries of the future national and territorial parks currently being considered for inclusion in the NLUP consist of the areas submitted by the GoC and the GN.

***The certainty of the identified geographic boundaries of FUTURE NATIONAL AND TERRITORIAL PARKS is considered HIGH because:***

- ***The areas are identified with high precision/scale;***
- ***There is moderate agreement among participants regarding the boundaries; and***
- ***The information is current.***

### 3.1.3.2 Environmental and Cultural Importance

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, reported many of the values of future parks.

During community meetings in Clyde River<sup>2</sup> on the 2012 DNLUP, community participants noted the importance of the area that was being considered at the time for a territorial park (Aggutinni).

In 2016, the GoC<sup>3</sup> submitted:

**“National Parks (NPs)** are designated under the Canada National Parks Act and managed by PCA. NPs are geographically defined areas established to protect representative examples of Canada’s natural heritage. NPs are set aside to encourage public understanding, appreciation and enjoyment of our natural heritage. Several NPs contain marine areas within their boundaries.

“There are currently five NPs within the NSA, all of which contain marine areas. The PCA may wish to designate new NPs within the NSA in the future.”

At the 2017 Qikiqtani regional public hearing,<sup>4</sup> participants from Clyde River commented on the proposed Aggutinni Territorial Park:

“... it’s an area that people felt needed to be conserved or be declared a Protection Area. This huge area identified here – an initiative was taken to turn it into a park by the residents, and it’s a big, immense area that is considered to turn into a park – a national park or territorial, I don’t know. It’s a very scenic spot. Many tourists and hikers will be flocking in soon, especially the cliff jumpers or just casual tourists coming in. So, you’ll see a lot of activity going on, particularly with tourists in the area. It has plenty of wildlife. It has a lot of narwhal and seals.

“We also hunt caribou in the area, caribou hunting ground. And this glacier is pretty huge, and the river flows to this area here. And from here to there is our water source. It’s our main water source for our daily water consumption.”

In 2017, the QWB and Clyde River HTO<sup>5</sup> noted the importance of the Barnes Ice Cap, which is partly contained within the proposed Aggutinni Territorial Park:

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-066E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-220E)



“Protection of the integrity of the Barnes Ice Cap is extremely important to the lands, rivers, lakes, glaciers, fjords and wildlife of northeastern Baffin Island upon which the health and culture of the Inuit of Clyde River depend. Without protection of the Barnes Ice Cap, the Nunavut Land Use Plan would fail in its goal to protect and promote the well-being of all of Nunavut’s residents as a primary purpose of land use planning under Article 11 of the Nunavut Agreement.

“The elders of Clyde River have always understood the important effects that the Barnes Ice Cap has on the ecology of the highlands, mountains, glaciers, fjords and coastal sea ice of northeastern Baffin Island. As weather systems move from the north and west across Baffin Island, the Ice Cap affects snow fall, rain fall, temperatures, winds and other climatic factors to the east and south. The Ice Cap provides water to maintain rivers and lakes where Inuit fish, affects vegetation that nourish caribou and other wildlife that Inuit harvest, affects the snow cover through which caribou must dig to access forage in winter, and affects the salinity of water in the fjords. Its influence on temperatures and wind affect freeze up, break up and winter ice conditions in the fjords and off the eastern coast of Baffin Island. The Ice Cap also feeds rivers and lakes to the south, west and north.”

In 2017, the NIRB<sup>1</sup> noted:

“It appears that palaeontological sites are not addressed through the 2016 DNLUP. There are two protected areas (key bird habitat sites) as well as the proposed Napurtulik Territorial Park on Ellesmere and Axel Heiberg Island, and while they appear to encompass parts of the fossil forest in this area it is unclear how much is included (especially as the exact area of fossils is protected in some cases), including the Geodetic Hills Fossil Forest on the east side of Axel Heiberg Island. It is noted that during the screening of NIRB File No. 09EN067, commenting parties raised extensive concerns regarding the potential for unacceptable adverse impacts to paleontological resources in the area. Parties noted the importance of the area where the project was being proposed nationally and internationally, the current lack of protection for the area, and the likelihood of irreparable and unacceptable impacts to paleontological resources occurring as a result of the proposed project.”

### Considerations

<sup>1</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

Participants broadly agreed on the high environmental and cultural importance of future national and territorial parks.

***The environmental and cultural importance of FUTURE NATIONAL AND TERRITORIAL PARKS is considered HIGH because:***

- ***The importance of the areas to the communities is high; and***
- ***The importance of the areas to wildlife is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The areas are essential to biological productivity; and***
  - ***The habitat supports concentrations of wildlife.***

### 3.1.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN, 2015	1,576	172.4	0.05	0
GN, 2015	17,944	2,662	0.73	557
GoC	50	0	0	0

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in future national and territorial parks is considered moderate.

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

Prior to park establishment, the potential for significant mineral development or oil and gas development is carefully considered through a required Mineral and Energy Resource Assessment process, and areas of high potential may be excluded from the park boundaries.

***The potential for non-renewable resources, transportation and linear infrastructure in FUTURE NATIONAL AND TERRITORIAL PARKS is considered MODERATE because:***

- *The areas overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use; and*
- *The areas are relatively large.*

***The sensitivity of FUTURE NATIONAL AND TERRITORIAL PARKS to impacts is considered HIGH and YEAR-ROUND because:***

- *Existing community uses are sensitive to disturbance from incompatible uses;*
- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

### 3.1.3.5 Other Regulatory Tools

In 2013, the GoC<sup>2</sup> submitted:

***“GoC Expectation: The planning process and resulting DNLUP shall be compliant with the NLCA and NUPPAA.***

- Section 3.1 of the 2011/2012 DNLUP refers to existing parks as well as future parks and should clearly indicate under a subheading that the NLUP does not apply to or within Auyuittuq, Quttinirpaaq, and Sirmilik national parks of Canada (section 8.2.9 of the NLCA) nor within new national parks (for example, Ukkusiksalik, Qausuittuq/Bathurst Island) once established (section 8.2.10 of the NLCA) under the *Canada National Parks Act*.
- It should also be clearly stated that the NLUP will not apply to or within any NMCA once established (section 8.2.10 of the NLCA) or to National Historic Sites when administered by Parks Canada (section 9.3.5) although no National Historic Sites are administered by Parks Canada at the time of development of this DNLUP.”

In 2015, the GN<sup>3</sup> noted:

***“... The following information is relevant for understanding the Recommendation for Territorial Parks Awaiting Full Establishment:***

- Territorial Parks Awaiting Full Establishment (within or outside municipal boundaries) have been approved by the GN, are under the land withdrawal process and/or have not yet been designated under the *Territorial Parks Act*.
- Until they are fully established, their interim management is the responsibility of GN Department of Environment: Parks & Special

### 3.1.3.4 Sensitivity to Impacts

In 2017, the QWB and Clyde River HTO<sup>1</sup> noted the sensitivity of the Barnes Ice Cap, which is partly contained within the proposed Aggutinini Territorial Park:

*“Human disturbance of the Barnes Ice Cap would have dramatic effects not only on the Ice cap itself but on all areas that it influences. Disturbance of the surface or sub-surface would have devastating effects on all of northeastern Baffin Island.”*

#### Considerations

Participants broadly agreed that the sensitivity of future national and territorial parks to impacts from incompatible uses is high and year-round. Future parks are mainly selected due to their ecological and cultural importance. In general, it is understood that development may reduce the cultural and ecological values that are intended to be permanently protected by future national and territorial parks.

The sensitivity of future parks is related to the different values existing in the areas and meant to be preserved through the park establishment. The sensitivity of particular wildlife and cultural values have been considered in Chapters 2 and 4 under the subheading “Sensitivity to Impacts.”

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-220E)

<sup>2</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

Places Division, in accordance with the NLCA and IIBA for Territorial Parks in partnership with the communities and Joint Planning and Management.

- As per the IIBA Section 2.1.2, Park Specific Appendices will be developed and added to the IIBA during the Territorial Park Establishment Process.”

### Considerations

Future parks can be protected through land withdrawals or interim management plans. Once a park is established, the NPC no longer has jurisdiction in areas. However, land use planning can act as an interim protection mechanism, preventing incompatible projects from occurring before the full establishment of the park(s).

***The potential value of including guidance in the NLUP for FUTURE NATIONAL AND TERRITORIAL PARKS is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

## 3.1.3.6 Policy Options for Future National and Territorial Parks

### 2.9.2.1.1 Option 1 - Limited Use

In 2014, the GN<sup>1</sup> stated:

“Territorial Parks Awaiting Full Establishment

*“Recommendation: Designation which would allow tourism, research and recreation (ECP-2). Recommend all other uses are considered through a Plan amendment and that proponents must adhere and respect the purposes for which the park was created as well as the obligations and processes as outlined under the NLCA/ IIBA or Territorial Parks ...*

...

“Proposed Territorial Parks

*“Recommendation The creation of new ECP-R2 category. Designation which would allow tourism, research and recreation. Proponents must be made aware that a territorial park is under consideration, and therefore must adhere and respect the obligations and processes as outlined under the NLCA/ IIBA for Territorial Parks.”*

In 2015, the GoC<sup>2</sup> noted:

“To facilitate the establishment of proposed national parks, such areas require land management consistent with the prevention of new interests in these lands. Particular land management is also required to ensure that the cultural and ecological integrity and heritage values of future park resources are preserved. Moreover, permitted land uses should not be allowed for too long a term in case they would be inconsistent with the establishment of the national park.

“In addition to the Prohibited Uses already provided for in the DNLUP, it is desirable to include [other] long-term land uses and uses which would negatively affect the value of lands as future park resources.

...

“It is recommended that the Prohibited Uses for [national parks awaiting full establishment] be modified as follows:

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro development;
- All-weather roads; ~~and~~
- Uses of land or water for a term of more than five years, except, for greater certainty, in respect of Existing Rights; and
- Any use that would diminish the ecological integrity or the heritage value of the land as future park resources.
- ~~Related research.”~~

### Considerations

The NPC notes that the GN and GoC support this option.

The NPC agrees with the GoC suggestion to prohibit “Uses of land or water for a term of more than five years, except, for greater certainty, in respect of Existing Rights.”

The GoC suggestion to prohibit any “use that would diminish the ecological integrity or the heritage value of the land as future park resources” is considered too subjective to be evaluated by NPC’s conformity officers during the conformity determination process.

### 2.9.2.1.2 Option 2 - Conditional Use

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>2</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

In 2017, NTI and the RIAs<sup>1</sup> stated:

“NTI and the RIAs recommend that the areas listed as Proposed Territorial Parks in the DNLUP 2016 be placed in Special Management Areas with terms and conditions.”

### Considerations

The NPC notes that NTI and the RIAs support this option.

#### 2.9.2.1.3 Option 3 - Mixed Use

No participant recommended this option.

#### 2.9.2.1.4 Option 4 - Valued Component

No participant recommended this option.

### 3.1.3.7 NPC Recommendation - LU

Given that:

#### FUTURE PARKS:

The overall importance of the issue is considered HIGH.

#### FUTURE NATIONAL AND TERRITORIAL PARKS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

### Recommendation for Future National and Territorial Parks

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas are under consideration for establishment as national and territorial parks.

#### LAND USE PLAN POLICY RECOMMENDATION

### **FUTURE NATIONAL AND TERRITORIAL PARKS**

#### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure
- Any other use of land or water for a term of more than five years

### 3.1.3.8 Summary of Revisions

#### **KRLUP and NBRLUP**

Both the KRLUP and NBRLUP recognize the responsibilities of the GoC and GN with regard to the establishment of national and territorial parks, respectively.

The KRLUP also provides recommendations respecting the potential future national park in the area surrounding Wager Bay and Ford Lake. In addition, the plan includes a recommendation focused on future territorial parks, which, among other things, mentions that the GN should establish territorial parks on the basis of a Territorial Park Program and a Parks System Plan.

#### **2012, 2014 and 2016 DNLUP**

Pursuant to the NuPPAA, the 2012, 2014 and 2016 DNLUP did not apply within established national parks and territorial parks.

The 2012 DNLUP did not assign land use designations to either territorial parks awaiting full establishment or proposed territorial parks. Regarding national parks awaiting full establishment, the 2012 DNLUP assigned an

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

Encouraging Conservation Planning (ECP-1) designation to Ukkusiksalik National Park and Ward Hunt Island to manage the areas. For proposed national parks, the 2012 DNLUP:

- Assigned an Encouraging Conservation Planning (ECP-1) designation to the lands withdrawn for the proposed national park on Bathurst Island and the adjacent marine areas; and
- Assigned an Encouraging Conservation Planning (ECP-2) designation to the lands previously withdrawn for a proposed new national park in the Bluenose Lake Area.

In the 2012 DNLUP, permitted uses for the ECP-1 designation were tourism, recreation and research; the designation prohibited all other uses. The permitted uses for the ECP-2 designation were tourism, recreation and research.

The 2014 DNLUP addressed national and territorial parks awaiting full establishment as well as proposed national and territorial parks. The 2014 DNLUP assigned a PA designation that prohibited incompatible uses to the following areas:

- Ukkusiksalik National Park and Ward Hunt Island (national parks awaiting full establishment);
- Territorial parks awaiting full establishment outside of municipal boundaries;
- The proposed Qausuittuq National Park on Bathurst Island, the area adjacent to the Qausuittuq National Park on northeastern Bathurst Island, and the area identified for a proposed new national park in the Bluenose Lake Area (proposed national parks); and
- Aggutinni Proposed Territorial Park (proposed territorial park).

Similar to 2014, the 2016 DNLUP addressed national and territorial parks awaiting full establishment as well as proposed national and territorial parks. The 2016 draft regulated these areas in the same way as the 2014 DNLUP, but the boundaries of these areas were modified somewhat between the 2014 and 2016 drafts. The 2016 DNLUP assigned a PA designation that prohibited incompatible uses to the following areas:

- National parks awaiting full establishment (Ward Hunt Island);

- The area adjacent to the Qausuittuq National Park on northeastern Bathurst Island (proposed national park);
- Territorial parks awaiting full establishment; and
- Proposed territorial parks.

In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC’s mandate in Article 11 of the NA.

### 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to future parks that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

## 3.1.4 Proposed National Marine Conservation Areas

Canada’s National Marine Conservation Areas System Plan identifies nine marine regions within the NSA, none of which are represented through an established NMCA: Tallurutiup Imanga; Hudson Bay; Arctic Basin; Baffin Island Shelf; Foxe Basin; Queen Maud Gulf; Hudson Strait; James Bay; and Arctic Archipelago.

Tallurutiup Imanga (Lancaster Sound) is acknowledged as being significant for its marine biodiversity and importance to Inuit. A process to establish Tallurutiup Imanga as an NMCA is in an advanced stage. Until the Tallurutiup Imanga NMCA is fully established, the area requires interim management. The analysis in this subsection of the 2021 O&R focuses on the proposed Tallurutiup Imanga NMCA.

### 3.1.4.1Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GoC, 2020	84,952	2



In 2014, the QIA<sup>1</sup> submitted:

“The Qikiqtani Inuit Association is a steering committee member for the proposed Lancaster Sound National Marine Conservation Area (NMCA), which is currently undergoing a feasibility study. In 2010 Parks Canada, representing the Government of Canada proposed a boundary for the NMCA, this boundary corresponds to the land use designation ECP-1 (79) on the map Schedule A: Nunavut Land Use Plan Land Use Designations. Throughout the feasibility study, QIA has been conducting community consultations and has collected Inuit Qaujimajatuqangit (IQ). In 2012, based on feedback from these consultations, QIA proposed a different boundary for the Lancaster Sound NMCA, which is larger than the area delineated by ECP-1 (79). The feasibility study for the NMCA is anticipated to be completed by the end of 2014, at this time the Steering committee will make a recommendation on the feasibility of the NMCA as well its final boundary. If upon completion of the feasibility study the boundary of the Lancaster Sound NMCA differs from that in the DNLUP, QIA would like to ensure that this change is reflected in the NLUP. ...”

In 2016, the GoC<sup>2</sup> submitted:

“There are currently no NMCAs within the Nunavut Settlement Area but there is a proposal for one in the Lancaster Sound area and the PCA may wish to designate new NMCAs within the NSA and Outer Land Fast Ice Zone in the future. The Nunavut Land Use Plan does not apply within the boundaries of an NMCA.”

In 2020, the GoC<sup>3</sup> submitted:

“... Article 4 of the *Inuit Impact and Benefit Agreement for Tallurutiup Imanga National Marine Conservation Area between the Qikiqtani Inuit Association and the Government of Canada* describes the area boundary for the National Marine Conservation Area. The description included in this article is updated from the information previously submitted to the Nunavut Planning Commission during the drafting of the 2016 draft Nunavut Land Use Plan. This article is attached as part of this Government of Canada submission; please note, as identified in Section 4.6.1, this boundary description is subject to legal description by the Surveyor General of Canada, and final description in Schedule 1 of the *Canada National Marine Conservation Areas Act*.

“This new information is simply to update the boundary of the proposed National Marine Conservation Area; in no way is it intended to change the current land use

designations described in the current draft Nunavut Land Use Plan.”

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of the Tallurutiup Imanga NMCA. The geographic boundaries currently considered for the Tallurutiup Imanga NMCA were submitted by the GoC.

The proposed Tallurutiup Imanga NMCA is adjacent to Sirmilik National Park and has been the object of extensive use and occupancy mapping activities. A variety of boundaries for the Tallurutiup Imanga NMCA have been proposed over the years.

***The certainty of the identified geographic boundaries of the TALLURUTIUP IMANGA NMCA is considered MODERATE because:***

- *The area is identified with high precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 3.1.4.2 Environmental and Cultural Importance

The NBRLUP identifies Lancaster Sound as “... essential to the survival of several million seabirds, which occur in concentrations not found elsewhere in the Arctic.” It also states, “The biophysical richness of the central part of the region around Lancaster Sound makes it an ecosystem of international significance.”

The Community of Pond Inlet,<sup>4</sup> during the 2012 NPC community consultation, highlighted the importance of the area for char spawning and marine mammals.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>5</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

“The proposed Lancaster Sound National Marine Conservation Area would encompass more than 40,000 km<sup>2</sup> (Parks Canada 2011b). Lancaster Sound is the eastern entrance to the Northwest Passage and is an area of critical ecological importance. The designation of Lancaster Sound as an NMCA would allow for the protection of narwhals

<sup>1</sup> (Qikiqtani Inuit Association (QIA), 2014-02-14. NPC Public Registry File # 12-145E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-067E)

<sup>5</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)



which use Lancaster Sound as a feeding ground during the summer and as a migration route. It would provide direct protection for the winter habitat of polar bears, in addition to conserving areas of high ringed seal concentrations. Beluga whale summer habitat and migration routes would also fall under the protection of a Lancaster Sound NMCA should it be designated in the future. The area is extremely important for seabirds with approximately one-third of eastern Canada’s colonial seabirds breeding and feeding in Lancaster Sound (Parks Canada 2011a).”

In 2015, Ocean North Canada<sup>1</sup> submitted:

“The Lancaster Sound Region is a vital component of both Arctic ecology and Inuit communities. Lancaster Sound is an area of high ecological significance to marine mammals, including various species of seal, various species of whale, polar bear, and walrus. The sound is also home to important breeding colonies for Arctic seabirds. Inuit hunt, fish, and travel in the waters, lands, and ice of Lancaster Sound. The region is recognized for its role in Inuit cultural heritage, with occupancy of the area dating back thousands of years. The marine mammals and fish that live in and migrate through Lancaster Sound remain essential to the economic, social, and cultural well-being of the residents of the region.”

In 2016, the GoC<sup>2</sup> submitted:

“**National Marine Conservation Areas (NMCAs)** are designated under the National Marine Conservation Areas Act and managed by the Parks Canada Agency (PCA). NMCAs are geographically defined areas established to protect and conserve marine areas representative of Canada’s natural heritage and to encourage public understanding, appreciation and enjoyment of this marine heritage. NMCAs are managed for sustainable use and contain zones of high protection. They include seabed, its subsoil and overlying water column and may encompass wetlands, estuaries, islands and other coastal lands. While activities such as undersea mining, oil and gas exploration and extraction, and ocean dumping are not permitted within the boundaries of NMCAs, most traditional fishing and hunting activities, managed on a sustainable basis, would continue.”

## Considerations

Participants broadly agreed on the high environmental and cultural importance of the Tallurutiup Imanga NMCA.

The following other information relates to the environmental and cultural importance of the area:

- The area includes numerous key bird habitat areas;
- The area includes the Lancaster Sound Polynya;
- The area is a known tourism destination and has considerable potential to draw future tourism;
- The area is important for harvesting of country foods, particularly for the communities of Pond Inlet, Arctic Bay and Resolute Bay; and
- The area has community on-ice travel routes.

***The environmental and cultural importance of the TALLURUTIUP IMANGA NMCA is considered HIGH because:***

- ***The importance of the area to the communities is high; and***
- ***The importance of the area to wildlife is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The area is essential to biological productivity; and***
  - ***The habitat supports concentrations of wildlife.***

## 3.1.4.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GoC, 2020	84,952	159	2.9	0

Parnautit,<sup>3</sup> the GN Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>4</sup> the GN Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

<sup>1</sup> (Oceans North Canada, 2015-06-22. NPC Public Registry File # 14-082E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

In 2016, the NWT & Nunavut Chambers of Mines<sup>1</sup> submitted:

“Lancaster Sound is a critical marine transportation corridor in support of development in Nunavut. Lancaster Sound is the marine gateway to the Canadian Northwest Passage, through which vessels to support the growing northern minerals industry and other commercial interests must travel. Lancaster Sound itself has tremendous resource potential; a study by Natural Resources Canada states that *large petroleum fields the size of Hibernia could be discovered within the assessed area of Lancaster Sound.*”

In 2020, the GoC<sup>2</sup> attached Article 4 of the IIBA for the Tallurutiup Imanga NMCA, which provided:

“4.5.1 The boundary of Tallurutiup Imanga NMCA shall not include Inuit Owned Lands and management of Tallurutiup Imanga NMCA must not impede access to Inuit Owned Lands.”

**Considerations**

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Tallurutiup Imanga NMCA is considered high. Of particular note, the Tallurutiup Imanga NMCA includes a primary marine shipping corridor and has overlaps with significant potential oil and gas deposits. Details are as follows:

- The primary Northwest Passage marine shipping corridor runs through Lancaster Sound. This makes the area essential to the resupply of many Nunavut communities, and more recently to cruise-based tourism. It may also potentially become an important marine corridor between Asia and Europe.
- The approved Mary River Northern route for the open water marine transportation corridor from Milne Inlet through Eclipse Sound to Baffin Bay runs through the proposed NMCA area.
- The NBRLUP identifies Lancaster Sound as having the highest known oil and gas potential of the sedimentary basins of the Arctic islands.

***The potential for non-renewable resources, transportation and linear infrastructure in the TALLURUTIUP IMANGA NMCA is considered HIGH because:***

- ***The area does not overlap with areas with evidence of mineral potential, but is known to have significant oil and gas potential;***
- ***The area has high potential for transportation and linear infrastructure development;***
- ***The area has no existing rights for oil and gas SDLs;***
- ***The area has no subsurface IOL parcels; and***
- ***The area is relatively large.***

**3.1.4.4 Sensitivity to Impacts**

Mapping from the NBRLUP indicates that the Lancaster Sound marine areas are both essential and sensitive.

In 2015, Ocean North Canada<sup>3</sup> submitted:

“Lancaster Sound is also a region facing increasing and anticipated pressures from climate change, industrial development and commercial shipping. As climate change continues to reduce sea ice duration, Lancaster Sound is likely to become a major shipping route. The petroleum industry may return to the North Baffin region, and seismic surveys have recently been approved near Lancaster Sound. Proposals for year-round, ice-breaking shipping in the area have been submitted to Nunavut regulators. Inuit have consistently expressed an interest in protecting the Lancaster Sound region, and have repeatedly opposed petroleum exploration and extraction in the area.”

**Considerations**

Participants broadly agreed that the sensitivity of the Tallurutiup Imanga NMCA to impacts from incompatible uses is high and year-round. The Lancaster Sound area is important for different reasons, at different times of the year. In the winter, whales rely on the Lancaster Sound Polynya as ice-free areas where they can breathe. In the spring, polar bears patrol the floe edge for hunting opportunities. In the summer, many types of birds rely on the rich feeding grounds of the area.

In general, it is understood that development may reduce the cultural and ecological values that are intended to be permanently protected by the proposed NMCA designation. Some of the ecological functions may be more sensitive than others, but at the same time there are many unknowns.

***The sensitivity of the TALLURUTIUP IMANGA NMCA to impacts is considered HIGH and YEAR-ROUND because:***

<sup>1</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

<sup>2</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)  
<sup>3</sup> (Oceans North Canada, 2015-06-22. NPC Public Registry File # 14-082E)

- *Species are highly sensitive to disturbance when using this area;*
- *Species use this area when disturbance is likely to occur; and*
- *The concern regarding potential impacts on the area is seasonal.*

### 3.1.4.5 Other Regulatory Tools

There are a wide variety of regulations on shipping in the Canadian Arctic, through the *Arctic Waters Pollution Prevention Act*, and also through Canada Coast Guard (CCG) operational policies, that are designed to prevent marine accidents and spills.

On August 14, 2017, the PCA announced the final revised boundary for the proposed NMCA. On August 1, 2019, the GoC and the QIA signed the IIBA for the establishment of the Tallarutiup Imanga NMCA. An interim management plan for the NMCA is currently under development. The NLUP will not apply to the area inside the NMCA boundaries when it is established under the *Canada National Marine Conservation Areas Act*.

#### Considerations

The NLUP is able to prevent development inconsistent with the future NMCA in the Lancaster Sound area until its full establishment.

***The potential value of including guidance in the NLUP for the TALLARUTIUP IMANGA NMCA is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 3.1.4.6 Policy Options for the Proposed Tallurutiup Imanga National Marine Conservation Area

#### 3.1.4.6.1 Option 1 - Limited Use

In 2013, the GoC<sup>1</sup> submitted:

“As indicated in comments provided by the GoC before, the NLUP should recognize/support interim protection of the area within the proposed Lancaster Sound NMCA boundary

through a conformity requirement prohibiting the exploration for or development of petroleum resources within Canada’s proposed NMCA boundary. Note that the proposed ECP-1 designation for the proposed NMCA would not be consistent with the *Canada National Marine Conservation Areas Act*, which allows marine navigation and fishing to continue within the conditions set out in a NMCA management plan and zoning. Therefore, ECP-1 as presently proposed is not an appropriate designation for Lancaster Sound within the DNLUP. The only outright prohibitions in NMCAs under the Act are mineral and petroleum exploration and development, and ocean dumping: the extent and nature of other uses will be set out in the Lancaster Sound NMCA zoning and management plan. ECP-2 as presently defined would appear to be a better designation.”

In 2014, the GN<sup>2</sup> stated:

“Proposed National Marine Conservation Areas

“**Comment:** In the Draft LUP (S. 3.1.1.3 pg. 21 and Table 1 pg. 39), Lancaster Sound is designated as ECP-1, which permits Tourism, Recreation, and Research and prohibits all other uses. However, it is unclear what this means for shipping through Lancaster Sound.

“**Recommendation:** Create a designation similar to PSE-3, and that permits marine transportation.

“The current recommended option is Option 1 (O&R, Ch. 3, pg. 25-26), which permits Tourism, Recreation and Research and prohibits all other uses. The considered information does not include marine transportation use.

“**Recommendation:** Create an option permits marine transportation.”

In 2015, Oceans North Canada<sup>3</sup> recommended “... the NPC place stricter management conditions on areas of community land use that are essential to communities, to prohibit uses that are incompatible with community use of these areas.” Oceans North Canada also stated:

“Inuit have consistently expressed an interest in protecting the Lancaster Sound region, and have repeatedly opposed petroleum exploration and extraction in the area.”

In 2016, the NWT & Nunavut Chambers of Mines<sup>4</sup> submitted:

“There is an answer where the unique natural environment and the diverse marine life of Lancaster Sound can be protected and responsible commercial shipping and

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>3</sup> (Oceans North Canada, 2015-06-22. NPC Public Registry File # 14-082E)

<sup>4</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

resource development could proceed in a manner that protects the environment. Such a win-win would be in the best interests of Nunavummiut and all Canadians.

“Although it is recognized that shipping is permitted within a NMCA, the Chamber suggests express reference in the plan that notwithstanding the specific prohibited activities, the Proposed Land Use Designation within this area is not intended to restrict shipping or related activities, during open water or during ice covered periods. That is, shipping through this area is not prohibited or restricted on the basis that it is associated with mineral exploration or development or other industrial activities outside Lancaster Sound.”

In 2017, NTI and the RIAs<sup>1</sup> wrote:

“NTI and the RIAs recommend that NPC retain the Protected Area designation until Lancaster Sound is designated as a National Marine Conservation Area.”

#### Considerations

The NPC notes that some participants, including NTI, the GoC and the GN, support this option.

#### 3.1.4.6.2 Option 2 - Conditional Use

In 2015, the WWF<sup>2</sup> submitted:

“For the Proposed National Marine Conservation Area (NMCA) in Lancaster Sound, commercial shipping impacts should be minimized and adequate directions to Regulatory Authorities should be clearly formulated to mitigate potential impacts before the official establishment of the NMCA.”

#### Considerations

The NPC notes that the WWF comment is best characterized as supporting this option; the comments suggest conditions be placed on shipping activities.

#### 3.1.4.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 3.1.4.6.4 Option 4 - Valued Component

No participant recommended this option.

### 3.1.4.7 NPC Recommendation - LU

Given that:

#### FUTURE PARKS:

The overall importance of the issue is considered HIGH.

#### PROPOSED TALLURUTIUP IMANGA NATIONAL MARINE CONSERVATION AREA:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for Proposed Tallurutiup Imanga National Marine Conservation Area

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that this area is under consideration to be established as a NMCA.

#### LAND USE PLAN POLICY RECOMMENDATION

### **PROPOSED TALLURUTIUP IMANGA NATIONAL MARINE CONSERVATION AREA**

#### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- All-weather roads
- Disposal at sea

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>2</sup> (WWF-Canada, 2015-06-22. NPC Public Registry File # 14-085E)

### 3.1.4.8 Summary of Revisions

#### KRLUP and NBRLUP

The NBRLUP recognizes the biophysical richness of the region making it an ecosystem of international significance. In addition, in Appendix G – Land Values and Concerns – part of the area is identified as an “Essential Area” and part as an “Important Area.” The NBRLUP provides that ships stay 20 to 25 km away from the coasts of Tallurutiup Imanga to avoid direct contact with concentrations of marine wildlife. It also recommends that the area be mapped and included in the Arctic Sailing Directions. In addition, it is recommended that ship traffic through and around the floe edges in April, May and June be minimized.

The NBRLUP also restricts oil and gas exploration in the area to the existing rights holders and provides that no new licence may be issued by the National Energy Board without prior community consultation.

#### 2012, 2014 and 2016 DNLUP

The 2012, 2014 and 2016 DNLUP all referred to the proposed Tallurutiup Imanga NMCA as the proposed NMCA in Lancaster Sound.

In the 2012 DNLUP, to manage the area, the proposed Tallurutiup Imanga NMCA was assigned an Encouraging Conservation Planning (ECP-1) designation. The permitted uses for this designation were tourism, recreation and research. The designation prohibited all other uses.

The 2014 and 2016 DNLUP assigned a PA designation to the proposed Tallurutiup Imanga NMCA that prohibited incompatible uses. However, in 2016, there were more overlapping designations, for polynyas, floe edges, and others, which added additional restrictions on certain parts of Lancaster Sound.

In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC’s mandate in Article 11 of the NA.

#### 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

## 3.2 Conservation Areas

Section 11.3.1(g) of the NA requires a land use plan to take into account factors such as environmental considerations, including parks and conservation areas. The NLUP applies to established conservation areas. The NLUP does not suggest new conservation areas, but has considered all existing conservation areas.

Objective B of the NPC’s Goal of Encouraging Conservation Planning is to provide for the establishment and continued protection of the ecological integrity of parks and conservation areas.

### 3.2.1 Importance of Conservation Areas

Conservation areas are established to protect one or more ecological components or species of note.

Tunngasaiji,<sup>1</sup> the GN’s Tourism Strategy, supports the development and enhancement of attractions through the investment in parks, conservation areas, historic places, heritage rivers and other attractions.

Some sites are located within the boundaries of the NBRLUP. The NBRLUP places an emphasis on protecting wildlife and wildlife habitat and ensuring impacts on wildlife are minimized. The NBRLUP also notes:

“All land users in the region accept the need to maintain the genetic diversity and long-term productivity of the renewable resources, and to preserve related cultural features and values.

“The NPC accepts that there is a need to complete a system of conservation areas. ...”

Some sites are located within the boundaries of the KRLUP. The KRLUP identifies healthy wildlife populations as vital to Inuit. It places an emphasis on the protection

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-245E)



and preservation of wildlife and wildlife habitat for use by future generations.

Terriplan's 2008 Socio-Demographic and Economic Sector Analysis<sup>1</sup> noted:

"According to the Government of Nunavut, 'tourism is widely viewed as a sector that will form one of the key 'building blocks' of Nunavut's future economy'. It has been singled out as one of the 'three pillars' of economic growth for the territory. The *Conference Board of Canada* projects that tourism 'will become Nunavut's greatest export after raw materials' in the future.

...

"The tourism activities that more than 33% of Nunavut visitors participated in were: shopping (local arts and crafts), hiking, museum and cultural site visits / activities, and wildlife / bird viewing ...

...

"Wildlife of interest in Nunavut includes (but is not limited to): walrus, belugas, bowheads, narwhal, musk-ox, caribou, polar bear, and a range of birds.

...

"Nunavut has 11 bird sanctuaries ... From these sanctuaries and through guided tours it is feasible to see species such as snowy owls, sandhill cranes, gyrfalcons (including the white phase), jaegers, loons, and plovers."

According to the 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document commissioned as an independent third-party report by the NPC to inform the NLUP process:

"In Nunavut, Environment Canada's CWS manages 16 Migratory Bird Sanctuaries (MBS) and one National Wildlife Area (NWA). CWS establishes bird sanctuaries to control and manage areas of importance for the protection of migratory birds, their nests and eggs. The sanctuaries can include a range of habitat types such as terrestrial, wetland, or marine. CWS establishes regulations determining what activities can be carried out within these areas. Prohibited activities include the harassment or killing of birds, and disturbing, destroying, or possessing nests or eggs. Primary management activities include the development of management plans, the review of permit applications and the production of public information. The NLCA requires management plans for all CWS protected areas in the NSA, and the negotiation of Inuit Impact and Benefit

Agreements (IIBA) for many of them. CWS issues permits with regard to activities within MBSs and NWAs, and the salvage or collection of birds when used in the course of scientific studies. Applications are reviewed in cooperation with impact review boards and other institutions under the various land claims. Partners include the NWB, RWOs HTOs and Nunavut Tunngavik Inc. (NTI).

"In Nunavut several federal legislative tools are available to protect wildlife habitat. SARA protects residence and critical habitat for species identified as Schedule 1 species. Under this Act the CWS can invoke measures immediately to protect critical habitat of species at risk. CWS can also protect habitat through the *Migratory Birds Convention Act* (1994) and the *Canadian Wildlife Act*.

"Three other legislations that offer some minor forms of protection include the Federal Policy on Land Use (Government of Canada 1981), the Northern Mineral Policy (Indian and Northern Affairs 1986), and the Mineral and Metal Policy of the Government of Canada (Natural Resources Canada 1996)."

In 2013, the GoC<sup>3</sup> wrote:

"The NLUP should not prevent advancing new Park or Conservation Area proposals within the Nunavut Settlement Area and Outer Land Fast Ice Zone, nor amendments to the boundaries of the currently proposed protected areas that are indicated in the land use plan, subject to meeting all relevant requirements set out in the *Nunavut Land Claims Agreement* and the *Nunavut Planning and Project Assessment Act* and respecting relevant Government of Canada policies. ..."

In 2015, NTI and the RIAs<sup>4</sup> recommended that the NLUP should identify "... areas that are protected through legislation and indicate that the existing restrictions as set out in legislation and regulations apply" (not include specific conditions or prohibitions in the plan).

### Considerations

Participants generally agreed on the overall high importance and priority of conservation areas. The establishment of conservation areas is broadly recognized as an important issue to be included in the NLUP.

In addition, based on discussions with Nunavut communities in 2012-2014, the NPC understands that:

<sup>1</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>3</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)



- The areas are considered by the communities to be important to Encouraging Conservation Planning; and
- In these areas, the communities would like the NLUP to encourage activities that support environmental protection and management needs, including wildlife conservation, protection and management.

**The overall importance of CONSERVATION AREAS is considered HIGH because:**

- *They have been identified by many participants as a priority;*
- *They have a high cultural value;*
- *They have a moderate economic value; and*
- *They have a high ecosystemic value.*

## 3.2.2 Types of Conservation Areas

The term “conservation area” is defined under the NuPPAA and the NA, and includes the following areas identified by participants: the Thelon Wildlife Sanctuary; MBSs; NWAs; *Oceans Act* MPAs; historic sites; and CHRs. Each of these areas are considered in turn below.

## 3.2.3 Thelon Wildlife Sanctuary

### 3.2.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2009	34,187	1

The Thelon Wildlife Sanctuary has had set official boundaries for several decades.

The 2002 Thelon Game Sanctuary Management Plan recommends that the boundary of the Sanctuary be reviewed at a future date with a view to expanding the Sanctuary. It states:<sup>1</sup>

“The boundaries of the Sanctuary were established without the benefit of detailed review, justification, and documentation. They were apparently defined by following the most obvious natural landmarks to achieve the desired Sanctuary size. Public sentiment on the topic of boundaries was strongly focused on maintaining the strong conservation mandate of the Sanctuary over the full extent of the existing area. The 1927 decision to protect the Sanctuary resulted in a large and significant area being subject to some of the strongest protection measures

accorded to any protected area in the country and people recognized and supported this reality.

“In addition, two key areas adjacent to the Sanctuary emerged repeatedly in research and public consultations as critical areas, which are integral to maintaining the character and resource values for which the Sanctuary has been recognized. The areas are:

- a large area to the southwest (originally included in the Sanctuary) which:
  - is valuable wildlife habitat;
  - covers much of the extremely important headwaters of the Thelon River drainage; and
- a large area to the northeast which:
  - embraces critical areas of the Beverly caribou herd calving grounds; and
  - includes important caribou crossing areas along the Thelon River.”

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Thelon Wildlife Sanctuary. The geographic boundaries currently considered for the Thelon Wildlife Sanctuary were derived from Atlas of Canada conservation areas from 2009 and clipped to the NSA boundary by the NPC.

**The certainty of the identified geographic boundaries of the THELON WILDLIFE SANCTUARY is considered HIGH because:**

- *The area is identified with high precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 3.2.3.2 Environmental and Cultural Importance

In 2006, the GN-DOE<sup>2</sup> Thelon Wildlife Sanctuary report stated:

“The Thelon Game Sanctuary was originally established by an Order in Council in 1927 to protect musk oxen and caribou. In 1930, a second Order in Council withdrew all lands in the Thelon Game Sanctuary from ‘disposal’, meaning that prospecting and mining permits could not be issued for that area. Even access was limited by a decision

<sup>1</sup> [https://reviewboard.ca/upload/project\\_document/EA0607-003\\_Thelon\\_Game\\_Sanctuary\\_Management\\_Plan.pdf](https://reviewboard.ca/upload/project_document/EA0607-003_Thelon_Game_Sanctuary_Management_Plan.pdf)

<sup>2</sup> [https://www.gov.nu.ca/sites/default/files/thelon\\_wildlife\\_sanctuary.\\_final\\_wildlife\\_report\\_no.10\\_2006.pdf](https://www.gov.nu.ca/sites/default/files/thelon_wildlife_sanctuary._final_wildlife_report_no.10_2006.pdf)

that written permission from the Canadian Minister of the Interior was required to enter the Thelon. The ban on hunting and requirement for prior approval before entering the Thelon applied equally to aboriginal and non-aboriginal people. In 1948, responsibility for the Thelon Game sanctuary was devolved to the Northwest Territories, and NWT required that anyone entering the sanctuary be licensed. Licenses were not issued for prospectors. In 1956 the NWT Game Ordinance was amended to redefine the geographic boundaries of the Thelon Game Sanctuary, with lands to the west being withdrawn and lands to the east being added. Hunting and prospecting in the newly defined sanctuary remained illegal. In 1978, the NWT adopted a new Wildlife Ordinance that continued the ban on hunting, but allowed anyone to visit the Sanctuary (mainly recreational canoeists). The current NWT Wildlife Act continued the no-hunting status of the Thelon Game Sanctuary. Territorial division in 1999 divided the Thelon into an NWT and Nunavut portion. A post-Territorial Division Thelon Co-Management plan allows for the possibility of aboriginal harvesting in the Nunavut portion of the Thelon Game Sanctuary, but the NWT has not co-signed the Thelon Management Plan because of ongoing land claims negotiations in their jurisdiction. In Nunavut, the NWMB has committed to broad public consultations on management of the Thelon in recognition of its special place in Canadian history and conservation.”

In 2010, the BQCMB<sup>1</sup> submitted:

*“In the Thelon Wildlife Sanctuary* – The traditional Beverly calving ground and post-calving areas lie to a large extent within the Thelon Wildlife Sanctuary in the NWT and Nunavut. These areas are not subject to development, as the land included in the Sanctuary has been ‘withdrawn from disposition’ by the Department of Indian and Northern Affairs Canada (INAC). Beverly caribou range within the Sanctuary falls under the jurisdiction of the two territorial governments and INAC, and is also subject to a management agreement developed by the communities of Lutsel K’e (NWT) and Baker Lake (Nunavut) and the territorial and federal governments.”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of the Thelon Wildlife Sanctuary conservation area.

The following other information relates to the environmental and cultural importance of the area:

- The KRLUP supports the restriction of development activities;
- The area includes identified caribou freshwater crossings;
- The Thelon River is a CHR; and
- There is an adjacent key bird habitat site.

***The environmental and cultural importance of the THELON WILDLIFE SANCTUARY is considered HIGH because:***

- ***The importance of the area to the communities is high; and***
- ***The importance of the area to wildlife is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The area is essential to biological productivity; and***
  - ***The habitat supports concentrations of wildlife.***

### 3.2.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2009	34,187	15.3	0	0

The area was withdrawn from potential development nearly a century ago, and little if any exploration for mineral or other development has taken place.

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Thelon Wildlife Sanctuary is considered moderate.

***The potential for non-renewable resources, transportation and linear infrastructure in the THELON WILDLIFE SANCTUARY is considered MODERATE because:***

- *The area overlaps with areas with evidence of mineral potential;*
- *The area has low potential for transportation and linear infrastructure development;*
- *The area has no existing rights for non-renewable resource land use;*
- *The area has no subsurface IOL parcels; and*
- *The area is relatively large.*

### 3.2.3.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Thelon Wildlife Sanctuary to impacts.

#### Considerations

The NPC considers the sensitivity of the Thelon Wildlife Sanctuary to impacts from incompatible uses to be high and year-round. There is little information that speaks directly to the sensitivity of the Thelon Wildlife Sanctuary; however, indirectly several parties have advocated for very low impacts in this area. Particularly, for almost a century, the Thelon Wildlife Sanctuary has been noted for wildlife density, and human influences on fauna-rich ecosystems can have potential impacts. In general, it is understood that development may reduce the wilderness values that are intended to be permanently protected by the Thelon Wildlife Sanctuary.

***The sensitivity of the THELON WILDLIFE SANCTUARY to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the area;*
- *Wildlife use the area when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

### 3.2.3.5 Other Regulatory Tools

The 2002 Thelon Game Sanctuary Management Plan stated:<sup>1</sup>

*“Canada, the GN and the GNWT will review their relevant legislation and draft new legislation or amend existing legislation where necessary to implement this plan and ensure the protection and conservation of the Sanctuary.”*

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

*“... The Thelon Game Sanctuary, established in 1927, has offered minimal protection to the calving and post-calving ranges of the Beverly caribou herd; the mineral industry has lobbied to rescind the sanctuary or to change its boundaries so that exploration and development can occur. Caribou cannot be effectively protected by reserves except seasonally or locally because of the larger areas over which they range. However, protection of calving grounds, post-calving areas, winter ranges and migration routes by special land reserve status or land use regulations could be beneficial in giving maternal cows and calves added protection during these time periods.”*

#### Considerations

The Thelon Wildlife Sanctuary is a unique jurisdictional creation, which creates strong conservation protections. However, the management plan indicates a need for stronger protections while new legislation is prepared. The NLUP is able to provide that additional level of protection.

***The potential value of including guidance in the NLUP for the THELON WILDLIFE SANCTUARY is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 3.2.3.6 Policy Options for the Thelon Wildlife Sanctuary

#### 3.2.3.6.1 Option 1 - Limited Use

<sup>1</sup> [https://reviewboard.ca/upload/project\\_document/EA0607-003\\_Thelon\\_Game\\_Sanctuary\\_Management\\_Plan.pdf](https://reviewboard.ca/upload/project_document/EA0607-003_Thelon_Game_Sanctuary_Management_Plan.pdf)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

The 2002 Thelon Game Sanctuary Management Plan stated:<sup>1</sup>

**“Policies/Recommendations:**

- Maintain a comprehensive policy against any utilization of non-renewable resources within the Sanctuary.
- Maintain a comprehensive policy against any activity related to the use of non-renewable resources (e.g. exploration).”
- Recommend appropriate environmentally and culturally sensitive and restrictive policies and land use plan regulations (while not preventing development) for areas adjacent to the Sanctuary where protection for the traditional, cultural and ecological values have been identified.

...

**“Policies/Recommendations:**

- Discourage the development of permanent facilities for any purpose.
- Encourage the development and use of organized community camps (e.g. seasonal tent camps, science camps, etc.) in designated areas.
- Recommend the development of staging area camps outside the Sanctuary.”

In 2014, the WWF<sup>2</sup> supported this option and wrote:

“WWF supports NPC’s recommended management Option 1 for the proposed Bathurst National Park, Thelon Wildlife Sanctuary and all National Wildlife Areas.”

The BQCMB<sup>3,4</sup> supports this option. In 2014, the BQCMB<sup>5</sup> stated:

“Our primary recommendations at this time are:

...

- 7) NPC should apply land use designation ECP-1 ‘Assign a designation that permits tourism, recreation and research and prohibits all other uses’ to the Thelon Wildlife Sanctuary, the Queen

Maud Gulf Migratory Bird Sanctuary and the Thelon and Kazan Heritage Rivers.”

In 2017, the BQCMB<sup>6</sup> stated:

“The BQCMB recommends that the designation of the Thelon Wildlife Sanctuary and Queen Maud Gulf Migratory Bird Sanctuary as protected areas be maintained and the prohibition of land uses be retained as specified, with the addition of ‘permanent tourism related structures’ and ‘obnoxious land use’ as prohibited uses.”

In 2015, the Baker Lake HTO<sup>7</sup> supported this option.

In 2016, the GoC<sup>8</sup> supported the PA designation for NWA, MBS, the Thelon Wildlife Sanctuary and historic sites.

**Considerations**

The NPC notes that a number of parties support strong protection overlays on the Thelon Wildlife Sanctuary, while none appear to be opposed. In addition, the Thelon Game Sanctuary Management Plan itself calls for strong protections.

**3.2.3.6.2 Option 2 - Conditional Use**

The 2002 Thelon Game Sanctuary Management Plan indicates that potential future additions to the Thelon Game Sanctuary should be provided CU status. As stated in the management plan:<sup>9</sup>

“During consultations, the concept of establishing Special Management Areas (SMAs) was proposed and examined as one method of preserving the conservation values of important areas adjacent to the Sanctuary. The merits of creating SMAs should be closely examined by the NPC in cooperation with the NWMB, the KIA, the NTI and the Government of Nunavut (DSD), in addition to the Government of the Northwest Territories (RWED), Lutsel K’e, and any other authorities established over time in the NWT.

“The creation of two Special Management Area designations, or some other similar protected area, is proposed for consideration as described below. The specific boundaries of the SMAs if they are created must be the result of a more rigorous boundary assessment, which

<sup>1</sup> [https://reviewboard.ca/upload/project\\_document/EA0607-003\\_Thelon\\_Game\\_Sanctuary\\_Management\\_Plan.pdf](https://reviewboard.ca/upload/project_document/EA0607-003_Thelon_Game_Sanctuary_Management_Plan.pdf)

<sup>2</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

<sup>3</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>4</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2016-03-04. NPC Public Registry File # 14-156E)

<sup>5</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>6</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

<sup>7</sup> (Baker Lake HTO, 2015-09-15. NPC Public Registry File # 14-101E)

<sup>8</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>9</sup> [https://reviewboard.ca/upload/project\\_document/EA0607-003\\_Thelon\\_Game\\_Sanctuary\\_Management\\_Plan.pdf](https://reviewboard.ca/upload/project_document/EA0607-003_Thelon_Game_Sanctuary_Management_Plan.pdf)

ensures that the critical areas are adequately covered and undue restriction is not placed on areas beyond those important to the integrity of the Sanctuary. Such a review must ensure comprehensive public consultation within the local communities to ensure full community awareness and support. It is recommended that the Management Authority pursue the identification of these specific boundaries at the earliest appropriate opportunity.

1. An extension of watershed protection to the southwest of the existing Sanctuary is proposed as a Special Management Area (SMA), rather than as a direct addition to the Sanctuary. This proposal reflects the importance of watershed values while at the same time recognizing the potential for other forms of land use and a different management regime in the area. It is critical in this special management area, referred to as the Tyrrell Lake SMA, that the values which are fundamental to the integrity of the Sanctuary, in this case the water quantity, natural flows and quality, are protected. The Tyrrell Lake SMA should be managed as a buffer area to the Sanctuary.
2. The second Special Management Area proposed lies along the existing northeastern boundary of the Sanctuary and extends over the area between the Garry Lakes and the Aberdeen Lake area. This area, referred to as the Aberdeen Lake SMA, is locally recognized as a calving area for the Beverly Caribou Herd. The area extends southward to Marjorie Lake and the Dubwant River to encompass important crossing areas along the Thelon River. Like the Tyrrell Lake SMA in the southeast, this area is critical to protect a natural resource at the heart of the Sanctuary and its conservation mandate. The caribou herds of this region are a critical resource to both the Inuit and Dene people of the Thelon region and the success of maintaining those herds in healthy numbers is essential. Special considerations for the management of the area to the northeast of the existing Sanctuary must be consistent with the intent of the Management Plan for the Sanctuary while land use is administered locally through the appropriately designated regulatory body.

“The SMAs are critical to achieve two fundamental objectives:

- to ensure that resource specific development and use restrictions are applied to activities that could influence the integrity of resources critical

to the sustainability of the Sanctuary even though the resources are not completely contained by the Sanctuary; and,

- to give a direct local conservation input into the regulatory process for land use adjacent to the Sanctuary.

“The SMAs are not intended to eliminate development or other land use activity, rather to ensure that such activities are especially sensitive in their approach and timing to the resource values of the area.

“The role of the Management Authority, therefore, is to provide input to the land use permitting process, outlining resource concerns and optional mitigating measures. Such input should be a recognized step in the process and should precede permit approval. The SMAs highlight the areas of critical resources linked to the Sanctuary and identify the area within which the Management Authority will be a contributing participant in the land use regulatory process.”

In 2016, the KivA<sup>1</sup> also mentioned caribou calving areas adjacent to the Thelon Wildlife Sanctuary.

### Considerations

The 2002 Thelon Game Sanctuary Management Plan supports a CU designation for potential future additions to the Sanctuary. The NPC is not in possession of the potential boundaries of the areas adjacent to the Thelon Wildlife Sanctuary that are proposed for CU (SMA) status in the 2002 management plan.

#### 3.2.3.6.3 Option 3 - Mixed Use

No participant recommended this option, although some parties were concerned with unnecessary NLUP overlap on conservation areas.

#### 3.2.3.6.4 Option 4 - Valued Component

No participant recommended this option.

### 3.2.3.7 NPC Recommendation - LU

Given that:

#### CONSERVATION AREAS:

**The overall importance of the issue is considered HIGH.**

<sup>1</sup> (Kivalliq Inuit Association (KivA), Poole and Gunn, 2016-02-15. NPC Public Registry File # 14-134E)



## THELON WILDLIFE SANCTUARY:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>MODERATE</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

### Recommendation for Thelon Wildlife Sanctuary

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that this area already has a land withdrawal in place.

#### LAND USE PLAN POLICY RECOMMENDATION

### **THELON WILDLIFE SANCTUARY**

#### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

### 3.2.3.8 Summary of Revisions

#### **KRLUP and NBRLUP**

The KRLUP prohibits development activities in existing conservation areas and in the Thelon Game Sanctuary and recommends that the NPC amend the plan to match the new boundaries once the process of changes to the boundaries initiated by the co-management bodies is concluded.

#### **2012, 2014 and 2016 DNLUP**

In the 2012 DNLUP, to manage the area, the Thelon Wildlife Sanctuary was assigned an Encouraging Conservation Planning (ECP-1) designation. The permitted uses for this designation were tourism, recreation and research. The designation prohibited all other uses.

The 2014 and 2016 DNLUP assigned a PA designation to the Thelon Wildlife Sanctuary that prohibited incompatible uses. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC's mandate in Article 11 of the NA.

#### **2021 DNLUP**

The 2014, 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

### 3.2.4 Migratory Bird Sanctuaries

MBSs are important to supporting and protecting migratory birds in the NSA. These sanctuaries are established and managed on federal and/or private lands under the authority of the *Migratory Birds Convention Act* and the *Migratory Bird Sanctuary Regulations*.

ECCC-CWS identifies the following MBSs: Seymour Island MBS; Prince Leopold Island MBS; Bylot Island MBS; Dewey Soper MBS; Queen Maud Gulf MBS; East Bay MBS; Harry Gibbons MBS; and McConnell River MBS. These are discussed collectively below.

#### 3.2.4.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GoC	76,391	2

ECCC-CWS provided the original boundaries of the MBSs as part of datasets also containing other key migratory bird habitat sites in 2014 and updated versions were submitted in 2016 and 2020. However, because the boundaries for MBSs are described by legislation, these



updates have not modified any of the boundaries discussed in this section.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

“There are eleven Migratory Bird Sanctuaries in Nunavut. The *Migratory Birds Convention Act* prohibits activities in Migratory Bird Sanctuaries. These sanctuaries are for the purpose of protecting migratory birds and their habitat. Migratory Bird Sanctuaries can have a marine component, which often are nearshore areas used by migratory birds for feeding or other activities. Prohibitive measures can be placed on what and how activities can take place in these sanctuaries and are set out in the *Bird Sanctuary Regulations*. ...”

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of MBSs. The geographic boundaries of MBSs currently considered were submitted by the GoC (ECCC-CWS).

**The certainty of the identified geographic boundaries of MBSs is considered HIGH because:**

- The areas are identified with high precision/scale;
- There is agreement among participants regarding the boundaries; and
- The information is current.

3.2.4.2 Environmental and Cultural Importance

In 2014, the GoC<sup>2</sup> identified the importance of each MBS and updated the information in 2016,<sup>3</sup> which is included in Appendix C: Migratory Bird Site Details.

Considerations

Participants broadly agreed on the high environmental and cultural importance of the MBSs.

**The environmental and cultural importance of MBSs is considered HIGH because:**

- The importance of the areas to the communities is high; and
- The importance of the areas to wildlife is high because:

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)  
<sup>2</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)  
<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

- Alternative habitat is unlikely to be available;
- The areas are essential to biological productivity; and
- The habitat supports concentrations of wildlife.

3.2.4.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GoC	76,391	5,864	0	0

Parnautit,<sup>4</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>5</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in MBSs is considered moderate.

**The potential for non-renewable resources, transportation and linear infrastructure in MBSs is considered MODERATE because:**

- The areas overlap with areas with evidence of mineral potential or oil and gas significant discovery;
- The areas have low potential for transportation and linear infrastructure development;
- The areas have no existing rights for non-renewable resource land use;
- The areas have no subsurface IOL parcels; and
- The areas are relatively large.

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)  
<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

### 3.2.4.4 Sensitivity to Impacts

In 2016, the GoC<sup>1</sup> advised:

“Many Arctic nesting birds are colonial, and therefore during the time that they are in the Arctic they occur in very high densities at geographically distinct sites. The high concentrations of birds at discrete sites, combined with high-energy demands during this life cycle stage and sensitivity to disturbance of birds during nesting and chick rearing, means that conservation of Arctic migratory bird key habitat has significant implications for the long-term survival of a number of species.”

#### Considerations

Participants broadly agreed that the sensitivity of MBSs to impacts from incompatible uses is high and year-round. The sensitivity of migratory bird colonies has also been considered under the “Migratory Birds” section in Chapter 2 under the subheading “Sensitivity to Impacts.”

**The sensitivity of MBSs to impacts is considered HIGH and YEAR-ROUND because:**

- **Wildlife are highly sensitive to disturbance when using the areas;**
- **Wildlife use these areas when disturbance is likely to occur; and**
- **The concern regarding potential impacts is year-round.**

### 3.2.4.5 Other Regulatory Tools

In 2013, the GoC<sup>2</sup> indicated:

“• In Migratory Bird Sanctuaries and National Wildlife Areas, activities must not be inconsistent with the purpose of the protected area and must be consistent with its most recent management plan, where a management plan exists;

“• In Migratory Bird Sanctuaries and National Wildlife Areas, conformity requirements must be consistent with the terms of the *Inuit Impact and Benefits Agreement for Migratory Bird Sanctuaries and National Wildlife Areas in the Nunavut Settlement Area*.”

#### Considerations

As mentioned above, these sanctuaries are established and managed on federal and/or private lands under the

authority of the *Migratory Birds Convention Act* and the *Migratory Bird Sanctuary Regulations*. Additionally, most migratory birds are protected under the *Migratory Birds Convention Act*.

While the MBS designation protects birds and their habitat, this tool can be supplemented by the NLUP at the first stage of the regulatory review of project proposals.

**The potential value of including guidance in the NLUP for MBSs is considered MODERATE because:**

- **The issue is partially addressed by other regulatory authorities; and**
- **There is moderate overlap of existing legislation and regulations with NPC jurisdiction.**

### 3.2.4.6 Policy Options for Migratory Bird Sanctuaries

#### 3.2.4.6.1 Option 1 - Limited Use

In 2014, the BQCMB<sup>3</sup> stated:

“Our primary recommendations at this time are:

...

- 7) NPC should apply land use designation ECP-1 “Assign a designation that permits tourism, recreation and research and prohibits all other uses” to the Thelon Wildlife Sanctuary, the Queen Maud Gulf Migratory Bird Sanctuary and the Thelon and Kazan Heritage Rivers.”

In 2014, the Nivvialik Area Co-Management Committee (ACMC)<sup>4</sup> supported LU status for the Kuugaarjuk (McConnell River) MBS, but requested that “all other activities” be prohibited explicitly.

In 2014, the Ahiak ACMC<sup>5</sup> for the Ahiak Queen Maud Gulf MBS had input similar to the Nivvialik ACMC.

In 2014, the Isulijarnik ACMC<sup>6</sup> for the Dewey Soper MBS had input similar to the Nivvialik ACMC.

In 2016, the GoC<sup>7</sup> supported the PA (LU) designation:

“In Migratory Bird Sanctuaries and National Wildlife Areas, all activities that are inconsistent with the purpose of the

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>3</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>4</sup> (Nivvialik Area Co-Management Committee, 2014-04-01. NPC Public Registry File # 12-179E)

<sup>5</sup> (Ahiak Area Co-management Committee, 2014-06-09. NPC Public Registry File # 12-209E)

<sup>6</sup> (Isulijarnik Area Co-Management Committee, 2014-08-06. NPC Public Registry File # 14-003E)

<sup>7</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

protected area or inconsistent with its most recent management plan, where a management plan exists, are prohibited.

“The prohibition above is subject to the terms of the *Inuit Impact and Benefit Agreement for Migratory Bird Sanctuaries and National Wildlife Areas in the Nunavut Settlement Area*.

“Proponents who wish to undertake activities that are NOT prohibited by the management plan are required to submit a permit application. ...”

In 2017, NTI and the RIAs<sup>1</sup> wrote:

*“Conservation Areas – Migratory Birds Sanctuaries and National Wildlife Areas – Rationale and Supporting Documents*

“NTI and the RIAs recommend the land use planning approach taken in the Sahtu Land Use Plan be replicated for the NLUP for legislated protected areas. In the Sahtu Land Use Plan, no additional prohibitions, or terms and conditions, are added over and above the existing regime. Specifically, the Sahtu Land Use Plan states:

*Established Protected Areas (EPA) is the designation given to all legislated protected areas once they are fully established. Once an area is designated as an Established Protected Area, the Plan no longer provides direction to these areas. Instead, they are managed according to their sponsoring legislation and management plans (where applicable). As such, EPAs are treated separately than the four zone types in the rest of the Plan.*

“Avoidance of potential conflict, and of duplication, are the reasons given for the approach in the Sahtu Land Use Plan. These reasons apply equally to land use planning for legislated protected areas in Nunavut.

“Moreover, the current proposed Protected Area designation for MBSs and NWAs interferes with the implementation of the MBS/NWA IIBA. The additional prohibitions in the DNLUP 2016 for MBSs and NWAs affect the implementation of various provisions of the MBS/NWS IIBA including those related to RIA supported permit applications for activities within IOLs in MBSs and NWAs and co-management. For example, the proposed prohibitions for the Protected Area would disallow activities on IOLs that may be approved through existing legislation. The MBS/NWA IIBA outlines a process for RIA supported permit applications that would be undermined

by the DNLUP 2016 proposal. Additionally, the role of Area Co-Management Committees (ACMCs) created by the MBS/NWA IIBA in advising on the management of wildlife habitat would be circumvented by the proposed Protected Area prohibitions.

“NTI and the RIAs are of the view that the Government of Canada’s submission regarding MBSs and NWAs of May 30, 2016 is not consistent with the consultations requirements contained in the MBS/NWS IIBA. The Government of Canada stated in its submission:

*Consider maintaining the Protected Area designation (for areas including National Wildlife Areas, Migratory Bird Sanctuaries, Thelon Wildlife Sanctuary and Historic Sites), recognizing that the NLUP may impose prohibitions that exceed standards and protections provided by regulations.”*

During 2019 community meetings, Gjoa Haven<sup>2</sup> residents supported the recommended prohibitions and conditions in the 2016 DNLUP for the Queen Maud Gulf MBS.

During 2019 community meetings, Cambridge Bay<sup>3</sup> residents did not support the recommended prohibitions and conditions in the 2016 DNLUP for the Queen Maud Gulf MBS.

During 2019 community meetings, most Coral Harbour<sup>4</sup> community participants did not explicitly support protecting MBSs in the NLUP, but some noted that mineral exploration should not occur in the areas and roads should be considered. Participants also noted that the area is overgrazed and birds are moving elsewhere.

### Considerations

The NPC notes that some participants support a LU designation for MBSs and some do not.

The NPC notes that land use plans prepared by the NPC apply within established conservation areas including MBSs (unlike established national parks where they do not) and the NPC must conduct conformity determinations for projects proposed within these areas. This is a different implementation process compared to other jurisdictions such as the Sahtu region of the NWT referenced by NTI. In that region, regulatory authorities

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

are tasked with determining whether a proposed project conforms to the land use plan. Given the experience of appropriate regulatory authorities in implementing the legislative requirements, it is a reasonable approach to not have specific guidance in the land use plan. In Nunavut, the NPC must make a conformity determination in advance of a review by regulatory authorities. If the NLUP does not contain guidance for these areas, all proposed projects would be considered to conform to the plan and be forwarded either to the NIRB for screening or to the appropriate regulatory authorities. The NPC considers it helpful to include specific guidance in the NLUP that can be implemented by staff during the conformity determination stage, rather than rely on regulatory authorities to review all proposals within these areas.

3.2.4.6.2 Option 2 - Conditional Use

No participant recommended this option.

3.2.4.6.3 Option 3 - Mixed Use

In 2017, NTI and the RIAs<sup>1</sup> stated:

“NTI and RIAs recommend that NPC provide for no additional prohibitions or conditions within Migratory Bird Sanctuaries and National Wildlife Areas.”

In 2019, Cambridge Bay<sup>2</sup> residents did not support NLUP prohibitions and conditions for the Queen Maud Gulf MBS.

Considerations

The NPC notes that some participants support this option. While NTI and the RIAs provided comments that reflect support for Option 3, the NPC considers their position to best reflect Option 4, per the comments in the following section.

3.2.4.6.4 Option 4 - Valued Component

In 2016, NTI and the RIAs<sup>3</sup> stated:

“NTI and the RIAs support ... that the ‘Protected Area designation’ would be removed from current National Wildlife Areas (NWAs) and Migratory Bird Sanctuaries

(MBSs) and that the existing regulatory prohibitions would apply in these areas. NTI and the RIAs recommend that NWAs and MBSs be placed in a designation called ‘Legislated Protected Areas’.”

Considerations

The NPC notes that the comment by NTI and the RIAs is best characterized as supporting this option; the comment suggests MBSs be identified in the NLUP as areas with special factors to be considered in regulatory processes.

3.2.4.7NPC Recommendation - LU

Given that:

**CONSERVATION AREAS:**  
**The overall importance of the issue is considered HIGH.**

**MIGRATORY BIRD SANCTUARIES:**

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

Recommendation for Migratory Bird Sanctuaries

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas are considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted. In addition,

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)  
<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

this option is supported by many participants including the ACMCs of the MBSs.

LAND USE PLAN POLICY RECOMMENDATION

**MIGRATORY BIRD SANCTUARIES**

**LIMITED USE**

**Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

**Condition:**

- All activities must obey setbacks listed in Table 1: Migratory Bird Setbacks

3.2.4.8Summary of Revisions

KRLUP and NBRLUP

Both the KRLUP and NBRLUP recommend that the existing management regimes on the existing sites continue to be applied by the regulators. Specifically, the NBRLUP provides that the present, seasonal protection used in CWS migratory bird sanctuaries continues to be in effect, and visitors shall adhere to the “Code of Good Conduct.”

2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage MBSs, they were assigned an Encouraging Conservation Planning (ECP-2) designation. The permitted uses for this designation were tourism, recreation and research.

The 2014 and 2016 DNLUP assigned a PA designation to MBSs that prohibited incompatible uses and included setback requirements. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC’s mandate in Article 11 of the NA.

2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021. The 2021 designation also includes setback requirements.

3.2.5 National Wildlife Areas

NWAs are established under the authority of the *Canada Wildlife Act* to protect wildlife and wildlife habitat for the purposes of conservation, research and interpretation. The *Wildlife Area Regulations* identify activities that are prohibited within NWAs without a permit.

NWAs have been identified and provided to the NPC by the GoC.<sup>1</sup> These areas are: Polar Bear Pass NWA; Nirjutiqarvik NWA; Niginganiq NWA; Qaqqulluit NWA; and Akpait NWA. These NWAs are discussed collectively below. Details on specific NWAs are reproduced from ECCC materials in Appendix C: Migratory Bird Site Details.

3.2.5.1Defining Geographic Boundaries

Source	Area (km²)	% NSA & OLFIZ
GoC	8,973	0

ECCC-CWS<sup>2</sup> provided the NWA boundaries in 2014.

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of NWAs. The geographic boundaries of NWAs currently considered were submitted by the GoC.

**The certainty of the identified geographic boundaries of NWAs is considered HIGH because:**

- *The areas are identified with high precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

<sup>1</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>2</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

### 3.2.5.2 Environmental and Cultural Importance

In 2014, the GoC<sup>1</sup> identified the importance of each NWA and updated the information in 2016<sup>2</sup> which is included in Appendix C: Migratory Bird Site Details.

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of the NWAs.

***The environmental and cultural importance of NWAs is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to biological productivity; and*
  - *The habitat supports concentrations of wildlife.*

### 3.2.5.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GoC	8,973	219	14.2	0

Parnautit,<sup>3</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>4</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear

infrastructure in NWAs is considered low. Of particular note, in Nunavut subsurface rights have been withdrawn for some, but not all, NWAs and mineral prospecting is restricted in NWAs.

***The potential for non-renewable resources, transportation and linear infrastructure in NWAs is considered LOW because:***

- *The areas do not overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have moderate potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively small.*

### 3.2.5.4 Sensitivity to Impacts

In 2016, the GoC<sup>5</sup> noted that NWAs are highly risk-intolerant.

#### Considerations

Participants broadly agreed that the sensitivity of NWAs to impacts from incompatible uses is high and year-round.

***The sensitivity of NWAs to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

### 3.2.5.5 Other Regulatory Tools

In 2013, the GoC<sup>6</sup> indicated:

“• In Migratory Bird Sanctuaries and National Wildlife Areas, activities must not be inconsistent with the purpose of the protected area and must be consistent with its most recent management plan, where a management plan exists;

“• In Migratory Bird Sanctuaries and National Wildlife Areas, conformity requirements must be consistent with

<sup>1</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>5</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>6</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)



the terms of the *Inuit Impact and Benefits Agreement for Migratory Bird Sanctuaries and National Wildlife Areas in the Nunavut Settlement Area*.<sup>1</sup>

In 2015, NTI and the RIAs<sup>1</sup> stated:

“... *National Wildlife Areas* assigns a Protected Area designation to existing National Wildlife Areas that prohibits various uses. It is unclear how these prohibitions would relate to the legislative direction under the *Canada Wildlife Act* and *Wildlife Area Regulations*. Nor is it clear whether the proposed DNLUP prohibitions would interfere with the federal regulation of National Wildlife Areas and the implementation of the IIBA. Informed participation and support of Inuit and other residents regarding this proposed change has not been indicated. By adding new prohibitions, the DNLUP would create a competing set of rules that adds confusion and complexity to the regulatory system. The DNLUP should highlight areas that are protected through legislation and indicate that the existing restrictions as set out in legislation and regulations apply.”

### Considerations

As mentioned above, NWAs are established under the authority of the *Canada Wildlife Act* and the *Wildlife Area Regulations* identify activities that are prohibited within NWAs without a permit.

While NWAs support conservation objectives, this tool can be supplemented by the NLUP at the first stage of the regulatory review of project proposals.

***The potential value of including guidance in the NLUP for NWAs is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

## 3.2.5.6 Policy Options for National Wildlife Areas

### 3.2.5.6.1 Option 1 - Limited Use

In 2014, the WWF<sup>2</sup> supported LU status for NWAs.

In 2015, the Sululiit ACMC<sup>3</sup> supported the CWS recommendations for the Akpait and Qaulluit NWAs,

and recommended that a 32 km buffer be applied around the NWAs where the dumping of waste and seismic testing be prohibited year-round.

In 2015, the Nirjutiqarvik ACMC<sup>4</sup> recommended the area be designated in the NLUP, including prohibitions.

In 2016, the GoC<sup>5</sup> indicated its support for the PA designation for NWAs, MBSs, the Thelon Wildlife Sanctuary and historic sites.

### Considerations

The NPC notes that some participants, including the GoC, support a LU designation for NWAs. The concept of a protected “buffer” area around NWAs would need more information and discussion before this suggestion could be implemented.

### 3.2.5.6.2 Option 2 - Conditional Use

No participant recommended this option.

### 3.2.5.6.3 Option 3 - Mixed Use

In 2017, NTI and the RIAs<sup>6</sup> stated:

“NTI and RIAs recommend that NPC provide for no additional prohibitions or conditions within Migratory Bird Sanctuaries and National Wildlife Areas.”

### Considerations

While NTI and the RIAs provided comments that reflect support for Option 3, the NPC considers their position to best reflect Option 4, per the comments in the following section.

### 3.2.5.6.4 Option 4 - Valued Component

In 2016, NTI<sup>7</sup> stated:

“NTI and the RIAs support ... that the ‘Protected Area designation’ would be removed from current National Wildlife Areas (NWAs) and Migratory Bird Sanctuaries (MBSs) and that the existing regulatory prohibitions would apply in these areas. NTI and the RIAs recommend that

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>2</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

<sup>3</sup> (Sululiit Area Co-Management Committee, 2015-05-28. NPC Public Registry File # 14-027M)

<sup>4</sup> (Nirjutiqarvik Area Co-Management Committee, 2015-06-03. NPC Public Registry File # 14-044E)

<sup>5</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>6</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>7</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

NWAs and MBSs be placed in a designation called 'Legislated Protected Areas.'"

### Considerations

The NPC notes that the comment by NTI and the RIAs is best characterized as supporting this option; the comment suggests NWAs be identified in the NLUP as areas with special factors to be considered in regulatory processes.

### 3.2.5.7 NPC Recommendation - LU

Given that:

#### CONSERVATION AREAS:

The overall importance of the issue is considered HIGH.

#### NATIONAL WILDLIFE AREAS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>LOW</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

#### Recommendation for National Wildlife Areas

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given that most participants supported this option and also because these areas are considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

#### LAND USE PLAN POLICY RECOMMENDATION

### **NATIONAL WILDLIFE AREAS**

### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

#### **Condition:**

- All activities must obey setbacks listed in Table 1: Migratory Bird Setbacks

### 3.2.5.8 Summary of Revisions

#### **KRLUP and NBRLUP**

The KRLUP and NBRLUP both recognize the responsibilities of the GoC for the establishment of NWAs. In addition, the plans' existing management regimes on the existing conservation areas continue to be implemented, and any initiative to establish new conservation needs to be done with consultation of the communities.

#### **2012, 2014 and 2016 DNLUP**

In the 2012 DNLUP, to manage NWAs, they were assigned an Encouraging Conservation Planning (ECP-1) designation. The permitted uses for this designation were tourism, recreation and research. The designation prohibited all other uses.

The 2014 and 2016 DNLUP assigned a PA designation to NWAs that prohibited incompatible uses and included setback requirements. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC's mandate in Article 11 of the NA.

#### **2021 DNLUP**

The 2014, 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021. The 2021 designation also includes setback requirements.

### 3.2.6 Oceans Act Proposed Marine Protected Areas

It is noted there are other types of marine conservation initiatives that are commonly referred to as “marine protected areas,” however, this section only considers MPAs designated by DFO under the *Oceans Act*.

In 2016, the GoC<sup>1</sup> submitted:

“**Marine Protected Areas (MPAs)** are designated under the *Oceans Act* by the Department of Fisheries and Oceans Canada (DFO). MPAs are geographically defined zones established to protect and conserve important fish, marine mammals, endangered or threatened marine species, unique habitats and areas of high biological productivity or biodiversity. The MPA regulations identify activities that are prohibited within the MPAs.

“There are currently no MPAs within the Nunavut Land Use Plan area but DFO may wish to designate new MPAs within the Nunavut Settlement Area (NSA) and Outer Land Fast Ice Zone in the future.”

#### 3.2.6.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GoC	116,744	3

In 2020, the GoC<sup>2</sup> noted:

“The Tuvaijuittuq Marine Protected Area (MPA) was designated by a ministerial order under the *Oceans Act* on July 29th, 2019. The MPA was designated to protect and conserve the important biological diversity, unique structural habitat, and ecosystem function in the area while additional information is collected to inform decisions regarding long-term protection of the area. Part of the MPA is in the Nunavut Settlement Area (NSA). ...

...

“The marine area around Southampton Island was announced as an Area of Interest (AOI) in August, 2019. The AOI spans the nearshore waters around Southampton Island and Chesterfield Inlet both outside of and within the Kivalliq Region of the NSA. ...”

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of proposed MPAs.

The geographic boundaries of the proposed MPAs currently considered were submitted by the GoC.

***The certainty of the identified geographic boundaries of PROPOSED MPAs is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is unknown agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 3.2.6.2 Environmental and Cultural Importance

In 2020, the GoC<sup>3</sup> noted:

“... The [Tuvaijuittuq] MPA was designated to protect and conserve the important biological diversity, unique structural habitat, and ecosystem function in the area ...

...

“The [Southampton Island] AOI has important habitat and haul-out sites for walrus, important migration pathways for bowhead and beluga whales, and important foraging areas for marine mammals and nesting seabirds. Most of the Southampton Island Ecologically and Biologically Significant Area (EBSA) lies within the AOI, along with a southern portion of the Repulse Bay/Frozen Strait EBSA, and the northern portion of the Western Hudson Bay Coastline EBSA.”

#### Considerations

Other participants in the NLUP process had limited opportunity to comment on the importance of these specific areas proposed as MPAs, but many overlapping values have been identified. The NPC considers the environmental and cultural importance of proposed MPAs to be high.

***The environmental and cultural importance of PROPOSED MPAs is considered HIGH because:***

- *The importance of the areas to the communities are high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to biological productivity; and*

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

<sup>3</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

- *The habitat supports concentrations of wildlife.*

### 3.2.6.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GoC	116,744	526	25	45.4

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in proposed MPAs is considered moderate.

***The potential for non-renewable resources, transportation and linear infrastructure in PROPOSED MPAs is considered MODERATE because:***

- *The areas do not overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

### 3.2.6.4 Sensitivity to Impacts

In 2020, the GoC<sup>3</sup> noted:

"The [Southampton Island] AOI has important habitat and haul-out sites for walrus, important migration pathways for

bowhead and beluga whales, and important foraging areas for marine mammals and nesting seabirds. ..."

#### Considerations

Participants broadly agreed that the sensitivity of proposed MPAs to impacts from incompatible uses is high and year-round.

***The sensitivity of PROPOSED MPAs to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

### 3.2.6.5 Other Regulatory Tools

In 2020, the GoC<sup>4</sup> noted:

"The Tuvaijuittuq MPA is consistent with the Nunavut Agreement and provides interim protection to the area while the Qikiqtani Inuit Association and the [Government] of Nunavut and Government of Canada work with Inuit and northern partners to explore the feasibility of longer term protection. Designation by ministerial order freezes the footprint of human activities in the area for a period of up to five years, meaning that no new or additional human activities are allowed to occur in the area, with some exceptions. ...

...

"[Southampton Island] AOI selection is the beginning of the Oceans Act Marine Protected Area establishment process, led by DFO. The process includes the collection and consideration of ecological and socio-economic information, including Indigenous knowledge. The information gathered through consultation, data collection and analysis will inform the conservation objectives and final boundaries and zones of a potential future Marine Protected Area."

#### Considerations

While MPAs support conservation objectives, this tool can be supplemented by the NLUP at the first stage of the regulatory review of project proposals.

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

<sup>4</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

**The potential value of including guidance in the NLUP for PROPOSED MPAs is considered MODERATE because:**

- The issue is partially addressed by other regulatory authorities; and
- There is moderate overlap of existing legislation and regulations with NPC jurisdiction.

### 3.2.6.6 Policy Options for Proposed Marine Protected Areas

#### 3.2.6.6.1 Option 1 - Limited Use

No participant recommended this option.

#### 3.2.6.6.2 Option 2 - Conditional Use

No participant recommended this option.

#### 3.2.6.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 3.2.6.6.4 Option 4 - Valued Component

No participant recommended this option.

### 3.2.6.7 NPC Recommendation - VEC

Given that:

#### CONSERVATION AREAS:

**The overall importance of the issue is considered HIGH.**

#### PROPOSED MARINE PROTECTED AREAS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for Proposed Marine Protected Areas

Option 4 is recommended:

- Identifies areas that are important to particular VECs or VSECs.
- Identified areas to be included on Map B.

**Information on VCs:** Identify proposed MPAs as areas of a known VEC that should be given particular consideration.

**Rationale:** Option 4 was recommended given that other participants in the NLUP process have had limited opportunity to comment on these recently identified areas and there has been no discussion regarding what, if any, specific prohibitions or conditions may be appropriate to include in the NLUP. In addition, one area has been already designated by a ministerial order, which puts limitations on human activities in the area for five years.

#### LAND USE PLAN POLICY RECOMMENDATION

### **PROPOSED MARINE PROTECTED AREAS**

### **VALUED ECOSYSTEM COMPONENT**

### 3.2.6.8 Summary of Revisions

#### KRLUP and NBRLUP

The *Oceans Act* MPAs were not specifically discussed in the KRLUP and NBRLUP. However, both existing regional land use plans recognize the responsibilities of DFO for the establishment of MPAs under the *Oceans Act* and the KRLUP notes that “The NPC will monitor this process to ensure the federal government involves local people in the decision-making process.”

#### 2012, 2014 and 2016 DNLUP

MPAs were not specifically discussed in the 2012, 2014 or 2016 DNLUP. However, the marine shipping section of the 2016 DNLUP included a recommendation that responsible authorities work to support the goals of the stated marine setbacks by developing an appropriate Notice to Mariners and/or Vessel Traffic Service Zones and/or Marine Protected Areas, or other Canadian tools or regulations, for the ecological and cultural heritage sites mentioned in specific tables. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCA and conservation areas to help ensure consistency with other



factors and issues in Nunavut and to help fulfil the NPC’s mandate in Article 11 of the NA.

2021 DNLUP

The 2021 DNLUP identifies the *Oceans Act* proposed MPAs as known VECs.

3.2.7 Historic Sites

Under section 70(1) of the NuPPAA, land use plans prepared by the NPC do not apply to historic places that have been designated under the *Historic Sites and Monuments Act* and are administered by the PCA. There are currently two locations where the NLUP does not apply: the Wrecks of HMS Erebus and HMS Terror National Historic Site of Canada. All other historic sites are subject to the NLUP.

3.2.7.1 Defining Geographic Boundaries

Source	Area (km²)	% NSA & OLFIZ
PCA, 2010	435	0
NPC, 2010	48	0

The national historic sites in Nunavut were identified and provided to the NPC by the GoC. These sites are: Kodlunarn Island; Inuksuk; Bloody Falls; Igloodik Island Archaeological Sites; Port Refuge; Blacklead Island Whaling Station; Kekerten Island Whaling Station; Wreck of the HMS Breadalbane; Beechey Island Sites; Erebus and Terror; Fall Caribou Crossing; and Arvia’juaq and Qikiqtaarjuk. The Erebus and Terror site is now managed by the PCA and is no longer within the NPC’s jurisdiction.

The territorial historic sites were identified by the NPC from the Nunavut *Historical Resources Act*. These sites are: Dealy Island; Beechey Island; Fort Conger; and Marble Island. Options were not considered for Fort Conger as it is in Quttinirpaaq National Park.

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of historic sites. The geographic boundaries of historic sites currently considered were made by the combination of the data submitted by the GoC in 2010 and the areas derived from

coordinates described in the Nunavut *Historical Resources Act*.

**The certainty of the identified geographic boundaries of HISTORIC SITES is considered HIGH because:**

- The areas are identified with high precision/scale;
- There is moderate agreement among participants regarding the boundaries; and
- The information is current.

3.2.7.2 Environmental and Cultural Importance

Tunngasaiji,<sup>1</sup> the GN’s Tourism Strategy, supports the development and enhancement of attractions through the investment in parks, conservation areas, historic places, heritage rivers and other attractions.

The NBRLUP identifies historic sites having significant cultural value.

The KRLUP recognizes the importance of protecting historic sites.

The GoC advised the NPC that it would like all activities in the NSA to take into consideration impacts to the commemorative integrity and cultural resources of national historic sites. In 2013, the GoC<sup>2</sup> specifically stated:

“National historic sites can be found in almost any setting, from urban or industrial locales to wilderness environments. It is imperative that the land use plan recognizes the need for flexibility in incorporating National Historic Sites (NHS) in all zones and allowing for the preservation of their heritage value. Most national historic sites are relatively small in size, often commemorating a single structure, however, some sites, such as the Fall Caribou Crossing, may consist of large tracts of land.”

Considerations

Participants broadly agreed on the high environmental and cultural importance of historic sites.

**The environmental and cultural importance of HISTORIC SITES is considered HIGH because:**

- The importance of the areas to the communities is high.

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-245E)

<sup>2</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)



### 3.2.7.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
PCA, 2010	435	309	0	0
NPC, 2010	48	0	38	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in historic sites is considered low.

***The potential for non-renewable resources, transportation and linear infrastructure in HISTORIC SITES is considered LOW because:***

- *The areas do not overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

### 3.2.7.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of historic sites to impacts.

#### Considerations

The NPC considers the sensitivity of historic sites to impacts from incompatible uses to be high and year-

round. Inappropriate usage can damage or destroy historic resources.

***The sensitivity of HISTORIC SITES to impacts is considered HIGH and YEAR-ROUND because:***

- *Existing uses are sensitive to disturbance from incompatible uses; and*
- *There is concern regarding potential year-round impacts.*

### 3.2.7.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for historic sites.

#### Considerations

As mentioned above, under section 70(1) of the NuPPAA, land use plans prepared by the NPC do not apply to historic places that have been designated under the *Historic Sites and Monuments Act* and are administered by the PCA. In addition, the territorial historic sites have been identified by the NPC from the *Nunavut Historical Resources Act*.

The NLUP is able to prevent development inconsistent with the objectives of future historic sites until the sites are fully established.

***The potential value of including guidance in the NLUP for HISTORIC SITES is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

### 3.2.7.6 Policy Options for Historic Sites

#### 3.2.7.6.1 Option 1 - Limited Use

In 2014, the GN<sup>3</sup> stated:

"Recommendation: A new option should be created that makes specific reference to municipal authority to designate historic sites within municipal lands and that such sites not be included in the final Nunavut Land Use Plan (the Plan). If NPC still thinks it best to have such sites as part of the Plan, the GN proposes to create a new option which states that designation of historic sites within municipal boundaries must be consistent with municipal

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

plans, as per Article 11.7.4 and similar to NPC’s approach ‘Community Drinking Water Supplies’. In this way, a municipality would first designate a proposed historic site, via municipal planning processes, and this designation would only later be included in the Plan, for the purpose of remaining consistent with the municipal plan. When referring to Historic Sites we are specifically referring to those contained within Municipal Boundaries and that are not current or future National Historic Sites (NHS). We are not proposing a change to the chosen ‘Option 2’ for historic sites outside of Municipal Boundaries, which we believe to be within NPC’s mandate. ...”

In 2016, the GoC<sup>1</sup> supported a PA (LU) designation for historic sites.

In 2017, NTI and the RIAs<sup>2</sup> submitted:

“NPC’s Options and Recommendations document does not identify community support for these Protected Are[a] designations and historic sites are not identified as a key priority for a 1<sup>st</sup> generation NLUP. At this time, NTI and the RIAs do not believe there is sufficient justification for a Protected Area designation with prohibitions for historic sites.”

### Considerations

The NPC notes that the GN and GoC support this option, while NTI and the RIAs do not support this option. The NPC also notes that LU status on historic sites will not interfere with the regulatory authority of those agencies administering the various historic sites.

#### 3.2.7.6.2 Option 2 - Conditional Use

In 2016, NTI<sup>3</sup> noted:

“... National Historic Sites and Territorial Historic Sites are designations that do not have accompanying land use restrictions. NTI and the RIAs recommend that these sites be placed in a Special Management Area designation and that terms and conditions be developed to ensure community values are protected. Terms and conditions should include:

- Proponents should consult with communities adjacent to a historic site:
  - o on the activities they would like to conduct;

- o on what historic and cultural values the community would like protected; and
- o on what measures can be taken to protect community values.

- Proponents should provide a report to the NPC and the appropriate community organizations on the consultations they have undertaken and what measures will be taken to address community values and concerns.
- Proponents should post a notice in adjacent communities 30 days before they proceed with physical activities within or near a historic site.”

In 2017, NTI<sup>4</sup> stated:

“1. NTI and the RIAs recommend that historic sites be designated as Special Management Areas with terms and conditions that protect the value of the sites. NTI and the RIAs provided recommendations regarding terms and conditions in its May 16, 2016 written submission to NPC.

“2. NTI and the RIAs recommend that IOLs be excluded from any Protected Area designations related to historic sites.”

### Considerations

The NPC notes that NTI supports this option; however, the recommended requirements are procedural in nature and may be challenging to implement through a conformity determination by the NPC.

#### 3.2.7.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 3.2.7.6.4 Option 4 - Valued Component

No participant recommended this option.

### 3.2.7.7 NPC Recommendation - LU

Given that:

#### CONSERVATION AREAS:

**The overall importance of the issue is considered HIGH.**

#### HISTORIC SITES:

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>4</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>LOW</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

### Recommendation for Historic Sites

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas are of historic significance and have been designated through legislation.

<p>LAND USE PLAN POLICY RECOMMENDATION</p> <p><b><u>HISTORIC SITES</u></b></p> <p><b>LIMITED USE</b></p> <p><b>Prohibited Incompatible Uses:</b></p> <ul style="list-style-type: none"> <li>• Oil and gas exploration and production</li> <li>• Mineral exploration and production</li> <li>• Quarries</li> <li>• Hydro-electrical and related infrastructure</li> <li>• Wind turbines over 15 m in height for electrical generation and related infrastructure</li> <li>• Linear infrastructure</li> </ul>
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### 3.2.7.8 Summary of Revisions

#### KRLUP AND NBRLUP

Both existing regional land use plans recognize the PCA's responsibility for the establishment and management of national historic sites, however they do not have any

conformity requirements or actions for historic sites not administered by the PCA.

#### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage national and territorial historic sites, they were assigned an Encouraging Conservation Planning (ECP-2) designation. The permitted uses for this designation were tourism, recreation and research.

In the 2014 and 2016 DNLUP, national and territorial sites were assigned a PA designation that prohibited incompatible uses. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC's mandate in Article 11 of the NA.

#### 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

### 3.2.8 Canadian Heritage Rivers

The Canadian Heritage Rivers System (CHRS) is Canada's national river conservation program. Its intention is to promote, protect and enhance Canada's river heritage, and ensure that Canada's leading rivers are managed in a sustainable manner. There are currently three designated CHRs within the NSA: the Soper River; the Thelon River; and the Kazan River. Management plans are in place to manage the unique heritage values of the three designated CHRs. The Coppermine River has been nominated as a CHR. Each of these four rivers is analyzed in the subsections below.

In 2016, the GN<sup>1</sup> provided an overview of the CHR program:

"The Canadian Heritage Rivers (CHR) program is [a] Federal Program administered by Parks Canada and managed by the provinces and territories.

<sup>1</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

“In Nunavut the Department of Environment is responsible for implementing the CHR program.

“There are 3 designated Canadian Heritage Rivers (CHR) in Nunavut: the Soper, the Kazan and the Thelon.

“The Coppermine River CHR nomination was accepted and the management plan was completed. Final designation of the Coppermine River will occur when the Inuit Impact and Benefits Agreement for Heritage Rivers between the Federal Government and Nunavut Tunngavik Incorporated is completed.

“The Purposes of CHR in Nunavut are:

1. to protect the natural, cultural and heritage resources within and adjacent the rivers and management area;
2. to encourage and monitor recreation use of the river and ensure its compatibility with conservation of natural and heritage resources[;]
3. to provide high quality recreational opportunities that will encourage appreciation and understanding of the Arctic environment and the role of rivers in Inuit culture, traditions, and in the exploration and development of Nunavut;
4. to ensure Inuit continue to benefit from the CHR by fostering tourism and related economic development in adjacent communities; and
5. to foster tourism and related economic development in the adjacent communities.”

### 3.2.8.1 Soper River

#### 3.2.8.1.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GN, 2014	1,466	0

The Soper Heritage River Management Plan (1992) applies to the watershed of the river, outside of the proposed Katannillik Territorial Park. These boundaries are well-known.

In 2015, the GN<sup>1</sup> provided boundaries for the Soper River watershed.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Soper River. The geographic boundaries for the Soper River watershed were submitted by the GN.

***The certainty of the identified geographic boundaries of the SOPER RIVER is considered HIGH because:***

- ***The areas are identified with high precision/scale;***
- ***There is moderate agreement among participants regarding the boundaries; and***
- ***The information is current.***

#### 3.2.8.1.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of the Soper River.

In the Soper Heritage River Management Plan (1992), conservation objectives are identified in two categories: land and water; and vegetation and wildlife. This document stated:

“Land and Water Objectives:

- To ensure the long-term protection of the biophysical values and visual qualities of the management area,
- To minimize the impacts of non-traditional uses such as the extraction and transportation of lapis lazuli,
- To minimize the impact of community controlled land use and development on lands adjacent to the management area, and
- To maintain the quantity and quality of waters within the management area for their ecological, aesthetic and recreational benefits.

“Vegetation and Wildlife Objectives:

- To protect the indigenous plant communities of the management area for their benefits to the continuation of natural processes, the provision of natural wildlife habitats and the attractiveness of the area for interpretation and recreational use,
- To maintain the natural diversity of species representative of the southern Baffin Island region,

<sup>1</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-064E)

- To maintain viable fish populations, with particular emphasis on species susceptible to pressure from sport fishing,
- To protect critical habitats from inappropriate development and use, and
- To reconcile the traditional harvesting requirements of residents with the interests of recreational users."

### Considerations

The Soper River is a CHR with a heritage river management plan. Based on this, the NPC considers the environmental and cultural importance of the Soper River to be high.

#### ***The environmental and cultural importance of the SOPER RIVER is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to biological productivity; and*
  - *The habitat supports concentrations of wildlife.*

#### 3.2.8.1.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GN, 2014	1,466	0.3	14.2	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Soper River is considered moderate. The area is not listed as having high mineral potential. However, there is an IOL parcel just north of Kimmirut that has a gemstone deposit.

#### ***The potential for non-renewable resources, transportation and linear infrastructure in the SOPER RIVER is considered MODERATE because:***

- *The areas overlap with areas with evidence of mineral potential;*
- *The areas have moderate potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively small.*

#### 3.2.8.1.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Soper River to impacts from incompatible uses.

### Considerations

The NPC considers the sensitivity of the Soper River to impacts from incompatible uses to be high and year-round. Also of note, char are sensitive to disturbance during laying and incubation of eggs, while young fish require a reliable food supply.

#### ***The sensitivity of the SOPER RIVER to impacts is considered HIGH and YEAR-ROUND because:***

- *Existing community uses are sensitive to disturbance from incompatible uses;*
- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 3.2.8.1.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the Soper River.

### Considerations

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



A significant portion of the Soper River is within Katannilik Territorial Park.

The *Fisheries Act* places strong protections on protecting fish and fish habitat.

The Soper Heritage River Management Plan lists guidance for appropriate use in the Soper River watershed.

The Soper Heritage River Management Plan is not legally enforceable, and the NLUP can include its recommendations in an enforceable manner.

The Soper Heritage River Management Plan tends towards conservation of the whole Soper River watershed, in part due to the important char run.

While to some degree the Soper Heritage River Management Plan may act in a protection function, this tool can be supplemented by the NLUP.

***The potential value of including guidance in the NLUP for the SOPER RIVER is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

#### 3.2.8.1.6 Policy Options for the Soper River

In 2014, the NWB<sup>1</sup> submitted:

“... Accordingly, the NWB is seeking details regarding the inclusion of provisions for each respective recommended option that will allow the NWB to issue licences for undertakings that are proximal to the buffer zones or in watersheds affecting Heritage Rivers. Given the NWB’s expertise, role, and high level of interest in the area of water management, the NWB recommends that the Commission provides a fourth option, wherein a designation is assigned that permits tourism, recreation, and research, while additionally requiring all project proposals that do not fit these categories to consult the Strategy or to consult the NWB until the Strategy is officially developed and implemented.”

<sup>1</sup> (Nunavut Water Board (NWB), 2014-02-14. NPC Public Registry File # 12-143E)

<sup>2</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

## Considerations

The NPC has not categorized the NWB comment under the options below. The NPC notes that the NWB comment includes support for tourism, recreation and research in the area. The procedural recommendation to require proponents to consult with the NWB is not something that the NPC broadly supports including in the NLUP as a conformity requirement.

### 3.2.8.1.6.1 Option 1 - Limited Use

In 2014, the WWF<sup>2</sup> stated:

“WWF supports NPC’s recommended Option 1 for the portion of the Soper Heritage River that lies outside Katannilik Territorial Park.”

In 2016, the GoC<sup>3</sup> wrote:

“... The Soper Canadian Heritage River Management Area would remain a protected area designation given that it supports the management of Katannilik Territorial Park and reflects the uses anticipated and direction provided in the Soper River Management Plan as outlined in the Commission’s June 2014 Options and Recommendations document.”

In 2016, the GN<sup>4</sup> stated:

“The GN supports the Soper Heritage River being a Protected Area.”

## Considerations

The NPC notes that some participants, including the GoC and GN, support this option.

### 3.2.8.1.6.2 Option 2 - Conditional Use

In 2017, NTI and the RIAs<sup>5</sup> stated:

“... NTI and the RIAs recommend that the Soper Canadian Heritage Management Plan Area be placed in a Special Management Area designation until such time as consultations are completed and community preferences are established.”

In 2018, NTI and the RIAs<sup>6</sup> submitted:

“NTI, the Government of Nunavut and the Government of Canada have initialled an Agreement-in-Principle (AIP) for

<sup>5</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>6</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)



the Canadian Heritage Rivers Inuit Impact and Benefit Agreement (CHR IIBA). It is expected that the CHR IIBA will be officially signed in the near future.

“The initialled CHR IIBA text provides that the designation and management of CHRs will not alter land ownership, regulation or management of Inuit Owned Lands (IOLs). There are several IOL parcels adjacent to the CHRs and the RIAs intend to manage these lands in keeping with the CHR IIBA with the goal of maximizing Inuit opportunities. To support the full utilization of Inuit benefits provided for in the CHR IIBA, NTI and the RIAs recommended that the rivers currently designated as CHRs be placed in a Special Management Area designation within the DNLUP.

“As an update, QIA has not completed its consultations regarding the Soper River.”

### Considerations

The NPC notes that NTI and the RIAs support this option.

#### 3.2.8.1.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 3.2.8.1.6.4 Option 4 - Valued Component

In 2016, NTI and the RIAs<sup>1</sup> stated:

“... NTI and the RIAs support Option 1 as outlined at page 14 of *NPC’s Refinements Document* that would result in the Thelon Heritage River, the Kazan Heritage River, the Soper Heritage River and the proposed Coppermine Heritage River being given a Mixed Use land designation.”

### Considerations

The NPC notes that Option 1 of the Refinements Document (referenced in NTI’s above comment) indicated that direction to regulatory authorities would be provided for the areas, and in the current 2021 approach this is the equivalent of identifying the areas as VSECs.

The NPC also notes that NTI’s 2016 recommendation was revised in subsequent 2017 and 2018 submissions noted above.

#### 3.2.8.1.7 NPC Recommendation - LU

Given that:

### CONSERVATION AREAS:

The overall importance of the issue is considered HIGH.

### SOPER RIVER:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>MODERATE</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

### Recommendation for the Soper River Watershed Outside of Katannilik Territorial Park

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that it supports the management of Katannilik Territorial Park and reflects the uses anticipated and direction provided in the Soper Heritage River Management Plan.

#### LAND USE PLAN POLICY RECOMMENDATION

### **SOPER RIVER WATERSHED OUTSIDE KATANNILIK TERRITORIAL PARK**

#### **LIMITED USE**

#### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries

#### 3.2.8.1.8 Summary of Revisions

### KRLUP and NBRLUP

Both existing regional land use plans recognize that the responsibility for the CHR program falls jointly to the

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

then Department of Indian Affairs and Northern Development (DIAND) and the GN-Department of Sustainable Development (DSD); however, they do not have any conformity requirements or actions for heritage rivers.

### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage the Soper River watershed, the portions outside Katannilik Territorial Park were assigned an Encouraging Conservation Planning (ECP-1) designation. The permitted uses for this designation were tourism, recreation and research. The designation prohibited all other uses.

The 2014 and 2016 DNLUP both assigned a PA designation to portions of the Soper River watershed outside Katannilik Territorial Park that prohibited incompatible uses. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC’s mandate in Article 11 of the NA.

### 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

## 3.2.8.2Kazan River and Thelon River

### 3.2.8.2.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2012	8,807	0

The heritage river management plans for the Kazan and Thelon Rivers apply to a 1 km buffer corridor along the rivers. The plans identify specific sites of high importance.

In 2016, the KivIA<sup>1</sup> indicated:

“The NLUP should expand the Land Use Designation for the Kazan and Thelon Heritage Rivers to the entire watershed.”

In 2020, some Rankin Inlet<sup>2</sup> residents suggested another location along the Kazan River, but this location was not reiterated by other participants.

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Kazan and Thelon Rivers. The geographic boundaries currently considered for the Kazan and Thelon Rivers were derived from the heritage rivers’ management plans.

***The certainty of the identified geographic boundaries of the KAZAN RIVER AND THELON RIVER is considered HIGH because:***

- ***The areas are identified with high precision/scale;***
- ***There is moderate agreement among participants regarding the boundaries; and***
- ***The information is current.***

### 3.2.8.2.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of the Kazan and Thelon Rivers.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>3</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, provided insights into the environmental and cultural importance of the two rivers through its discussion of conservation objectives. The document stated:

“The Kazan River Management Plan does not identify specific conservation objectives. Conservation objectives are broadly incorporated into the management plan objectives. The management plan objectives are:

- To manage the heritage resources within a river corridor extending 1 km from each bank, in accordance with CHRS objectives.
- To conserve and interpret the heritage resources identified in the nomination, through existing legislation and regulations and, where appropriate and necessary, through the future establishment of Territorial Parks; heritage resources will be interpreted through a program

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>3</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

of printed materials and a visitor centre in Baker Lake. ...

- To encourage and monitor recreational use of the river, and to ensure its compatibility with the conservation of the heritage resources.
- To give a national perspective to visitors regarding the role of the Kazan and Thelon Rivers in northern native history, and the cultural development and evolution of the Keewatin region.
- To foster an appreciation of the culture of the Caribou Inuit, and to foster pride for Inuit culture (Municipality of Baker Lake *et al.* 1990a).

...

“The CHRS management plan for the Thelon River (Municipality of Baker Lake *et al.* 1990b) does not contain specific conservation objectives but are broadly captured within their management plan objectives. The management plan objectives are identical to those of the Kazan Heritage River.”

### Considerations

The Kazan and Thelon Rivers are CHRs with their own heritage river management plans. Based on this, the NPC considers the environmental and cultural importance of the Kazan and Thelon Rivers to be high.

The Thelon River is Baker Lake’s community drinking water supply and is considered in the “Community Drinking Water Supplies” section of this 2021 O&R.

***The environmental and cultural importance of the KAZAN RIVER AND THELON RIVER is considered HIGH because:***

- ***The importance of the areas to the communities is high; and***
- ***The importance of the areas to wildlife is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The areas are essential to biological productivity; and***
  - ***The habitat supports concentrations of wildlife.***

### 3.2.8.2.3 Potential for Non-Renewable Resources,

### Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2012	8,807	1,040	0	46

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

In 2013, Baker Lake<sup>3</sup> residents indicated they felt that the heritage river status did not increase the number of tourists in the area.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Kazan and Thelon Rivers is considered high.

***The potential for non-renewable resources, transportation and linear infrastructure in the KAZAN RIVER AND THELON RIVER is considered HIGH because:***

- ***The areas overlap with areas with evidence of mineral potential;***
- ***The areas have high potential for transportation and linear infrastructure development;***
- ***The areas have some existing rights for non-renewable resource land use;***
- ***The areas have no subsurface IOL parcels; and***
- ***The areas are relatively small.***

### 3.2.8.2.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Kazan and Thelon Rivers to impacts.

### Considerations

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2014-01-21. NPC Public Registry File # 12-126E)

The NPC considers the sensitivity of the Kazan and Thelon Rivers to impacts from incompatible uses to be moderate and year-round. Although there has been little discussion on the sensitivity of the Thelon and Kazan Rivers to impacts, the values in these areas including freshwater, caribou, birds, fish, community use and heritage sites are noted as being sensitive to impacts elsewhere in this document. While impacts directly to the rivers would impact the Baker Lake water supply, at present the area is not noted as being particularly sensitive.

***The sensitivity of the KAZAN RIVER AND THELON RIVER to impacts is considered MODERATE and YEAR-ROUND because:***

- *Existing community uses are sensitive to disturbance from incompatible uses;*
- *Wildlife are moderately sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance moderately is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

### 3.2.8.2.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the Kazan and Thelon Rivers.

#### Considerations

A portion of the Thelon River is within the Thelon Wildlife Sanctuary, which is assigned a LU designation above. In addition, a portion of the Kazan River is within the Fall Caribou Crossing National Historic Site, which is assigned a LU designation above.

The management plans for these two rivers include general recommendations and identify specific locations along the rivers that are recommended for protection. While the heritage river management plans identify values to be considered, these management plans can be supplemented by the NLUP.

***The potential value of including guidance in the NLUP for the KAZAN RIVER AND THELON RIVER is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*

- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

### 3.2.8.2.6 Policy Options for the Kazan River and Thelon River

In 2014, the NWB<sup>1</sup> submitted:

“... Accordingly, the NWB is seeking details regarding the inclusion of provisions for each respective recommended option that will allow the NWB to issue licences for undertakings that are proximal to the buffer zones or in watersheds affecting Heritage Rivers. Given the NWB’s expertise, role, and high level of interest in the area of water management, the NWB recommends that the Commission provides a fourth option, wherein a designation is assigned that permits tourism, recreation, and research, while additionally requiring all project proposals that do not fit these categories to consult the Strategy or to consult the NWB until the Strategy is officially developed and implemented.”

#### Considerations

The NPC has not categorized the NWB comment under the options below. The NPC notes that the NWB comment includes support for tourism, recreation and research in the area.

#### 3.2.8.2.6.1 Option 1 - Limited Use

In 2014, the BQCMB<sup>2</sup> stated:

“Our primary recommendations at this time are:

...

- 8) NPC should apply land use designation ECP-1 “Assign a designation that permits tourism, recreation and research and prohibits all other uses” to the Thelon Wildlife Sanctuary, the Queen Maud Gulf Migratory Bird Sanctuary and the Thelon and Kazan Heritage Rivers.”

In 2014, the WWF<sup>3</sup> stated:

“... WWF does not support NPC’s recommended Option 3 for the Thelon and Kazan Rivers, because it permits all uses and only provides for recommending that project proponents ‘consider the guidelines and criteria contained in the Heritage Rivers management plan.’ In our view, this Option does not best support the intent, objectives or policies NPC outlines for Encouraging Conservation Planning land use designations, does not provide adequate

<sup>1</sup> (Nunavut Water Board (NWB), 2014-02-14. NPC Public Registry File # 12-143E)

<sup>2</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>3</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

protection for caribou crossing sites along these two rivers, and in the case of the Thelon is inconsistent with its international status as a wilderness canoeing destination and NPC's own recommended Option for the Thelon Wildlife Sanctuary where most of the Thelon River is found. Further, we can see no compelling reason for providing less protection to the Thelon and Kazan than for the Soper Heritage River. Therefore WWF recommends that NPC recommend Option 1 for the Thelon and Kazan Heritage Rivers, namely, *"Assign a designation that permits tourism, recreation and research, and prohibits all other uses."*

In 2020, Baker Lake<sup>1</sup> residents indicated they agreed with protecting the point locations identified the heritage river management plans.

In 2020, Whale Cove<sup>2</sup> residents also supported this approach.

In 2020, Rankin Inlet<sup>3</sup> residents generally supported protecting the point locations along the Kazan River.

### Considerations

The NPC notes that some participants support this option. The NPC also notes the WWF recommendation is equivalent to a LU designation.

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#### 3.2.8.2.6.2 Option 2 - Conditional Use

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In 2016, the GN<sup>4</sup> stated:

**"The GN supports a revised Option 2.** The Term regarding cumulative impacts can be removed but the GN recommends the following Terms be included to maintain these areas as Special Management Areas:

##### Kazan Heritage River Terms:

- Maintain the water flow and quality
- Protect the sensitive nesting sites of peregrine falcons and gyrfalcons along the river
- Protect the Beverly and Qamanirjuaq caribou herds river crossings
- Protect archaeological sites along the river
- Maintain the natural beauty and aesthetic qualities of the river, particularly the 3 Cascades,

Kazan Falls and gorged, river above Angikuni Lake and river below Yathkyed Lake

##### Thelon Heritage River Terms:

- Maintain the water flow and quality
- Protect the sensitive nesting sites of peregrine falcons and gyrfalcons along the river
- Protect the Beverly and Qamanirjuaq caribou herds river crossings
- Protect archaeological sites along the river
- Maintain the natural beauty and aesthetic qualities of the river by minimizing the visual impact of facilities and activities"

In 2017, AEM<sup>5</sup> stated:

"... Comment

"Agnico Eagle is working with the Government of Nunavut and other stakeholders on the feasibility of developing run-of-river hydropower in the Kivalliq region on the Thelon and Kazan River. Under the proposed 2016 DNLUP, the protected area in the Kivalliq region will prevent future development of any alternative energy projects on the Thelon and Kazan River watersheds.

"... Recommendations

"Agnico Eagle recommends that infrastructure development run-of-river hydropower of the Aleksektok Rapids on the Thelon River and the Kazan Falls on the Kazan River should be allowed under special Management."

In 2018, NTI and the RIAs<sup>6</sup> submitted:

"NTI, the Government of Nunavut and the Government of Canada have initialled an Agreement-in-Principle (AIP) for the Canadian Heritage Rivers Inuit Impact and Benefit Agreement (CHR IIBA). It is expected that the CHR IIBA will be officially signed in the near future.

"The initialled CHR IIBA text provides that the designation and management of CHRs will not alter land ownership, regulation or management of Inuit Owned Lands (IOLs). There are several IOL parcels adjacent to the CHRs and the RIAs intend to manage these lands in keeping with the CHR IIBA with the goal of maximizing Inuit opportunities. To support the full utilization of Inuit benefits provided for in the CHR IIBA, NTI and the RIAs recommended that the

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>5</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

<sup>6</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)



rivers currently designated as CHRs be placed in a Special Management Area designation within the DNLUP.”

### Considerations

The NPC notes that some participants, including the GN, NTI and the RIAs, support this option. The NPC also notes the recommendation to remove the cumulative effects provision.

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#### 3.2.8.2.6.3 Option 3 - Mixed Use

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In 2015, NTI and the RIAs<sup>1</sup> submitted:

“Section 3.1.2.5 Heritage Rivers creates a Special Management Area designation for the Thelon and Kazan Rivers. The Kivalliq Inuit Association does not support this designation as to date the Thelon and Heritage Rivers are Canadian Heritage River (CHR) designations only. The Special Management Area designation overlaps with surface IOLs (85,822 hectares) providing more protection for the rivers than currently afforded with the CHR designation. Moreover, there has been little progress in finalizing an Inuit Impact Benefit Agreement for these Heritage Rivers.”

In 2016, the KivA<sup>2</sup> stated:

“Nunavut contains three designated Heritage Rivers (the Kazan, Thelon and Soper rivers) and one nominated Heritage River (the Coppermine River). The Kazan and Thelon rivers are located within the Kivalliq Region. As per guidance provided by the Canadian Heritage Rivers Secretariat, these water resources should be protected from environmental degradation while still providing the opportunity for economic and social benefits to the Canadian population. The DNLUP as currently written does not provide adequate environmental protections to Nunavut’s Heritage River systems nor does it include sufficient rationale for the guidance that has been provided. This lack of rationale is particularly evident in the conflicting direction provided in the DNLUP for protection of the Kazan and Thelon rivers, and for potential alternative energy development projects. These shortcomings likely result from the fact that the NPC has not considered available documentation and management plans applicable to the protection and responsible development of these Heritage Rivers.

“It is recommended that the DNLUP apply the mixed land use designation to the Kazan and Thelon Heritage Rivers, and expand the scope of managing these river systems to their entire watersheds. These protections should be

rooted in science and IQ-based decision making, include consideration of available and applicable management plans, and ongoing environmental monitoring.”

In 2016, the GoC<sup>3</sup> wrote:

“The Government of Canada is recommending cumulative impact referrals be removed from Nunavut Land Use Plan as a Term of the Plan. The Commission’s option 1, removing the Term regarding cumulative impact referrals, would have the effect of replacing the Special Management Areas with a Mixed Use Area designation where all land uses would be permitted for the Kazan Heritage River and the Thelon Heritage River. ...”

### Considerations

The NPC notes that the GoC supports this option. The NPC also notes that NTI’s 2015 and 2016 recommendations were revised in a subsequent 2018 submission noted above.

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#### 3.2.8.2.6.4 Option 4 - Valued Component

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In 2016, NTI and the RIAs<sup>4</sup> stated:

“... NTI and the RIAs support Option 1 as outlined at page 14 of *NPC’s Refinements Document* that would result in the Thelon Heritage River, the Kazan Heritage River, the Soper Heritage River and the proposed Coppermine Heritage River being given a Mixed Use land designation.”

### Considerations

The NPC notes that Option 1 of the Refinements Document (referenced in NTI’s above comment) indicated that direction to regulatory authorities would be provided for the areas, and in the current 2021 approach that is the equivalent of identifying the areas as VSECs.

The NPC also notes that NTI’s 2016 recommendation was revised in a subsequent 2018 submission noted above.

#### 3.2.8.2.7 NPC Recommendation - LU and VSEC

Given that:

### CONSERVATION AREAS:

**The overall importance of the issue is considered HIGH.**

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<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)



#### KAZAN RIVER and THELON RIVER:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for Small Areas of Significance along the Kazan River and Thelon River Identified as High Importance by their Respective Heritage River Management Plans

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given that these areas are identified as being of particular importance in the rivers' management plans.

LAND USE PLAN POLICY RECOMMENDATION	
<b><u>KAZAN RIVER AND THELON RIVER:</u></b>	
<b><u>SMALL AREAS OF SIGNIFICANCE</u></b>	
<b><u>IDENTIFIED AS HIGH IMPORTANCE BY</u></b>	
<b><u>THEIR RESPECTIVE HERITAGE RIVER</u></b>	
<b><u>MANAGEMENT PLANS</u></b>	
<b>LIMITED USE</b>	
<b>Prohibited Incompatible Uses:</b>	
<ul style="list-style-type: none"> <li>• Oil and gas exploration and production</li> <li>• Mineral exploration and production</li> <li>• Quarries</li> <li>• Linear infrastructure</li> </ul>	

#### Recommendation for All Other Corridors Identified along the Kazan River and Thelon River by their Respective Heritage River Management Plans

Option 4 is recommended.

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify corridors along the Thelon and Kazan Rivers as areas of a known VSEC that should be given particular consideration.

**Rationale:** Option 4 was recommended to ensure that the integrity of the water system is maintained while supporting the potential for a sustainable hydro-electrical development.

LAND USE PLAN POLICY RECOMMENDATION	
<b><u>KAZAN RIVER AND THELON RIVER:</u></b>	
<b><u>ALL OTHER CORRIDORS IDENTIFIED BY</u></b>	
<b><u>THEIR RESPECTIVE HERITAGE RIVER</u></b>	
<b><u>MANAGEMENT PLANS</u></b>	
<b>VALUED SOCIO-ECONOMIC COMPONENT</b>	

#### 3.2.8.2.8 Summary of Revisions

##### KRLUP and NBRUP

Both existing regional land use plans recognize that the responsibility for the CHR program falls jointly to the then DIAND and the GN-DSD; however, they do not have any conformity requirements or actions for heritage rivers.

##### 2012, 2014 to 2016 DNLUP

In the 2012 DNLUP, to manage the Thelon River and Kazan River, they were assigned recommendation ECP-R1. The specific recommendation stated, "Project Proposals located in and/or near a Heritage River should take into account the guidelines and criteria contained in the Heritage River's management plan."

In the 2014 DNLUP, both the Kazan and Thelon Rivers, and 1 km on either side, were assigned a SMA designation that identified cumulative impact concerns

and provided direction to regulatory authorities to mitigate impacts on the areas.

The 2016 DNLUP took a different approach. Most of the river corridors were designated MU, but presented as areas of importance to VSECs, with a focus on cultural heritage and tourism potential, so that they would be considered during an impact assessment. Small areas of significance identified in the respective heritage river management plans were assigned a PA designation that prohibited incompatible uses. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC’s mandate in Article 11 of the NA.

2021 DNLUP

The 2021 DNLUP takes the same approach as the 2016 DNLUP. The Thelon and Kazan Rivers are identified as known VSECs. Additionally, the 2016 and 2021 recommendation to assign a land use designation to some small areas of significance identified in the respective heritage river management plans for the Thelon and Kazan Rivers that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

3.2.8.3Coppermine River

3.2.8.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2014	22,421	1

The 2008 draft Coppermine Heritage River Management Plan<sup>1</sup> for the Coppermine River identifies the entire watershed as the boundary for the plan.

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Coppermine River watershed which were downloaded by the NPC from publicly available NRCan data.

**The certainty of the identified geographic boundaries of the COPPERMINE RIVER is considered HIGH because:**

- The areas are identified with high precision/scale;
- There is moderate agreement among participants regarding the boundaries; and
- The information is current.

3.2.8.3.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of the Coppermine River.

The vision and management goal for the Coppermine Heritage River, as stated by Nunavut Parks (2008),<sup>2</sup> provided insights into the environmental and cultural importance of the river. The document stated:

“As a Canadian Heritage River the Coppermine is valued for its pristine water, rare aesthetic, wilderness, heritage and recreational characteristics, and its watershed is being maintained in the most natural condition possible for traditional Inuit activities and for its enjoyment by Kugluktuk residents and visitors.”

The main management objectives for the Coppermine River from the 2008 draft Management Plan<sup>3</sup> also provided insights into the environmental and cultural importance of the river. These objectives are:

1. Maintain water quality and water flow;
2. Conserve natural heritage features and values;
3. Conserve cultural heritage features and values;
4. Enhance heritage appreciation and recreation; and
5. Promote tourism and development.<sup>Error! Bookmark not defined.</sup>

Considerations

The Coppermine River has been nominated as a CHR. In addition, the Coppermine River provides the water for the community of Kugluktuk and is also an important fisheries river. Based on this, the NPC considers the environmental and cultural importance of the Coppermine River to be high.

<sup>1</sup> [http://nunavutparks.com/wp-content/uploads/2015/12/Coppermine\\_ManagementPlan\\_Draft.pdf](http://nunavutparks.com/wp-content/uploads/2015/12/Coppermine_ManagementPlan_Draft.pdf)

<sup>2</sup> [http://nunavutparks.com/wp-content/uploads/2015/12/Coppermine\\_ManagementPlan\\_Draft.pdf](http://nunavutparks.com/wp-content/uploads/2015/12/Coppermine_ManagementPlan_Draft.pdf)

<sup>3</sup> [http://nunavutparks.com/wp-content/uploads/2015/12/Coppermine\\_ManagementPlan\\_Draft.pdf](http://nunavutparks.com/wp-content/uploads/2015/12/Coppermine_ManagementPlan_Draft.pdf)

***The environmental and cultural importance of the COPPERMINE RIVER is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to biological productivity; and*
  - *The habitat supports concentrations of wildlife.*

**3.2.8.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure**

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2014	22,421	3,999	820	649

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Coppermine River is considered high. Of particular note, the river is not used for transport due to the rapids south of Kugluktuk. However, the Coppermine River drains a region of very high mineral potential. Overall, the Coppermine River is important to the community of Kugluktuk, while also having high mineral development potential.

***The potential for non-renewable resources, transportation and linear infrastructure in the COPPERMINE RIVER is considered HIGH because:***

- *The areas overlap with areas of evidence of mineral potential;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

#### 3.2.8.3.4 Sensitivity to Impacts

The NPC did not receive comments directly related to sensitivity of the Coppermine River to impacts from incompatible uses.

#### Considerations

The NPC considers the sensitivity of the Coppermine River to impacts from incompatible uses to be moderate and year-round. Although there has been little discussion on the sensitivity of the Coppermine River to impacts, the values in the area including drinking water, caribou, fish, community use and heritage sites. These values are noted as being sensitive to impacts elsewhere in this document.

***The sensitivity of the COPPERMINE RIVER to impacts is considered MODERATE and YEAR-ROUND because:***

- *Existing community uses are sensitive to disturbance from incompatible uses;*
- *Wildlife are moderately sensitive to disturbance when using the areas;*
- *Wildlife use the areas when disturbance moderately is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 3.2.8.3.5 Other Regulatory Tools

In 2017, the NIRB<sup>3</sup> recommended:

"... Chapter 3 should specify how nominated Heritage Rivers would be managed in the interim until they become fully designated, and consideration should be given to having the NLUP assign a complementary designation to that offered through the Canadian Heritage River designations ...

"... The NLUP include details regarding what specific transboundary considerations were undertaken regarding

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

the Canadian Heritage River designations where they cross the border of Nunavut into neighbouring jurisdictions.”

### Considerations

The draft Coppermine Heritage River Management Plan does not provide appropriate information to make any recommendations for this river as a whole, or for specific locations along the river. Further, while the Coppermine Heritage River Management Plan identifies many locations of note, it does not provide specific policy recommendations for any of them.

While to some degree the heritage river management plan may act in a protection function, this tool can be supplemented by the NLUP, until the Coppermine River is fully established as a CHR.

***The potential value of including guidance in the NLUP for the COPPERMINE RIVER is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

#### 3.2.8.3.6 Policy Options for the Coppermine River

In 2014, the NWB<sup>1</sup> submitted:

“... Accordingly, the NWB is seeking details regarding the inclusion of provisions for each respective recommended option that will allow the NWB to issue licences for undertakings that are proximal to the buffer zones or in watersheds affecting Heritage Rivers. Given the NWB’s expertise, role, and high level of interest in the area of water management, the NWB recommends that the Commission provides a fourth option, wherein a designation is assigned that permits tourism, recreation, and research, while additionally requiring all project proposals that do not fit these categories to consult the Strategy or to consult the NWB until the Strategy is officially developed and implemented.”

### Considerations

The NPC has not categorized the NWB comment under the options below. The NPC notes that the NWB comment includes support for tourism, recreation and research in the area.

<sup>1</sup> (Nunavut Water Board (NWB), 2014-02-14. NPC Public Registry File # 12-143E)

<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

#### 3.2.8.3.6.1 Option 1 - Limited Use

No participant recommended this option.

#### 3.2.8.3.6.2 Option 2 - Conditional Use

In 2015, the GN<sup>2</sup> submitted:

“Include the Coppermine River as a nominated Canadian Heritage River in the DNLUP and O&R document, and all relevant figures, maps and tables included within these two documents. Shapefiles are available upon request.

“Assign Option 2 – Special Management Area land use designation to the Coppermine Heritage River to support the conservation and management objectives outlined in the Coppermine River Management Plan.”

In 2016, the GN<sup>3</sup> stated:

“... the Coppermine River should be included in the DNLUP as a nominated Canadian Heritage River and represented in the DNLUP as a Special Management Area.

“Proposed Coppermine Heritage River Terms:

- Maintain the water flow and quality
- Protect archaeological sites along the river
- Maintain the natural beauty and aesthetic qualities of the river by minimizing the visual impact of facilities and activities”.

### Considerations

The NPC notes that the GN supports this option. It is also noted that the general requirements recommended by the GN would be difficult to implement by the NPC through a conformity determination, but would be generally consistent with identifying the areas as VSECs.

#### 3.2.8.3.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 3.2.8.3.6.4 Option 4 - Valued Component

In 2016, NTI and the RIAs<sup>4</sup> stated:

“... NTI and the RIAs support Option 1 as outlined at page 14 of NPC’s *Refinements Document* that would result in the Thelon Heritage River, the Kazan Heritage River, the Soper

<sup>3</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

Heritage River and the proposed Coppermine Heritage River being given a Mixed Use land designation.”

### Considerations

The NPC notes that Option 1 of the Refinements Document (referenced in NTI’s above comment) indicated that direction to regulatory authorities would be provided for the areas, and in the current 2021 approach that is the equivalent of identifying the areas as VSECs. It is also noted that the GN’s recommendation above under Option 2 is generally consistent with identifying the areas as VSECs.

#### 3.2.8.3.7 NPC Recommendation - VEC

Given that:

### CONSERVATION AREAS:

The overall importance of the issue is considered HIGH.

### COPPERMINE RIVER:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>MODERATE and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

### Recommendation for the Coppermine River

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify corridors along the Coppermine River as areas of a known VEC that should be given particular consideration.

**Rationale:** Option 4 was recommended given that the Coppermine River has not been designated and the management plan does not provide sufficient

information to include more specific guidance for this river.

### LAND USE PLAN POLICY RECOMMENDATION

## **COPPERMINE RIVER**

## **VALUED ECOSYSTEMIC COMPONENT**

### 3.2.8.3.8 Summary of Revisions

### KRLUP and NBRLUP

Both existing regional land use plans recognize that the responsibility for the CHR program falls jointly to the then DIAND and the GN-DSD; however, they do not have any conformity requirements or actions for heritage rivers.

### 2012, 2014 and 2016 DNLUP

The 2012, 2014 and 2016 DNLUP all treated the Coppermine River with a MU designation. The river was not specifically discussed in the 2012 or 2014 DNLUP. The 2016 DNLUP also provided a recommendation to research the quantity and quality of flow in the Coppermine River, with intent to develop specific normative quality guidelines for future watershed management. In addition, the 2016 DNLUP included a recommendation that the government include the NPC in planning for future parks, NMCAs and conservation areas to help ensure consistency with other factors and issues in Nunavut and to help fulfil the NPC’s mandate in Article 11 of the NA.

### 2021 DNLUP

The 2021 DNLUP identifies the Coppermine River as areas of a known VSEC.



## 4 Building Healthier Communities

*The Goal of Building Healthier Communities is described as: “The promotion and strengthening of Inuit culture and heritage is integral to the goal of building healthy communities in Nunavut. It is also one of the fundamental objectives of the Nunavut Land Claims Agreement (NLCA). Protection and promotion of the well-being of Nunavut’s residents and communities is the primary purpose of land use planning under Article 11 of the NLCA, is implicit in other NLCA provisions, and is an inherent goal in land use related territorial and federal statutes and policies.”*

Building Healthier Communities is one of five planning goals in the NPC’s Broad Planning Policies, Objectives and Goals. It is the primary aim of this chapter of the 2021 O&R to provide practical policy direction that supports this goal.

Specifically, this chapter:

- Identifies key areas of Nunavut that are known to be important to building healthier communities;
- Provides options for managing these key areas; and
- Recommends a preferred option for the management of these areas that is best able to support this goal.

Themes identified by the NPC for their significance to building healthier communities and the well-being of Nunavut’s residents are:

- Community areas of interest (on-ice travel routes, North Baffin (Moffett Inlet, Hall Beach areas and Foxe Basin), South Baffin (Nettilling Lake), Kivalliq (Nauyasat areas, Duke of York Bay, Walrus Island, essential char fishing rivers, Corbett Inlet and Diana River), Kitikmeot (Boothia Peninsula and Hiukitak River), other proposed community areas of interest, community-identified priority locations, and locations identified in use and occupancy mapping);

- Parts of the NSA shared with non-Nunavut communities (Areas of Equal Use and Occupancy and Dēnesųliné Areas);
- Unincorporated communities;
- Alternative energy sources;
- Community drinking water supplies;
- Contaminated sites;
- Military facilities; and
- Aerodromes.

The NPC endorses a view of individual and community health and well-being that encompasses a broader understanding of and context for land use planning through the notion of ‘*determinants of health*.’ The 2021 DNLUP acknowledges and reflects this approach to the extent possible within the NPC’s mandate. Land use planning plays a role through land use policies and designations – including how these can impact access to and utilization of renewable and non-renewable resources, which then affect advancing the goal of building healthier communities through encouraging or potentially constraining social, economic and cultural opportunities and benefits.

The notion of ‘healthier communities,’ while reflecting physical communities and their adjacent community areas of interest, is a part of our shared understanding of ‘well-being.’ However, there are other factors as represented by ‘*determinants of health*’ and environmental factors that determine, or highly influence, individual, family and community health. The determinants of health are recognized nationally and internationally, and include:

1. Income and social status;
2. Employment and working conditions;
3. Education and literacy;
4. Childhood experiences;
5. Physical environments;
6. Social supports and coping skills;
7. Healthy behaviours;
8. Access to health services;
9. Biology and genetic endowment;



10. Gender;
11. Culture; and
12. Race/racism.

It is widely recognized that there are significant disparities, inequalities and barriers faced by Inuit and other Indigenous peoples and communities in attempting to achieve and maintain their ‘*well-being*.’ These disparities are evident in the socio-economic statistics and indicators for Nunavut. These disparities create significant challenges and fundamental concerns with regard to education, employment, income, housing, food insecurity and health and safety status, which can combine to affect the well-being of Nunavummiut.

The NPC’s land use policies and designations represent responsible and evidence-based analysis and efforts to achieve a workable ‘*balance*’ between environmental, social and economic needs to advance the health and well-being of individuals, families and communities.

## 4.1 Community Areas of Interest

Section 11.2.1 of the NA states:

“The following principles shall guide the development of planning policies, priorities and objectives:

- (a) people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation;
- (b) the primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote the existing and future well being of those persons ordinarily resident and communities of the Nunavut Settlement Area ...
- (c) the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning regions;

...”

Section 11.3.1(h) of the NA requires a land use plan to take into account “cultural factors and priorities including the protection and preservation of archeological sites and outpost camps.”

Policy A.3 of the NPC’s Goal of Building Healthier Communities is to support Inuit social and cultural needs and aspirations by providing special management to areas of archaeological, historical or cultural importance.

### 4.1.1 Importance of Community Areas of Interest

Various community areas of interest have been identified by Nunavut communities.

The 2016 DNLUP defined “area of interest” as follows:

“... a spatial area identified by one or more communities where Land Use Designations are applied in order to protect or promote areas of particular ecological, cultural, social, economic, archaeological, historical, or research interest as well as the restoration of environmental integrity or other similar purpose.”

In 2019, NTI and the RIAs<sup>1</sup> submitted:

“The NPC has the difficult task of revising the DNLUP 2016 considering proposals and submissions of stakeholders regarding numerous values including wildlife, water, marine and cultural resources, while ensuring that it adequately addresses NTI and the RIAs submissions on Inuit goals and objectives for IOLs, consistent with the duty to ensure that land use plans reflect the priorities and values of the residents of the planning region. ...

“... NTI and the RIAs recommend that the NPC prioritize Inuit access to land and wildlife resources when considering land use designations and that any limitations on Inuit access only occur with the consent of Inuit.”

#### Considerations

Participants generally agreed on the overall high importance and priority of community areas of interest. The establishment of community areas of interest is broadly recognized as an important issue to be included in the NLUP.

***The overall importance of COMMUNITY AREAS OF INTEREST is considered HIGH because:***

<sup>1</sup> (Nunavut Tunngavik Incorporated & the Regional Inuit Associations, 2019-03-14. NPC Public Registry File # 16-249E)

- *They have been identified by many participants as a priority;*
- *They have a high cultural value;*
- *They have a moderate economic value; and*
- *They have a high ecosystemic value.*

#### 4.1.1.1 General Comments on Defining Geographic Boundaries

The community areas of interest were identified by Nunavut communities. In most cases, the areas were identified during consultations led by the NPC, most notably the 2012-2014 Nunavut-wide consultation tour. For each community visited, a summary of the community meeting(s) was produced and then reviewed and approved by communities during a return visit. Those summaries are part of the public record and are included in the NPC's Public Registry.

In many cases, the boundaries of the community areas of interest were derived from a number of hand-drawn areas identified by community members, which were later digitized and used to identify a single area. In instances where the identified geographic area was focused on a particular waterbody, a generic 1 km buffer was applied to the shoreline. A number of areas have also been identified by HTOs through written submissions as noted below.

#### 4.1.1.2 General Comments on Economic Opportunities

Tunngasaiji,<sup>1</sup> the GN's Tourism Strategy, supports the development and enhancement of attractions through the investment in parks, conservation areas, historic places, heritage rivers and other attractions.

Parnautit,<sup>2</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation

networks to facilitate the movement of goods and provision of services.

Objective F of the NPC's Goal of Encouraging Sustainable Economic Development is to ensure that the goals of any proposed restrictions on land use are achieved with the least possible impact on undiscovered mineral resources, while taking into account environmental and social objectives.

#### 4.1.1.3 General Comments on Other Regulatory Tools

In 2013, the GoC<sup>4</sup> stated:

"In particular, the GoC has committed in its National Marine Conservation Areas System Plan to establish national marine conservation areas in all marine regions that are partly or entirely within the Nunavut Settlement Area. In addition to the Lancaster Sound region, areas of interest have been identified in all remaining marine regions within the NSA (Arctic Basin, Arctic Archipelago, Queen Maud Gulf, Baffin Island Shelf, Foxe Basin, Hudson Bay, James Bay and Hudson Strait). ..."

In 2016, regarding marine shipping, the GoC<sup>5</sup> noted:

"The draft Nunavut Land Use Plan needs to be developed and applied in a way that recognizes the existing regulatory framework which reflects Canada's international obligations with respect to shipping and navigation. The Government of Canada sees prohibitions on shipping as a last resort once all other available tools are examined."

In 2016, the GoC<sup>6</sup> provided details on some potentially relevant options for marine areas:

##### **"The Northern Marine Transportation Corridors Initiative**

"In an effort to manage vessels traffic in the Arctic, Transport Canada, Canadian Coast Guard, and the Canadian Hydrographic Service (CHS) are developing the Northern Marine Transportation Corridors Initiative (Corridors). The objective of the Corridors is to determine the appropriate mix of navigational services, infrastructure, knowledge and emergency response services required to meet the changing service demands of mariners across Canada's Arctic. Corridors will be used as the framework to guide northern investments to enhance marine navigation safety in the North, greater predictability for mariners, and

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-245E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>4</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>5</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>6</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

reduced risk of incidents. In essence, the Corridors are existing shipping routes within which key navigational information services such as hydrography, icebreaking and aids to navigation would be prioritized. Corridors incentivizes mariners to operate within the corridors where they will receive the greatest level of services for navigation allowing mariners to manage the risks associated with sailing in the Arctic. Corridors are not intended to create restrictions on ship movements.

"The Corridors is based off a Risk Matrix, developed by the Coast Guard and the CHS, to identify high risk areas within the Corridors which require immediate services. The Corridors are designed to respond to a variety of variables, such as changes to ice pattern and vessel traffic patterns. Using GIS technology and the appropriate data, CHS is able to lay information over the Corridors, such as environmentally sensitive areas, migration paths of animals, and traditional hunting trails. The Coast Guard is currently collecting traditional knowledge data which can be inputted into the CHS Corridors Risk Matrix. At the moment, Coast Guard and CHS are merging environmental and traditional knowledge data into the Corridors to ensure that environmental and traditional sensitive sites are managed appropriately.

"The Coast Guard is committed to further discussions on the Arctic Corridors Initiative with the Commission. ...

...

#### **"The Marine Environmental Handbook**

"This document, published by Fisheries and Oceans Canada (DFO), is a useful reference for sailors. It provides information on marine environmental issues and concerns in the Northwest Passage.

"The handbook describes some areas that have environmental sensitivities due to their importance to activities of northern residents or as habitat for wildlife species. It has information detailing species migration patterns, patterns of wildlife harvest by beneficiaries and sensitive habitat areas, including information as to times when some areas are sensitive to shipping.

...

#### **"Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts**

"Exploring how the annually published Notices to Mariners (NOTMAR) and Notices to Shipping (NOTSHIP) alerts can be used to communicate relevant and timely information to the Commission to raise awareness about local ice conditions and uses, important navigational safety matters

and best practices for mariners to reduce disturbance to marine mammals."

#### **Considerations**

Given the central importance of community priorities and values to land use planning in Nunavut, it is a fundamental objective of the NLUP to support Inuit social and cultural needs and aspirations by providing special management to areas of cultural importance.

The establishment of national and territorial parks also represents a potential approach to managing land use in areas that are important to communities using tools that primarily focus on wildlife and their habitats in those areas. As the process of identifying, delimiting and establishing parks or conservations areas can take decades, land use plans can act as an intermediary step.

The "Other Regulatory Tools" subsections below for the specific community areas of interest will not include general comments on marine shipping. These comments are available for reference above. In addition, the section on marine shipping corridors in Chapter 5 includes information on shipping regulations in Canadian waters such as the *Canada Shipping Act, 2001* and the *Arctic Waters Pollution Prevention Act*.

#### **4.1.1.4 General Comments on Policy Options**

In 2013, the GoC<sup>1</sup> stated:

"DFO strongly suggests that commercial/exploratory and important subsistence fisheries are given land use designations. While the designations of commercial and subsistence fishing areas may overlap, it is recommended that important subsistence char fishing areas be explicitly protected."

In 2016, the GoC<sup>2</sup> stated:

"The Nunavut Land Use Plan must be reflective of the social, cultural, environmental and economic endeavours of the human community, with a primary focus on the principles and objectives for land use planning in the Nunavut Land Claims Agreement. ...

...

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

“While we support incorporating the community priorities, values and areas of interest into the plan, new designations will require a case by case consideration.”

In 2016, the KWB<sup>1</sup> stated:

“Most Kivalliq HTOs have submitted comments to the NPC independently of the Kivalliq Wildlife Board. Some of these comments included proposals for protection of community areas of interest. The Kivalliq Wildlife Board supports these proposals, and recommends the NPC consider protecting these areas.”

In 2016, NTI and the RIAs<sup>2</sup> stated:

“... it may be appropriate to have Community Areas of Interest as Protected Areas, in other cases, it may be appropriate to have Communities Areas of Interest as Special Management Areas where specific terms and conditions are in place to protect the values of interest to the community. NTI and the RIAs recommend that the NPC define the scope and purpose of the Community Areas of Interest designation to assist in assessing new proposals. NTI and the RIAs also recommend that the NPC consult with communities on proposals and assist in developing terms and conditions where Special Management Areas are found to be appropriate.”

In 2016, the WWF<sup>3</sup> wrote:

“We support a combination of all four options proposed to ensure that community priorities and values and Community Areas of Interest be meaningfully incorporated in the NLUP. During discussions at all of the technical meetings, all parties agreed on the importance for the NLUP to reflect values and priorities of Nunavummiut. We support the designation of Community Areas of Interest as Protected Areas when the communities have express concerns for these specific areas and are in agreement with the appropriate restrictions. Since the previous iteration of the NLUP was significantly different than the version the community consultations were conducted with, a detailed rationale on how the community consultations were incorporated in the latest and forthcoming drafts of the NLUP is essential. The interventions from various local and regional organizations such as the Hamlets, HTOs and the Regional Wildlife Boards confirmed that many areas of interest do not seem to have been properly transferred from the consultation reports into the NLUP. We propose that the NPC review the consultation records and ensure that community voices are meaningfully incorporated to the planning process and that all Community Areas of

Interest appear in the new iteration of the NLUP. This will likely result in the addition of several Community Areas of Interest and whether the Protected Area or Special Management Area designation would be more appropriate will depend on the community values and priorities. We agree with the opinions expressed during the third technical meeting that additional definitions for IQ and Inuit values would benefit the NLUP to provide proper context for the land use designations in the plan.

“In this regard, we propose that:

- a) NPC reviews the consultation reports from all communities and includes additional Community Areas of Interest as Protected Areas or Special Management Areas.
- b) NPC evaluate the community values and priorities for the identified Community Areas of Interest and includes specific land use conditions.
- c) NPC includes better definitions for IQ and statements on Inuit values in the DNLUP. Also includes in the O&R document a section detailing how past consultations have contributed to the DNLUP, especially Table 1, and Schedules A and B.”

In 2016, the GN<sup>4</sup> submitted the following in response to the NPC’s request for participants’ input on whether the DNLUP should include additional community areas of interest as LU areas:

“Regarding Option 1, the GN would be generally supportive of new community areas of interest being included as designated areas in the Plan should there be adequate consultation records supporting such a designation. However, the GN would need to review any implications applicable to any specific newly proposed Protected Areas in order to determine its support for areas on a case-by-case basis. ...”

In 2017, NTI and the RIAs<sup>5</sup> recommended:

“1. NTI and the RIAs support the identification and management of community areas of interest in the NLUP and recommend that a combination of land use designations be used to address community interests including Protected Areas and Special Management Areas.”

## Considerations

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>3</sup> (WWF-Canada, 2016-03-04. NPC Public Registry File # 14-160E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>5</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

The NPC has not categorized the above comments according to the four specific policy options (i.e., LU, CU, MU or VC) as the submissions provide general information regarding the inclusion of community areas of interest in the NLUP.

With regard to the GoC's 2013 comment that important subsistence char fishing areas be explicitly protected, the NPC notes that the GoC could have been recommending the equivalent of a LU or CU designation for these areas. As many of the community areas of interest have subsistence char fishing areas, this GoC comment is not repeated below.

## 4.1.2 Types of Community Areas of Interest

The following areas have been identified by communities as important areas requiring land use regulation, and compelling arguments have been presented for close consideration of these areas. The selected areas to be discussed in this section are those that do not have significant overlap with other areas discussed in other sections of this 2021 O&R. These areas are:

### NUNAVUT-WIDE

- On-Ice Travel Routes

### NORTH BAFFIN

- Moffett Inlet (Arctic Bay)
- Hall Beach Areas (Hall Beach)
- Foxe Basin (Igloodik)

### SOUTH BAFFIN

- Nettilling Lake (Cape Dorset, Pangnirtung)

### KIVALLIQ

- Naujaat Areas (Naujaat)
- Duke of York Bay (Coral Harbour and Repulse Bay)
- Walrus Island (Coral Harbour)
- Essential Char Fishing Rivers (Coral Harbour)

- Corbett Inlet (Rankin Inlet)
- Diana River (Rankin Inlet)

### KITIKMEOT

- Boothia Peninsula (Taloyoak)
- Hiukitak River (Bathurst Inlet and Umingmaktok)

Additional areas identified by communities are considered below in section 4.1.8: Other Proposed Community Areas of Interest.

## 4.1.3 On-Ice Travel Routes

### 4.1.3.1 Defining Geographic Boundaries

Source	Length (km)	% NSA & OLFIZ
Marine Environmental Handbook, 1999	8,008	0
Hall Beach HTA, <sup>1</sup> 2017	175	0
QWB	23,830	0
Community Consultations, 2020	6,707	0
Community Consultations, 2020	7,338	0

Numerous marine on-ice travel routes are presented in the Marine Environmental Handbook (1999). The primary routes change little year to year, are essential for the traditional economy, and pre-exist any ice-breaking routes that may be established.

In 2017 and 2018, the QWB<sup>2</sup> and Hall Beach HTO<sup>3</sup> added a considerable number of on-ice transportation corridors. These routes have been added to the NPC's database.

In 2019, Kugluktuk<sup>4</sup> residents presented two additional on-ice routes to and along the coast of Victoria Island.

<sup>1</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)

<sup>3</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

In 2019, Taloyoak<sup>1</sup> residents advised on a number of on-ice routes on either side of the Boothia Peninsula.

In 2019, Gjoa Haven<sup>2</sup> residents advised on some changes to the on-ice travel routes south of Gjoa Haven, which were originally presented in the 2016 DNLUP.

In 2019, Kugaaruk<sup>3</sup> residents provided a large number of new on-ice routes that are important for the community. Many relate to inter-community travel in the east Kitikmeot.

In 2020, some Rankin Inlet<sup>4</sup> residents advised on an on-ice route between Rankin Inlet and Whale Cove.

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of on-ice travel routes. The on-ice travel routes in the Marine Environmental Handbook were reviewed by communities and additional routes were identified. This compilation of routes is considered to be an accurate representation of areas most commonly used by communities for on-ice travel.

***The certainty of the identified geographic boundaries of ON-ICE TRAVEL ROUTES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 4.1.3.2 Environmental and Cultural Importance

In a 2013 summary of public comments taken from the NIRB and NWB public registries prepared by Dillon Consulting<sup>5</sup> on behalf of the NPC, residents in Resolute, Kimmirut, Taloyoak, Bathurst Inlet, Gjoa Haven, Cambridge Bay and Grise Fiord were noted as having expressed concern about potential ice-breaking associated with projects being reviewed by those IPGs before 2012.

In 2015, the Arviat HTO<sup>6</sup> noted:

“... The [sea ice] and floe edge is very important for our community’s hunting of marine mammals and travel during the winter months. ...”

In 2016, the KWB<sup>7</sup> stated:

“It is widely acknowledged that sea ice is absolutely integral to numerous traditional Inuit practices, including wildlife harvesting, camping, and travel. Marine shipping activities that destroy sea ice used for travel would have significant negative impacts on Inuit traditional practices that could not be mitigated. Travel between communities, as well as travel to hunting/camping sites would be impacted.”

In 2018, the QWB<sup>8</sup> stated:

“From freeze-up to break-up, Inuit use many routes on the sea ice throughout Qikiqtaaluk Region. During winter and spring, these sea-ice routes are critical for travel between communities and harvesting. Inuit use these routes to access areas on land, on and under the sea ice, and at and beyond the floe edge to harvest many species of seals, whales, fishes and migratory birds, as well as caribou, polar bears and walrus.

“Throughout winter and during early break-up, it is critical for the nutrition and health of all Inuit that the sea ice remain unaffected by ice breakers and other shipping along these routes. Inuit harvest wildlife across wide areas of sea ice between these main routes, and therefore, it is important that shipping does not disturb or break ice between the mapped routes.

“These routes must be protected from ice-breaking activity of ships, regardless of the ships’ ownership or purpose. This includes the Canadian or other Coast Guard or military vessels, tourism-related ships, cargo ships, exploration or survey ships, and any other ships with potential ice-breaking capabilities.

“The locations of the floe edges change throughout each winter, as well as from year to year. Inuit search for marine wildlife on ice routes along most floe edges throughout Qikiqtaaluk Region, wherever those changing floe edges may happen to be at any given time. Routes along floe edges would obviously be very approximate and subject to annual and seasonal changes.”

### Considerations

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>5</sup> (Dillon Consulting Limited, 2013-02-14. NPC Public Registry File # 12-027E)

<sup>6</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-107E)

<sup>7</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)

<sup>8</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)



Participants broadly agreed on the high environmental and cultural importance of on-ice travel routes.

***The environmental and cultural importance of ON-ICE TRAVEL ROUTES is considered HIGH because:***

- *The importance of the areas to the communities is high.*

### 4.1.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Length (km)	IOL Surface (km)	IOL Subsurface (km)	Existing Rights (km)
Marine Environmental Handbook, 1999	800	8	0	0
Hall Beach HTA, <sup>1</sup> 2017	175	5	0	0
QWB	23,830	7	0	15
Community Consultations, 2020	6,707	11	0	46
Community Consultations, 2020	7,338	366	0	3.1

Parnautit,<sup>3</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>4</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure for on-ice travel routes is considered high. Of particular note, community on-ice travel routes are extensive and collectively intersect with many important shipping routes.

***The potential for non-renewable resources, transportation and linear infrastructure for ON-ICE TRAVEL ROUTES is considered HIGH because:***

- *The areas do not overlap with areas with evidence of mineral potential or known oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively large.*

### 4.1.3.4 Sensitivity to Impacts

In 2018, the QWB<sup>5</sup> stated:

"Throughout winter and during early break-up, it is critical for the nutrition and health of all Inuit that the sea ice remain unaffected by ice breakers and other shipping along these routes. Inuit harvest wildlife across wide areas of sea ice between these main routes, and therefore, it is important that shipping does not disturb or break ice between the mapped routes."

In 2018, NTI and the RIAs<sup>6</sup> noted:

"Proposals to conduct ice breaking activities are of serious concern to communities as ice-breaking often impacts on wildlife harvesting, harvester travel routes, wildlife habitat and wildlife populations. Additionally, vessel activities near ice areas such as floe edges can also be of serious concern. ..."

#### Considerations

Participants broadly agreed that the sensitivity of on-ice travel routes to impacts from incompatible uses is high and seasonal. In general, it is understood that ice-breaking has the potential to significantly impact community on-ice travel routes, creating serious safety concerns and limiting opportunities to travel and harvest wildlife.

On-ice transportation routes may be interrupted by ice-breaking activity. It is anticipated that given time, ice will generally re-form, depending on temperature and

<sup>1</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)

<sup>6</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)

currents, except during Upingaaq when temperatures are normally near or above freezing.

***The sensitivity of ON-ICE TRAVEL ROUTES to impacts is considered HIGH and SEASONAL because:***

- *The routes are highly sensitive to disturbance when being used; and*
- *The concern regarding potential impacts is seasonal.*

#### 4.1.3.5 Other Regulatory Tools

In 2017, the GoC<sup>1</sup> stated:

“... The information required for a “robust ice-bridging plan” as outlined in Annex B is extensive and depends on many variables — for example, to determine refreezing rates, one must consider air and water temperature, wind speed and direction, ice pressure, current and tides, geography, etc. Some of these factors cannot be accurately determined during the planning process or quickly calculated. The extent of the information required would place additional time constraints on those planning resupply missions. Furthermore, the potential impact of this requirement for robust ice-bridging plans on Canada’s international relations, including possible violations of international commitments, needs to be considered.

**“Recommendation(s):** The Government of Canada understands and respects the needs of the communities to safeguard on-ice transportation corridors through the use of robust ice-bridging plans. We seek to balance marine safety, protection of cultural traditions, and environmental protection with the existing vessel traffic management regime. A collaborative approach to managing on-ice transportation corridors — an approach involving all stakeholders, including industry, Indigenous people, Northern communities, and key territorial and federal departments — will allow for improved marine safety as well as protection of the environment and culturally sensitive areas.

“The Government of Canada recommends that the marine transportation issues be removed from the draft Plan and that existing robust vessel traffic regulatory regime continue to operate with input from industry stakeholders, Indigenous people, and key territorial and federal departments to better protect the Arctic environment, cultural practices and culturally sensitive areas, and marine safety.

“The Nunavut Marine Council (NMC) is a Nunavut Agreement-based institution of which the Commission is a part and for which it can act. The NMC can advise and make recommendations to the Government of Canada, which

has a legal obligation to consider its advice. The Council is thus well positioned to provide the existing vessel traffic management regime with recommendations and input to improve the system.”

In 2020, the GoC<sup>2</sup> noted:

“Proactive Vessel Management (PVM) is an innovative approach to address marine vessel traffic issues in Canada’s waterways. ...

...

“To support the PVM pilot project in Cambridge Bay, the Victoria Island Waterway Safety Committee was established. This Committee was formed under the authority of the Ekaluktutiak Hunters and Trappers Organization (EHTO) in partnership with Oceans North and Transport Canada and identified three priorities to be addressed using a PVM approach, including:

- 1) Increasing communication with the Canadian Coast Guard regarding ice breaking activities;
- 2) Mitigating the potential negative impacts of ice breaking on the migration of the caribou, hunters and community members travelling across the sea ice and local food security; and
- 3) Identifying safe harbours (via mapping) for hunters and community members to access along the waterway.”

#### Considerations

The NPC appreciates the GoC’s suggestion for greater NMC involvement on issues where the 2016 DNLUP made recommendations regarding marine areas, as the primary function of the NMC is to make recommendations to government that must be taken into consideration. However, unlike the NMC, it is within the NPC’s mandate to include enforceable measures in a land use plan to efficiently safeguard community on-ice travel routes. It is recognized that other potential tools exist that can help manage this issue, but these tools have not yet fully addressed community concerns throughout Nunavut.

***The potential value of including guidance in the NLUP for ON-ICE TRAVEL ROUTES is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>2</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

### 4.1.3.6 Policy Options for On-Ice Travel Routes

#### 4.1.3.6.1 Option 1 - Limited Use

No participant recommended this option.

#### 4.1.3.6.2 Option 2 - Conditional Use

The NBRLUP includes the following conformity requirements:

“3.2.1 All land users shall refer to the land values and concerns in Appendix G, and to the *Areas of Importance* map, to determine important land values and concerns in areas where they plan to work, as well as to adjust their work plans to conserve these values. ...

...

“3.3.1 All land uses shall be conducted in keeping with the policy of sustainable development in order to protect the opportunities for domestic harvesting. All land users shall avoid harm to wildlife and wildlife habitat and damage to community travel routes through the timing of their operations, through careful selection of the location of their main camps and travel routes, and through other mitigative measures. In order to achieve these ends, all land users shall follow the Code of Good Conduct contained in Appendix H.”

In 2015, the Arviat HTO<sup>1</sup> noted:

“The Arviat HTO is concerned that, in the future, there might be icebreaking shipping proposed for Hudson’s Bay. The Arviat HTO requests that icebreaking shipping be banned near the community. The ice sea and floe edge is very important for our community’s hunting of marine mammals and travel during the winter months. ...”

In 2015, the Aqigiq HTO<sup>2</sup> noted:

“The sea ice near Chesterfield Inlet is very important for walrus hunting, seal hunting, and polar bear migration. Icebreaking shipping could be detrimental to the community’s harvesting activities. Icebreaking shipping near our community should be banned.”

In a summary table from a joint NLUP Signatory Workshop held in 2016, the GoC<sup>3</sup> was noted as recommending:

“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 review done by the Nunavut Impact Review Board.”

In 2016, the KWB<sup>4</sup> stated:

*“Recommendation – the KWB recommends that the Nunavut Land Use Plan include seasonal restrictions prohibiting marine transportation that would destroy areas of sea ice Inuit hunters rely upon for travel in winter months.”*

In 2017, the Mayukalik (Kimmirut) HTA<sup>5</sup> recommended not allowing ice-breaking in Frobisher Bay before the end of June to allow hunters to access hunting grounds.

In 2017, the Hall Beach HTA<sup>6</sup> submitted:

“1. The two ski-doo trails (drawn with black marker) on the ice in Roche Bay and Foxe Basin will be designated as ‘on-ice marine transportation routes’ under the Nunavut Land Use Plan, and that these routes will be closed to all ship traffic during Upingaksaq and Upingaaq.”

In 2018, NTI and the RIAs<sup>7</sup> stated:

“... NTI and the RIAs agree with NPC that issues related to ice-breaking should be addressed within the NLUP.

“As a preliminary submission, NTI and the RIAs recommend referencing the approach within the North Baffin Regional Land Use Plan regarding ice-breaking activities within the NLUP. Specifically, the conformity requirements of sections 3.2.1, 3.3.1 and 3.5.4 and related appendices within the North Baffin Regional Land Use Plan could be incorporated substantively into the NLUP.

“NTI and the RIAs would consider an NPC proposal to update the requirements of the North Baffin Regional Land Use Plan regarding ice-breaking within the NLUP in a manner that secures similar results. NTI and the RIAs are continuing to discuss this issue and may provide further written submissions.”

In 2018, the QWB and the HTOs of Grise Fiord, Resolute Bay, Arctic Bay, Pond Inlet, Clyde River, Qikiqtarjuaq, Pangnirtung, Iqaluit, Kimmirut, Cape Dorset, Sanikiluaq,

<sup>1</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-107E)

<sup>2</sup> (Aqigiq HTO, 2015-09-18. NPC Public Registry File # 14-103E)

<sup>3</sup> (Government of Canada, 2016-12-06. NPC Public Registry File # 16-153E)

<sup>4</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)

<sup>5</sup> (Mayukalik HTO, 2017-02-09. NPC Public Registry File # 16-090M)

<sup>6</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>7</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)

Hall Beach and Igloolik<sup>1</sup> recommended the following conditions be applied to on-ice travel routes:

**“Conditions:**

- Closed to all ship traffic, subject to safe navigation, during Ukiak, Ukiuq, Upingaksaq, and Upingaaq.
- All floe edges are closed to all ship traffic, subject to safe navigation, during Ukiak, Ukiuq, Upingaksaq, and Upingaaq without prior, informed and written consent from all of the Hunters and Trappers Organizations (HTOs) and Regional Wildlife Organizations (RWOs) within 300 km, and subject to any conditions requested by the HTOs and RWOs. Lack of response from an HTO or RWO does not indicate consent.
- Any project in Nunavut that involves shipping that would violate these conditions is prohibited.
- This condition may be waived through submission of a robust ice-bridging plan.”

During 2019 community meetings, residents of Taloyoak,<sup>2</sup> Cambridge Bay,<sup>3</sup> Kugluktuk,<sup>4</sup> Kugaaruk,<sup>5</sup> and Gjoa Haven<sup>6</sup> recommended protection of on-ice routes from ice-breaking. While Taloyoak residents stated the proposed seasonal dates in the 2016 DNLUP are correct, Gjoa Haven residents said the on-ice season ends sometime between July 15 and August 1. In 2019, Cambridge Bay and Kugluktuk residents said the on-ice season ends in late June. Some Kugluktuk residents suggested mid-May as a more reasonable end date, while some Cambridge Bay residents noted restrictions could end in mid-July.

**Considerations**

The NPC notes that some participants support this option. The NPC also notes that the NBRLUP’s conformity requirements can best be characterized as CU-type requirements. In addition, the NPC notes NTI supports the current NBRLUP’s conformity requirements.

The concerns regarding potential impacts on community on-ice travel routes are well-understood. It is also noted

that these on-ice travel routes are extensive and intersect with important existing shipping routes. In the 2016 DNLUP, it was proposed that shipping be seasonally restricted if it crosses an on-ice travel route, but that condition could be waived if a robust ice-bridging plan was prepared.

The NPC also notes that that under section 153(1) of the NuPPAA, the NIRB cannot screen projects that are individual ship movements not relating to another project, whereas if an individual ship movement constitutes a project in and of itself, the NPC would be the only IPG to review such a project prior to licensing.

**4.1.3.6.3 Option 3 - Mixed Use**

In 2016, Baffinland<sup>7</sup> stated:

“For clarity, Baffinland is opposed to the concept of specifying specific land based corridors or ‘Marine Ice-Free Shipping Corridors, Marine on Ice-Transportation Corridors, Marine Utility Corridors, and Marine Icebreaking Corridors’ within the NLUP. However, should NPC proceed with any approach which would restrict transportation by land or sea within Nunavut or would restrict transportation infrastructure, Baffinland wishes to ensure that the Mary River Project transportation routes are accurately reflected and included in the NLUP. Accordingly, Baffinland has provided with this submission shape files for the Northern and Southern all weather shipping routes (which include marine infrastructure as permitted by NIRB and other regulatory authorities) as well as the routes which allow for land-based transportation activities and infrastructure.”

In 2017, the GoC<sup>8</sup> noted:

“The Government of Canada recommends that the marine transportation issues be removed from the draft Plan and that existing robust vessel traffic regulatory regime continue to operate with input from industry stakeholders, Indigenous people, and key territorial and federal departments to better protect the Arctic environment, cultural practices and culturally sensitive areas, and marine safety.”

**Considerations**

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-256E)

<sup>7</sup> (Baffinland Iron Mines Ltd., 2016-03-04. NPC Public Registry File # 14-155E)

<sup>8</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

The NPC notes that some participants, including the GoC, support this option.

#### 4.1.3.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 4.1.3.7 NPC Recommendation - CU

Given that:

##### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered **HIGH**.

##### ON-ICE TRAVEL ROUTES:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	HIGH

##### Recommendation for On-Ice Travel Routes

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 2 was recommended to reflect feedback from Nunavut communities regarding the need to protect on-ice travel routes.

#### LAND USE PLAN POLICY RECOMMENDATION

##### **ON-ICE TRAVEL ROUTES**

##### **CONDITIONAL USE**

##### **Conditions:**

- Except as required for safe navigation, a proponent of a project that will disrupt or destroy on-ice travel routes during the seasons of Upingaksaag and Upingaaq set out in Table 3 of the 2021 DNLUP must consult with all municipal councils, HTOs and regional wildlife organizations (RWOs) within a 300 km radius of the route

and develop an ice-bridging plan before undertaking the project (see section 6.2.7 for consideration of the implementation of this condition)

- The applicable condition does not apply to vessels engaged in community resupply or emergency response

#### 4.1.3.8 Summary of Revisions

##### **KRLUP and NBRLUP**

On-ice travel routes were not discussed in the KRLUP.

The NBRLUP recommends that all land users avoid damage to community travel routes by carefully selecting the location, the travel routes and the timing of their operations.

##### **2012, 2014 and 2016 DNLUP**

On-ice travel routes were not discussed in the 2012 or 2014 DNLUP.

The 2016 DNLUP included on-ice transportation corridors on Map A as SMAs, with seasonal restrictions on ship traffic. Any proposed ice-breaking that would cross recognized Inuit marine on-ice travel routes would have to present a conceptual but robust plan for ice-bridging. The elements of this were described in Annex B.

##### **2021 DNLUP**

The 2021 DNLUP assigns a CU designation to on-ice travel routes. It also removes the requirement to submit a robust ice-bridging plan and replaces it with a requirement to consult nearby communities before undertaking the project.

#### 4.1.4 NORTH BAFFIN

##### 4.1.4.1 Moffett Inlet

##### 4.1.4.1.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2016	896	0



Community residents of Arctic Bay<sup>1</sup> during the NPC’s 2012 community consultation identified multiple priorities and values in Moffett Inlet, which is off Admiralty Inlet south of Arctic Bay.

The geographic boundaries of the Moffett Inlet community area of interest currently considered were created by the NPC using a waterbody feature layer (1:250,000) derived from Nunamap II with waterbodies over 50 ha and a 1 km buffer applied.

**Considerations**

The NPC considers there to be high certainty regarding the geographic boundaries of the Moffett Inlet community area of interest. The geographic boundaries currently considered for this area were created by the NPC using well-defined waterbodies. No participant expressed disagreement with the proposed boundaries. The area is included within the new boundaries of the proposed Tallurutiup Imanga NMCA.

***The certainty of the identified geographic boundaries of MOFFETT INLET is considered HIGH because:***

- The area is identified with high precision/scale;*
- There is high agreement among participants regarding the boundaries; and*
- The information is current.*

4.1.4.1.2 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2016	896	255	0	0

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-065E)  
<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)  
<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

**Considerations**

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Moffett Inlet community area of interest is considered low.

***The potential for non-renewable resources, transportation and linear infrastructure in MOFFETT INLET is considered LOW because:***

- The area has little overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- The area has no known potential for transportation and linear infrastructure development;*
- The area has no existing rights for non-renewable resource land use;*
- The area has no subsurface IOL parcels; and*
- The area is relatively small.*

4.1.4.1.3 Environmental and Cultural Importance

The 2012 DFO<sup>4</sup> community consultation data and reports identified Moffett Inlet as a source of Arctic char, and habitat for Greenland sharks, narwhals, bowhead whales, bearded seals, harp seals and ring seals. Orcas and beluga whales also use this area.

In 2013, priorities and values of Arctic Bay<sup>5</sup> residents included caribou, polar bears, birds, fish, marine mammals, river or lake of interest, land mammals, wildlife, cultural values, impacts, contaminated sites, potential economic development, existing economic development, no oil and gas, no shipping, and protection.

**Considerations**

Participants broadly agreed on the high environmental and cultural importance of the Moffett Inlet community area of interest. Community ice travel routes pass

<sup>4</sup> [http://publications.gc.ca/collections/collection\\_2012/mpo-dfo/Fs97-4-2976-eng.pdf](http://publications.gc.ca/collections/collection_2012/mpo-dfo/Fs97-4-2976-eng.pdf)  
<sup>5</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-065E)



through the area. The area also has NPC use and occupancy mapping data, including sacred sites and hunting and harvesting activity.

***The environmental and cultural importance of MOFFETT INLET is considered HIGH because:***

- *The importance of the area to the communities is high; and*
- *The importance of the area to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The area is essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

#### 4.1.4.1.4 Sensitivity to Impacts

Community residents of Arctic Bay<sup>1</sup> during the NPC's 2012 community consultation expressed concerns about the impacts of helicopter activity, cruise ships and ice-breaking in Admiralty Inlet.

#### Considerations

Participants broadly agreed that the sensitivity of the Moffett Inlet community area of interest to impacts from incompatible uses is moderate and seasonal. Moffett Inlet is a multi-value area and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading "Sensitivity to Impacts."

***The sensitivity of MOFFETT INLET to impacts is considered MODERATE and SEASONAL because:***

- *Wildlife are moderately sensitive to disturbance when using the area;*
- *Wildlife use the area when disturbance is moderately likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

#### 4.1.4.1.5 Other Regulatory Tools

On August 14, 2017, the PCA<sup>2</sup> announced the final revised boundaries for the proposed Tallurutiup Imanga NMCA. The Moffett Inlet community area of interest is totally included within the new boundaries of the proposed Tallurutiup Imanga NMCA.

On August 1, 2019, the GoC and the QIA signed the IIBA for the establishment of the Tallurutiup Imanga NMCA. The final steps for establishing the NMCA are in progress.

The NLUP will not apply to the area inside the NMCA boundaries when it is fully established under the *Canada National Marine Conservation Areas Act*.

#### Considerations

The NLUP will not apply to the area inside the NMCA boundaries when it is fully established under the *Canada National Marine Conservation Areas Act*.

The NLUP is able to prevent inconsistent developments in the Moffett Inlet community area of interest until the full establishment of the NMCA.

***The potential value of including guidance in the NLUP for MOFFETT INLET is considered LOW because:***

- *The issue is addressed by other regulatory authorities; and*
- *There is overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.4.1.6 Policy Options for Moffett Inlet

In 2015, the GoC<sup>3</sup> stated:

"Canada notes that the DNLUP (at page 68) proposes to prohibit commercial shipping and cruise ships from operating in Moffett Inlet and in a portion of Foxe Basin. It is not clear what the purpose of such a prohibition is and why less restrictive measures cannot accomplish the same result(s). In Canada's view, an outright prohibition should only be put in place if other less restrictive measures have proven to be ineffective to address environmental and other concerns. As a general rule, Canada's domestic regulatory regime seeks to promote rather than restrict marine commerce. An outright ban on commercial shipping in Canadian waters could have a significant and potentially negative impact both on the shipping industry and Canadian communities in the North.

#### "Recommendations

"To ensure that the NLUP respects Canada's international obligations with respect to navigation and shipping, it is recommended that the following wording be added either immediately before section 4.1.1 or at the end of section 1.5.3 (Application of the Plan) of the DNLUP:

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-065E)

<sup>2</sup> <https://www.pc.gc.ca/en/amnc-nmca/cnamnc-cnmca/tallurutiup-imanga>

<sup>3</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

The plan should be interpreted and applied in a way that respects Canada's international rights and obligations including under the *United Nations Convention on the Law of the Sea, 1982*, customary international law and any other binding international instrument.

"To ensure that Canada's existing domestic regime is also respected it is recommended that the Commission be mindful of the existing domestic regulatory regime in place for Arctic shipping and the need to balance the need for safe and environmentally responsible shipping with economic development.

"Canada further recommends that the underlying issues that led the DNLUP to propose the prohibition on shipping in Moffett Inlet and parts of Foxe Basin be discussed further. It is very likely that there is a less restrictive approach that could strike an appropriate balance between the different interests on shipping in Moffett Inlet and parts of Foxe Basin."

In 2017, the GoC<sup>1</sup> indicated:

"A year-round prohibition on vessel traffic in Foxe Basin and Moffatt Inlet and the other seasonal restrictions proposed will impede Government of Canada vessels and from conducting vital work in the national and territorial interest of Nunavut, including emergency response services and community resupply."

### Considerations

The NPC has not categorized the GoC's comments according to the options below as they provide general information regarding the development of the NLUP. Also, it should be clarified that the proposed shipping restrictions in the 2021 DNLUP do not apply to emergency rescue activities or community resupply trips.

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#### 4.1.4.1.6.1 Option 1 - Limited Use

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In 2012, Arctic Bay<sup>2</sup> residents requested this option during the NPC's community consultation.

In 2016, regarding marine shipping, the GoC<sup>3</sup> noted:

"The draft Nunavut Land Use Plan needs to be developed and applied in a way that recognizes the existing regulatory framework which reflects Canada's international obligations with respect to shipping and navigation. The

Government of Canada sees prohibitions on shipping as a last resort once all other available tools are examined."

In 2017, the GoC<sup>4</sup> indicated:

"Not having access to Moffett Inlet will prevent the RCN from conducting surveillance and enforcement operations to protect this environmentally sensitive area.

...

"A year-round prohibition on vessel traffic in Foxe Basin and Moffett Inlet and the other seasonal restrictions proposed will impede Government of Canada vessels and from conducting vital work in the national and territorial interest of Nunavut, including emergency response services and community resupply."

In 2017, the GN<sup>5</sup> noted concerns regarding restricting tourism in the area:

"Further it is uncertain how the prohibitions and conditions included in the designations for the Moffatt Inlet & Foxe Basin community areas of interest can and will be enforced. Before the Plan is finalized the NPC should consult with federal authorities in order to confirm the legality of these prohibitions and the process for their monitoring and enforcement.

...

"... The Plan also restricts cruise ship tourism uses within certain Community Area of Interest Protected Areas: Foxe Basin and Moffett Inlet (labelled 73, 74 respectively on Schedule A; these areas prohibit 'marine shipping' though no definition for 'marine shipping' is included in the Plan).

...

"The GN does not support unnecessary tourism restrictions in the NLUP because potential restrictions on high-use tourism areas could have a significant negative impact on the industry. However, the GN recognizes that there are legitimate reasons to restrict tourism activities at certain times in certain areas.

"When the NLUP considers tourism restrictions it is hoped that Part 5 of the plan, the sustainable economic well-being of communities, plays a prominent role in mitigating proposed restrictions. Specifically, there needs to be a clearer recognition of the role tourism can play in communities by providing them with a sustainable, renewable resource (i.e. tourists) and that the industry has

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<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-065E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>5</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

relatively minimal impact on the environment compared to other types of development.

“As part of the updates to the *Tourism Act*, new Restricted Tourism Areas may be drafted, which will allow a community, in consultation with EDT, to restrict any or all kinds of tourism in a particular area, for a specific amount of time. Restrictions on these areas will be finite and would co-exist with NLUP designations – if there is a need for more permanent restrictions, these can be amended into the NLUP as such restrictions reflect the direct will of communities.”

### Considerations

The NPC notes that some participants support this option, while the GN and GoC comments are best characterized as not supporting this option.

The area has been identified by some residents as an important area that should be protected through the NLUP. A LU designation that prohibits incompatible uses would be consistent with these views.

Regarding the concerns raised by the GoC over restricting access to government and community resupply vessels, it should be noted all restrictions on marine shipping would not apply to emergency rescue or community resupply. In addition, at this time, the NPC has not received further information on the potential Restricted Tourism Areas that were being considered by the GN as part of the updates to the *Nunavut Travel and Tourism Act*.

#### 4.1.4.1.6.2 Option 2 - Conditional Use

In 2017, NTI and the RIAs<sup>1</sup> stated:

“The optimal situation is to provide land use direction to assist in protecting the community value without unnecessarily limiting economic opportunities that are also of interest to the communities.”

### Considerations

The NPC notes that NTI and the RIAs support this option. Although NTI and the RIAs support this option, they did not recommend any specific conditions that should be implemented through a CU designation. NTI and the RIAs also previously suggested that the NPC consult with communities and the feedback noted above from Arctic

Bay residents shows support for a LU designation with prohibited uses.

#### 4.1.4.1.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 4.1.4.1.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 4.1.4.1.7 NPC Recommendation - MU

Given that:

### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

### MOFFETT INLET:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>LOW</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>MODERATE and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>LOW</b>

### Recommendation for Moffett Inlet

Option 3 is recommended:

- Does not restricts access.
- Identified area not included on Map A or Map B.

**Rationale:** Option 3 is recommended given the location of the area within the NMCA currently awaiting full establishment, which is assigned a LU designation in Chapter 2, and it is noted that the NLUP will not apply in this area once the NMCA is fully established.

### LAND USE PLAN POLICY RECOMMENDATION

#### **MOFFETT INLET**

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

## MIXED USE

### 4.1.4.1.8 Summary of Revisions

#### KRLUP and NBRLUP

Moffett Inlet falls within the NBRLUP. The NBRLUP does not include specific planning measures for this area, but in Appendix G – Land Values and Concerns – part of the area is identified as an “Essential Area” and part as an “Important Area.”

#### 2012, 2014 and 2016 DNLUP

The Moffett Inlet community area of interest was not discussed in the 2012 DNLUP.

Both the 2014 and 2016 DNLUP included Moffett Inlet as a community area of interest. The 2014 and 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses. In addition, the 2016 DNLUP prohibited all projects/project proposals in Nunavut that would include or involve any shipping during any time of the year in Moffett Inlet.

#### 2021 DNLUP

The 2021 recommendation to assign a MU designation to Moffett Inlet reflects the anticipated establishment of a NMCA in the area, where the NLUP will not apply once the NMCA is fully established.

### 4.1.4.2 Hall Beach Areas

#### 4.1.4.2.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
HTA, 2017	11,641	0

In 2017, the Hall Beach HTA<sup>1</sup> provided the NPC with a hand-drawn map showing:

“4. Roche Bay (drawn in orange) will be designated as a ‘Community Area of Interest’ ...

“5. The area drawn in pink on the land, islands and waters on western Melville Peninsula and Gulf of Boothia will be designated as a ‘Community Area of Interest’ ...

“6. The area drawn in red in Foxe Basin will be designated as a ‘Community Area of Interest’ ...”

In 2018, the QWB also provided related information. The NPC’s observations about the QWB submissions in relation to the HTA map are as follows:

- The QWB<sup>2,3</sup> submissions on walrus harvesting and haul-outs were broadly consistent with the HTA areas.
- The QWB<sup>4</sup> submission on caribou harvesting is broadly consistent with the area mentioned by the HTA and helped identify the locations described by the HTA.
- The QWB<sup>5</sup> submission on beluga harvesting areas is moderately consistent with the HTA submission.
- The QWB<sup>6</sup> submission on fishing areas is not consistent with the HTA submission.
- The QWB<sup>7</sup> submission on Hall Beach multi-use areas is consistent with both the HTA’s<sup>8</sup> submission and comments from Hall Beach residents<sup>9</sup> during the NPC’s 2013 community consultation.

In addition, Hall Beach residents<sup>10</sup> during the NPC’s 2013 community consultation showed a strong interest in protection for the areas south and west of Hall Beach, and extending southwards along the coast. While details vary, there is a long-standing and consistent pattern of community concern for the central Melville Peninsula from the residents of Hall Beach.

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of the Hall Beach community areas of interest. Overall, there is a large amount of consistent information for several different categories of community areas of interest raised by the residents of Hall Beach. The geographic boundaries

<sup>1</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-185E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-184E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-189E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-201E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-210E)

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-215E)

<sup>8</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>9</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-077E)

<sup>10</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-077E)

currently considered for these community areas of interest are made of the QWB submissions and the NPC's digitization of the areas submitted by the Hall Beach HTA.

***The certainty of the identified geographic boundaries of the HALL BEACH AREAS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 4.1.4.2.2 Environmental and Cultural Importance

In 2013/2014, Hall Beach,<sup>1</sup> Igloolik<sup>2</sup> and Taloyoak<sup>3</sup> residents noted the importance of these areas for several reasons, including:

- Roche Bay – snow goose nesting, narwhal and walrus hunting, spring and summer camps for seal hunting, fishing, and hunting snow geese and caribou along the shore;
- Garry Bay area on western Melville Peninsula – polar bear denning, polar bear mating, polar bear hunting, wolverine habitat, archaeological sites, and narwhal, beluga and bowhead whales; and
- Location in Foxe Basin – walrus habitat, walrus hunting, waterfowl nesting, and picking Arctic tern eggs on small islands.

During use and occupancy interviews conducted by the NPC between 2004 and 2011, residents identified the following harvesting activities and land uses in these areas:

- Roche Bay – ringed seals, beluga whales, char, bird eggs, igloos, and sod houses;
- Garry Bay area on western Melville Peninsula – polar bears, caribou, and igloos; and
- Location in Foxe Basin – walrus, ringed seals, polar bears, and bird eggs.

In 2017, the Hall Beach HTA<sup>4</sup> submitted:

“4. Roche Bay (drawn in orange) will be designated as a ‘Community Area of Interest’ because of its importance as a seal hunting area and other community uses ...

“5. The area drawn in pink on the land, islands and waters on western Melville Peninsula and Gulf of Boothia will be designated as a ‘Community Area of Interest’ because of its importance in Inuit archaeology, history and use, polar bear harvesting, and polar bear denning and use in other seasons ...

“6. The area drawn in red in Foxe Basin will be designated as a ‘Community Area of Interest’ because of its importance for community resource harvesting (e.g., marine mammals, fish, clams) and important walrus habitat for the community ...”

In 2018, regarding a larger area that overlaps with a portion of the Foxe Basin location, the QWB<sup>5</sup> submitted:

“These waters provide Inuit with both important cultural and subsistence resources. They are important areas for beluga and narwhal during Upingaaq, Aujaq and Aujaq, when the whales migrate into the areas from early break-up to late freeze-up. Narwhal and beluga also calve in these waters. ...”

In 2018, regarding several areas including the Roche Bay location, the QWB<sup>6</sup> submitted:

“All of these [areas] are important community harvesting areas for wildlife ...

“All of these areas are critically important to maintain the health, culture and heritage of the Inuit of Hall Beach.”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of the Hall Beach areas. In particular, through many years of consultations, residents of Hall Beach and nearby communities have consistently identified the high cultural and environmental importance of these areas.

The Hall Beach areas overlap with other values discussed in this 2021 O&R, including: polar bear denning areas; caribou key access corridors; caribou calving areas (tundra wintering herds); on-ice travel routes; EBSAs; walrus haul-outs; and beluga calving areas.

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-077E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-078E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2014-05-30. NPC Public Registry File # 12-208E)

<sup>4</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-201E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-215E)



***The environmental and cultural importance of the HALL BEACH AREAS is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

**4.1.4.2.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure**

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
HTA, 2017	11,641	1,171	0.83	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Hall Beach community areas of interest is considered high. Of particular note, the Melville Peninsula has very high mineral potential, including proven iron ore reserves. Within the Hall Beach areas in general, there is some known mineral potential, but no known oil and gas significant discovery. In

addition, the areas overlap with routes currently identified in the NMTCL.

***The potential for non-renewable resources, transportation and linear infrastructure in the HALL BEACH AREAS is considered HIGH because:***

- *The areas have some overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively small.*

**4.1.4.2.4 Sensitivity to Impacts**

Based on discussions with participants in Hall Beach,<sup>3</sup> Igloolik<sup>4</sup> and Taloyoak<sup>5</sup> during the 2013/2014 community consultations, the NPC understands that:

- The areas identified are considered by the community to be important to the Goals of Protecting and Sustaining the Environment and Building Healthier Communities; and
- In these areas, the community would like the NLUP to encourage activities that support:
  - Environmental protection and management needs, including wildlife conservation, protection and management; and
  - Community needs and cultural priorities.

In 2018, the QWB<sup>6</sup> stated:

"There is evidence that military sonar has negative effects on marine mammals (Cressey 2008). A federal US court has found that the US Navy's use of sonar has illegally harmed numerous populations of whales, dolphins, seals and sea lions (Morell 2015). ..."

In 2018, the QWB<sup>7</sup> wrote:

"Industrial development in or near these areas would degrade their value. Such development must be prohibited."

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-077E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-078E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2014-05-30. NPC Public Registry File # 12-208E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-201E)

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-215E)



## Considerations

The NPC considers the sensitivity of the Hall Beach community areas of interest to impacts from incompatible uses to be moderate and seasonal. There are few comments directly related to the sensitivity to disturbance of the areas, but it is understood that the areas are important to communities and wildlife, and residents do not want to be disturbed while using them.

### ***The sensitivity of the HALL BEACH AREAS to impacts is considered MODERATE and SEASONAL because:***

- *Wildlife are moderately sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is moderately likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

#### 4.1.4.2.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the Hall Beach community areas of interest.

## Considerations

The NLUP is an appropriate tool to prevent inconsistent developments in the Hall Beach community areas of interest. The primary values to be protected in the Hall Beach community areas of interest include fisheries and archaeology. Both of these values have some levels of protection under either the *Fisheries Act* or the *Nunavut Archaeological and Palaeontological Sites Regulations*. The NLUP is able to complement these pieces of legislation to respond to the particular protection needs indicated by communities.

### ***The potential value of including guidance in the NLUP for the HALL BEACH AREAS is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.4.2.6 Policy Options for the Hall Beach Areas

#### 4.1.4.2.6.1 Option 1 - Limited Use

In 2017, the Hall Beach HTA<sup>1</sup> submitted:

"4. Roche Bay (drawn in orange) will be designated as a 'Community Area of Interest' because of its importance as a seal hunting area and other community uses, and that this area will be protected from Mineral, Oil and Gas Exploration and Production, Marine Shipping, Hydro-electric and related infrastructure, and related research.

"5. The area drawn in pink on the land, islands and waters on western Melville Peninsula and Gulf of Boothia will be designated as a 'Community Area of Interest' because of its importance in Inuit archaeology, history and use, polar bear harvesting, and polar bear denning and use in other seasons, and that this area will be protected from Mineral, Oil and Gas Exploration and Production, Quarries, Hydro-electric and related infrastructure, Linear infrastructure, and related research.

"6. The area drawn in red in Foxe Basin will be designated as a 'Community Area of Interest' because of its importance for community resource harvesting (e.g., marine mammals, fish, clams) and important walrus habitat for the community, and that this area will be protected from Mineral, Oil and Gas Exploration and Production, Marine Shipping, Hydro-electric and related infrastructure, and related research."

In 2018, the QWB<sup>2</sup> wrote:

"Industrial development in or near these areas would degrade their value. Such development must be prohibited."

## Considerations

The NPC notes that the nearby community residents strongly support this option.

#### 4.1.4.2.6.2 Option 2 - Conditional Use

While NTI and the RIAs<sup>3</sup> supported this option in 2017 for all new community areas of interest, no specific conditions were provided:

"NTI and the RIAs recommend that community proposals for Community of Areas Interest that were not included in a proposed land designation in the DNLUP 2016 be created as Special Management Areas. ... Classifying the areas of interest as VECs or VSECs does not provide the level of land use direction that the communities have requested."

<sup>1</sup> (Hall Beach Hunters and Trappers Association, 2017-02-28. NPC Public Registry File # 16-096E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-215E)

<sup>3</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

## Considerations

The NPC notes that NTI and the RIAs support this option for new community areas of interest, which includes the Hall Beach areas.

### 4.1.4.2.6.3 Option 3 - Mixed Use

No participant recommended this option.

### 4.1.4.2.6.4 Option 4 - Valued Component

No participant recommended this option.

### 4.1.4.2.7 NPC Recommendation - LU

Given that:

#### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

#### HALL BEACH AREAS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	MODERATE and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for the Hall Beach Areas

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given the importance of the areas for the communities and the communities' long-time request for the NLUP to protect these areas of interest.

#### LAND USE PLAN POLICY RECOMMENDATION

## HALL BEACH AREAS

### LIMITED USE

#### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production
- Hydro-electrical and related infrastructure

### 4.1.4.2.8 Summary of Revisions

#### KRLUP and NBRLUP

The NBRLUP does not extend to the Hall Beach community areas of interest.

#### 2012, 2014 and 2016 DNLUP

The Hall Beach community areas of interest were not discussed in any earlier version of the DNLUP.

#### 2021 DNLUP

The 2021 DNLUP assigns a LU designation to the areas that prohibits incompatible uses. This designation reflects the importance of the areas to the communities.

### 4.1.4.3 Foxe Basin

#### 4.1.4.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
DFO, 2013	5,026	0

In 2013, DFO<sup>1</sup> provided a shapefile of the Foxe Basin community area of interest and noted: "The boundary of the AOI was identified through community consultations and science meetings."

In 2018, the QWB and the Igloodik and Hall Beach HTOs<sup>2</sup> recommended that the area be extended to the north and south "because the mapped area does not adequately protect important harvesting areas of Igloodik and Hall Beach."

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of the Foxe Basin community area of interest. The geographic boundaries

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-187E)

currently considered for this area are made of DFO data and the QWB submission.

***The certainty of the identified geographic boundaries of the FOXE BASIN is considered MODERATE because:***

- *The area is identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 4.1.4.3.2 Environmental and Cultural Importance

In 2013, Hall Beach,<sup>1</sup> Igloolik<sup>2</sup>, Arctic Bay<sup>3</sup> and Pond Inlet<sup>4</sup> residents noted the importance of the areas for several reasons, including caribou, polar bears, walrus, birds, fish, marine mammals, wildlife, cultural values, impacts, potential economic development, no transportation and infrastructure, no shipping, and protection.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>5</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, indicated that this area is important to a variety of species including walrus, narwhal, polar bear, beluga whale, bowhead whale, several species of fish including Arctic Cod, as well as a wide variety of invertebrates.

The 2012 DFO<sup>6</sup> community consultation data and reports identified the Foxe Basin area as important for biodiversity including birds, seals, polar bear and walrus. The area includes general habitat, migration and birthing grounds for much wildlife. The report reads:

“This area is abundant with walrus and provides critical birthing, calving and haulout sites. The walrus are said to travel and gather in large aggregations during certain times of the year. Beluga and bowhead also use this area, particularly in the summer and fall. Ducks are seen along the ice floe in winter, and Rowley Island (which is nesting habitat) in spring. Canada geese, brant geese, snow geese, gulls, jaegers, eider ducks, kittiwakes and arctic terns are all found in this region. Mussels and clams are present

between the communities of Hall Beach and Igloolik, and arctic char are found in the inlets along the coast and are especially abundant in Roche Bay. Bearded seals use this area in the summer, and ringed seals stay year round, finding habitat at the ice floe edge in the winter. ... Recently, there has been an increase in the number of polar bears seen in the region.”

In 2013, the GoC<sup>7</sup> indicated:

“... An AOI for a Marine Protected Area (MPA) was identified in the Foxe Basin marine area. Nunavut agencies and communities, government departments and other stakeholders were consulted and expressed interest in establishing a MPA in the Foxe Basin marine area. The Foxe Basin marine area is a major entrance/exit migratory route for bowhead whales and narwhal through Fury and Hecla Strait. It is also a central aggregation area for walrus. A small polynya provides highly productive habitat for a wide variety of marine life. ...”

In 2014, the WWF<sup>8</sup> submission confirmed that the area contains polar denning areas, summer retreat and winter concentration habitats. As identified by the WWF in this report, this area is also crossed by a large polynya.

In 2018, the QWB<sup>9</sup> indicated several species, including the following, rely on the Foxe Basin: polar bear, walrus, Natsilik caribou (post-calving areas), and several types of seals and birds.

This information above also corroborates with the environmental inventory reports provided by the WWF<sup>10,11</sup> in 2016 and 2017.

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of the Foxe Basin community area of interest.

The area overlaps with the Rowley Island EBSA. The area is also habitat for some species, such as bowhead whale, polar bear, killer whale and beluga whale, that are listed as species at risk by the GoC.<sup>12</sup>

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-077E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-078E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-065E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2013-08-15. NPC Public Registry File # 12-067E)

<sup>5</sup> (Nunavut Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>6</sup> [http://publications.gc.ca/collections/collection\\_2012/mpo-dfo/Fs97-4-2976-eng.pdf](http://publications.gc.ca/collections/collection_2012/mpo-dfo/Fs97-4-2976-eng.pdf)

<sup>7</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>8</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>9</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-193E)

<sup>10</sup> (WWF-Canada, 2016-08-15. NPC Public Registry File # 16-015E)

<sup>11</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>12</sup> <https://www.canada.ca/en/environment-climate-change/services/species-risk-act-accord-funding/listing-process/wildlife-schedule-1.html>

The area has NPC use and occupancy mapping activity, including birth sites, overnight sites, and hunting and harvesting activity. In addition, the area contains sacred sites as identified by a community consultation.

***The environmental and cultural importance of the FOXE BASIN is considered HIGH because:***

- *The importance of the area to the communities is high; and*
- *The importance of the area to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The area is essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

**4.1.4.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure**

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
DFO, 2013	5,026	23.4	0	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Foxe Basin community area of interest is considered moderate. Of particular note, part of the area overlaps IOL, and portions of the area overlap routes currently identified in the NMTCI. There is no

known mineral potential and no known oil and gas significant discovery in the area.

***The potential for non-renewable resources, transportation and linear infrastructure in the FOXE BASIN is considered MODERATE because:***

- *The area has little overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The area has some potential for marine transportation and linear infrastructure development;*
- *The area has no existing rights for non-renewable resource land use;*
- *The area has no subsurface IOL parcels; and*
- *The area is relatively small.*

**4.1.4.3.4 Sensitivity to Impacts**

The NPC did not receive comments directly related to the sensitivity of the Foxe Basin community area of interest to impacts.

### Considerations

The NPC considers the sensitivity of the Foxe Basin community area of interest to impacts from incompatible uses to be moderate and year-round. Foxe Basin is a multi-value area and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading "Sensitivity to Impacts."

***The sensitivity of the FOXE BASIN to impacts is considered MODERATE and YEAR-ROUND because:***

- *Wildlife are moderately sensitive to disturbance when using the area;*
- *Wildlife use the area when disturbance is moderately likely to occur; and*
- *The concern regarding potential impacts is year-round.*

**4.1.4.3.5 Other Regulatory Tools**

In 2013, DFO indicated the following in a GoC<sup>3</sup> submission:

"... An [AOI] for a Marine Protected Area (MPA) was identified in the Foxe Basin marine area. Nunavut agencies and communities, government departments and other stakeholders were consulted and expressed interest in

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

establishing a MPA in the Foxe Basin marine area. ... The MPA process was postponed.”

### Considerations

Government and other stakeholders expressed interest in establishing a MPA in the Foxe Basin marine area of interest, but that process was postponed. The NLUP is an appropriate tool to prevent inconsistent uses in the area while the MPA process is being considered.

In addition, the primary values to be protected in the Foxe Basin community area of interest include fisheries and archaeology. Both of these values have some levels of protection under either the *Fisheries Act* or the *Nunavut Archaeological and Palaeontological Sites Regulations*. The NLUP is able to complement these pieces of legislation to respond to the particular protection needs indicated by communities.

#### ***The potential value of including guidance in the NLUP for the FOXE BASIN is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

#### **4.1.4.3.6 Policy Options for Foxe Basin**

In 2015, NTI and the RIAs<sup>1</sup> submitted:

“iii. Foxe Basin: QIA and NPC should consult with the community of Igloolik to assess the Inuit goals and objectives of the IOL parcels within the proposed Community Area of Interest.”

In 2015, the GoC<sup>2</sup> stated:

“Canada notes that the DNLUP (at page 68) proposes to prohibit commercial shipping and cruise ships from operating in Moffett Inlet and in a portion of Foxe Basin. It is not clear what the purpose of such a prohibition is and why less restrictive measures cannot accomplish the same result(s). In Canada’s view, an outright prohibition should only be put in place if other less restrictive measures have proven to be ineffective to address environmental and other concerns. As a general rule, Canada’s domestic regulatory regime seeks to promote rather than restrict marine commerce. An outright ban on commercial shipping in Canadian waters could have a significant and potentially negative impact both on the shipping industry and Canadian communities in the North.

### “Recommendations

“To ensure that the NLUP respects Canada’s international obligations with respect to navigation and shipping, it is recommended that the following wording be added either immediately before section 4.1.1 or at the end of section 1.5.3 (Application of the Plan) of the DNLUP:

The plan should be interpreted and applied in a way that respects Canada’s international rights and obligations including under the ***United Nations Convention on the Law of the Sea, 1982***, customary international law and any other binding international instrument.

“To ensure that Canada’s existing domestic regime is also respected it is recommended that the Commission be mindful of the existing domestic regulatory regime in place for Arctic shipping and the need to balance the need for safe and environmentally responsible shipping with economic development.

“Canada further recommends that the underlying issues that led the DNLUP to propose the prohibition on shipping in Moffett Inlet and parts of Foxe Basin be discussed further. It is very likely that there is a less restrictive approach that could strike an appropriate balance between the different interests on shipping in Moffett Inlet and parts of Foxe Basin.”

In 2017, the GoC<sup>3</sup> indicated:

“Foxe Basin is one of the two eastern entrances to the Northwest Passage. If conditions in Lancaster Sound, the other eastern entrance, do not allow for safe transit, there would be no alternate route to get to the Nanisivik refuelling facility. Furthermore, it is part of the CAF’s mandate to establish relationships with Northern leaders, communities, and peoples including Indigenous communities. The ability of the RCN to provide support to communities such as Igloolik would be significantly impeded if all shipping is prohibited throughout the year.

...

...

“A year-round prohibition on vessel traffic in Foxe Basin and Moffatt Inlet and the other seasonal restrictions proposed will impede Government of Canada vessels and from conducting vital work in the national and territorial interest of Nunavut, including emergency response services and community resupply.”

### Considerations

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>2</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)



The NPC has not categorized the above comments according to the options below as they provide general information regarding the development of the NLUP.

The boundaries of the Foxe Basin community area of interest cover only a small portion of the Foxe Basin. The western portion of the identified areas overlaps the shipping lanes through the Fury & Hecla Strait. Also, it should be clarified that the proposed shipping restrictions in the DNLUP do not apply to emergency rescue activities or community resupply trips.

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#### 4.1.4.3.6.1 Option 1 - Limited Use

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In 2013, during community consultations conducted by the NPC, participants from Igloodik<sup>1</sup> and Hall Beach<sup>2</sup> identified a number of values in this area that they recommended be protected. These discussions in general did not include specific restrictions that would be appropriate.

In 2016, regarding marine shipping, the GoC<sup>3</sup> noted:

“The draft Nunavut Land Use Plan needs to be developed and applied in a way that recognizes the existing regulatory framework which reflects Canada’s international obligations with respect to shipping and navigation. The Government of Canada sees prohibitions on shipping as a last resort once all other available tools are examined.”

In 2017, the GoC<sup>4</sup> indicated:

“Not having access to Moffett Inlet will prevent the RCN from conducting surveillance and enforcement operations to protect this environmentally sensitive area.

...

“A year-round prohibition on vessel traffic in Foxe Basin and Moffett Inlet and the other seasonal restrictions proposed will impede Government of Canada vessels and from conducting vital work in the national and territorial interest of Nunavut, including emergency response services and community resupply.

...

“The restrictions proposed in the draft Plan for Site 73, Foxe Basin, narrow the navigable channel between Jens Munk Island and Neerlonakto Island. Historical marine transportation records show that some vessels enter the

proposed restricted area: in summer 2014, 11 vessels made multiple voyages in or near the proposed restricted area of Site 73. These restrictions on vessel traffic in Foxe Basin may have unintended negative consequences for the safety of navigation, particularly if ice is present.”

In 2017, the GN<sup>5</sup> noted concerns regarding restricting tourism in the area:

“Further it is uncertain how the prohibitions and conditions included in the designations for the Moffatt Inlet & Foxe Basin community areas of interest can and will be enforced. Before the Plan is finalized the NPC should consult with federal authorities in order to confirm the legality of these prohibitions and the process for their monitoring and enforcement.

...

“... The Plan also restricts cruise ship tourism uses within certain Community Area of Interest Protected Areas: Foxe Basin and Moffett Inlet (labelled 73, 74 respectively on Schedule A; these areas prohibit ‘marine shipping’ though no definition for ‘marine shipping’ is included in the Plan).

...

“The GN does not support unnecessary tourism restrictions in the NLUP because potential restrictions on high-use tourism areas could have a significant negative impact on the industry. However, the GN recognizes that there are legitimate reasons to restrict tourism activities at certain times in certain areas.

“When the NLUP considers tourism restrictions it is hoped that Part 5 of the plan, the sustainable economic well-being of communities, plays a prominent role in mitigating proposed restrictions. Specifically, there needs to be a clearer recognition of the role tourism can play in communities by providing them with a sustainable, renewable resource (i.e. tourists) and that the industry has relatively minimal impact on the environment compared to other types of development.

“As part of the updates to the *Tourism Act*, new Restricted Tourism Areas may be drafted, which will allow a community, in consultation with EDT, to restrict any or all kinds of tourism in a particular area, for a specific amount of time. Restrictions on these areas will be finite and would co-exist with NLUP designations – if there is a need for more permanent restrictions, these can be amended into the NLUP as such restrictions reflect the direct will of communities.”

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<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-078E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-09. NPC Public Registry File # 12-077E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>5</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)



In 2018, the QWB and the Igloolik and Hall Beach HTOs<sup>1</sup> recommended that the area identified in the 2016 DNLUP be extended to the north and south and the following designation applied:

**“Prohibited Uses:** The following uses are prohibited:

- Oil and Gas Exploration and Production;
- Mineral Exploration and Production;
- Marine Shipping;
- Seismic testing;
- Disposal at sea;
- Quarries;
- Hydro-electrical and related infrastructure;
- Linear infrastructure;
- Related research except Non-Exploitive Scientific Research

**“Conditions:**

- No vessel may enter these community areas of interest at any time during the year.
- Any project in Nunavut that involves shipping that would violate these conditions is prohibited.”

**Considerations**

The NPC notes that some participants support this option, while the GN and GoC comments are best characterized as not supporting this option.

The area has been identified by some communities and participants as an important area that should be protected through the NLUP. A LU designation that prohibits incompatible uses would be consistent with these views.

The recommendation of the Igloolik and Hall Beach HTOs to prohibit all vessel traffic is at odds with government concern regarding restricting shipping and tourism. Regarding the concerns raised by the GoC over restricting access to government and community resupply vessels, it should be noted all restrictions on marine shipping would not apply to emergency rescue or community resupply. In addition, at this time, the NPC has not received further information on the potential Restricted

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-187E)

Tourism Areas that were being considered by the GN as part of the updates to the Nunavut *Travel and Tourism Act*.

**4.1.4.3.6.2 Option 2 - Conditional Use**

In 2017, NTI and the RIAs<sup>2</sup> stated:

“The optimal situation is to provide land use direction to assist in protecting the community value without unnecessarily limiting economic opportunities that are also of interest to the communities.”

**Considerations**

The NPC notes that NTI and the RIAs support this option. Although NTI and the RIAs support this option, they did not recommend any specific conditions that should be implemented through a CU designation. NTI and the RIAs also previously suggested that the NPC consult with communities and the feedback noted above from the Igloolik and Hall Beach HTOs shows support for a LU designation with prohibited uses.

**4.1.4.3.6.3 Option 3 - Mixed Use**

No participant recommended this option.

**4.1.4.3.6.4 Option 4 - Valued Component**

No participant recommended this option.

**4.1.4.3.7 NPC Recommendation - LU**

Given that:

**COMMUNITY AREAS OF INTEREST:**  
**The overall importance of the issue is considered HIGH.**

**FOX E BASIN:**

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND

<sup>2</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

v.	Potential Value of Including Guidance in the NLUP	MODERATE
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## Recommendation for Foxe Basin

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given the importance of the area for the community and that part of the area is of interest to be established as a MPA. To address government concerns, marine shipping and tourism are not listed as prohibited incompatible uses.

LAND USE PLAN POLICY RECOMMENDATION	
<b>FOX E BASIN</b>	
<b>LIMITED USE</b>	
<b>Prohibited Incompatible Uses:</b>	
<ul style="list-style-type: none"> <li>• Oil and gas exploration and production</li> <li>• Mineral exploration and production</li> <li>• Disposal at sea</li> </ul>	

### 4.1.4.3.8 Summary of Revisions

## KRLUP and NBRLUP

The NBRLUP does not extend to the Foxe Basin community area of interest.

## 2012, 2014 and 2016 DNLUP

The Foxe Basin community area of interest was not discussed in the 2012 DNLUP.

Both the 2014 and 2016 DNLUP included the Foxe Basin marine area of interest as a community area of interest. The 2014 and 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses. In addition, the 2016 DNLUP prohibited all projects/project proposals in Nunavut that would include or involve any shipping during any time of the year in Foxe Basin.

## 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021, and restrictions on vessel traffic have been removed.

## 4.1.5 SOUTH BAFFIN

### 4.1.5.1 Nettilling Lake

#### 4.1.5.1.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2016	7,413	0

Community residents of Pangnirtung<sup>1</sup> and Cape Dorset<sup>2</sup> during the NPC's 2012-2014 community consultations identified multiple priorities and values for Nettilling Lake. The geographic boundaries of the Nettilling Lake community area of interest currently considered were created by the NPC using a waterbody feature layer (1:250,000) derived from Nunamap II with waterbodies over 50 ha and a 1 km buffer applied.

## Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Nettilling Lake community area of interest. The geographic boundaries currently considered for this area were created by the NPC using well-defined waterbodies.

### *The certainty of the identified geographic boundaries of NETTILLING LAKE is considered HIGH because:*

- *The area is identified with high precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 4.1.5.1.2 Environmental and Cultural Importance

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-08-28. NPC Public Registry File # 12-070E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-071E)

The 2012 DFO<sup>1</sup> community consultation data and reports identified this area as important for fish and seals, including general habitat and migration corridors.

In 2012 and 2013 respectively, community residents of Pangnirtung<sup>2</sup> and Cape Dorset<sup>3</sup> indicated that the area is important for fish, caribou, land locked seals and old burial sites, and is a unique and beautiful area for sightseeing.

In 2017, community members from Pangnirtung and Cape Dorset<sup>4</sup> indicated the long history of Inuit reliance on the Nettilling area.

In 2018, the QWB<sup>5</sup> and various HTOs indicated:

“For caribou, freshwater crossings across Natsilik (Nettilling Lake) and Kuukjuaq (Koukdjuak River) are very important, as are their calving, post-calving, migration routes, and critical wintering areas ... They also migrate across Camsell Bay in eastern Nettilling Lake swimming from island to island. ...”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of the Nettilling Lake community area of interest. The area also has use and occupancy mapping activity, including overnight sites, and harvesting/hunting areas.

#### ***The environmental and cultural importance of NETTILLING LAKE is considered HIGH because:***

- ***The importance of the area to the communities is high; and***
- ***The importance of the area to wildlife is high because:***
  - ***Alternative habitat is unlikely to be available;***
  - ***The area is essential to the biological productivity of wildlife; and***
  - ***The habitat supports concentrations of wildlife.***

#### 4.1.5.1.3 Potential for Non-Renewable Resources,

#### Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2016	7,413	2,330	0	0

Parnautit,<sup>6</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>7</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Nettilling Lake community area of interest is considered low. Of particular note, the site contains surface IOL.

#### ***The potential for non-renewable resources, transportation and linear infrastructure in NETTILLING LAKE is considered LOW because:***

- ***The area has little overlap with areas with evidence of mineral potential or oil and gas significant discovery;***
- ***The area has no known potential for transportation and linear infrastructure development;***
- ***The area has no existing rights for non-renewable resource land use;***
- ***The area has no subsurface IOL parcels; and***
- ***The area is relatively small.***

#### 4.1.5.1.4 Sensitivity to Impacts

<sup>1</sup> [http://publications.gc.ca/collections/collection\\_2012/mpo-dfo/Fs97-4-2976-eng.pdf](http://publications.gc.ca/collections/collection_2012/mpo-dfo/Fs97-4-2976-eng.pdf)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-08-28. NPC Public Registry File # 12-070E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-071E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-193E)

<sup>6</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>7</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

The NPC did not receive comments directly related to the sensitivity of the Nettilling Lake community area of interest to impacts.

#### Considerations

The NPC considers the sensitivity of the Nettilling Lake community area of interest to impacts from incompatible uses to be high and year-round.

The Great Plain of Koukdjuak bird habitat borders the lake. The Dewey Soper MBS is also approximately 65 km to the southwest of the lake. Additionally, portions of the Western Cumberland Sound Archipelago bird habitat are approximately 20 and 50 km east of the lake.

Nettilling Lake is a multi-value area and details on the sensitivity of most identified values are considered in Chapter 2 under the subheading “Sensitivity to Impacts.”

#### ***The sensitivity of NETTILLING LAKE to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the area;*
- *Wildlife use the area when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 4.1.5.1.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the Nettilling Lake community area of interest.

#### Considerations

The NLUP is an appropriate tool to prevent inconsistent developments in the Nettilling Lake community area of interest. There is no other known regulatory tool that could be used to manage land use in the area, although the NPC recognizes there is some level of protection under the *Fisheries Act*.

#### ***The potential value of including guidance in the NLUP for NETTILLING LAKE is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.5.1.6 Policy Options for Nettilling Lake

##### 4.1.5.1.6.1 Option 1 - Limited Use

In 2012 and 2013, during the NPC’s community consultations, community residents of Pangnirtung<sup>1</sup> and Cape Dorset<sup>2</sup> recommended this option stating respectively that “Nettilling (Natsilik) Lake needs to be protected” and “Caribou Habitat needs protection. Also, an area of Arctic char.”

In 2017, during the Qikiqtani regional public hearing on the 2016 DNLUP,<sup>3</sup> there was extensive discussion about this area by community representatives, and an Iqaluit representative noted, “This lake is one of the most important sites. I think it deserves to be more preserved.”

#### Considerations

The NPC notes that some participants support this option. The area has been identified by multiple communities as an important area that should be protected through the NLUP. A LU designation that prohibits incompatible uses would be consistent with these views.

##### 4.1.5.1.6.2 Option 2 - Conditional Use

In 2017, NTI and the RIAs<sup>4</sup> stated:

“The optimal situation is to provide land use direction to assist in protecting the community value without unnecessarily limiting economic opportunities that are also of interest to the communities.”

#### Considerations

The NPC notes that NTI and the RIAs support this option. Although NTI and the RIAs support this option, they did not recommend any specific conditions that should be implemented through a CU designation. NTI and the RIAs also previously suggested that the NPC consult with communities and the feedback noted above from Pangnirtung, Cape Dorset and Iqaluit residents shows strong support for a LU designation with prohibited uses.

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-08-28. NPC Public Registry File # 12-070E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-071E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>4</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

#### 4.1.5.1.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 4.1.5.1.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 4.1.5.1.7 NPC Recommendation - LU

Given that:

#### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered **HIGH**.

#### NETTILLING LAKE:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	HIGH

#### Recommendation for Nettilling Lake

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given the importance of the area to many south Baffin communities and the recommendations from participants to protect the multiple values in the area.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **NETTILLING LAKE AND THE ADJACENT AREA**

#### **LIMITED USE**

#### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- Linear infrastructure

#### 4.1.5.1.8 Summary of Revisions

#### KRLUP and NBRLUP

The existing regional land use plans do not address the Nettilling Lake community area of interest.

#### 2012, 2014 and 2016 DNLUP

The Nettilling Lake community area of interest was not discussed in the 2012 DNLUP.

Both the 2014 and 2016 DNLUP included Nettilling Lake as a community area of interest. The 2014 and 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses.

#### 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

### 4.1.6 KIVALLIQ

#### 4.1.6.1 Naujaat Areas

##### 4.1.6.1.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2015	65,673	2
NPC, 2020	3,702	0

The geographic boundaries of the Naujaat community areas of interest currently considered were submitted by the Arviq HTO<sup>1</sup> in 2015.

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of the Naujaat

<sup>1</sup> (Arviq HTO, 2015-10-20. NPC Public Registry File # 14-114E)

community areas of interest. The geographic boundaries currently considered for these areas were created by the NPC based on drawings from the Arviq HTO. The areas are large and relatively generic. No participant expressed disagreement with the proposed boundaries.

***The certainty of the identified geographic boundaries of the NAUJAAT AREAS is considered MODERATE because:***

- The areas are identified with moderate precision/scale;*
- There is high agreement among participants regarding the boundaries; and*
- The information is current.*

4.1.6.1.2 Environmental and Cultural Importance

In 2015, the Arviq (Naujaat) HTO<sup>1</sup> stated:

“... The HTO recommends mining, mineral exploration activity, and oil/gas activity be banned in this area, for the following reasons:

- This entire area is used for caribou hunting by hunters from Naujaat. Caribou hunting is very important economically to our community, both for local consumption and for sale of caribou meat to Qikiqtani Inuit.
- Caribou are present in different parts of this area throughout the year. Caribou migrate through different parts of this area in different seasons.
- Caribou give birth and feed their calves throughout this area. Naujaat is surrounded by caribou calving and post calving grounds.
- Our hunters have observed the impacts of mineral exploration on caribou. We have had our hunting disturbed by low-flying helicopters that scared away the caribou we were carefully pursuing.
- Most of the lakes and rivers in this area contain fish. The rivers and streams are important spawning grounds for char. All the lakes that do not freeze to the bottom in the winter contain fish (land locked char, lake trout, and whitefish).
- Fishing from these lakes and rivers is a very important source of food for our community. Our

community would also like to develop a local commercial fishery in the future.

- This entire area has many heritage sites (including tent rings, graves, and sod houses). We do not want these important heritage resources disturbed.”

**Considerations**

Participants broadly agreed on the high environmental and cultural importance of the Naujatt community areas of interest.

***The environmental and cultural importance of the NAUJAAT AREAS is considered HIGH because:***

- The importance of the areas to the communities is high; and*
- The importance of the areas to wildlife is high because:*
  - Alternative habitat is unlikely to be available;*
  - The areas are essential to the biological productivity of wildlife; and*
  - The habitat supports concentrations of wildlife.*

4.1.6.1.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2015	65,673	8,898	0	127
NPC, 2020	3,702	473	0	0

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

**Considerations**

<sup>1</sup> (Arviq HTO, 2015-10-20. NPC Public Registry File # 14-114E)  
<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Naujaat community areas of interest is considered high. Of particular note, the area proposed for protection by Naujaat covers a large portion of the Melville Peninsula. There are very large iron ore deposits and other mineral deposits in the area.<sup>1</sup> The area contains active mineral claims as well as mineral leases for North Arrow Minerals Inc. The area also contains surface IOL.

***The potential for non-renewable resources, transportation and linear infrastructure in the NAUJAAT AREAS is considered HIGH because:***

- *The areas overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have no known potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively large.*

#### 4.1.6.1.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Naujaat community areas of interest to impacts.

#### Considerations

The NPC considers the sensitivity of the Naujaat community areas of interest to impacts from incompatible uses to be moderate and year-round. The areas contain a wide variety of sensitive wildlife habitat, including caribou calving grounds and char spawning areas. As discussed in Chapters 2 and 5, those particular habitats are sensitive to disturbance.

The Naujaat areas are a multi-value area and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading “Sensitivity to Impacts.”

***The sensitivity of the NAUJAAT AREAS to impacts is considered MODERATE and YEAR-ROUND because:***

- *Wildlife are sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is moderately likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 4.1.6.1.5 Other Regulatory Tools

In 2017, NTI<sup>2</sup> questioned why the NPC did not include guidance on land uses within the Naujaat areas in the 2016 DNLUP and wrote:

“11. Can the NPC provide a further explanation for not including Corbett Inlet and the two Naujaat Areas as Community Areas of Interest? Corbett Inlet was proposed within the Kivalliq Wildlife Board submission and the Naujaat areas were proposed by the Arviq HTO?”

#### Considerations

The primary values to be protected in the Naujaat community areas of interest include fisheries and archaeology. Both of these values have some levels of protection under either the *Fisheries Act* or the *Nunavut Archaeological and Palaeontological Sites Regulations*. The NLUP is able to complement these pieces of legislation to respond to the particular protection needs indicated by communities.

In addition, Chapter 2 includes several sections that address the wildlife areas of concern to the Arviq HTO.

***The potential value of including guidance in the NLUP for the NAUJAAT AREAS is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.6.1.6 Policy Options for the Naujaat Areas

##### 4.1.6.1.6.1 Option 1 - Limited Use

In 2015, the Arviq (Naujaat) HTO<sup>3</sup> stated:

“The Arviq HTO has three major recommendations. We would like our community land use area designated as protected, our community marine use areas designated as

<sup>1</sup> [http://www.miningnorth.com/\\_rsc/site-content/library/maps/NWT-NU\\_2011\\_Exploration\\_Map\\_DEM\\_44x34.pdf](http://www.miningnorth.com/_rsc/site-content/library/maps/NWT-NU_2011_Exploration_Map_DEM_44x34.pdf)

<sup>2</sup> (Nunavut Tunngavik Incorporated (NTI), 2017-03-07. NPC Public Registry File # 16-118E)

<sup>3</sup> (Arviq HTO, 2015-10-20. NPC Public Registry File # 14-113E)

protected, and caribou calving and post calving grounds designated as protected.

“The Naujaat area is one of the richest in wildlife in the Arctic. We have abundant caribou, fish, and marine mammals. This wildlife is the mainstay of our diet. Caribou is an important commercial resource, and we would like to develop a commercial fishery in our community. Wildlife habitat and hunting areas must be protected under the land use plan.”

### Considerations

The NPC notes that the Arviq (Naujaat) HTO’s comment is best characterized as supporting this option. It is also noted that the species listed as being of concern to the Arviq HTO are treated independently in the NLUP.

#### 4.1.6.1.6.2 Option 2 - Conditional Use

While NTI and the RIAs<sup>1</sup> supported this option in 2017 for all new community areas of interest, no specific conditions were provided:

“NTI and the RIAs recommend that community proposals for Community of Areas Interest that were not included in a proposed land designation in the DNLUP 2016 be created as Special Management Areas. These include Corbett Inlet and the two Naujaat Areas. It is not clear in NPC’s Options and Recommendations document why a Special Management Area designation has not been created for these areas and instead they are listed under Schedule B as Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECs). Classifying the areas of interest as VECs or VSECs does not provide the level of land use direction that the communities have requested.”

### Considerations

The NPC notes that NTI and the RIAs support this option for new community areas of interest, which includes the Naujaat areas.

#### 4.1.6.1.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 4.1.6.1.6.4 Option 4 - Valued Component

In 2020, Naujaat<sup>2</sup> residents did not have recommendations on land use policies that should apply to this area, however, they expressed concerns about noise, blasting, dust control and other activities in the Naujaat areas. They were also concerned about possible

impacts on wildlife, both terrestrial and marine, that they would like to preserve for future generations. Residents would like to have information about what is happening regarding mining activities and impacts to wildlife and the land.

### Considerations

The NPC notes that the residents’ comments are best characterized as supporting this option.

#### 4.1.6.1.7 NPC Recommendation - VEC

Given that:

### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

### NAUJAAT AREAS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

### Recommendation for Naujaat Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify the Naujaat areas as areas of known VECs that should be given particular consideration.

**Rationale:** Option 4 was recommended given the importance of the areas to the communities and the

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

latest land use management approach suggested by the communities.

## LAND USE PLAN POLICY RECOMMENDATION

### NAUJAAT AREAS

## VALUED ECOSYSTEM COMPONENT

#### 4.1.6.1.8 Summary of Revisions

#### KRLUP and NBRLUP

The Naujaat community areas of interest fall within the KRLUP. The KRLUP does not include specific planning measures for this area.

#### 2012, 2014 and 2016 DNLUP

The Naujaat community areas of interest were not specifically assigned a land use designation in any earlier version of the DNLUP.

#### 2021 DNLUP

The 2021 DNLUP identifies the areas as known VECs to reflect community input.

### 4.1.6.2 Duke of York Bay

#### 4.1.6.2.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2014	1,037	0

The geographic boundaries of the Duke of York Bay community area of interest currently considered were created by the NPC in 2014 using a waterbody feature layer (1:250,000) derived from Nunamap II with waterbodies over 50 ha and a 1 km buffer applied.

In 2020, Coral Harbour<sup>1</sup> residents indicated support for the proposed boundaries.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Duke of York Bay community area of interest. The geographic boundaries

currently considered for this area were created by the NPC using well-defined waterbodies. There has never been any disagreement on the proposed boundaries of the area.

*The certainty of the identified geographic boundaries of DUKE OF YORK BAY is considered HIGH because:*

- *The area is identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 4.1.6.2.2 Environmental and Cultural Importance

The Frozen Strait bird area abuts the entry to the Duke of York Bay,<sup>2</sup> as identified by the GoC.

This area is adjacent to a large polynya as identified by the WWF.<sup>3</sup>

Community residents of Coral Harbour<sup>4</sup> and Naujaat<sup>5</sup> during the NPC's 2012-2014 community consultations identified multiple priorities and values for the Duke of York Bay. Priorities and values of residents of Coral Harbour and Naujaat include caribou, polar bears, walrus, birds, fish, marine mammals, shellfish, drinking water, cultural values, potential economic development, existing economic development, no oil and gas, and protection.

The 2012 DFO<sup>6</sup> community consultation data and reports identified this area as important for biodiversity, fishing, and general habitat. The area includes habitat for char, polar bear, seals, bearded seal, ringed seal, shellfish, walrus, beluga, narwhal, killer whale and bowhead whale. In 2012, DFO reported:

"The Inuit believe that the characteristics of Repulse Bay and Frozen Strait, including the inlets and bays, currents and polynyas, make it a hot spot for marine life. The whales common to this area include narwhal, beluga, killer whales and bowhead. This area is known to be especially important for bowhead whales. They seek refuge from killer whales in Repulse Bay, and feed on the copious number of krill and plankton found here. Bowhead whales wait at the ice edge for the ice to break so that they can

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>2</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>3</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-192E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-193E)

<sup>6</sup> [http://publications.gc.ca/collections/collection\\_2012/mpo-dfo/Fs97-4-2976-eng.pdf](http://publications.gc.ca/collections/collection_2012/mpo-dfo/Fs97-4-2976-eng.pdf)

access Repulse Bay. Narwhal are often seen in the small inlets and bays around Repulse Bay.

“... Walrus have been seen more frequently around Frozen Strait and White Island in the fall than previously. Bearded, ringed and harp seals are found in the vicinity of Repulse Bay year round; all three are found in Lyon Inlet. Arctic char, arctic cod and krill are abundant and provide food for the numerous marine mammals in this area. Polar bears den on and around White Island in Frozen Strait.

“Ptarmigan come north to Repulse Bay and Frozen Strait in the spring. Historically, they used to migrate in the spring and fall, but they are no longer seen in large numbers during this time. Locals have noted the presence of ravens, loons, cranes, hummingbirds and eagles, which is a new phenomenon, as well as a decreasing number of sandpipers. Blue geese, snow geese, jaegers, arctic terns, hawks, arctic owls and murres are common residents of the area.”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of the Duke of York Bay community area of interest. The area also has use and occupancy mapping data, including sacred sites, overnight sites and harvesting/hunting areas.

#### ***The environmental and cultural importance of DUKE OF YORK BAY is considered HIGH because:***

- *The importance of the area to the communities is high; and*
- *The importance of the area to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The area is essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

#### 4.1.6.2.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2014	1,037	139	0	0

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Duke of York Bay community area of interest is considered low. Of particular note, the site contains surface IOL.

#### ***The potential for non-renewable resources, transportation and linear infrastructure in DUKE OF YORK BAY is considered LOW because:***

- *The area has little overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The area has no known potential for transportation and linear infrastructure development;*
- *The area has no existing rights for non-renewable resource land use;*
- *The area has no subsurface IOL parcels; and*
- *The area is relatively small.*

#### 4.1.6.2.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Duke of York Bay community area of interest to impacts.

### Considerations

The NPC considers the sensitivity of the Duke of York Bay community area of interest to impacts from incompatible uses to be high and year-round. The area is also adjacent to a polynya (winter) and a key bird habitat (summer).

Duke of York Bay is a multi-value area and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading “Sensitivity to Impacts.”

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

***The sensitivity of DUKE OF YORK BAY to impacts is considered HIGH and YEAR-ROUND because:***

- ***Wildlife are highly sensitive to disturbance when using the area;***
- ***Wildlife use the area when disturbance is likely to occur; and***
- ***The concern regarding potential impacts is year-round.***

#### 4.1.6.2.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the Duke of York Bay community area of interest.

##### **Considerations**

The NLUP is an appropriate tool to prevent inconsistent developments in the Duke of York Bay community area of interest. The primary values to be protected in the Duke of York Bay community area of interest include fisheries and archaeology. Both of these values have some levels of protection under either the *Fisheries Act* or the *Nunavut Archaeological and Palaeontological Sites Regulations*. The NLUP is able to complement these pieces of legislation to respond to the particular protection needs indicated by communities.

***The potential value of including guidance in the NLUP for DUKE OF YORK BAY is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

#### 4.1.6.2.6 Policy Options for Duke of York Bay

##### 4.1.6.2.6.1 Option 1 - Limited Use

In 2007, the NPC<sup>1</sup> received an email from the Hamlet of Coral Harbour identifying their issues of concern, including the need to protect resources at the Duke of York Bay.

In 2014, the Duke of York Bay was identified as an area of interest by the community of Coral Harbour.<sup>2</sup> An interest in tourism was also identified in the area.

In 2014, the Duke of York Bay was identified as an area of interest by the community of Naujaat.<sup>3</sup> An interest in tourism was also identified in the area and the community asked the NPC to restrict shipping and prohibit developments in the area.

In 2015, NTI and the RIAs<sup>4</sup> stated:

“ii. Duke of York Bay: KivIA does not support the surface IOLs in this area being designated as Protected Areas. KivIA will work with the Inuit in the communities to verify their position on protection for this area.”

In 2020, Naujaat<sup>5</sup> residents supported protecting this area, including limiting access by all large ships and limiting oil and gas in this area.

In 2020, Coral Harbour<sup>6</sup> residents indicated that large ships should not enter this area. Now that there is road access from Coral Harbour, they are interested in developing a shellfish industry there.

##### **Considerations**

The NPC notes that some participants support this option. Community members from Coral Harbour and Naujaat have identified this area as being important for many years and expressed an interest in having it protected. A LU designation that prohibits incompatible uses would be consistent with these views.

The NPC also notes the concern of NTI and the RIAs regarding the designation of surface IOLs as LU.

##### 4.1.6.2.6.2 Option 2 - Conditional Use

In 2017, NTI and the RIAs<sup>7</sup> stated:

“The optimal situation is to provide land use direction to assist in protecting the community value without unnecessarily limiting economic opportunities that are also of interest to the communities.”

<sup>1</sup> (Nunavut Planning Commission (NPC), 2007-07-12. NPC Public Registry File # 10-002E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-192E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-193E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>7</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)



## Considerations

The NPC notes that NTI and the RIAs support this option. Although NTI and the RIAs support this option, they did not recommend any specific conditions that should be implemented through a CU designation. NTI and the RIAs also previously suggested that the NPC consult with communities and the feedback noted above from Naujaat and Coral Harbour residents shows support for a LU designation with prohibited uses.

### 4.1.6.2.6.3 Option 3 - Mixed Use

No participant recommended this option.

### 4.1.6.2.6.4 Option 4 - Valued Component

No participant recommended this option.

### 4.1.6.2.7 NPC Recommendation - LU

Given that:

#### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

#### DUKE OF YORK BAY:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

#### Recommendation for Duke of York Bay

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given the importance of the area to multiple communities and the policy options preferred by the communities to protect the identified values.

## LAND USE PLAN POLICY RECOMMENDATION

### DUKE OF YORK BAY AND THE ADJACENT AREA

#### LIMITED USE

##### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production

### 4.1.6.2.8 Summary of Revisions

#### KRLUP and NBRLUP

The Duke of York Bay community area of interest falls within the KRLUP. The KRLUP does not include specific planning measures for this area.

#### 2012, 2014 and 2016 DNLUP

The Duke of York Bay community area of interest was not discussed in the 2012 DNLUP.

Both the 2014 and 2016 DNLUP included Duke of York Bay as a community area of interest. The 2014 and 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses.

#### 2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

### 4.1.6.3 Walrus Island

Walrus Island contains a particularly well-known walrus terrestrial haul-out and other walrus habitat. While it is included under the Walrus Terrestrial Haul-Outs section in Chapter 2, it has received particular community attention. Many of the same characteristics discussed in the Chapter 2 section would also apply here.

#### 4.1.6.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2014	25.4	0

The geographic boundaries of the Walrus Island community area of interest currently considered were



created by the NPC using a waterbody feature layer (1:250,000) derived from Nunamap II with waterbodies over 50 ha and a 1 km buffer applied around the island.

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Walrus Island community area of interest. The geographic boundaries currently considered for this area were created by the NPC using well-defined waterbodies.

As Walrus Island is a small island, the terrestrial component of this community area of interest is well-known. The island has also been identified separately as a walrus terrestrial haul-out and, as outlined in Chapter 2, there is disagreement about how far the marine portion of this area should extend from the island in consideration of this value.

***The certainty of the identified geographic boundaries of WALRUS ISLAND is considered HIGH because:***

- The area is identified with high precision/scale;*
- There is high agreement among participants regarding the boundaries; and*
- The information is current.*

4.1.6.3.2 Environmental and Cultural Importance

The 2012 DFO<sup>1</sup> community consultation data and reports identified this area as important for Arctic char and walrus, including walrus terrestrial haul-outs and aggregations.

In 2014, the island was identified as a particularly important area by residents of Coral Harbour.<sup>2</sup> Priorities and values of Coral Harbour residents include walrus, marine mammals, cultural values, existing economic development, no oil and gas, and protection.

Considerations

Participants broadly agreed on the high environmental and cultural importance of the Walrus Island community area of interest. The area also has use and occupancy mapping data including a sacred area and hunting/harvesting.

<sup>1</sup> [http://publications.gc.ca/collections/collection\\_2012/mpo-dfo/Fs97-4-2976-eng.pdf](http://publications.gc.ca/collections/collection_2012/mpo-dfo/Fs97-4-2976-eng.pdf)  
<sup>2</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-192E)

***The environmental and cultural importance of WALRUS ISLAND is considered HIGH because:***

- The importance of the area to the communities is high; and*
- The importance of the area to wildlife is high because:*
  - Alternative habitat is unlikely to be available;*
  - The area is essential to the biological productivity of wildlife; and*
  - The habitat supports concentrations of wildlife.*

4.1.6.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km²)	IOL Surface (km²)	IOL Subsurface (km²)	Existing Rights (km²)
NPC, 2014	25.4	9	0	0

Parnautit,<sup>3</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>4</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Walrus Island community area of interest is considered moderate. Of particular note, the site contains surface IOL, but no subsurface IOL. The site is also in close proximity to areas used by marine ship traffic.

***The potential for non-renewable resources, transportation and linear infrastructure in WALRUS ISLAND is considered MODERATE because:***

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)  
<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

- *The area has little overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The area has some potential for transportation and linear infrastructure development;*
- *The area has no existing rights for non-renewable resource land use;*
- *The area has no subsurface IOL parcels; and*
- *The area is relatively small.*

#### 4.1.6.3.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Walrus Island community area of interest to impacts.

#### Considerations

The NPC considers the sensitivity of the Walrus Island community area of interest to impacts from incompatible uses to be high and seasonal. As discussed in Chapter 2, walrus terrestrial haul-outs are very sensitive to disturbance during the high-occupancy months, especially when pups are present.

Walrus Island is a multi-value area and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading “Sensitivity to Impacts.”

***The sensitivity of WALRUS ISLAND to impacts is considered HIGH and SEASONAL because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

#### 4.1.6.3.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the Walrus Island community area of interest.

#### Considerations

The NLUP is an appropriate tool to prevent inconsistent developments in the Walrus Island community area of

interest. While the *Fisheries Act* protects all fish-bearing waters, it does not have tools to respond to the particular protection needs indicated by the communities.

As discussed in Chapters 2 and 5, there are some regulations regarding wildlife and marine shipping. However, it seems the regulations do not provide the appropriate land use guidance requested by the communities.

***The potential value of including guidance in the NLUP for WALRUS ISLAND is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.6.3.6 Policy Options for Walrus Island

##### 4.1.6.3.6.1 Option 1 - Limited Use

In 2014, Coral Harbour<sup>1</sup> residents identified Walrus Island as an important area that should be protected.

In 2015, NTI and the RIAs<sup>2</sup> stated:

“vi. Walrus Island: KivIA does not support the surface IOLs in this area being designated as a Protected Area. KivIA will work with the Inuit in the communities to verify their position on protection for this area.”

However, in their 2016 joint submission, NTI and the RIAs<sup>3</sup> changed their position to support this policy option:

“... For the Hiukitak River and Walrus Island, NTI and the RIAs support the proposed Protected Area designations in the DNLUP 2014.”

NTI and the RIAs<sup>4</sup> reiterated their support for this option in their 2017 pre-hearing submission on the 2016 DNLUP.

In 2016, the KWB<sup>5</sup> stated:

*“Recommendation – the KWB recommends that the Nunavut Land Use Plan restrict shipping near Coates, Southampton, and Walrus Islands. Marine shipping routes*

<sup>1</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-192E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>4</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>5</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)

*should be placed south of Coates Island, rather than between Coates and Southampton Island.*

“Hunters and Elders from Coral Harbour have repeatedly complained about the impacts of marine ship traffic on walrus habitat between Coates and Southampton islands. In particular, the walrus haul-outs on Walrus Island have been impacted by shipping. At a KWB workshop, the Coral Harbour HTO recommended that ship traffic be rerouted to the south of Coates Island.”

In 2020, Coral Harbour<sup>1</sup> residents indicated support for strong protections for Walrus Island, including that all shipping be redirected south of Coates Island.

### Considerations

The NPC notes that several participants, including NTI and the RIAs, support this option. The area has been identified by community residents as an important area that should be protected through the NLUP. A LU designation that prohibits incompatible uses would be consistent with these views.

#### 4.1.6.3.6.2 Option 2 - Conditional Use

No participant recommended this option.

#### 4.1.6.3.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 4.1.6.3.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 4.1.6.3.7 NPC Recommendation - LU

Given that:

### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

### WALRUS ISLAND:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE

iv.	Sensitivity to Impacts	HIGH and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	HIGH

### Recommendation for Walrus Island

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given the importance of the area to communities and the policy options preferred by the communities to protect the identified values. Note that this LU designation overlaps with the LU designation for the walrus terrestrial haul-out at the same location.

#### LAND USE PLAN POLICY RECOMMENDATION

### **WALRUS ISLAND AND ADJACENT MARINE AREAS**

### **LIMITED USE**

#### **Prohibited Incompatible Uses in All Areas:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- All-weather roads

#### **Prohibited Incompatible Use in Marine Areas:**

- Disposal at sea

#### **Condition:**

- No person is to pilot a vessel within 5 km seaward of a walrus terrestrial haul-out on Walrus Island at any time during the year
- The applicable condition does not apply to vessels engaged in community resupply or emergency response

#### 4.1.6.3.8 Summary of Revisions

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

KRLUP and NBRUP

The Walrus Island community area of interest falls within the KRLUP, which restricts development activities near walrus terrestrial haul-outs.

2012, 2014 and 2016 DNLUP

The Walrus Island community area of interest was not discussed in the 2012 DNLUP.

Both the 2014 and 2016 DNLUP included Walrus Island as a community area of interest. The 2014 and 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses.

2021 DNLUP

The 2014, 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

4.1.6.4 Essential Char Fishing Rivers

Essential char fishing rivers were identified by the KWB for traditional use and are considered as community areas of interest. Additional char areas with commercial potential are discussed in Chapter 5.

4.1.6.4.1 Defining Geographic Boundaries

Source	Area (km²)	% NSA & OLFIZ
KWB, 2016	1,113	0

These rivers include the Sutton River, Sixteen Mile Brook, Unhealing Brook and the Thompson River, all on Southampton Island.

The geographic boundaries of the essential char fishing rivers community areas of interest currently considered were created by the NPC based on the KWB’s 2016 submission.<sup>1</sup>

In 2020, during community meetings, Coral Harbour<sup>2</sup> community participants agreed with the locations of the char rivers and identified additional areas.

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-157E)  
<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the essential char fishing rivers community areas of interest. The geographic boundaries currently considered for these areas were created by the NPC using information obtained from the KWB and Coral Harbour community participants. No participant expressed disagreement with the proposed boundaries.

**The certainty of the identified geographic boundaries of ESSENTIAL CHAR FISHING RIVERS is considered HIGH because:**

- The areas are identified with high precision/scale;
- There is high agreement among participants regarding the boundaries; and
- The information is current.

4.1.6.4.2 Environmental and Cultural Importance

Priorities and values of Coral Harbour<sup>3</sup> residents include char and trout commercial fishing.

In 2017, the Hamlet of Coral Harbour<sup>4</sup> described these fishing areas as “significant key areas which are important to the residents of Coral Harbour.”

Considerations

Participants broadly agreed on the high environmental and cultural importance of essential char fishing rivers. The areas also have NPC use and occupancy mapping data, including sacred sites, and hunting and harvesting activity.

As discussed in Chapters 2 and 5, char are a keystone Arctic fish species, and thus the essential char fishing rivers are important to the environment and to the traditional lifestyle of Inuit of Nunavut.

**The environmental and cultural importance of ESSENTIAL CHAR FISHING RIVERS is considered HIGH because:**

- The importance of the areas to the communities is high; and
- The importance of the areas to wildlife is high because:

<sup>3</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-192E)  
<sup>4</sup> (Hamlet of Coral Harbour, 2017-02-27. NPC Public Registry File # 16-094E)

- *Alternative habitat is unlikely to be available;*
- *The areas are essential to the biological productivity of wildlife; and*
- *The habitat supports concentrations of wildlife.*

#### 4.1.6.4.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
KWB, 2016	1,113	373	15	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in essential char fishing rivers is considered low. Of particular note, the site contains surface IOL, but no subsurface IOL.

***The potential for non-renewable resources, transportation and linear infrastructure in ESSENTIAL CHAR FISHING RIVERS is considered LOW because:***

- *The areas have no overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have no known potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

#### 4.1.6.4.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the essential char fishing rivers community areas of interest to impacts.

#### Considerations

The NPC considers the sensitivity of the essential char fishing rivers community areas of interest to impacts from incompatible uses to be high and year-round. As discussed in Chapters 2 and 5, anadromous char are highly sensitive to disturbance.

Details on the sensitivity of char and fish in general have been considered in Chapters 2 and 5 under the subheading "Sensitivity to Impacts."

***The sensitivity of ESSENTIAL CHAR FISHING RIVERS to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 4.1.6.4.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the essential char fishing rivers community areas of interest.

#### Considerations

The NLUP is an appropriate tool to prevent inconsistent land uses in the essential char fishing rivers community areas of interest. While the *Fisheries Act* protects all fish-bearing waters, it does not have tools to respond to the particular protection needs indicated by communities.

***The potential value of including guidance in the NLUP for ESSENTIAL CHAR FISHING RIVERS is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



#### 4.1.6.4.6 Policy Options for Essential Char Fishing Rivers

##### 4.1.6.4.6.1 Option 1 - Limited Use

In 2016, the KWB<sup>1</sup> stated:

*“Recommendation – the Kivalliq Wildlife Board recommends the Nunavut Land Use Plan designate the main Char fishing rivers on Southampton Island protected areas. Any industrial activities which would impede char runs or directly destroy char habitat should be prohibited.*

“At the 2016 workshop with the KWB, the Coral Harbour HTO noted the location of several rivers which were essential char fishing locations for the community. These included the Sutton River, Sixteen Mile Brook, Unhealing Brook, and the Thompson River. The HTO recommended that a land use plan protect these areas for their fishing value. ...”

In 2020, during community meetings, Coral Harbour<sup>2</sup> community participants agreed with the proposed designation for the char rivers in the 2016 DNLUP that prohibited incompatible uses.

##### Considerations

The NPC notes that some participants support this option. The areas have been identified by communities and participants as important areas that should be protected through the NLUP. A LU designation that prohibits incompatible uses would be consistent with these views.

##### 4.1.6.4.6.2 Option 2 - Conditional Use

In 2017, NTI and the RIAs<sup>3</sup> stated:

“The optimal situation is to provide land use direction to assist in protecting the community value without unnecessarily limiting economic opportunities that are also of interest to the communities.”

##### Considerations

The NPC notes that NTI and the RIAs support this option. Although NTI and the RIAs support this option, they did not recommend any specific conditions that should be implemented through a CU designation. NTI and the RIAs also previously suggested that the NPC consult with communities and the feedback noted above from Coral

Harbour residents shows strong support for a LU designation with prohibited uses.

##### 4.1.6.4.6.3 Option 3 - Mixed Use

No participant recommended this option.

##### 4.1.6.4.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 4.1.6.4.7 NPC Recommendation - LU

Given that:

##### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

##### ESSENTIAL CHAR FISHING RIVERS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

##### Recommendation for Essential Char Fishing Rivers

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given the importance of the areas to communities and the policy options preferred by the communities and other participants to protect the identified values.

#### LAND USE PLAN POLICY RECOMMENDATION

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>3</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)



## ESSENTIAL CHAR FISHING RIVERS AND THE ADJACENT AREA

### LIMITED USE

#### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure

#### 4.1.6.4.8 Summary of Revisions

#### KRLUP and NBRLUP

The essential char fishing rivers community areas of interest fall within the KRLUP. The KRLUP does not include specific planning measures for these areas.

#### 2012, 2014 and 2016 DNLUP

The essential char fishing rivers community areas of interest were not discussed in either the 2012 or 2014 DNLUP.

The 2016 DNLUP included essential char fishing rivers as a community area of interest. The 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses.

#### 2021 DNLUP

The 2016 and 2021 recommendations to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

### 4.1.6.5 Corbett Inlet

#### 4.1.6.5.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
KWB, 2016	840	0
NPC, 2020	297	0

In 2016, the KWB<sup>1</sup> identified Corbett Inlet as a community area of interest. The geographic boundaries were digitized by the NPC from the KWB submission.

In 2020, some Rankin Inlet<sup>2</sup> residents suggested an addition to the Corbett Inlet area.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Corbett Inlet community area of interest. No participant expressed disagreement with the proposed boundaries.

#### *The certainty of the identified geographic boundaries of CORBETT INLET is considered HIGH because:*

- *The area is identified with high precision/scale;*
- *There is an agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 4.1.6.5.2 Environmental and Cultural Importance

In 2013, residents of Whale Cove<sup>3</sup> and Rankin Inlet<sup>4</sup> identified the area as being important for Arctic char and historic sites, including sod houses.

In 2016, the KWB<sup>5</sup> stated:

"... participants explained that the Corbett Inlet and Diane River areas are essential areas for Inuit traditional land use.

...

"Corbett Inlet and the surrounding lakes is an important site for both subsistence and commercial fishing. Char are fished in the inlet. Both char and trout are fished in the surrounding lakes.

"Many Inuit camps were located in the Corbett Inlet area historically. There are important heritage sites for some families that should be protected."

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of the Corbett Inlet community area of interest.

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-157E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2014-05-02. NPC Public Registry File # 12-194E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2014-05-29. NPC Public Registry File # 12-204E)

<sup>5</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

***The environmental and cultural importance of CORBETT INLET is considered HIGH because:***

- *The importance of the area to the communities is high;*
- *The importance of the area to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The area is essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

**4.1.6.5.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure**

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
KWB, 2016	840	259	14	15
NPC, 2020	297	5	0	104.1

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

**Considerations**

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Corbett Inlet community area of interest is considered high.

***The potential for non-renewable resources, transportation and linear infrastructure in CORBETT INLET is considered HIGH because:***

- *The area overlaps with areas with evidence of mineral potential or oil and gas significant discovery;*

- *The area has potential for transportation and linear infrastructure development;*
- *The area has existing rights for non-renewable resource land use;*
- *The area has subsurface IOL parcels; and*
- *The area is relatively small.*

**4.1.6.5.4 Sensitivity to Impacts**

The NPC did not receive comments directly related to the sensitivity of the Corbett Inlet community area of interest to impacts.

**Considerations**

The NPC considers the sensitivity of the Corbett Inlet community area of interest to impacts from incompatible uses to be moderate and seasonal. The area has a history of frequent use by hunters and trappers, and is an important char area in particular.

Details on the sensitivity of char and fish in general have been considered in Chapters 2 and 5 under the subheading "Sensitivity to Impacts."

***The sensitivity of CORBETT INLET to impacts is considered MODERATE and SEASONAL because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

**4.1.6.5.5 Other Regulatory Tools**

In 2017, NTI<sup>3</sup> questioned why the NPC did not include guidance on land uses within the Corbett Inlet area in the 2016 DNLUP and wrote:

"11. Can the NPC provide a further explanation for not including Corbett Inlet and the two Naujaat Areas as Community Areas of Interest? Corbett Inlet was proposed within the Kivalliq Wildlife Board submission and the Naujaat areas were proposed by the Arviq HTO?"

**Considerations**

The NLUP is an appropriate tool to prevent inconsistent developments in the Corbett Inlet community area of interest. The primary values to be protected in the

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunavut Tunngavik Incorporated (NTI), 2017-03-07. NPC Public Registry File # 16-118E)

Corbett Inlet community area of interest relate to either fisheries or archaeology. Both of these values have some levels of protection under either the *Fisheries Act* or the *Nunavut Archaeological and Palaeontological Sites Regulations*. The NLUP is able to complement these pieces of legislation to respond to the particular protection needs indicated by communities.

***The potential value of including guidance in the NLUP for CORBETT INLET is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.6.5.6 Policy Options for Corbett Inlet

##### 4.1.6.5.6.1 Option 1 - Limited Use

In 2016, the KWB<sup>1</sup> supported this option:

*“Recommendation – the Kivalliq Wildlife Board recommends Diane River and Corbett Inlet areas be designated protected areas under the Nunavut Land Use Plan. Mining, Exploration, and associated activities should be prohibited in these areas.”*

##### Considerations

The NPC notes that the KWB supports this option.

##### 4.1.6.5.6.2 Option 2 - Conditional Use

While NTI and the RIAs<sup>2</sup> supported this option in 2017 for all new community areas of interest, no specific conditions were provided:

“NTI and the RIAs recommend that community proposals for Community of Areas Interest that were not included in a proposed land designation in the DNLUP 2016 be created as Special Management Areas. These include Corbett Inlet and the two Naujaat Areas. It is not clear in NPC’s Options and Recommendations document why a Special Management Area designation has not been created for these areas and instead they are listed under Map B as Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECs). Classifying the areas of interest as VECs or VSECs does not provide the level of land use direction that the communities have requested.”

##### Considerations

The NPC notes that NTI and the RIAs support this option for new community areas of interest, which includes Corbett Inlet.

##### 4.1.6.5.6.3 Option 3 - Mixed Use

No participant recommended this option.

##### 4.1.6.5.6.4 Option 4 - Valued Component

In 2020, some Whale Cove<sup>3</sup> residents supported this option, while other participants had no comment.

In 2020, Rankin Inlet<sup>4</sup> residents were of differing opinions whether specific protections were warranted in the Corbett Inlet area.

##### Considerations

The NPC notes that some residents support this option, while others do not indicate support.

#### 4.1.6.5.7 NPC Recommendation - VSEC

Given that:

##### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

##### CORBETT INLET:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	MODERATE and SEASONAL
v.	Potential Value of Including Guidance in the NLUP	MODERATE

##### Recommendation for Corbett Inlet

Option 4 is recommended:

- Does not restrict access.

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>2</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify Corbett Inlet and the adjacent area as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 was recommended to reflect the latest land use management option predominately suggested by the nearby communities.

#### LAND USE PLAN POLICY RECOMMENDATION

### **CORBETT INLET AND THE ADJACENT AREA**

### **VALUED SOCIO-ECONOMIC COMPONENT**

#### 4.1.6.5.8 Summary of Revisions

#### **KRLUP and NBRLUP**

The Corbett Inlet community area of interest falls within the KRLUP. The KRLUP does not include specific planning measures for this area.

#### **2012, 2014 and 2016 DNLUP**

Corbett Inlet was not specifically discussed as a community area of interest in either the 2012, 2014 or 2016 DNLUP. However, in 2016, it was identified as a VSEC on Schedule B.

#### **2021 DNLUP**

The 2021 DNLUP recommendation is to include Corbett Inlet as a community area of interest and to identify the inlet and the adjacent area as known VSECs. Proposals in the area will need to consider the area's value to the communities.

### 4.1.6.6 Diana River

#### 4.1.6.6.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
KWB, 2016	136	0
NPC, 2020	51	0

The Diana River area is a relatively small area of 128 km<sup>2</sup> adjacent to the Hamlet of Rankin Inlet, and is defined by clear topographical features.

The geographic boundaries of the Diana River community area of interest currently considered were created by the NPC based on a KWB submission.<sup>1</sup>

In 2020, about 10 Rankin Inlet<sup>2</sup> residents suggested an addition to the Diana River area, but this was not reiterated by most community members. Most community members agreed with the existing proposed boundary.

#### **Considerations**

The NPC considers there to be high certainty regarding the geographic boundaries of the Diana River community area of interest. The geographic boundaries currently considered for this area were created by the NPC based on the KWB's submission. No participant expressed disagreement with the proposed boundaries, although some participants suggested an addition to the area.

#### ***The certainty of the identified geographic boundaries of the DIANA RIVER is considered HIGH because:***

- ***The area is identified with high precision/scale;***
- ***There is high agreement among participants regarding the boundaries; and***
- ***The information is current.***

#### 4.1.6.6.2 Environmental and Cultural Importance

In 2016, the KWB<sup>3</sup> stated:

"... participants explained that the Corbett Inlet and Diane River areas are essential areas for Inuit traditional land use.

"The Diana River and surrounding lakes is one of the most popular fishing areas for the community of Rankin Inlet. Inuit and Qallunaat alike use this area for fishing, especially in the spring and summer. The river is an excellent char and trout fishing area. Inuit fish with nets in the nearby lakes throughout the year. Diana Lake is also a spawning area for char and trout. The Diana River area is also an important caribou hunting area. Many Inuit camps were located in the Diana River area historically. There are important heritage sites for some families that should be protected."

#### **Considerations**

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-157E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

Participants broadly agreed on the high environmental and cultural importance of the Diana River community area of interest.

**The environmental and cultural importance of the DIANA RIVER is considered HIGH because:**

- The importance of the area to the communities is high; and
- The importance of the area to wildlife is high because:
  - Alternative habitat is unlikely to be available;
  - The area is essential to the biological productivity of wildlife; and
  - The habitat supports concentrations of wildlife.

4.1.6.6.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
KWB, 2016	136	7	0	3
NPC, 2020	51	0	3.4	0

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Diana River community area of interest is considered moderate. Of particular note, the area overlaps with the speculative transportation corridor between Manitoba and the Kivalliq Region.

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

**The potential for non-renewable resources, transportation and linear infrastructure in the DIANA RIVER is considered MODERATE because:**

- The area overlaps with areas with evidence of mineral potential or oil and gas significant discovery;
- The area has potential for transportation and linear infrastructure development;
- The area has existing rights for non-renewable resource land use;
- The area has subsurface IOL parcels; and
- The area is relatively small.

4.1.6.6.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Diana River community area of interest to impacts.

Considerations

The NPC considers the sensitivity of the Diana River community area of interest to impacts from incompatible uses to be high and year-round. The area is mainly noted for fish, caribou hunting and Inuit traditional land use. Its proximity to a large hamlet is likely to increase pressure on the local ecosystem.

The Diana River is a multi-value area and details on the sensitivity of char and fish in general have been considered in Chapters 2 and 5 under the subheading “Sensitivity to Impacts.”

**The sensitivity of the DIANA RIVER to impacts is considered HIGH and YEAR-ROUND because:**

- Wildlife are sensitive to disturbance when using the areas;
- Wildlife use these areas when disturbance is likely to occur; and
- The concern regarding potential impacts is year-round.

4.1.6.6.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for the Diana River community area of interest.

Considerations

The NLUP is an appropriate tool to prevent inconsistent developments in the Diana River community area of

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



interest. There exist some regulations, such as the *Fisheries Act* and the *Nunavut Archaeological and Palaeontological Sites Regulations*, that manage commercial fishing and archeological sites in the area. The NLUP is able to complement these pieces of legislation to respond to the particular protection needs indicated by communities.

**The potential value of including guidance in the NLUP for the DIANA RIVER is considered MODERATE because:**

- The issue is partially addressed by other regulatory authorities; and
- There is moderate overlap of existing legislation and regulations with NPC jurisdiction.

4.1.6.6.6 Policy Options for the Diana River

4.1.6.6.6.1 Option 1 - Limited Use

In 2016, the KWB<sup>1</sup> supported this option:

*“Recommendation – the Kivalliq Wildlife Board recommends Diane River and Corbett Inlet areas be designated protected areas under the Nunavut Land Use Plan. Mining, Exploration, and associated activities should be prohibited in these areas.”*

In 2020, Rankin Inlet<sup>2</sup> residents supported limiting mineral exploration, oil and gas, and quarries in this area. Many also felt only one bridge should be allowed through the area for the Kivalliq-Manitoba Highway, not multiple bridges.

Considerations

The NPC notes that some participants support this option. The area has been identified by multiple communities as an important area that should be protected through the NLUP. A LU designation that prohibits incompatible uses would be consistent with these views.

4.1.6.6.6.2 Option 2 - Conditional Use

In 2017, NTI and the RIAs<sup>3</sup> stated:

“The optimal situation is to provide land use direction to assist in protecting the community value without

unnecessarily limiting economic opportunities that are also of interest to the communities.”

Considerations

The NPC notes that NTI and the RIAs support this option. Although NTI and the RIAs support this option, they did not recommend any specific conditions that should be implemented through a CU designation. NTI and the RIAs also previously suggested that the NPC consult with communities and the feedback noted above from Rankin Inlet residents shows strong support for a LU designation with prohibited uses.

4.1.6.6.6.3 Option 3 - Mixed Use

No participant recommended this option.

4.1.6.6.6.4 Option 4 - Valued Component

No participant recommended this option.

4.1.6.6.7 NPC Recommendation - LU

Given that:

**COMMUNITY AREAS OF INTEREST:**  
**The overall importance of the issue is considered HIGH.**

DIANA RIVER:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

Recommendation for Diana River

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.

<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

<sup>3</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)



- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given the importance of the area to the communities and the land use management option suggested by the communities.

LAND USE PLAN POLICY RECOMMENDATION
<b><u>DIANA RIVER AND THE ADJACENT AREA</u></b>
<b>LIMITED USE</b>
<b>Prohibited Incompatible Uses:</b>
<ul style="list-style-type: none"> <li>• Oil and gas exploration and production</li> <li>• Mineral exploration and production</li> <li>• Quarries</li> </ul>

#### 4.1.6.6.8 Summary of Revisions

#### KRLUP and NBRLUP

The Diana River community area of interest falls within the KRLUP. The KRLUP does not include specific planning measures for this area.

#### 2012, 2014 and 2016 DNLUP

The Diana River community area of interest was not discussed in either the 2012 or 2014 DNLUP.

The 2016 DNLUP included the Diana River as a community area of interest. The 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses.

#### 2021 DNLUP

The 2016 and 2021 recommendations to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in 2016 to LU in 2021.

### 4.1.7 KITIKMEOT

#### 4.1.7.1 Boothia Peninsula

##### 4.1.7.1.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
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<sup>1</sup> (Taloyoak Hunters and Trappers Association, 2016-11-21. NPC Public Registry File # 16-030E)

HTA, 2016	37,145	1
HTA, 2018	27,588	1
NPC, 2020	23,584	1

In 2016, the Spence Bay HTA<sup>1</sup> submitted a map and recommended protection from mining activities for the entire terrestrial portion of the Boothia Peninsula, as well as an area south of Taloyoak.

In 2018, the Spence Bay HTA<sup>2</sup> submitted another document that added the marine areas to the west of the Boothia Peninsula to the recommended PA, as well as more terrestrial areas to the southwest of Taloyoak and some of the small islands just off the northwest coast of King William Island.

In 2020, Taloyoak<sup>3</sup> residents all agreed with the areas identified in 2018, but some residents encouraged adding the southern portion of Somerset Island and the southeast coast of Prince of Wales Island.

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of the Boothia Peninsula community area of interest. The geographic boundaries currently considered for this area were created by the NPC based on the Spence Bay HTA submissions as well as the additional areas suggested by Taloyoak community participants in 2020, and were divided into terrestrial and marine components. The boundaries cover a relatively large area. Participants generally agreed on the boundaries, although some suggested additional areas.

***The certainty of the identified geographic boundaries of the BOOTHIA PENINSULA is considered MODERATE because:***

- *The area is identified with moderate precision/scale;*
- *There is agreement among participants regarding the boundaries; and*
- *The information is current.*

##### 4.1.7.1.2 Environmental and Cultural Importance

<sup>2</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

In 2014, Taloyoak<sup>1</sup> residents identified the area as important for multiple values including caribou, char, trout, narwhal, bowhead, beluga, seals and summer sightings.

In 2016, the Spence Bay HTA<sup>2</sup> noted the Boothia Peninsula includes Ahiak caribou calving grounds, musk-ox calving grounds, Arctic char rivers, lake trout, white fish, bird migration and nesting areas (ducks, geese, loons, sea birds and small birds), fox dens, wolf dens, polar bear dens, and areas along the shore used by beluga, narwhal and seal to feed.

In 2018, the Spence Bay HTA<sup>3</sup> stated:

“The Spence Bay HTA reiterates our request that the Commission extend Protected Area designations to cover the entire Boothia Peninsula. We present the following specific information to support this request.

...

“According to traditional knowledge shared by hunters and Elders in Taloyoak, caribou spend time, year-round, on the Boothia Peninsula, including during calving and post-calving stages. The small polygons identified within Schedule B2: Caribou Ranges of the 2016 NLUP are not accurate according to this local and traditional knowledge of the animals as they currently use our traditional lands. ... We feel strongly that better information about the caribou on the Peninsula is needed, and that in the absence of this information, it is essential that protection for caribou extend to cover the entire Peninsula. We do not want to see mining, mineral exploration, or industrial development anywhere on the Peninsula. ...

...

“... The NPC’s current mapping show only calving and post-calving areas on the eastern side of the Peninsula, which is an inaccurate representation of the animal’s movement patterns. As we know it, the entire Peninsula is essential for caribou. We see caribou moving throughout the Peninsula, we see caribou calving near Taloyoak and in the centre of the Peninsula. The integrity of the Peninsula is essential to allowing us to continue developing and sharing our understanding of caribou behaviour, to continue passing on our knowledge of the herd(s), and to continue our hunting and traditional practices as well as ensuring future generations receive and understand this information and are able to learn and practice for years to come.

...

“People of Taloyoak, including our hunters, our Elders, our youth, and members of our community as a whole, believe that the Peninsula is an important place not for only caribou, but also for polar bear, musk-ox, wolves, other fur bearers like fox and wolverine, and also for the fish that live in the numerous lakes and rivers found here. We believe the area where the Peninsula narrows, near Taloyoak, is of special importance for wildlife to access and ultimately to use the entire Peninsula, and it is also an important place for us as knowledge holders of this land, as we see animals coming and going through this narrowed area. We also know, based on our traditional knowledge, IQ, and from current knowledge holders, that the entire Peninsula provides habitat for these wildlife species, and that the land area’s integrity is essential for their population’s productivity and longevity. According to regulation, the Peninsula hosts the dividing ‘line’ between McClintock and Boothia polar bear zones, and we know from understanding the animals, that polar bears move east to west across the Peninsula, across that ‘line’, with animals using the whole of the land area as their usable range. We know that caribou migrate north and south along the whole Peninsula, with potentially more than one herd also using these areas (Peary to the North, Ahiak and/or Beverly to the South).

“We also know that an incredible number of lakes are populated with fish – these fish are important as food sources for Inuit, as well as for the wildlife species that either depend on them directly, or depend on their contribution to the food chain and cycle of life. We have traditionally fished in lakes and rivers around the Peninsula. ... Inuit Qaujimajatuqangit has confirmed for generations, that many rivers and lakes on the Peninsula are habitat for fish including their running and spawning activities. We are concerned that when lakes or rivers are impacted, the fish are impacted, the seals are impacted, the polar bear are impacted, and all of these species and the relationships between them, we rely upon in some form or another.

...

“Inuit have a significant historical footprint on the Boothia Peninsula; there are archaeological sites and tent rings that we understand belong to our ancestors from the Paleo-Eskimo period located in numerous sites throughout our Peninsula. There are remains of sod houses, grave sites, artifacts, and other traces of our history found in these important, sacred areas. ...

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<sup>1</sup> (Nunavut Planning Commission (NPC), 2014-05-30. NPC Public Registry File # 12-208E)

<sup>2</sup> (Taloyoak Hunters and Trappers Association, 2016-11-21. NPC Public Registry File # 16-030E)

<sup>3</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

...

“There are a number of sites on the Peninsula which are important and revered to us as the place of legends – specifically at places like Lord Lindsay Lake and Lady Melville Lake, we have stories that have been passed down for generations which direct us in our use and travel throughout these areas – losing access to, or having irreversible change and damage to these places would be an immense loss for us, for our cultural well-being, sense of place, and understanding of ourselves in the world.

...

“Furthermore, based on our traditional and current knowledge of marine mammals in this area, the HTA knows that both narwhal and beluga whales frequent waters near to the Boothia Peninsula. Both of these species use areas in the vicinity specifically for calving activities, and beluga in particular use areas near the Peninsula during their moulting or skin shedding periods.

“We know specifically that beluga use areas along the western side of our Peninsula extensively throughout the summer, and that narwhal also frequent these waters, including among others, an area known as Cunningham Inlet. ...”

## Considerations

Participants broadly agreed on the high environmental and cultural importance of the Boothia Peninsula community area of interest.

### ***The environmental and cultural importance of the BOOTHIA PENINSULA is considered HIGH because:***

- *The importance of the area to the communities is high; and*
- *The importance of the area to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The area is essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

### 4.1.7.1.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
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HTA, 2016	37,145	7,982	0	263
HTA, 2018	27,588	2,668	0	22
NPC, 2020	23,584	312	0	0

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

## Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Boothia Peninsula community area of interest is considered low. Of particular note, the site contains surface IOL, but no subsurface IOL.

### ***The potential for non-renewable resources, transportation and linear infrastructure in the BOOTHIA PENINSULA is considered LOW because:***

- *The area has little overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The area has no known potential for transportation and linear infrastructure development;*
- *The area has existing rights for non-renewable resource land use;*
- *The area has no subsurface IOL parcels; and*
- *The area is relatively large.*

### ***The potential for non-renewable resources, transportation and linear infrastructure in the marine areas adjacent to the BOOTHIA PENINSULA is considered HIGH because:***

- *The area has no overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The area has high potential for transportation and linear infrastructure development;*
- *The area has existing rights for non-renewable resource land use; and*

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

- ***The area is relatively large.***

#### 4.1.7.1.4 Sensitivity to Impacts

In 2018, the Spence Bay HTA<sup>1</sup> stated:

“... We know from experience and observation that caribou are incredibly disturbed by helicopters, aircraft, and the noise of development around the Peninsula. In past years, when there has been increased helicopter and aircraft traffic from exploration and research programs, there were no caribou at the places we have historically found them. These animals do not need to face increasing development pressure, nor should we suffer impacts to our traditional practices, lifestyles, and sustenance activities for the sake of industrial development. We do not want caribou to face this pressure, to undergo stress from exploration or other companies flying around, and we do not want unnecessary impacts to our cultural practices, hunting, and overall wellbeing.”

#### Considerations

Participants broadly agreed that the sensitivity of the Boothia Peninsula community area of interest to impacts from incompatible uses is moderate and year-round. The area contains a wide variety of sensitive wildlife habitat, including caribou calving grounds and migration routes, and char spawning areas. As discussed in Chapters 2 and 5, those particular habitats are sensitive to disturbance.

The Boothia Peninsula is a multi-value area and details on the sensitivity of most identified values have been considered in Chapters 2 and 5 under the subheading “Sensitivity to impacts.”

***The sensitivity of the BOOTHIA PENINSULA to impacts is considered MODERATE and YEAR-ROUND because:***

- ***Wildlife are sensitive to disturbance when using the areas;***
- ***Wildlife use these areas when disturbance is moderately likely to occur; and***
- ***The concern regarding potential impacts is year-round.***

#### 4.1.7.1.5 Other Regulatory Tools

In 2018, the Spence Bay HTA<sup>2</sup> stated:

“The HTA understands the interdependence of the wildlife, food chains, and ecosystems on which we rely, and we believe this balance must be protected from the impacts of

development. The NLUP is a formal tool that can implement protection of these balances to ensure the integrity of our land and resources for our future generations.

...

“... we firmly believe the NPC process is the most relevant and most important step to implementing these protections, as it is a Nunavut Agreement organization, and the NLUP is supposed to protect the interests of Nunavummiut and Inuit that live here.”

#### Considerations

The NLUP is an appropriate tool to prevent inconsistent developments in the Boothia Peninsula community area of interest. There are some regulations, such as the *Fisheries Act* and the *Nunavut Archaeological and Palaeontological Sites Regulations*, that manage the fish values and archeological sites in the area. The NLUP is able to complement these pieces of legislation to respond to the particular protection needs indicated by communities. In addition, Chapter 2 includes a number of sections that address the Spence Bay HTA’s wildlife areas of concern.

***The potential value of including guidance in the NLUP for the BOOTHIA PENINSULA is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

#### 4.1.7.1.6 Policy Options for the Boothia Peninsula

##### 4.1.7.1.6.1 Option 1 - Limited Use

In 2016, the Spence Bay HTA<sup>3</sup> “made a motion for the protection of no mining activities in The Whole Boothia Peninsula.” The associated map consisted of the entire terrestrial portion of the Boothia Peninsula, as well as an area south of Taloyoak.

In 2018, the Spence Bay HTA<sup>4</sup> stated:

“We are also significantly concerned about safety of ship movements through Bellot Strait at the northern tip of the Peninsula, not only from a human safety perspective, but

<sup>1</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

<sup>2</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

<sup>3</sup> (Taloyoak Hunters and Trappers Association, 2016-11-21. NPC Public Registry File # 16-030E)

<sup>4</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

more pertinent to our mandate, is the risk and potential for fuel spills to impact upon the ecosystem. It is essential to us that these waters are protected from the potential impacts of shipping that come with industrial development, the increasing shipping through the Northwest Passage, and from unchecked industrial and commercial ship movements. We would like to see restrictions placed on the type of fuel ships are allowed to use and transport through waters around the Boothia Peninsula. ...

“We recommend that the Commission assign the entire Boothia Peninsula the Protected Area designation. No mineral exploration or development should be permitted on the Boothia Peninsula. Recognizing that an approved NLUP would be subject to review every 5 years (or more frequently if the need should arise), the HTA plans to have set into motion our aims for economic development, and will be prepared to substantiate our claim that protection is necessary for our economic opportunities. If mineral or other industrial interests set their sights on areas within the Peninsula during the 5 year window, the HTA would be receptive to NPC’s review of the protected area status and would be open to providing information for its consideration as to whether or not the level of protection should be subject to change.”

In 2020, Taloyoak<sup>1</sup> residents strongly supported a PA (LU) status for the whole of the Boothia Peninsula.

### Considerations

The NPC notes that some participants support this option.

#### 4.1.7.1.6.2 Option 2 - Conditional Use

While NTI and the RIAs<sup>2</sup> supported this option in 2017 for all new community areas of interest, no specific conditions were provided:

“NTI and the RIAs recommend that community proposals for Community of Areas Interest that were not included in a proposed land designation in the DNLUP 2016 be created as Special Management Areas. ... Classifying the areas of interest as VECs or VSECs does not provide the level of land use direction that the communities have requested.”

### Considerations

The NPC notes that NTI and the RIAs support this option for new community areas of interest, which includes the Boothia Peninsula.

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-255E)

#### 4.1.7.1.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 4.1.7.1.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 4.1.7.1.7 NPC Recommendation - LU/VEC

Given that:

### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

### BOOTHIA PENINSULA:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW (Terrestrial) HIGH (Marine)
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

### Recommendation for Boothia Peninsula

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given the importance of the area to the community, the relatively low potential for non-renewable resources in terrestrial areas, and the long-time support for protecting the area.

### LAND USE PLAN POLICY RECOMMENDATION

### BOOTHIA PENINSULA

<sup>2</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

## LIMITED USE

### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production
- Hydro-electrical and related infrastructure
- All-weather roads

### Recommendation for Marine Areas Adjacent to the Boothia Peninsula

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify the marine areas adjacent to the Boothia Peninsula as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended given the importance of the area to the community, the relative lack of discussion regarding appropriate planning measures for the marine area compared to the terrestrial area and the high potential for transportation in the marine area.

## LAND USE PLAN POLICY RECOMMENDATION

### MARINE AREAS ADJACENT TO THE BOOTHIA PENINSULA

### VALUED SOCIO-ECONOMIC COMPONENT

#### 4.1.7.1.8 Summary of Revisions

### KRLUP and NBRLUP

The existing regional land use plans do not address the Boothia Peninsula community area of interest.

### 2012, 2014 and 2016 DNLUP

The Boothia Peninsula community area of interest was not discussed in any earlier version of the DNLUP.

### 2021 DNLUP

In the 2021 DNLUP, the Boothia Peninsula community area of interest is designated LU to reflect community input, and the adjacent marine areas are identified as VSECs.

## 4.1.7.2 Hiukitak River

### 4.1.7.2.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
KIA, 2010	9,706	0

The boundaries currently considered for the Hiukitak River community area of interest were provided by the KIA in 2010 in a pdf format and digitized by the NPC. The boundary represents a 15 mile buffer from the river.

In 2010, the KIA<sup>1</sup> provided the NPC with a copy of a KIA Board Directive, which stated:

“Although the specific geographic extent remains to be determined and approved by the KIA Board, the Board Directive may be informative for the NPC and for users of the NLUP. The Directive is as follows:

...

“WHEREAS, KIA staff met with the Kitikmeot Inuit Elders at the Hiukitak River in August, 2005 to discuss conservation of the Hiukitak River, the elders['] ideas about conservation issues at the Hiukitak River, and the geographic location of the conservation area along the Hiukitak River ...”

In 2015, NTI and the RIAs<sup>2</sup> submitted:

“... KitIA is continuing to discuss with Inuit in the communities protection for this area and may have more submissions regarding the specific boundary. ...”

In 2019, Cambridge Bay<sup>3</sup> and Kugluktuk<sup>4</sup> residents supported the boundaries as presented.

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Hiukitak River community area of interest. The geographic boundaries

<sup>1</sup> (Kitikmeot Inuit Association (KIA), 2010-08-22. NPC Public Registry File # 10-082E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)



currently considered were digitized by the NPC based on the KIA’s submission.

**The certainty of the identified geographic boundaries of the HIUKITAK RIVER is considered HIGH because:**

- *The area is identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

4.1.7.2.2 Environmental and Cultural Importance

In 2010, the KIA<sup>1</sup> provided the NPC with a copy of a KIA Board Directive, which stated:

“WHEREAS, Inuit from the Bathurst Inlet and Bay Chimo area asked the Nunavut Planning Commission to create a conservation area along the Hiukitak River as part of the West Kitikmeot Land Use Plan ...”

In 2014, Kugluktuk<sup>2</sup> residents identified the area as important for caribou migration and calving.

In 2014, the NWB<sup>3</sup> stated:

“The Hiukitak River has been identified by the Kitikmeot Inuit Association (KIA) as a special area of interest to the people of Bathurst Inlet and Umingmaktok. ... This particular area also contains historic caribou calving grounds and portion of the area is contained within the Queen Maud Sanctuary.”

Considerations

Participants broadly agreed on the high environmental and cultural importance of the Hiukitak River community area of interest. The site has use and occupancy mapping activity, a possible sacred site and burial sites. The area also includes caribou water crossings and a portion of the area contains the Queen Maud Gulf MBS.

**The environmental and cultural importance of the HIUKITAK RIVER is considered HIGH because:**

- *The importance of the area to the communities is high;*
- *The importance of the area to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*

<sup>1</sup> (Kitikmeot Inuit Association (KIA), 2010-08-22. NPC Public Registry File # 10-082E)  
<sup>2</sup> (Nunavut Planning Commission (NPC), 2014-05-30. NPC Public Registry File # 12-207E)  
<sup>3</sup> (Nunavut Water Board (NWB), 2014-02-14. NPC Public Registry File # 12-143E)

- *The area is essential to the biological productivity of wildlife; and*
- *The habitat supports concentrations of wildlife.*

4.1.7.2.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km²)	IOL Surface (km²)	IOL Subsurface (km²)	Existing Rights (km²)
KIA, 2010	9,706	3,966	134	0

Parnautit,<sup>4</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>5</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

The area contains mineral potential and a portion of land in the area is leased for mineral exploration. Specifically, as submitted by the KIA<sup>6</sup> in a 2010 KIA Board Directive:

“WHEREAS, a very small percentage of the proposed conservation area includes lands already leased for mineral exploration on crown land and Inuit Owned Land. KIA recognizes the importance of the mineral exploration industry to the Kitikmeot and will exempt any non-expired leases from any future conservation area ...”

Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Hiukitak River community area of interest is considered high. Of particular note, the area has some mineral potential, and contains IOL and Crown land.

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)  
<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)  
<sup>6</sup> (Kitikmeot Inuit Association (KIA), 2010-08-22. NPC Public Registry File # 10-082E)

***The potential for non-renewable resources, transportation and linear infrastructure in the HIUKITAK RIVER is considered HIGH because:***

- *The area has overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The area has no known potential for transportation and linear infrastructure development;*
- *The area has no existing rights for non-renewable resource land use;*
- *The area has subsurface IOL parcels; and*
- *The area is relatively small.*

#### 4.1.7.2.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Hiukitak River community area of interest to impacts.

#### Considerations

The NPC considers the sensitivity of the Hiukitak River community area of interest to impacts from incompatible uses to be high and year-round. The area is important for community use, and it contains historic caribou calving grounds, caribou water crossings, as well as a portion of the Queen Maud Gulf MBS.

The Hiukitak River is a multi-value area and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading “Sensitivity to Impacts.”

***The sensitivity of the HIUKITAK RIVER to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the area;*
- *Wildlife use the area when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 4.1.7.2.5 Other Regulatory Tools

A portion of the area contains the Queen Maud Gulf MBS. As per ECCC,<sup>1</sup> the Queen Maud Gulf MBS was established in 1961. MBSs are established for the protection and conservation of migratory birds. Activities

that could harm migratory birds, their nests or their eggs are prohibited.

In 2010, the KIA<sup>2</sup> expressed support for the development of a Hiukitak River Conservation Area.

#### Considerations

The NLUP is an appropriate tool to prevent inconsistent developments in the Hiukitak River community area of interest. Although the portion of the area containing the Queen Maud Gulf MBS is already regulated by ECCC, the larger portion of the area is still without any guidance and communities have been asking for protection of the area since at least 2005.

***The potential value of including guidance in the NLUP for the HIUKITAK RIVER is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.7.2.6 Policy Options for the Hiukitak River

##### 4.1.7.2.6.1 Option 1 - Limited Use

In 2010, the KIA<sup>3</sup> provided the NPC with a copy of a KIA Board Directive, which stated:

“WHEREAS, Inuit from the Bathurst Inlet and Bay Chimo area asked the Nunavut Planning Commission to create a conservation area along the Hiukitak River as part of the West Kitikmeot Land Use Plan ...

...

“THEREFORE BE IT RESOLVED THAT the Board of Directors of the Kitikmeot Inuit Association hereby approves of the concept of the Hiukitak River Conservation Area.”

As part of the same 2010 document, the KIA<sup>4</sup> resolved the following as part of its efforts to limit mining activity in the area to preserve the cultural significance of the area:

“BE IT FURTHER RESOLVED THAT Inuit Owned Lands within 15 miles of the mouth of the Hiukitak River, up-river to and including the lakes of Kalgilik and Tahikafalok be closed to mineral exploration. Such closure will occur where current

<sup>1</sup> <https://www.canada.ca/en/environment-climate-change/services/migratory-bird-sanctuaries/locations/queen-maud-gulf-ahiak.html>

<sup>2</sup> (Kitikmeot Inuit Association (KIA), 2010-08-22. NPC Public Registry File # 10-082E)

<sup>3</sup> (Kitikmeot Inuit Association (KIA), 2010-08-22. NPC Public Registry File # 10-082E)

<sup>4</sup> (Kitikmeot Inuit Association (KIA), 2010-08-22. NPC Public Registry File # 10-082E)

mineral claims on IOL do not exist, until a more detailed plan for a Hiukitak River Conservation Area is completed. ...”

In 2014, the NWT and Nunavut Chamber of Mines<sup>1</sup> stated:

“The Kitikmeot Inuit Association is developing plans to create a conservation area in and around Hiukitak River south west of Boston. The Chamber supports this initiative.”

In 2014, TMAC Resources<sup>2</sup> expressed support for the KIA initiative to protect the Hiukitak River:

“TMAC acknowledges that the Kitikmeot Inuit Association is developing plans to create a conservation area in and around Hiukitak River south west of the Boston deposit, and that Inuit Owned Land parcels in this watershed have been withdrawn from surface access by the KIA. TMAC supports this initiative.”

In 2014, the NIRB<sup>3</sup> supported the KIA’s recommendation to protect the areas:

“... The selection of Option 1 as a designation that permits all uses for the Hiukitak River appears to conflict with the Kitikmeot Inuit Association’s directive to close Inuit Owned Lands (IOL) parcels in the area to mineral exploration. The Hiukitak River was identified as a special area of interest to the people of Bathurst Inlet and Umingmaktok. It is requested that the Options and Recommendations document provide additional justification for the selection of Option 1. The other options discussed restrict development in the area and appear to be more in line with the Kitikmeot Inuit Association’s directive to close IOL parcels in the area to mineral exploration.”

In 2015, NTI and the RIAs<sup>4</sup> submitted:

“Generally, KitIA supports protection for the Hiukitak River area and has withdrawn IOL parcels from development in this area. KitIA is continuing to discuss with Inuit in the communities protection for this area and may have more submissions regarding the specific boundary.”

In 2016, NTI and the RIAs<sup>5</sup> confirmed their support:

“4. ... For the Hiukitak River and Walrus Island, NTI and the RIAs support the proposed Protected Area designations in the DNLUP 2014.”

In 2019, Cambridge Bay<sup>6</sup> and Kugluktuk<sup>7</sup> residents supported the PA (LU) status for the area.

## Considerations

The NPC notes that several participants, including NTI and the RIAs, support this option. There is broad support for prohibiting incompatible uses in this area through the NLUP. A LU designation that prohibits incompatible uses would be consistent with these views.

### 4.1.7.2.6.2 Option 2 - Conditional Use

No participant recommended this option.

### 4.1.7.2.6.3 Option 3 - Mixed Use

No participant recommended this option.

### 4.1.7.2.6.4 Option 4 - Valued Component

No participant recommended this option.

### 4.1.7.2.7 NPC Recommendation - LU

Given that:

## COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

## HIUKITAK RIVER:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>HIGH</b>

<sup>1</sup> (Nunavut Planning Commission (NPC), 2014-02-06. NPC Public Registry File # 12-134E)

<sup>2</sup> (TMAC Resources, 2014-02-14. NPC Public Registry File # 12-140E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2014-02-14. NPC Public Registry File # 12-141E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>5</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

## Recommendation for Hiukitak River

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given the importance of the area to the community and the long-time support for protecting the area.

### LAND USE PLAN POLICY RECOMMENDATION

#### **HIUKITAK RIVER AND THE ADJACENT AREA**

##### **LIMITED USE**

##### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Wind turbines over 15 m in height for electrical generation and related infrastructure
- All-weather roads

#### 4.1.7.2.7.1 Summary of Revisions

##### **KRLUP and NBRLUP**

The existing regional land use plans do not address the Hiukitak River community area of interest.

##### **2012, 2014 and DNLUP**

In the 2012 DNLUP, to manage the Hiukitak River area of community interest, the area was assigned recommendation BHC-R1. The specific recommendation stated, "Project Proposals located in the Hiukitak River Area of Interest should take into account impacts on the cultural value of the area."

Both the 2014 and 2016 DNLUP included the Hiukitak River as a community area of interest. The 2014 and 2016 DNLUP assigned a PA designation to community areas of interest that prohibited incompatible uses.

##### **2021 DNLUP**

The 2014, 2016 and 2021 recommendation to assign a land use designation to the area that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

#### **4.1.8 Other Proposed Community Areas of Interest**

The following additional community areas of interest have been proposed by the QWB with HTOs:

- Foster Lake (Hall Beach)<sup>1</sup>
- Hall Lake (Hall Beach)<sup>2</sup>
- North Baffin Walrus Harvesting Areas (Clyde River, Grise Fiord, Pond Inlet and Hall Beach)<sup>3</sup>
- Resolute Walrus Calving and Post-calving Areas (Resolute Bay)<sup>4</sup>
- West Central Baffin Island (Locations near Clyde River, Qikiqtarjuaq, Pangnirtung, Iqaluit, Kimmirut, Cape Dorset, Hall Beach and Igloolik)<sup>5</sup>
- Muskox Harvesting Areas (Grise Fiord)<sup>6</sup>
- Blunt Peninsula (Iqaluit)<sup>7</sup>
- Coastal Meta Incognita Peninsula (Kimmirut)<sup>8</sup>
- Bjorne – Bauman – Makinson (Grise Fiord)<sup>9</sup>
- Sverdrup – Truelove – Brae (Grise Fiord)<sup>10</sup>

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-215E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-215E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-185E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-186E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-193E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-194E)

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-212E)

<sup>8</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-214E)

<sup>9</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-216E)

<sup>10</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-216E)

- Allen Bay – Resolute Passage (Resolute Bay)<sup>1</sup>
- Southeastern Bathurst Island (Resolute Bay)<sup>2</sup>
- Southeastern Bathurst Island – Western McDougall Sound (Resolute Bay)<sup>3</sup>
- Southwestern Bathurst Island (Resolute Bay)<sup>4</sup>
- Maury Channel (Resolute Bay)<sup>5</sup>
- Traditional Inuit Homes and Camps (Arctic Bay and Igloodik)<sup>6</sup>
- Barnes Ice Cap (Clyde River)<sup>7</sup>
- Home Bay (Qikiqtaaluk)<sup>8</sup>
- Merchants Bay (Qikiqtaaluk)<sup>9</sup>
- Markham Bay – Western Hudson Strait – Foxe Channel (Kimmirut and Cape Dorset)<sup>10</sup>
- Selected Marine Waters and Islands, Belcher Islands (Sanikiluaq)<sup>11</sup>

### Considerations

The above listed proposed community areas of interest are not separately discussed at this time in the 2021 DNLUP for the following reasons:

- There may be a lack of precision in defining the geographic boundaries or in providing a description of a methodology that was used to draw them;
- There is insufficient information on the values and correlation with the suggested protection measures;
- There is lack of clarity on the consultations that led to the proposed areas, including who was involved; and/or
- The proposed polygons are new and more opportunities for comments from other participants are needed.

The NPC will reconsider these proposed community areas of interest once it receives more input from other

participants on the proposed boundaries and designations.

## 4.1.9 Community-Identified Priority Locations

Section 11.2.1(c) of the NA requires land use plans to reflect the priorities and values of residents.

### 4.1.9.1 Defining Geographic Boundaries

During the NPC's community consultations in 2012-2014, community members identified priorities and values for thousands of areas. This information and these locations have been considered throughout this 2021 O&R, including in the identification of community areas of interest set out above. They were geographically categorized by the WMAs identified by the NWB.

#### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of the community-identified priority locations.

***The certainty of the identified geographic boundaries of the COMMUNITY-IDENTIFIED PRIORITY LOCATIONS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 4.1.9.2 Environmental and Cultural Importance

During the NPC's community consultations in 2012-2014, community members identified priorities and values for thousands of areas.

#### Considerations

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-218E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-218E)

<sup>3</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-218E)

<sup>4</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-218E)

<sup>5</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-218E)

<sup>6</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-219E)

<sup>7</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-220E)

<sup>8</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-222E)

<sup>9</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-222E)

<sup>10</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-223E)

<sup>11</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-224E)



In general, community residents identified areas of importance to each of the NPC's planning goals. The areas represent a range of importance, and the NPC considers these locations as a whole to have moderate environmental and cultural importance.

***The environmental and cultural importance of the COMMUNITY-IDENTIFIED PRIORITY LOCATIONS is considered MODERATE because:***

- ***The importance of the areas to the communities is moderate;***
- ***The importance of the areas to wildlife is moderate because:***
  - ***Alternative habitat is likely to be available;***
  - ***The areas are essential to the biological productivity of wildlife; and***
  - ***The habitat supports concentrations of wildlife.***

#### 4.1.9.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

##### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the community-identified priority locations is considered variable. The community-identified priority locations are scattered across Nunavut. Some have little or no mineral potential, while others have high potential.

***The potential for non-renewable resources, transportation and linear infrastructure in the COMMUNITY-IDENTIFIED PRIORITY LOCATIONS is considered VARIABLE.***

#### 4.1.9.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of community-identified priority locations to impacts.

##### Considerations

The community-identified priority locations are scattered across Nunavut. While there is currently a lack of specific information on the sites, it is assumed they have variable sensitivity to impacts from incompatible uses.

***The sensitivity of the COMMUNITY-IDENTIFIED PRIORITY LOCATIONS to impacts is considered VARIABLE.***

#### 4.1.9.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for community-identified locations.

##### Considerations

The NLUP is an appropriate tool to manage inconsistent developments in the community-identified priority locations.

***The potential value of including guidance in the NLUP for the COMMUNITY-IDENTIFIED PRIORITY LOCATIONS is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is low overlap of existing legislation and regulations with NPC jurisdiction.***

#### 4.1.9.6 Policy Options for Community-Identified Priority Locations

##### 4.1.9.6.1 Option 1 - Limited Use

No participant recommended this option.

##### 4.1.9.6.2 Option 2 - Conditional Use

No participant recommended this option.

##### 4.1.9.6.3 Option 3 - Mixed Use

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



No participant recommended this option.

#### 4.1.9.6.4 Option 4 - Valued Component

No participant recommended this option.

### 4.1.9.7 NPC Recommendation - VSEC

Given that:

#### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered **HIGH**.

#### COMMUNITY-IDENTIFIED PRIORITY LOCATIONS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	MODERATE
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	VARIABLE
iv.	Sensitivity to Impacts	VARIABLE
v.	Potential Value of Including Guidance in the NLUP	MODERATE

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify the community-identified priority locations as areas of known VSECs that should be given particular consideration (see Tables 4 and 5).

**Rationale:** Option 4 was recommended based on feedback received during the NPC's 2012-2014 community consultation tour and Planning Partner consultations.

#### LAND USE PLAN POLICY RECOMMENDATION

### **COMMUNITY-IDENTIFIED PRIORITY LOCATIONS**

### **VALUED SOCIO-ECONOMIC COMPONENT**

### 4.1.9.8 Summary of Revisions

#### KRLUP and NBRLUP

The additional community areas of interest fall within the NBRLUP. The NBRLUP does not include specific planning measures for these areas, but in Appendix G – Land Values and Concerns – part of the areas are identified as an “Essential Area” and part as an “Important Area.”

#### 2012, 2014 and 2016 DNLUP

Community priorities and values were not specifically discussed within a separate section in the 2012 DNLUP. The 2014 and 2016 DNLUP both addressed this topic under the heading “Community Priorities and Values.”

Both the 2014 and 2016 DNLUP indicated that consideration of community priorities and values in the regulatory process will enhance decision-making and support communities. The 2014 DNLUP included a requirement that direction be given to regulatory authorities, where appropriate, to mitigate impacts on the priorities and values identified by communities. Similarly, the 2016 DNLUP included a requirement that information on VECs and VSECs be given to regulatory authorities, and the NPC recommended that where appropriate, regulatory authorities take necessary steps to mitigate negative impacts on the priorities and values identified by communities. Additionally, both the 2014 and 2016 DNLUP included a table identifying community priorities and values for WMAs as well as a table identifying community priorities and values for marine areas.

#### 2021 DNLUP

In the 2021 DNLUP, the section heading “Community Priorities and Values” is changed to “Community-Identified Priority Locations.” The 2021 DNLUP identifies the areas as known VSECs.

### 4.1.10 Locations Identified in Use and Occupancy Mapping Interviews

The locations identified in use and occupancy mapping interviews are places identified through interviews with individual community members.

Section 11.2.3(c) of the NA requires cultural factors and priorities be taken into account in developing planning policies, priorities and objectives.

Objective A of the NPC’s Goal of Building Healthier Communities is to ensure the social, cultural, economic and environmental endeavours of the human community are central to land use planning and implementation.

4.1.10.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2014	50,035 points	

In 2012, in its Independent Review, Dillon<sup>1</sup> noted:

“... The NPC has conducted over 400 interviews to identify areas of traditional land use and occupancy and areas of importance to communities are identified on community maps included in the DNLUP.”

Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of the locations identified in use and occupancy mapping interviews. Nunavummiut rely on migrating species for subsistence, and as a result, have a long-established history of land use across much of the NSA. The NPC has been working to map this history by hosting use and occupancy mapping interviews with hunters and trappers throughout the territory. The areas identified are done so through a professional interview process where the interviewee explains on a map where they collect traditional resources.

Table 6 in the 2021 DNLUP identifies which VECs and VSECs are present in each WMA.

***The certainty of the identified geographic boundaries of the LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS is considered HIGH because:***

- The areas are identified with high precision/scale; and*
- The information is current.*

4.1.10.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of the locations identified in use and occupancy mapping interviews.

Some of the areas are within the boundaries of the NBRLUP, which recognizes the important link between the people of the region and the land.

Some of the areas are within the boundaries of the KRLUP, which recognizes the importance of community use areas.

In 2012, in its Independent Review, Dillon noted:<sup>2</sup>

“... It is perfectly reasonable for the NPC to identify the initial mapping of culturally important community land use areas across Nunavut as a priority for the first generation plan. In fact, this approach has the advantage of bringing the planning process, which covers a vast area, down to a scale that is meaningful for many Inuit and other residents.”

Considerations

The locations identified in use and occupancy mapping interviews are important to communities and wildlife, and have generations of observational evidence to support them. Based on this, the NPC considers these areas to have high environmental and cultural importance.

***The environmental and cultural importance of the LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS is considered HIGH because:***

- The importance of the areas to the communities is high; and*
- The importance of the areas to wildlife is high because:*
  - Alternative habitat is unlikely to be available;*
  - The areas are essential to the biological productivity of wildlife; and*
  - The habitat supports concentrations of wildlife.*

<sup>1</sup> (Dillon Consulting, 2012-06-21. NPC Public Registry File # 10-133E)

<sup>2</sup> (Dillon Consulting, 2012-06-21. NPC Public Registry File # 10-133E)

#### 4.1.10.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

##### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the locations identified in use and occupancy mapping interviews is considered variable. The locations identified in use and occupancy mapping interviews are scattered across Nunavut. While some have little or no mineral potential, others may rank more highly. Many of the areas include IOL.

***The potential for non-renewable resources, transportation and linear infrastructure in the LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS is considered VARIABLE.***

#### 4.1.10.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of locations identified in use and occupancy mapping interviews to impacts.

##### Considerations

The locations identified in use and occupancy mapping interviews are scattered across Nunavut and have variable sensitivity to impacts from incompatible uses.

***The sensitivity of the LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS to impacts is considered VARIABLE.***

#### 4.1.10.5 Other Regulatory Tools

In 2012, in its Independent Review, Dillon<sup>3</sup> noted:

"The decision to address areas of community land use in the DNLUP is consistent with planning obligations and direction established by foundation documents. For example, as noted in the NPC's Options and Recommendations document, section 11.2.1(a) of the NLUP states that 'people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation.' Engaging residents through Use and Occupancy Mapping is also consistent with the obligation under section 11.2.1(d) to provide an opportunity for the 'active and informed participation and support of Inuit and other residents' in the planning process. Finally, addressing this issue is consistent with the goal of Building Healthier Communities in the 11.4.1(a) document. The DNLUP decision to address this issue therefore meets the test of reasonableness under the first criterion.

"The second criterion concerns its consistency with a plausible understanding of the role of land use planning in Nunavut. As with caribou calving grounds, the DNLUP proposes the 'red flag' approach to areas of community land use. The value added by the plan is the identification of these areas on local maps so that land users, NIRB and other regulatory authorities have advance notice that projects in these areas should consider impacts on cultural values. As a result, project proponents are on notice that they should proactively identify and address specific community concerns and that they can expect scrutiny on these issues in regulatory hearings.

...

"... In our view, community input on the delineation of these areas would be an appropriate focus for engaging Inuit and other residents at the public participation stage. In addition, comments at the community level might be directed to providing greater guidance in the plan on the values and the patterns of land use and occupancy in these areas, their relative importance, and proposed direction on appropriate land use. Stakeholders may also want to comment on values and land uses within these areas. Given the broad scale of a Nunavut-wide planning exercise, focusing one part of that process on community land use

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> Dillon Consulting, 2012-06-21. NPC Public Registry File # 10-133E)

areas seems to us to be a reasonable approach to engaging the public and stakeholders in meaningful participation.”

#### Considerations

The NLUP is an appropriate tool to manage inconsistent developments in the locations identified in use and occupancy mapping interviews.

***The potential value of including guidance in the NLUP for the LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.1.10.6 Policy Options for Locations Identified In Use and Occupancy Mapping Interviews

##### 4.1.10.6.1 Option 1 - Limited Use

No participant recommended this option.

##### 4.1.10.6.2 Option 2 - Conditional Use

No participant recommended this option.

##### 4.1.10.6.3 Option 3 - Mixed Use

No participant recommended this option.

##### 4.1.10.6.4 Option 4 - Valued Component

No participant recommended this option.

#### 4.1.10.7 NPC Recommendation - VSEC

Given that:

##### COMMUNITY AREAS OF INTEREST:

The overall importance of the issue is considered HIGH.

##### LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH

iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	VARIABLE
iv.	Sensitivity to Impacts	VARIABLE
v.	Potential Value of Including Guidance in the NLUP	HIGH

#### Recommendation for Locations Identified in Use and Occupancy Mapping Interviews:

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify locations identified in use and occupancy mapping interviews as areas of known VSECs that should be given particular consideration (see Table 6).

**Rationale:** Option 4 was recommended based on feedback received during the NPC’s 2012-2014 community consultation tour and Planning Partner consultations. These multiple small areas are identified by those who know the land the best and are a valuable source of information for all parts of the regulatory process. The level of information per site, however, is not supportive of more restrictive designations.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS**

#### **VALUED SOCIO-ECONOMIC COMPONENT**

#### 4.1.10.8 Summary of Revisions

##### KRLUP and NBRLUP

Many of the identified locations fall within the NBRLUP. The NBRLUP does not include specific planning measures for these areas, but in Appendix G – Land Values and Concerns – many of them are identified as an “Essential Area” or an “Important Area.”

##### 2012, 2014 and 2016 DNLUP

Earlier versions of the DNLUP regulated these areas under the heading “Community Land Use.”

In the 2012 DNLUP, to manage impacts on areas of traditional land use, the areas were assigned recommendation BHC-R2. The specific recommendation stated, “Project Proposals located in areas of traditional land use should take into account impacts on the cultural value of the area.”

The 2014 DNLUP included a requirement that direction be given to regulatory authorities to mitigate impacts on community land use.

The 2016 DNLUP included a requirement that information on VECs and VSECs be given to regulatory authorities, and the NPC recommended that where appropriate, regulatory authorities take the necessary steps to mitigate negative impacts on community land use.

Both the 2014 and 2016 DNLUP included a table identifying the number of recorded points in the NPC’s use and occupancy mapping data, organized by WMA.

In the 2014 and 2016 DNLUP, the NPC also recommended ongoing use and occupancy research to collect information from residents to understand trends and patterns in Inuit land use and areas of importance during community consultation workshops.

**2021 DNLUP**

To increase clarity, the section heading was changed in 2021 from “Community Land Use Areas” to “Locations Identified in Use & Occupancy Mapping Interviews.” The 2021 DNLUP identifies these areas as known VSECs.

**4.2 Parts of the NSA Shared With Non-Nunavut Communities**

Section 11.3.1(h) of the NA requires a land use plan to take into account cultural factors and priorities.

Policy A.3 of the NPC’s Goal of Building Healthier Communities is to support Inuit social and cultural needs and aspirations by providing special management to areas of archaeological, historical or cultural importance.

Objective F of the NPC’s Goal of Encouraging Sustainable Economic Development is to ensure that the goals of any proposed restrictions on land use are achieved with the least possible impact on undiscovered mineral resources, while taking into account environmental and social objectives.

**4.2.1 Importance of the Parts of the NSA Shared With Non-Nunavut Communities**

There are parts of Nunavut where non-Nunavut communities have historic and current use and interests. These are outlined in Article 40 of the NA. These areas are important both to communities within and outside Nunavut, and were mainly selected due to their value for traditional harvesting.

The NPC did not receive any comments directly related to the overall importance of the parts of the NSA that are shared with non-Nunavut communities.

**Considerations**

Participants generally agreed on the overall high importance and priority of parts of the NSA shared with non-Nunavut communities. Areas shared with non-Nunavut communities is broadly recognized as an important consideration to be included in the NLUP.

*The overall importance of the PARTS OF THE NSA SHARED WITH NON-NUNAVUT COMMUNITIES is considered HIGH because:*

- *They have been identified by some participants as a priority;*
- *They have a high cultural value;*
- *They have a moderate economic value; and*
- *They have a high ecosystemic value.*

**4.2.2 Types of Areas Important to Parts of the NSA Shared With Non-Nunavut Communities**

The Areas of Equal Use and Occupancy are shared between Qikiqtani Inuit and the Inuit of Nunavik in northern Quebec, represented by Makivik Corporation (Makivik). These are a number of islands in the Hudson Strait and northern Hudson Bay.



The Dënesųłiné Areas of Asserted Title Claim are portions of the southern Kivalliq Region where negotiations are underway to settle an agreement. There are also parcels of land under negotiation for Dënesųłiné ownership within these areas that have been withdrawn from disposition by an Order in Council (OIC).

The Areas of Equal Use and Occupancy and Dënesųłiné Areas are considered separately in the following subsections.

### 4.2.3 Areas of Equal Use and Occupancy

The Areas of Equal Use and Occupancy are areas within the NSA where certain lands are jointly owned and managed by the Inuit of northern Quebec (Nunavik) represented by Makivik and the Inuit of Nunavut represented by NTI, as set out under Article 40 of the NA. These areas are generally located around the Salisbury and Nottingham Islands in the Hudson Strait, and the Bakers Dozen, King George and Sleeper Islands in Hudson Bay.

The areas were identified by residents of multiple communities in Nunavut and Nunavik as important for a variety of environmental and cultural reasons.

#### 4.2.3.1 Defining Geographic Boundaries

Source	Area (km²)	% NSA & OLFIZ
NPC (digitized from NA Schedule 40-1)	22,813.4	1

The NPC did not receive comments directly related to defining the geographic boundaries of the Areas of Equal Use and Occupancy.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of the Areas of Equal Use and Occupancy. The boundaries of the Areas of Equal Use and Occupancy are defined in the NA, in Schedule 40-1. The geographic boundaries currently considered for the Areas of Equal Use and Occupancy were digitized by the

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-06. NPC Public Registry File # 12-071E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-27. NPC Public Registry File # 12-101E)

NPC based on the descriptions in Schedule 40-1 of the NA.

***The certainty of the identified geographic boundaries of the AREAS OF EQUAL USE AND OCCUPANCY is considered HIGH because:***

- The areas are identified with high precision/scale;*
- There is high agreement among participants regarding the boundaries; and*
- The information is current.*

#### 4.2.3.2 Environmental and Cultural Importance

During the NPC’s 2013 community visits, the communities of Cape Dorset,<sup>1</sup> Ivujivik<sup>2</sup> and Salluit<sup>3</sup> highlighted the importance of these areas to walrus, seals, beluga, caribou, birds and Arctic char. Many residents also described archaeological sites.

In 2015, Makivik<sup>4</sup> stated:

“... the Areas of Equal Use and Occupancy are significant areas used by both the Nunavut and Nunavik Inuit, and are also valuable habitat for various species. They have, both currently and historically, been used extensively by Nunavik Inuit for hunting, fishing and trapping. ...”

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of the Areas of Equal Use and Occupancy.

***The environmental and cultural importance of the AREAS OF EQUAL USE AND OCCUPANCY is considered HIGH because:***

- The importance of the areas to the communities is high; and*
- The importance of the areas to wildlife is high because:*
  - The habitat supports concentrations of wildlife.*

#### 4.2.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km²)	IOL Surface	IOL Subsurface	Existing Rights
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<sup>3</sup> (Nunavut Planning Commission (NPC), 2013-09-27. NPC Public Registry File # 12-102E)

<sup>4</sup> (Makivik Corporation, 2015-06-17. NPC Public Registry File # 14-058E)



		(km <sup>2</sup> )	(km <sup>2</sup> )	(km <sup>2</sup> )
NPC (digitized from NA Schedule 40-1)	22,813	1,745	86.38	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Areas of Equal Use and Occupancy is considered low. Some marine components overlap with existing shipping corridors.

***The potential for non-renewable resources, transportation and linear infrastructure in the AREAS OF EQUAL USE AND OCCUPANCY is considered LOW because:***

- *The areas have no overlaps with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have potential for marine transportation;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

### 4.2.3.4 Sensitivity to Impacts

During the NPC's 2013 community consultation in Salluit,<sup>3</sup> residents expressed concerns about oil spills, hydro development, ice-breaking and shipping vessels.

During the NPC's 2013 community consultation in Ivujivik,<sup>4</sup> residents expressed concerns about increased

shipping, walrus terrestrial hauls outs, ballast water and noise disturbance to wildlife.

### Considerations

Participants broadly agreed that the sensitivity of the Areas of Equal Use and Occupancy to impacts from incompatible uses is high and seasonal. The Areas of Equal Use and Occupancy are multi-value areas and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading "Sensitivity to Impacts."

***The sensitivity of the AREAS OF EQUAL USE AND OCCUPANCY to impacts is considered HIGH and SEASONAL because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

### 4.2.3.5 Other Regulatory Tools

Section 40.2.14 of the NA establishes a temporary management regime for the Areas of Equal Use and Occupancy where the NPC would have planning authority and would have alternate Makivik members appointed for decisions affecting the areas. Under NA 40.2.15, a more permanent arrangement was to be established with the conclusion of a Northern Quebec Inuit Offshore Land Claims Agreement. Although the Nunavik Inuit Land Claims Agreement was finalized, no permanent arrangement for the management of the areas has been made. Section 27.6.2 of the Nunavik Agreement notes that the arrangement shall continue to apply until agreement has been reached pursuant to section 40.2.15 of the NA.

In 2016, Makivik<sup>5</sup> stated:

"... the Nunavik Marine Region Planning Commission (NMRPC) is equally in the process of initiating the process to establish a Land Use Plan for the Nunavik Marine Region (NMR) including the Areas of Equal Use and Occupancy. In light of these facts, we would strongly urge the NPC to delay any designations in the areas of Equal Use and

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2013-09-27. NPC Public Registry File # 12-102E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2013-09-27. NPC Public Registry File # 12-101E)

<sup>5</sup> (Makivik Corporation, 2016-03-01. NPC Public Registry File # 14-152E)

Occupancy until such time that the NMRPC conducts adequate community consultations in all relevant Nunavik and Nunavut Inuit communities in context of both the NPC land use plan and that to be developed by the NMRPC. This would ensure that there is some consistency between the land use plans in Nunavut and the adjacent plan in the Nunavik Marine Region (NMR). It is our view that at minimum, there must be some cohesion between these adjacent areas and designations and limitations would serve both planning processes.”

### Considerations

As provided by the NA, the NLUP is an appropriate tool to manage land uses in the Areas of Equal Use and Occupancy.

***The potential value of including guidance in the NLUP for the AREAS OF EQUAL USE AND OCCUPANCY is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

## 4.2.3.6 Policy Options for the Areas of Equal Use and Occupancy

### 4.2.3.6.1 Option 1 - Limited Use

During the NPC’s 2013 community consultation in Salluit,<sup>1</sup> residents stated that they would prefer to have no development on the islands. They want the entire area of Equal Use and Occupancy protected for the community.

During the NPC’s 2013 community consultation in Ivujivik,<sup>2</sup> residents indicated that they want protection from development and overuse for all nesting areas.

In 2015, NTI and the RIAs<sup>3</sup> stated:

“41. Section 4.1.4 Areas of Equal Use and Occupancy assigns areas under joint ownership by QIA, NTI and Makivik Corporation a Protected Area designation. The proposed Protected Area designation incurs on 183,110 hectares of land held by QIA and NTI. QIA and NTI did not request that NPC place these lands under a Protected Area designation and it is not clear that communities requested that these lands be placed in a protected area designation. A letter from the NPC to QIA and NTI in 2013 suggests that

communities had questions regarding the development of the islands and revenue sharing. We are aware that the Makivik Corporation has recently corresponded with NPC expressing concerns regarding the limitations created by the Protected Area designation, and about misunderstandings during the community consultations. NTI and QIA share these concerns and will be providing further comments to NPC on this designation.”

In 2015, Makivik<sup>4</sup> stated:

“It is our understanding that from the community consultations held by the Nunavut Planning Commission (NPC) in Ivujivik on May 2-3, 2013 and in Salluit on June 4-5, 2013, that participants in both communities identified the areas of Equal Use and Occupancy (Article 40 of the NLCA, Article 27 of the NILCA) as area of ‘importance for protecting and sustaining the environment’. For both communities it was identified that they would like the Nunavut Land Use Plan (NLUP) to encourage activities that support environmental protection and management needs, including wildlife, conservation, protection and management. As a result, the Areas of Equal Use and Occupancy have been designated as Protected Areas in the DNLUP.

“As you are aware, the Areas of Equal Use and Occupancy are significant areas used by both the Nunavut and Nunavik Inuit, and are also valuable habitat for various species. They have, both currently and historically, been used extensively by Nunavik Inuit for hunting, fishing and trapping. With this in mind, as the joint land owners along with Nunavut Tunngavik Inc. (NTI) of the Areas of Equal Use and Occupancy, we equally feel the importance of some level of protection of the areas for current and future subsistence needs of Nunavik and Nunavut, Inuit.

“However, it is our position, one which NTI may well share, that the current designation of Protected Area may prejudice the rights of Nunavik Inuit to these overlap areas in that it could diminish the value of the land by severely limiting potential future alternate uses including economic development. Furthermore, we feel that there may have been a misunderstanding in the definition and limitations of Protected Areas during the community consultations in 2013.

“Makivik will be consulting with NTI and the Qikiktani Inuit Association in regards to this matter and will be refining its position based on the outcomes of these discussions.”

In 2016, Makivik<sup>5</sup> stated:

<sup>1</sup> (Nunavut Planning Commission (NPC), 2013-09-27. NPC Public Registry File # 12-102E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2013-09-27. NPC Public Registry File # 12-101E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>4</sup> (Makivik Corporation, 2015-06-17. NPC Public Registry File # 14-058E)

<sup>5</sup> (Makivik Corporation, 2016-03-01. NPC Public Registry File # 14-152E)

“As a follow up to our letter dated June 17, 2015, we would like to re-iterate that the current designation of Protected Areas in the zones of Equal Use and Occupancy may prejudice the rights of Nunavik Inuit and it is our opinion that the community consultations conducted in 2013 were insufficient, did not meet the consultative requirements of the NPC with regards to Nunavik Inuit, and the level of community engagement has remained low. We feel that there still remains some misunderstanding in the definition and limitations of Protected Areas in the communities visited. Furthermore, regarding the 2013 consultations, although there was an attempt to take Inukjuak representatives to the consultation in Ivujivik, the NPC did not hold direct community consultations in the communities of Inukjuak and Umiujaq, communities which are adjacent to Areas of Equal Use and Occupancy which are highly used by residents of the communities of Inukjuak and Umiujaq. With this in mind, we feel that the consultations for the DNLUP were inadequate and do not properly identify the community’s interests.”

### Considerations

The NPC notes that some community residents support this option, while NTI and Makivik do not support this option. During community consultations, residents identified a large number of values in the areas and in previous drafts of the NLUP those comments were interpreted to be consistent with a designation that prohibited certain uses. The NPC recognizes the concerns of Makivik and NTI and the RIAs, however it is important to note that community residents have also expressed their desire to protect the areas from incompatible developments that may harm wildlife and traditional harvesting.

#### 4.2.3.6.2 Option 2 - Conditional Use

In 2016, Makivik<sup>1</sup> stated:

“We trust that the NPC will understand our significant concerns and be amenable to a delay in designation of any protected area status for the Areas of Equal Use and Occupancy alone. If such a delay is not possible, we would ask that the areas of Equal Use and Occupancy be designated as a Special Management Area which will provide flexibility until such time where the relevant and concerned communities can be adequately consulted to determine what future uses will be permitted.”

### Considerations

The NPC notes that Makivik later recommended a MU designation, which is reflected in the section below.

#### 4.2.3.6.3 Option 3 - Mixed Use

In 2017, NTI and the RIAs<sup>2</sup> noted:

“QIA has also been consulting communities. Consultations have occurred in Sanikiluaq and Cape Dorset. In Sanikiluaq, community members indicated that more information is required regarding the views of the Nunavik communities on the lands in question. On a preliminary basis, Sanikiluaq community members are open to considering a protection oriented designation. In Cape Dorset, there was an interest in knowing what the preference was of the Nunavik communities for the lands.

“Until such time as the results of all the consultations are known, NTI and the RIAs recommend that the Areas of Equal Use and Occupancy be zoned Mixed Use.”

During the 2017 Qikiqtani regional public hearing, Makivik<sup>3</sup> noted:

“... on behalf and for the benefit of the Nunavik Inuit, Makivik supports the recommendation made by NTI at its January prehearing joint submission so the Areas of Equal Use and Occupancy jointly owned by Makivik and NTI be modified to a Mixed Use land designation.”

### Considerations

The NPC notes that NTI and Makivik support this option. Although NTI and the RIAs, and Makivik recommended a MU designation, the NPC believes the identification of the areas as VSECs would also be consistent with those submissions.

#### 4.2.3.6.4 Option 4 - Valued Component

No participant explicitly stated support for this option.

### Considerations

Although NTI and the RIAs, and Makivik recommended a MU designation, the NPC believes the identification of the areas as VSECs would also be consistent with those submissions.

#### 4.2.3.7 NPC Recommendation - VSEC

Given that:

<sup>1</sup> (Makivik Corporation, 2016-05-10. NPC Public Registry File # 14-181E)

<sup>2</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

## PARTS OF THE NSA SHARED WITH NON-NUNAVUT COMMUNITIES:

The overall importance of the issue is considered **HIGH**.

### AREAS OF EQUAL USE AND OCCUPANCY:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>LOW</b>
iv.	<b>Sensitivity to Impacts</b>	<b>HIGH and SEASONAL</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

### Recommendation for Areas of Equal Use and Occupancy

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify the Areas of Equal Use and Occupancy as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended given the importance of the areas to residents and the latest land use management approach suggested by the landowners.

#### LAND USE PLAN POLICY RECOMMENDATION

### **AREAS OF EQUAL USE AND OCCUPANCY**

### **VALUED SOCIO-ECONOMIC COMPONENT**

## 4.2.3.8 Summary of Revisions

### KRLUP and NBRLUP

The existing regional land use plans do not address the Areas of Equal Use and Occupancy.

### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, the Areas of Equal Use and Occupancy were defined, generally discussed in the

context of the overall NSA, and delineated on mapping. The areas were not specifically discussed within a separate section.

Both the 2014 and 2016 DNLUP assigned a PA designation to the Areas of Equal Use and Occupancy that prohibited incompatible uses.

### 2021 DNLUP

The 2021 recommendation is to identify the Areas of Equal Use and Occupancy as areas of known VSECs. In the 2021 DNLUP, the earlier restrictions were removed to reflect the views of the landowners.

## 4.2.4 Dënesų́líné Areas

Dënesų́líné living in northern Manitoba and northern Saskatchewan have interests in lands in the southern Kivalliq Region that they have traditionally used and continue to use.

### 4.2.4.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
Athabasca Dënesų́líné, 2009	108,266	3
Manitoba Dene	58,994	2
OIC Withdrawal	20,469	0.6

The geographic boundaries currently considered for the Dënesų́líné Areas were provided by the Athabasca Dënesų́líné and the Manitoba Dënesų́líné.

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of Dënesų́líné OIC withdrawn areas and moderate certainty regarding the geographic boundaries of Dënesų́líné Areas of Asserted Title Claim.

There are two areas of asserted title claim inside the NSA currently under negotiation: the Athabasca Dënesų́líné Area of Asserted Title Claim under the Benoanie Litigation; and the Manitoba Dënesų́líné Area of Asserted Title Claim under the Samuel/Thorassie Litigation.

To facilitate the conclusion of land agreements between the involved parties, the Federal Cabinet approved OIC #P.C. 2013-625, which withdrew lands from disposal of the surface and subsurface rights. The Order was

renewed in 2016 (#P.C. 2016-374) and in 2019 (#P.C. 2019-576).<sup>1</sup>

Areas withdrawn by OIC from development are surveyed and the interim boundaries are set through negotiations between the GoC and the Dënesųłíné Nations. The final boundaries remain to be determined.

The boundaries of the Dënesųłíné Areas of Asserted Title Claim are general and cover portions of the southern Kivalliq. For clarity, the OIC withdrawn areas are included within the larger areas of asserted title claim.

***The certainty of the identified geographic boundaries of DĚNESŲŁINÉ OIC WITHDRAWN AREAS is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

***The certainty of the identified geographic boundaries of DĚNESŲŁINÉ AREAS OF ASSERTED TITLE CLAIM is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

4.2.4.2 Environmental and Cultural Importance

In 2009, the Manitoba Dënesųłíné<sup>2</sup> provided information on Dënesųłíné land use within Nunavut for burial and sacred sites, archeological sites, cabins, camps, hunting and trapping, and noted that the provisions of the NA “do not adequately recognize the rights and interests of the Manitoba Denesuline in Nunavut” and they “have asserted rights and interests in Nunavut which differ significantly from Article 40.” These identified land uses are within the “Areas of Asserted Title Claim.”

In 2014, the Sayisi Dene First Nation<sup>3</sup> submitted:

“... As you know, several of the herds that spend part of each year in the Kivalliq or Kitikmeot regions of Nunavut are shared by numerous communities, both in Nunavut and

in other jurisdictions, including the Northwest Territories, Saskatchewan and Manitoba.”

In 2016, the Ghotlenene K’odtineh Dene (GKD)<sup>4</sup> noted:

“It is important that the Commissioners, staff and public hearing participants understand that caribou are at the core of Denesuline culture and are the underlying factor determining Denesuline land use and occupancy. This caribou based land use and occupancy is the foundation for the land claim. Concluding the land claim and sustaining healthy caribou populations are inextricably linked and both are necessary to provide for a strong and sustainable Denesuline culture and economy in the future. ...”

Considerations

Participants broadly agreed on the high environmental and cultural importance of the Dënesųłíné Areas.

***The environmental and cultural importance of the DĚNESŲŁINÉ AREAS is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

4.2.4.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
Athabasca Dënesųłíné, 2009	108,266	8,991	1,231	766
Manitoba Dene	58,994	3,715	719	139
OIC Withdrawal	20,469	0	0	85

Parnautit,<sup>5</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

<sup>1</sup> <https://laws-lois.justice.gc.ca/eng/regulations/SI-2019-29/index.html>  
<sup>2</sup> (Manitoba Denesuline, 2009-09-30. NPC Public Registry File # 10-045E)  
<sup>3</sup> (Sayisi Dene First Nation, 2014-05-15. NPC Public Registry File # 12-196E)

<sup>4</sup> (Ghotlenene K’odtineh Dene (GKD) , 2016-10-21. NPC Public Registry File # 16-018E)  
<sup>5</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)



Ingirrasiliqta,<sup>1</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Dēnesūliné OIC withdrawn areas is considered high. Within the OIC withdrawn areas, there is known mineral potential.

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Dēnesūliné Areas of Asserted Title Claim is considered high. Within the Dēnesūliné Areas of Asserted Title Claim, which cover much of the southern Kivalliq, there is significant mineral potential and a proposed roadway.

***The potential for non-renewable resources, transportation and linear infrastructure in DĚNESŪLINÉ OIC WITHDRAWN AREAS is considered HIGH because:***

- *The areas overlap with areas with evidence of mineral potential;*
- *The areas have known potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

***The potential for non-renewable resources, transportation and linear infrastructure in DĚNESŪLINÉ AREAS OF ASSERTED TITLE CLAIM is considered HIGH because:***

- *The areas have overlaps with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

#### 4.2.4.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the Dēnesūliné Areas to impacts.

#### Considerations

The NPC considers the sensitivity of the Dēnesūliné Areas to impacts from incompatible uses to be high and year-round. The Dēnesūliné Areas are multi-value areas, particularly for caribou habitat, and details on the sensitivity of most identified values have been considered in Chapter 2 under the subheading "Sensitivity to Impacts."

***The sensitivity of the DĚNESŪLINÉ AREAS to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur;*
- *The concern regarding potential impacts is year-round; and*
- *Existing community uses are sensitive to disturbance from incompatible uses.*

#### 4.2.4.5 Other Regulatory Tools

The Governor General in Council's Order #P.C. 2019-576, renewing orders #P.C. 2013-625 and 2016-374, prohibits all new surface and subsurface developments on the OIC withdrawn lands for five years, starting May 29, 2019.

In 2016, the GKD<sup>2</sup> noted:

"The protections afforded to caribou habitat under the Federal withdrawal provisions will continue until the land claim negotiations are completed. Once completed, appropriate measures to protect caribou habitat on GKD Settlement Lands can be discussed as part of the ongoing NLUP review and amendment process. At that time, the Denesuline will give full consideration to the protections requested in the May 2014 correspondence as those protections may apply on GKD Settlement Lands in accordance with the provisions of the ratified GKD land claims agreement."

#### Considerations

The OIC will guide land uses in these areas during its time of validity, however it is a temporary measure taken by the GoC to facilitate the conclusion of land agreements

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>2</sup> (Ghotlenene K'odtineh Dene (GKD) , 2016-10-21. NPC Public Registry File # 16-018E)



between the Crown, the Inuit of Nunavut and the Dene, which could not replace a land use plan for the long-term. There is also value in considering the more general Areas of Asserted Title Claim in the plan.

***The potential value of including guidance in the NLUP for the DĚNESŪĹINĚ AREAS is considered MODERATE because:***

- *The issue is temporally addressed by other regulatory authorities; and*
- *There is an overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.2.4.6 Policy Options for DĚnesŪĹinĚ Areas

##### 4.2.4.6.1 Option 1 - Limited Use

No participant recommended this option.

##### Considerations

The 2014 DNLUP included a PA designation for the withdrawn areas, and that approach was not consistent with the wishes of the DĚnesŪĹinĚ. In addition, in the 2016 DNLUP some PAs associated with caribou habitat overlapped with the withdrawn areas and an “Errors and Omissions” list<sup>1</sup> was released in 2016 that clarified:

“The entire area withdrawn by the Order in Council should be assigned a Mixed Use designation, without any overlapping Protected Areas or other land use designations ...”

Some caribou calving, post-calving and water crossing areas overlap with Dene withdrawn and asserted claims lands. In addition, it is noted that despite the Dene’s recommendations for protection of caribou calving, post-calving and water crossing areas, they have also requested the withdrawn lands be designated MU to facilitate ongoing land negotiations.

##### 4.2.4.6.2 Option 2 - Conditional Use

In 2015, the GoC<sup>2</sup> stated:

“... These lands are subject to the Order in Council #PC 2013-625 (<http://gazette.gc.ca/rp-pr/p2/2013/2013-06-19/html/si-tr62-eng.php>) in which both the surface and subsurface rights to the lands are withdrawn from disposal

for a period of three years. Specifically, the land withdrawal prohibits long-term leases in the area, but does not prohibit short-term permits. The land withdrawal also has a qualifier that allows for long-term leases associated with quarrying activities. Given this information, the prohibitions listed in the DNLUP are not congruent with those within the land withdrawal. The land withdrawal still permits activities associated with mineral exploration, oil and gas exploration, and quarries.

##### “Recommendation

“Given that the withdrawals in place address the planning needs of the area, it is best not to identify site # 97 in the plan. If it is to be identified, then we recommend that it be designated as a Special Management Zone with prohibitions in place that align with the Order in Council they are subject to.”

##### Considerations

The NPC notes that although the GoC’s comment mentions “special management,” the GoC’s preferred option is best characterized as MU, especially since the GoC recommends the area not be identified in the plan.

##### 4.2.4.6.3 Option 3 - Mixed Use

In 2014, the GKD<sup>3</sup> stated:

“The Samuel/Thorassie land claim negotiations have been on-going since 1999 and are at the stage where Northlands and Sayisi Dene First Nation will soon be ratifying a final land claim agreement. The land component of the agreement is largely contained within the withdrawal area (Area 97). These lands were selected for social, economic and cultural purposes. They are intended to make a significant contribution to the future self-sufficiency of the Denesuline. The Protected Area Designation is contrary to these purposes.

...

“We are asking that you immediately change the designation to Mixed Use, before the Public Hearing process and other steps in Draft Plan review and approval begin. The designation was made in error based on the NPC misunderstanding that it would complement the land withdrawal protections and therefore facilitate resolution of our land claim negotiations. The Protected Area Designation complicates rather than facilitates our land claim negotiations. The NLUP process should not complicate and add uncertainty to the resolution of land claims in Nunavut.”

<sup>1</sup> (Nunavut Planning Commission (NPC), 2016-12-13. NPC Public Registry File #16-281E)

<sup>2</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>3</sup> (Ghotelnene Kottineh Dene, 2014-10-10. NPC Public Registry File # 14-006E)

In 2014, the Athabasca Dēnesųlíné Negotiation Team<sup>1</sup> stated:

“3. ... We cannot stress enough that this designation of our withdrawn lands as protected areas has far reaching consequences in settling the Benoanie litigation. It is in all parties’ interest to immediately remove this designation from the withdrawal lands.”

In 2015, NTI and the RIAs<sup>2</sup> stated:

“42. Section 4.1.5 Denesuline Areas of Asserted Title Claim assigns lands withdrawn from disposition a Protected Area designation. We understand that the NPC received correspondence from the Denesuline requesting that this Protected Area designation be removed and that the NPC has agreed to change the designation to Mixed Use. We agree with this change in designation to Mixed Use.”

In 2015, the GoC<sup>3</sup> stated: “it is best not to identify site # 97 in the plan.”

In 2017, the Athabasca Dēnesųlíné communities<sup>4</sup> stated:

“The AD have identified lands withdrawn in order to settle the Benoanie litigation. These lands must remain designated as multi-use in order to facilitate the resolution of this land claim settlement.

...

“Although we stand beside our statement in 3.1.4 and 3.2.4 regarding the importance of protecting key caribou habitat, the AD are in agreement with the removal of the protected area designation on the Interim Land Withdrawal lands. There remains 5 parcels designated as Protected Area, in the south-western portion of the Kivalliq region, due to them being either part of the calving area, post-calving area and/or caribou freshwater crossing. The designation of these parcels would complicate the negotiation process significantly. The NPC have agreed to remove this designation on these 5 parcels. We would like to stress the importance of doing this for the Final NLUP.”

Considerations

The NPC notes there is broad agreement that the withdrawn areas should be designated MU and not shown in the NLUP.

4.2.4.6.4 Option 4 - Valued Component

<sup>1</sup> (Athabasca Denesuline, 2014-10-20. NPC Public Registry File # 14-008E)  
<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)  
<sup>3</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

In 2010, the Athabasca Dēnesųlíné Negotiation Team<sup>5</sup> stated:

“We are pleased to see that you have included our Asserted Traditional Territory on the draft NLUP map. However our traditional land use (TLU) data, provided to the NPC in November 2009, is missing from the map ‘Goal 4: Building Healthy Communities’.”

Considerations

The 2010 comments noted above would be consistent with identifying the general Areas of Asserted Title Claim as VCs.

4.2.4.7 NPC Recommendation - MU/VSEC

Given that:

**PARTS OF THE NSA SHARED WITH NON-NUNAVUT COMMUNITIES:**

**The overall importance of the issue is considered HIGH.**

**DĚNESŲLÍNÉ AREAS:**

i.	Certainty of the Identified Geographic Boundaries	HIGH (Dēnesųlíné OIC Withdrawn Areas)
		MODERATE (Dēnesųlíné Areas of Asserted Title Claim)
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH (Dēnesųlíné OIC Withdrawn Areas)
		HIGH (Dēnesųlíné Areas of Asserted Title Claim)
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE

<sup>4</sup> (Athabasca Denesuline (AD), 2017-01-13. NPC Public Registry File # 16-080E)  
<sup>5</sup> (Athabasca Denesuline, 2010-08-26. NPC Public Registry File # 10-083E)

#### 4.2.4.8 Summary of Revisions

##### Recommendation for Dënesųłiné OIC Withdrawn Areas

Option 3 is recommended:

- Does not restrict access.
- Identified area not discussed in NLUP, and boundary of identified area not shown on Map A or B.

**Rationale:** Given the recommendations of participants and the sensitive nature of the issue, Option 3 was recommended to avoid any bias on the ongoing out-of-court settlement discussions regarding the withdrawn areas.

##### LAND USE PLAN POLICY RECOMMENDATION

#### **DĚNESŲŁINÉ OIC WITHDRAWN AREAS**

#### **MIXED USE**

##### Recommendation for Dënesųłiné Areas of Asserted Title Claim and the Locations Identified in Use and Occupancy Mapping Interviews with Dënesųłiné

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify Dënesųłiné Areas of Asserted Title Claim as areas of known VSECs that should be given particular consideration. Also, identify the locations identified in use and occupancy mapping interviews with Dënesųłiné (listed in Table 4) as areas of known VSECs.

**Rationale:** Option 4 was recommended to inform proponents of the Dënesųłiné interests in these lands.

##### LAND USE PLAN POLICY RECOMMENDATION

#### **DĚNESŲŁINÉ AREAS OF ASSERTED TITLE CLAIM AND LOCATIONS IDENTIFIED IN USE AND OCCUPANCY MAPPING INTERVIEWS WITH DĚNESŲŁINÉ**

#### **VALUED SOCIO-ECONOMIC COMPONENT**

##### KRLUP and NBRLUP

Dënesųłiné areas fall within the KRLUP. The KRLUP acknowledges that the Dene of northern Manitoba and Saskatchewan have interests in the areas and that those interests “will be further defined through the land claim process.”

##### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, Dënesųłiné Areas of Asserted Title Claim were defined, generally discussed in the context of the overall NSA, and delineated on mapping. The areas were not specifically discussed within a separate section.

In the 2014 DNLUP, the Dënesųłiné OIC withdrawn areas were assigned a PA designation that prohibited incompatible uses. In addition, the 2014 DNLUP provided direction to regulatory authorities to mitigate impacts on the priorities and values of the Dënesųłiné in the regulatory review of project proposals within the areas of asserted title claim; this recommendation was associated with a table identifying community priorities and values for WMAs.

In the 2016 DNLUP, the Dënesųłiné Areas of Asserted Title Claim were designated MU. In addition, the DNLUP provided information on VECs and VSECs through a table identifying community priorities and values for WMAs and a map showing VECs and VSECs. The “Errors and Omissions” document further clarified that the entire area withdrawn by the OIC should be assigned a MU designation, without any overlapping PA or other designations.

##### 2021 DNLUP

As in 2016, the 2021 recommendation is to assign a MU designation to the OIC withdrawn areas that authorizes all uses; this is consistent with the request from the Dënesųłiné to facilitate the ongoing out-of-court settlement discussions. The 2021 DNLUP also identifies Dënesųłiné Areas of Asserted Title Claim outside of the OIC withdrawn areas as areas of known VSECs. In addition, locations identified in use and occupancy mapping interviews with Dënesųłiné (listed in Table 4) are identified in the 2021 DNLUP as known VSECs.

## 4.3 Unincorporated Communities

Section 11.3.1(h) of the NA requires a land use plan to take into account cultural factors and priorities, including the protection and preservation of outpost camps.

Policy C.3 of the NPC's Goal of Building Healthier Communities is to take into account current and future community infrastructural requirements including land areas for outpost camps.

### 4.3.1 Importance of Unincorporated Communities

The NPC did not receive comments directly related to the importance of unincorporated communities.

#### Considerations

The NPC considers unincorporated communities to have an overall moderate importance and priority. The NPC considers unincorporated communities an important issue to be included in the NLUP.

Bathurst Inlet and Umingmaktok are unique unincorporated communities that are not recognized by the GN as municipalities. They are considered to contain significant historical and cultural values and are assigned a unique community code for IOL parcels under Schedule 19-6 of the NA.

***The overall importance of UNINCORPORATED COMMUNITIES is considered MODERATE because:***

- *They have been identified by few participants as a priority;*
- *They have a high cultural value;*
- *They have a moderate economic value; and*
- *They have a moderate ecosystemic value.*

### 4.3.2 Types of Unincorporated Communities

There are two unincorporated communities (Bathurst Inlet and Umingmaktok), both located on the shores of Bathurst Inlet in Kitikmeot. As they are similar in size and location, they are considered together in the following subsections.

#### 4.3.2.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2016	26	0

The NPC did not receive comments directly related to defining the geographic boundaries of unincorporated communities.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of unincorporated communities. The locations of the two unincorporated communities of Bathurst Inlet and Umingmaktok were digitized by the NPC and a 2 km buffer was applied around them.

Section 7.1.1 of the NA identifies a 2 km radius from the centre of the residential base as a general boundary for outpost camps. However, these unincorporated communities are not considered to be outpost camps.

***The certainty of the identified geographic boundaries of UNINCORPORATED COMMUNITIES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 4.3.2.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of unincorporated communities.

#### Considerations

Although the two unincorporated communities are no longer occupied year-round, they continue to be important seasonal residential bases for people in the west Kitikmeot. Based on this, the NPC considers these areas to have high environmental and cultural importance.

***The environmental and cultural importance of UNINCORPORATED COMMUNITIES is considered HIGH because:***

- *The importance of the areas to the communities is high.*

### 4.3.2.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2016	26	14	0	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in unincorporated communities is considered low.

***The potential for non-renewable resources, transportation and linear infrastructure in UNINCORPORATED COMMUNITIES is considered LOW because:***

- *The areas overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have no known potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

### 4.3.2.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of unincorporated communities to impacts.

#### Considerations

The NPC considers the sensitivity of unincorporated communities to impacts from incompatible uses to be moderate and year-round.

***The sensitivity of UNINCORPORATED COMMUNITIES to impacts is considered MODERATE and YEAR-ROUND because:***

- *Existing uses are sensitive to disturbance from incompatible uses; and*
- *The concern regarding potential impacts is year-round.*

### 4.3.2.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for unincorporated communities.

#### Considerations

Given that the communities are unincorporated, they are not subject to municipal planning processes. The NLUP presents an opportunity to manage land uses within these residential bases.

***The potential value of including guidance in the NLUP for UNINCORPORATED COMMUNITIES is considered HIGH because:***

- *The issue is not addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

### 4.3.2.6 Policy Options for Unincorporated Communities

#### 4.3.2.6.1 Option 1 - Limited Use

In 2017, NTI and the RIAs<sup>3</sup> noted:

"Unless an issue is raised at the community level, NTI and the RIAs have no apprehensions regarding the designation of the residential bases of Bathurst Inlet and Umingmaktok as Protected Areas."

#### Considerations

The NPC notes that NTI and the RIAs support this option.

A designation that prohibited some uses in unincorporated communities has been included in all previous drafts of the NLUP for discussion and there has

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)



been little feedback either in support of or opposition to this approach.

4.3.2.6.2 Option 2 - Conditional Use

No participant recommended this option.

4.3.2.6.3 Option 3 - Mixed Use

No participant recommended this option.

4.3.2.6.4 Option 4 - Valued Component

No participant recommended this option.

4.3.2.7 NPC Recommendation - LU

Given that:

**UNINCORPORATED COMMUNITIES:**  
The overall importance of the issue is considered MODERATE.

**UNINCORPORATED COMMUNITIES:**

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	HIGH

Recommendation for Unincorporated Communities

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended given the cultural and historic significance of these communities and the lack of municipal planning for the residential bases.

**UNINCORPORATED COMMUNITIES:**

**BATHURST INLET AND UMINGMAKTOK  
AND THE ADJACENT AREAS**

**LIMITED USE**

**Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production

4.3.2.8 Summary of Revisions

**KRLUP and NBRLUP**  
The existing regional land use plans do not address the unincorporated communities.

**2012, 2014 and 2016 DNLUP**  
In the 2012 DNLUP, to manage Bathurst Inlet and Umingmaktok, the areas were assigned a Building Healthier Communities (BHC-3) designation. This designation permitted all uses except mining.

Both the 2014 and 2016 DNLUP assigned a PA designation to Bathurst Inlet and Umingmaktok that prohibited incompatible uses.

**2021 DNLUP**  
The 2014, 2016 and 2021 recommendation to assign a land use designation to the areas that prohibits incompatible uses is consistent, although the terminology has changed from a PA designation in earlier versions to LU in 2021.

4.4 Alternative Energy Sources

Section 11.2.3(e) of the NA requires energy requirements, sources and availability to be taken into account in developing planning policies, priorities and objectives.

Policy D of the NPC’s Goal of Building Healthier Communities is to take into account the need and potential for development of alternative energy sources through the plan development process.



### 4.4.1 Importance of Alternative Energy Sources

The NPC did not receive comments directly related to the importance of alternative energy sources.

#### Considerations

The NPC considers alternative energy sources to have an overall moderate importance and priority. The NPC considers alternative energy sources an important issue to be included in the NLUP.

***The overall importance of ALTERNATIVE ENERGY SOURCES is considered MODERATE because:***

- *They have been identified by few participants as a priority;*
- *They have a low cultural value;*
- *They have a moderate economic value; and*
- *They have a high ecosystemic value.*

### 4.4.2 Types of Areas Important to Alternative Energy Sources

The Qulliq Energy Corporation (QEC) completed a study (“Identification and Evaluation of Hydro-electric Generation Opportunities” (2008)) for the Kivalliq Region, which identified opportunities for hydro-electrical power generation through the installation of either a run-of-river system where a small portion of river water is diverted and run through a turbine over a drop in elevation and returned to the river, or a dam and reservoir system. These opportunities are restricted to specific locations with suitable topography. The QEC also completed a study of “Iqaluit Hydro-electric Generation Sites: Identification and Ranking” (2006). These Kivalliq and Iqaluit areas are considered collectively in the following subsections.

#### 4.4.2.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
QEC, 2008	66	0
NPC, 2019	140	0

The QEC identified sites in the Kivalliq where high potential for hydro-electrical generation exists along the Thelon, Kazan and Quoiich Rivers.

The QEC also identified Jaynes Inlet (Qikiqjivik) near Iqaluit as having high potential for hydro-electrical generation.

In 2019, Kugluktuk<sup>1</sup> residents suggested adding a new area near the southern end of the hamlet boundaries, at Bloody Falls.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of alternative energy source sites. The geographic boundaries currently considered for alternative energy sources includes the sites identified by the QEC as well as the location provided by Kugluktuk community participants, and were digitized by the NPC.

***The certainty of the identified geographic boundaries of ALTERNATIVE ENERGY SOURCES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 4.4.2.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of alternative energy sources.

#### Considerations

The NPC considers the environmental and cultural importance of alternative energy sources overlapping with significant environmental or cultural features to be high. The NPC considers the environmental and cultural importance of other locations to be low.

The identified locations are on important rivers and are relatively small. Run-of-river projects have been shown in other jurisdictions to have minimal ecological impacts to the streams they are installed on, if designed in a manner appropriate to the location.

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

***The environmental and cultural importance of ALTERNATIVE ENERGY SOURCES NOT OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered LOW because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is low; and*
- *The importance of the areas to wildlife is low.*

***The environmental and cultural importance of ALTERNATIVE ENERGY SOURCES OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

mineral potential, the footprint of the alternative energy sources is quite small.

Nunavut is dependent on diesel shipped in from southern Canada for its municipal energy needs. Utilization of the abundant natural energy sources in the territory has the potential to reduce the use of fossil fuels.

***The potential for non-renewable resources, transportation and linear infrastructure in ALTERNATIVE ENERGY SOURCES is considered LOW because:***

- *The areas overlap with known mineral potential;*
- *The areas have low potential for transportation and linear infrastructure development; and*
- *The areas are very small.*

#### 4.4.2.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of alternative energy source sites to impacts. This section of the 2021 O&R does not consider the sensitivity of other values to potential impacts from alternative energy sources.

##### Considerations

The NPC considers the sensitivity of alternative energy sources to impacts from incompatible uses to be moderate and year-round. Additionally, other activities at the alternative energy sites, or conservation efforts or policies, may eliminate the potential for development of energy infrastructure.

***The sensitivity of ALTERNATIVE ENERGY SOURCES to impacts is considered MODERATE and YEAR-ROUND because:***

- *Potential uses are sensitive to disturbance from incompatible uses.*

#### 4.4.2.5 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for alternative energy sources.

##### Considerations

#### 4.4.2.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
QEC, 2008	66	0
NPC, 2019	140	124

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

##### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in alternative energy source sites is considered low. Although the areas overlap with known

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

There are no other known regulatory tools to protect potential alternative energy sites from inconsistent uses or policy designations.

***The potential value of including guidance in the NLUP for ALTERNATIVE ENERGY SOURCES is considered HIGH because:***

- *The issue is not addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

#### 4.4.2.6 Policy Options for Alternative Energy Sources

In 2017, the GoC<sup>1</sup> stated:

“1. The Thelon River Alternative Energy Infrastructure (Special Management Area 82) lies fully within a Caribou freshwater crossing area (Protected Area 159). Among the list of prohibited land uses provided for freshwater crossings in Table 1 of the draft Plan is ‘hydro-electrical and related infrastructure’ – which is the only allowable land use in the Thelon River Special Management Area. If we followed the logic that the most restrictive land use prohibitions apply in cases of overlapping designations, then the meaning would be that hydro-related uses were not allowed in this area – a result that is clearly inconsistent with the intent of the plan for this Special Management Area.”

##### Considerations

The NPC has not categorized the GoC’s comment according to the options below as it provides general information regarding the development of the NLUP. The NPC notes the inconsistency in designations in previous versions of the DNLUP.

##### 4.4.2.6.1 Option 1 - Limited Use

Although no participant recommended this option, it is noted that previous versions of the DNLUP included restrictions on incompatible uses near the identified locations for consideration.

In 2015, NTI and the RIAs<sup>2</sup> noted:

“43. ... There are also concerns regarding the potential impacts of hydro-electric projects on fish. Were impacts on fish considered when creating this designation?”

In 2016, the KivIA<sup>3</sup> noted:

“The 100m perimeter around high potential hydro-electric sites may represent an a-priori assessment of the extent over which environmental impacts may occur (for instance, as the Local Study Area) for project areas. There is a need to provide a rationale for prescriptive protection measures or identify a process to do so ...”.

In 2020, in response to the 2016 DNLUP proposal to restrict other uses near the alternative energy sites, some Baker Lake<sup>4</sup> residents did not support protecting the sites on the Thelon and Quioich Rivers for hydro-electrical potential.

##### Considerations

The NPC notes the concerns of participants regarding hydro-electrical projects, as well as the expressed lack of support for protecting potential sites from incompatible uses.

##### 4.4.2.6.2 Option 2 - Conditional Use

In 2017, AEM<sup>5</sup> noted:

“Agnico Eagle recommends that infrastructure development run-of-river hydropower of the Aleksektok Rapids on the Thelon River and the Kazan Falls on the Kazan River should be allowed under special Management.”

##### Considerations

The NPC notes that AEM’s comment could be characterized as supporting this option for two particular sites. However, the recommendation to allow hydro development in areas where it may otherwise be prohibited due to other values is noted to be distinct from options to protect the site from other incompatible uses; this is considered in the above sections on caribou water crossings and national historic sites.

##### 4.4.2.6.3 Option 3 - Mixed Use

No participant recommended this option.

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>3</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-269E)

<sup>5</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

#### 4.4.2.6.4 Option 4 - Valued Component

In 2014, the GN<sup>1</sup> noted:

*“Recommendation: Option [4] should be the preferred option as these are potential sites only. Any hydro project will have to go through the NIRB process ...”*

#### Considerations

The NPC notes the GN supports this option. This option would permit all other uses to occur at the identified locations, but would identify the unique alternative energy potential of the sites for consideration.

#### 4.4.2.7 NPC Recommendation - VSEC

Given that:

#### ALTERNATIVE ENERGY SOURCES:

The overall importance of the issue is considered MODERATE.

#### ALTERNATIVE ENERGY SOURCES:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	<p><b>LOW</b> (Sources not overlapping with significant environmental or cultural features)</p> <p><b>HIGH</b> (Sources overlapping with significant environmental or cultural features)</p>
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	HIGH

#### Recommendation for Alternative Energy Sources

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify sites with high potential for hydro-electrical generation as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended to identify the potential value of the sites while respecting participant concerns regarding more restrictive designations.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **ALTERNATIVE ENERGY SOURCES:**

#### **SITES WITH HIGH POTENTIAL FOR HYDRO-ELECTRICAL GENERATION**

#### **VALUED SOCIO-ECONOMIC COMPONENT**

#### 4.4.2.8 Summary of Revisions

#### KRLUP and NBRLUP

No specific sites are identified for hydro-electrical development in the KRLUP and the NBLUP, however both plans consider plan amendments should such projects be proposed. The KRLUP also recommends that possible cumulative impacts should be examined before a hydro-electrical development proceeds.

#### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage hydro-electrical generation opportunities, preferred locations were assigned a Building Healthier Communities (BHC-4) designation. The permitted uses for this designation were hydro electrical and related infrastructure.

Both the 2014 and 2016 DNLUP assigned a SMA designation to high potential sites for hydro-electrical generation that prohibited incompatible uses.

#### 2021 DNLUP

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

In 2021, the recommendation to identify the areas as known VSECs is less restrictive than earlier versions of the DNLUP.

## 4.5 Community Drinking Water Supplies

Section 11.3.1(f) of the NA requires a land use plan to take into account community infrastructural requirements including health.

Policy C.2 of the NPC’s Goal of Building Healthier Communities is to take into account current and projected municipal infrastructure needs for resources such as clean water.

### 4.5.1 Importance of Community Drinking Water Supplies

During NPC community consultations between 2012 and 2014, all Nunavut communities identified community drinking water supplies as an important issue for Building Healthier Communities.

In 2015, NTI<sup>1</sup> noted:

“We note that in the NPC’s estimation, residents have indicated that priority issues include food security, safe drinking water, protection of wildlife and sustainable economic development. NTI agrees that these are important issues that should be addressed in the 2014 DNLUP in a way that respects the values, preferences, and expectations of the Inuit. ...”

#### Considerations

Participants generally agreed on the overall high importance and priority of community drinking water supplies. Community drinking water supplies is broadly recognized as an important issue to be included in the NLUP.

***The overall importance of COMMUNITY DRINKING WATER SUPPLIES is considered HIGH because:***

- They have been identified by many participants as a priority;*
- They have a high cultural value;*
- They have a moderate economic value; and*
- They have a high ecosystemic value.*

### 4.5.2 Types of Areas Important to Community Drinking Water Supplies

Many communities in the NSA draw drinking water from small lakes and catchment areas where the entire watershed is within the municipal boundary. These community watersheds range from less than 20 km to about 100 km in width. In these instances, the municipal land use plans are able to provide direction on how land should be used to maintain the quality and quantity of drinking water.

Drinking water may also come from watersheds that extend outside the municipal boundaries. In these instances, the NLUP can more readily support municipal efforts to manage land use within community drinking water supply watersheds. In the cases of Kugluktuk and Baker Lake, water is drawn from major rivers with very large watersheds.

In most participant submissions, community drinking water supply watersheds are dealt with collectively, so although there are some distinctions, they are discussed together in this section of the 2021 O&R.

Before analyzing the watersheds collectively, this section begins by describing each community’s drinking water supply and applicable local government regulations. The NPC notes that these local government regulations consist of community plans and zoning by-laws obtained from a GN webpage.<sup>2</sup> The NPC has assumed that these local government regulations are in force (unless they are noted below as possibly drafts) and have not been revised by subsequent amendments. In addition, this section focuses on local government direction related to overall watershed management; it does not focus on topics like development setback requirements from waterbodies and municipal compliance with other regulations.

<sup>1</sup> (Nunavut Tunngavik Incorporated (NTI), 2015-02-12. NPC Public Registry File # 14-013E)

<sup>2</sup> <https://cgs-pals.ca/downloads/community-plans/>



#### 4.5.2.1 Arctic Bay

The Arctic Bay community water supply watershed is small and almost completely outside the municipal boundary.

According to a GN<sup>1</sup> community plan poster for Arctic Bay, the Arctic Bay Zoning By-law (By-law No. 145-2011 and possibly a draft) does not permit development in the watershed overlay unless the development is for the benefit of supplying water. The poster references the Arctic Bay Community Plan as By-law No. 144-2011.

There is an air strip and some IOL within the watershed.

#### 4.5.2.2 Arviat

Arviat's community water supply watershed is medium in size and a small portion is located within the municipal boundary.

The Arviat Community Plan<sup>2</sup> (By-law No. 224, October 2018) does not mention watershed management. The Arviat Zoning By-law<sup>3</sup> (By-law No. 225, October 2018) precludes "commercial or industrial development which uses or stores hazardous materials" in the watershed overlay.

Within the Arviat community water supply watershed there are IOL, possible caribou calving and post-calving areas, active mineral claims, a key bird habitat site, and a proposed transportation and utility corridor.

In 2020, Arviat<sup>4</sup> residents suggested an expanded water supply area, in anticipation of the increased needs of a growing community.

#### 4.5.2.3 Baker Lake

The Baker Lake community water supply watershed is large and mostly outside the municipal boundary. The watershed extends into the NWT.

The Baker Lake Community Plan<sup>5</sup> (By-law No. 218) and the Baker Lake Zoning By-law<sup>6</sup> (By-law No. 219) (both October 2019) offer no direction for watershed management.

Water intake is in Baker Lake. There is some IOL within the watershed. There are also active mineral interests in the watershed, but no mineral activity within the municipal boundary. The drinking water supply is a CHR.

#### 4.5.2.4 Cambridge Bay

Cambridge Bay's community water supply watershed is small and located completely inside the municipal boundary.

The Cambridge Bay Community Plan<sup>7</sup> (By-law No. 288, January 2019) provides a 'Nuna' policy for watershed protection that states, "Despite the Permitted Uses for the *Nuna* designation, no development other than water supply related infrastructure shall be permitted within the 'Watershed Area'." The Cambridge Bay Zoning By-law<sup>8</sup> (By-law No. 289, January 2019) indicates that no residential, commercial or industrial development is permitted within the watershed area.

There is no IOL within the community's water supply watershed.

#### 4.5.2.5 Cape Dorset

The Cape Dorset community water supply watershed is small and completely inside the municipal boundary.

The Cape Dorset Community Plan<sup>9</sup> (By-law No. 168) and the Cape Dorset Zoning By-law<sup>10</sup> (By-law No. 169) (both possibly 2013 drafts) offer no direction for watershed management.

There is no IOL within the community's water supply watershed.

<sup>1</sup> [https://downloads.cgs-pals.ca/arctic\\_bay/community\\_plans/community\\_plan.pdf](https://downloads.cgs-pals.ca/arctic_bay/community_plans/community_plan.pdf)

<sup>2</sup> [https://downloads.cgs-pals.ca/arviat/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/arviat/community_plans/cp_bylaw.pdf)

<sup>3</sup> [https://downloads.cgs-pals.ca/arviat/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/arviat/community_plans/zoning_bylaw.pdf)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>5</sup> [https://downloads.cgs-pals.ca/baker\\_lake/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/baker_lake/community_plans/cp_bylaw.pdf)

<sup>6</sup> [https://downloads.cgs-pals.ca/baker\\_lake/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/baker_lake/community_plans/zoning_bylaw.pdf)

<sup>7</sup> [https://downloads.cgs-pals.ca/cambridge\\_bay/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/cambridge_bay/community_plans/cp_bylaw.pdf)

<sup>8</sup> [https://downloads.cgs-pals.ca/cambridge\\_bay/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/cambridge_bay/community_plans/zoning_bylaw.pdf)

<sup>9</sup> [https://downloads.cgs-pals.ca/kinngait/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/kinngait/community_plans/cp_bylaw.pdf)

<sup>10</sup> [https://downloads.cgs-pals.ca/kinngait/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/kinngait/community_plans/zoning_bylaw.pdf)



#### 4.5.2.6 Chesterfield Inlet

Chesterfield Inlet's community water supply watershed is small and almost completely inside the municipal boundary.

The Chesterfield Inlet Community Plan<sup>1</sup> (By-law No. 95) and the Chesterfield Inlet Zoning By-law<sup>2</sup> (By-law No. 96) (both February 2011) offer no direction for watershed management.

There is no IOL within the community's water supply watershed.

#### 4.5.2.7 Clyde River

Clyde River's community water supply watershed is small and located completely inside the municipal boundary.

It is a policy of the Clyde River Community Plan<sup>3</sup> (By-law No. 132, July 2017) that "No development is permitted in the Watershed Overlay, unless it can be demonstrated that the development will have no negative impact on the Hamlet water source." The Clyde River Zoning By-law<sup>4</sup> (By-law No. 133, July 2017) precludes "commercial or industrial development which uses or stores hazardous materials" in the watershed overlay.

There is no IOL within the community water supply watershed.

#### 4.5.2.8 Coral Harbour

Coral Harbour's community water supply watershed is medium in size and a portion is located in the municipal boundary.

The Coral Harbour Community Plan<sup>5</sup> (By-law No. 236, November 2012) includes a Protective Development designation, which "is intended to protect the water supply, granular resources and any environmentally sensitive areas." The plan's associated policy is: "The Protective Development designation does not permit

any development except uses accessory to the supply of water such as a pipeline, pumping or monitoring station or road, or, the operation or remediation of a quarry or gravel pit." The Coral Harbour Zoning By-law<sup>6</sup> (By-law No. 237, November 2012) states: "No Development shall take place within the watershed of the water source."

Within the Coral Harbour community water supply watershed, there is a possible caribou calving and post-calving area as well as active prospecting permits. There is no IOL within the community's water supply watershed.

In 2020, Coral Harbour<sup>7</sup> residents indicated a desire for strong protections for their drinking water supply area, including limiting dust from roads and traffic.

#### 4.5.2.9 Gjoa Haven

The Gjoa Haven community water supply watershed is small and located in the municipal boundary.

It is a policy of the Gjoa Haven Community Plan<sup>8</sup> (By-law No. 164, April 2014) that "No development is permitted in the Watershed Overlay, unless it can be clearly demonstrated that the development will have no negative impact on the Hamlet water source." The Gjoa Haven Zoning By-law<sup>9</sup> (By-law No. 165, April 2014) states: "No development shall take place within the watershed of the water source."

There is no IOL within the community's water supply watershed.

#### 4.5.2.10 Grise Fiord

Grise Fiord's community water supply watershed is small and located partially inside the municipal boundary.

It is a policy of the Grise Fiord Community Plan<sup>10</sup> (By-law No. 65, June 2017) that "No development is permitted in the Watershed Overlay, unless it can be demonstrated that the development will have no negative impact on

<sup>1</sup> [https://downloads.cgs-pals.ca/chesterfield\\_inlet/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/chesterfield_inlet/community_plans/cp_bylaw.pdf)

<sup>2</sup> [https://downloads.cgs-pals.ca/chesterfield\\_inlet/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/chesterfield_inlet/community_plans/zoning_bylaw.pdf)

<sup>3</sup> [https://downloads.cgs-pals.ca/clyde\\_river/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/clyde_river/community_plans/cp_bylaw.pdf)

<sup>4</sup> [https://downloads.cgs-pals.ca/clyde\\_river/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/clyde_river/community_plans/zoning_bylaw.pdf)

<sup>5</sup> [https://downloads.cgs-pals.ca/coral\\_harbour/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/coral_harbour/community_plans/cp_bylaw.pdf)

<sup>6</sup> [https://downloads.cgs-pals.ca/coral\\_harbour/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/coral_harbour/community_plans/zoning_bylaw.pdf)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)

<sup>8</sup> [https://downloads.cgs-pals.ca/gjoa\\_haven/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/gjoa_haven/community_plans/cp_bylaw.pdf)

<sup>9</sup> [https://downloads.cgs-pals.ca/gjoa\\_haven/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/gjoa_haven/community_plans/zoning_bylaw.pdf)

<sup>10</sup> [https://downloads.cgs-pals.ca/grise\\_fiord/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/grise_fiord/community_plans/cp_bylaw.pdf)

the Hamlet water source.” The Grise Fiord Zoning By-law<sup>1</sup> (By-law No. 65, June 2017) precludes “commercial or industrial development which uses or stores hazardous materials” in the watershed overlay.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.11 Hall Beach

The Hall Beach community water supply watershed is small and completely inside the municipal boundary.

The Hall Beach Community Plan<sup>2</sup> (By-law No. 148) and the Hall Beach Zoning By-law<sup>3</sup> (By-law No. 149) (both May 2019) offer no direction for watershed management.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.12 Igloolik

The Igloolik community water supply watershed is small and completely inside the municipal boundary.

The Igloolik Community Plan<sup>4</sup> (By-law No. 197, March 2019) states that “No development is permitted in the Watershed Overlay ... unless it can be demonstrated that the development will have no negative impact on the Hamlet water source.” The Igloolik Zoning By-law<sup>5</sup> (By-law No. 198, March 2019) precludes “commercial or industrial development which uses or store hazardous materials” in the watershed overlay.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.13 Iqaluit

Iqaluit’s existing and proposed community water supply watersheds are small. The existing supply is located completely within the municipal boundary, and the

proposed supply extends outside the municipal boundary.

The City of Iqaluit General Plan<sup>6</sup> (By-law No. 703, September 2010, consolidated October 2015) and the City of Iqaluit Zoning By-law (By-law No. 704, October 2010, consolidated November 2014)<sup>7</sup> both permit no development in the Watershed Protection Area (Lake Geraldine and Niaqunguk River). The General Plan also supports the protection of the city’s drinking water supply in the NLUP.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.14 Kimmirut

The Kimmirut community water supply watershed is small and completely inside the municipal boundary.

The Kimmirut Community Plan<sup>8</sup> (By-law No. 127) and the Kimmirut Zoning By-law<sup>9</sup> (By-law No. 128) (both possibly 2014 drafts) offer no direction for watershed management. The Hamlet of Kimmirut Community Plan (By-law No. 92-2006, June 2007) does not permit development which can potentially pollute the community’s water source.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.15 Kugaaruk

The Kugaaruk community water supply watershed is mostly located outside the municipal boundary.

The Kugaaruk Community Plan<sup>10</sup> (By-law No. 243, September 2017) states that “No development is permitted in the Watershed Overlay as shown on the Plan unless it can be demonstrated that the development will have no negative impact on the Hamlet’s water source.” The Kugaaruk Zoning By-law<sup>11</sup> (By-law No. 244, September 2017) precludes “commercial or industrial

<sup>1</sup> [https://downloads.cgs-pals.ca/grise\\_fiord/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/grise_fiord/community_plans/zoning_bylaw.pdf)

<sup>2</sup> [https://downloads.cgs-pals.ca/sanirajak/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/sanirajak/community_plans/cp_bylaw.pdf)

<sup>3</sup> [https://downloads.cgs-pals.ca/sanirajak/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/sanirajak/community_plans/zoning_bylaw.pdf)

<sup>4</sup> [https://downloads.cgs-pals.ca/igloolik/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/igloolik/community_plans/cp_bylaw.pdf)

<sup>5</sup> [https://downloads.cgs-pals.ca/igloolik/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/igloolik/community_plans/zoning_bylaw.pdf)

<sup>6</sup> [https://www.iqaluit.ca/sites/default/files/consolidatedgeneralplan\\_oct2015.pdf](https://www.iqaluit.ca/sites/default/files/consolidatedgeneralplan_oct2015.pdf)

<sup>7</sup> <https://www.iqaluit.ca/sites/default/files/consolidatedzoningby-lawnovember2014.pdf>

<sup>8</sup> [https://downloads.cgs-pals.ca/kimmirut/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/kimmirut/community_plans/cp_bylaw.pdf)

<sup>9</sup> [https://downloads.cgs-pals.ca/kimmirut/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/kimmirut/community_plans/zoning_bylaw.pdf)

<sup>10</sup> [https://downloads.cgs-pals.ca/kugaaruk/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/kugaaruk/community_plans/cp_bylaw.pdf)

<sup>11</sup> [https://downloads.cgs-pals.ca/kugaaruk/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/kugaaruk/community_plans/zoning_bylaw.pdf)

development which uses or stores hazardous materials” in the watershed overlay.

There are some existing mineral claims inside the watershed. There is no IOL within the community’s water supply watershed.

In 2020, Kugaaruk<sup>1</sup> residents indicated support for protections for the drinking water supply area in the NLUP.

#### 4.5.2.16 Kugluktuk

The Kugluktuk community water supply watershed is large and mostly outside the municipal boundary. The watershed extends into the NWT.

The Kugluktuk Community Plan<sup>2</sup> (By-law No. 290) and the Kugluktuk Zoning By-law<sup>3</sup> (By-law No. 291) (both October 2018) offer no direction for watershed management.

The draft Coppermine Heritage River Management Plan suggests the need for balance between protection and economic development.

The Kugluktuk community water supply watershed contains some IOL. There is no mineral activity within the municipal boundary; however, there are active mineral interests in watershed.

#### 4.5.2.17 Naujaat

Naujaat’s community water supply watershed is small and almost completely within the municipal boundary.

The Naujaat General Plan<sup>4</sup> (By-law No. 190, May 2018) states that “No development is permitted in the Watershed Overlay, unless it can be demonstrated that the development will have no negative impact on the Hamlet water source.” The Naujaat Zoning By-law<sup>5</sup> (By-law No. 191, May 2018) precludes “commercial or industrial development which uses or stores hazardous materials” in the watershed overlay.

There is no IOL within the community’s water supply watershed. There are active mineral claims inside the Naujaat watershed.

#### 4.5.2.18 Pangnirtung

Pangnirtung has a small community water supply watershed, which is located partially inside the municipal boundary.

The Pangnirtung Community Plan<sup>6</sup> (possibly a 2006 draft) includes a Protective Development designation, which “is intended to protect the water supply, water reservoir, granular resources and any environmentally sensitive areas.” The plan’s associated policy is: “The Protective Development designation does not permit any development except uses accessory to the supply of water such as a pipeline, pumping or monitoring station or road, or, the operation or remediation of a quarry or gravel pit.” The Pangnirtung Zoning By-law<sup>7</sup> (possibly a 2006 draft) states: “No Development shall take place within the watershed of the water source.”

There is an existing prospecting permit inside the watershed. There is no IOL.

#### 4.5.2.19 Pond Inlet

The Pond Inlet community water supply watershed is small and partially outside the municipal boundary.

The Pond Inlet Community Plan<sup>8</sup> (By-law No. 240) and the Pond Inlet Zoning By-law<sup>9</sup> (By-law No. 241) (both possibly 2013 drafts) offer no direction for watershed management.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.20 Qikiqtarjuaq

The Qikiqtarjuaq community water supply watershed is small and completely inside the municipal boundary.

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

<sup>2</sup> [https://downloads.cgs-pals.ca/kugluktuk/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/kugluktuk/community_plans/cp_bylaw.pdf)

<sup>3</sup> [https://downloads.cgs-pals.ca/kugluktuk/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/kugluktuk/community_plans/zoning_bylaw.pdf)

<sup>4</sup> [https://downloads.cgs-pals.ca/naujaat/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/naujaat/community_plans/cp_bylaw.pdf)

<sup>5</sup> [https://downloads.cgs-pals.ca/naujaat/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/naujaat/community_plans/zoning_bylaw.pdf)

<sup>6</sup> [https://downloads.cgs-pals.ca/pangnirtung/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/pangnirtung/community_plans/cp_bylaw.pdf)

<sup>7</sup> [https://downloads.cgs-pals.ca/pangnirtung/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/pangnirtung/community_plans/zoning_bylaw.pdf)

<sup>8</sup> [https://downloads.cgs-pals.ca/pond\\_inlet/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/pond_inlet/community_plans/cp_bylaw.pdf)

<sup>9</sup> [https://downloads.cgs-pals.ca/pond\\_inlet/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/pond_inlet/community_plans/zoning_bylaw.pdf)

The Qikiqtarjuaq Community Plan<sup>1</sup> (By-law No. 243 and possibly a 2015 draft) states that “No development is permitted in the Watershed Overlay, unless it can be demonstrated that the development will have no negative impact on the Hamlet water source.” The Qikiqtarjuaq Zoning By-law<sup>2</sup> (By-law No. 244 and possibly a 2015 draft) precludes “commercial or industrial development which uses or stores hazardous materials” in the watershed overlay.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.21 Rankin Inlet

Rankin Inlet’s community water supply watershed is small and located completely inside the municipal boundary.

The Rankin Inlet Community Plan<sup>3</sup> (By-law No. 265, July 2014) states that “No development is permitted in the Watershed Overlay unless it can be demonstrated that the development will have no impact on the Hamlet water source.” The Rankin Inlet Zoning By-law<sup>4</sup> (By-law No. 266, July 2014) precludes “commercial or industrial development which uses or stores hazardous materials” in the watershed overlay.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.22 Resolute Bay

The Resolute Bay community water supply watershed is small and completely within the municipal boundary.

The Resolute Bay Community Plan<sup>5</sup> (By-law No. 63) and the Resolute Bay Zoning By-law<sup>6</sup> (By-law No. 64) (both possibly 2009 drafts) preclude development in the watershed overlay “unless it can be demonstrated that the development will have no impact on the Hamlet water source” (cited to the Community Plan).

There is no IOL within the community’s water supply watershed.

#### 4.5.2.23 Sanikiluaq

The Sanikiluaq community water supply watershed is small and located completely in the municipal boundary.

The Sanikiluaq Community Plan<sup>7</sup> (By-law No. 83, July 2014) states that “No development is permitted in the Watershed Overlay unless it can be demonstrated that the development will have no impact on the Hamlet water source.” The Sanikiluaq Zoning By-law<sup>8</sup> (By-law No. 84, July 2014) precludes development in the watershed overlay unless it is demonstrated that the development will not impact the community’s drinking water supply; also, within the watershed overlay, no development is permitted unless it is for the benefit of supplying water.

There is no IOL within the community’s water supply watershed.

#### 4.5.2.24 Taloyoak

Taloyoak’s community water supply watershed is small and located completely within the municipal boundary.

The Taloyoak Community Plan<sup>9</sup> (By-law No. 200, May 2017) states that “No development is permitted in the Watershed Overlay unless it can be clearly demonstrated that the development will have no impact on the Hamlet water source.” The Taloyoak Zoning By-law<sup>10</sup> (By-law No. 201, May 2017) precludes “commercial or industrial development which uses or stores hazardous materials” in the watershed overlay.

There is no IOL within the community’s water supply watershed.

<sup>1</sup> [https://downloads.cgs-pals.ca/qikiqtarjuaq/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/qikiqtarjuaq/community_plans/cp_bylaw.pdf)

<sup>2</sup> [https://downloads.cgs-pals.ca/qikiqtarjuaq/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/qikiqtarjuaq/community_plans/zoning_bylaw.pdf)

<sup>3</sup> [https://downloads.cgs-pals.ca/rankin\\_inlet/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/rankin_inlet/community_plans/cp_bylaw.pdf)

<sup>4</sup> [https://downloads.cgs-pals.ca/rankin\\_inlet/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/rankin_inlet/community_plans/zoning_bylaw.pdf)

<sup>5</sup> [https://downloads.cgs-pals.ca/resolute\\_bay/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/resolute_bay/community_plans/cp_bylaw.pdf)

[https://downloads.cgs-pals.ca/resolute\\_bay/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/resolute_bay/community_plans/cp_bylaw.pdf)

<sup>6</sup> [https://downloads.cgs-pals.ca/resolute\\_bay/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/resolute_bay/community_plans/zoning_bylaw.pdf)

<sup>7</sup> [https://downloads.cgs-pals.ca/sanikiluaq/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/sanikiluaq/community_plans/cp_bylaw.pdf)

<sup>8</sup> [https://downloads.cgs-pals.ca/sanikiluaq/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/sanikiluaq/community_plans/zoning_bylaw.pdf)

<sup>9</sup> [https://downloads.cgs-pals.ca/taloyoak/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/taloyoak/community_plans/cp_bylaw.pdf)

<sup>10</sup> [https://downloads.cgs-pals.ca/taloyoak/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/taloyoak/community_plans/zoning_bylaw.pdf)

#### 4.5.2.25 Whale Cove

Whale Cove's community water supply watershed is small and located completely within the municipal boundary.

The Whale Cove Community Plan<sup>1</sup> (possibly a 2011 draft) states that "No development is permitted in the Watershed Overlay unless it can be clearly demonstrated that the development will have no impact on the Hamlet water source." The Whale Cove Zoning By-law<sup>2</sup> (possibly a 2011 draft) precludes development in the watershed overlay unless it is demonstrated that the development will not impact the community's drinking water supply.

There is no IOL within the community's water supply watershed.

### 4.5.3 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
NPC, 2009 (outside municipalities)	208,099	6
NPC, 2009 (within municipalities)	427	0
NPC, 2020 (outside Arviat)	635	0
NPC, 2020 (within Arviat)	190	0

The boundaries for community drinking water supply watersheds are determined based on the intake location and surrounding topography. Although the NPC requested detailed mapping from other regulatory authorities for these watersheds, little information was provided. In the absence of established boundaries, the NPC<sup>3</sup> digitized the considered spatial data in 2009 from 1:250,000 Nunamap II data and where needed 1:50,000 mapping, with intake locations verified from conversations with community officials and satellite imagery.

In 2016, NTI and the RIAs<sup>4</sup> stated:

"NTI and the RIAs recommend that the delineation of the community drinking water supply areas in the DNLUP be confirmed with the Nunavut Water Board, the Government of Nunavut, the Government of Canada, NTI, RIAs and community organizations such as hamlets."

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of community drinking water supplies. Although the delineations done by the NPC are considered accurate, it may be possible to refine the boundaries based on more precise topographical data.

***The certainty of the identified geographic boundaries of COMMUNITY DRINKING WATER SUPPLIES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

### 4.5.4 Environmental and Cultural Importance

Some sites are located in the NBRLUP. The NBRLUP requires water quality be preserved and that no substances impair water quality.

Some sites are located in the boundaries of the KRLUP. The KRLUP identifies water quality as a concern of residents.

In 2016, the GoC<sup>5</sup> noted:

"The Government of Canada recognizes the importance of watersheds and particularly those that supply community drinking water."

#### Considerations

Participants broadly agreed on the high environmental and cultural importance of community drinking water supplies.

***The environmental and cultural importance of COMMUNITY DRINKING WATER SUPPLIES is considered HIGH because:***

- *The importance of the areas to the communities is high; and*

<sup>1</sup> [https://downloads.cgs-pals.ca/whale\\_cove/community\\_plans/cp\\_bylaw.pdf](https://downloads.cgs-pals.ca/whale_cove/community_plans/cp_bylaw.pdf)

<sup>2</sup> [https://downloads.cgs-pals.ca/whale\\_cove/community\\_plans/zoning\\_bylaw.pdf](https://downloads.cgs-pals.ca/whale_cove/community_plans/zoning_bylaw.pdf)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2009-10-01. NPC Public Registry File # 10-048E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>5</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)



- ***The importance of the areas to the environment is high.***

## 4.5.5 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
NPC, 2009 (outside municipalities)	208,099	8,631	1,015	930
NPC, 2009 (within municipalities)	427	0	0	63
NPC, 2020 (outside Arviat)	635	163	19.2	0
NPC, 2020 (within Arviat)	190	0	0	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in the Baker Lake and Kugluktuk community drinking water supplies is considered high. The potential in all other community drinking water supplies is considered low.

The drinking water supply watersheds of Kugluktuk, Kugaaruk, Baker Lake, Arviat, Whale Cove, Rankin Inlet, Chesterfield Inlet, Naujaat, Sanikiluaq, Kimmirut, Cape Dorset, Iqaluit, Pangnirtung, Pond Inlet, Arctic Bay and Igloolik contain areas of high mineral potential. For all other communities, the drinking water supply watershed

areas do not contain any known mineral or oil and gas potential. In addition, the drinking water supply watersheds of Baker Lake, Arviat, Whale Cove, Rankin Inlet and Chesterfield Inlet overlap with known transportation initiatives.

***The potential for non-renewable resources, transportation and linear infrastructure in BAKER LAKE AND KUGLUKTUK COMMUNITY DRINKING WATER SUPPLIES is considered HIGH because:***

- *The areas have overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have known potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

***The potential for non-renewable resources, transportation and linear infrastructure in ALL OTHER COMMUNITY DRINKING WATER SUPPLIES is considered LOW because:***

- *The areas have some overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have known potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively small.*

## 4.5.6 Sensitivity to Impacts

In 2010, the NIRB<sup>3</sup> noted:

"... given the large geographic area encompassed by several watersheds in the NSA ... the identification of potential cumulative impacts from development activities will be of great importance."

In 2016, the GN<sup>4</sup> recommended:

"Include a conformity requirement in the DNLUP requiring a proponent of an industrial project taking place within a watershed containing a community drinking water source to identify in their proposal: the location of the community drinking water source in relation to the proposed project

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2010-04-23. NPC Public Registry File # 10-067E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)



*activities; any potential impacts of project activity on that water source; and mitigation measures to avoid impacts to the community drinking water source ...”*

### Considerations

Participants broadly agreed that the sensitivity of community drinking water supplies to impacts from incompatible uses is high and year-round. In general, it is agreed that the quality and quantity of drinking water may be affected by land use activities within the entire watershed or catchment area of the water source.

***The sensitivity of COMMUNITY DRINKING WATER SUPPLIES to impacts is considered HIGH and YEAR-ROUND because:***

- *Water quality in the watersheds is highly sensitive to contamination when the areas are used for incompatible activities; and*
- *The concern regarding potential impacts is year-round.*

## 4.5.7 Other Regulatory Tools

NSA community plans provide direction for the management of land use activities in and around community drinking water supplies inside municipal boundaries. Community plans vary throughout the NSA. Notwithstanding this, all community plans recognize the importance of restricting activities that can potentially harm the quality of community drinking water.

The NWB, under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, has the responsibilities and powers over the use, management and regulation of inland water in Nunavut.

Section 11(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* provides:

“Subject to subsection (2), no person shall use, or permit the use of, waters in Nunavut except in accordance with the conditions of a licence.”

Section 12(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* states:

“Subject to subsection (2) and except in accordance with the conditions of a licence, no person shall deposit or permit the deposit of waste

- (a) in waters in Nunavut; or
- (b) in any other place in Nunavut under conditions in which the waste, or any other waste that results from the deposit of that waste, may enter waters in Nunavut.”

In 2010, the NWB<sup>1</sup> noted:

“... Although the NWB jurisdiction does not extend to drinking water quality, the Board does have power over regulation, use and management of water in Nunavut, and the Board’s power to issue licences and therefore authorize activities could have an impact on drinking water supplies.”

In 2012, Dillon Consulting<sup>2</sup> stated in its Independent Review:

“... some territory-wide issues may require attention in at the local scale across Nunavut through specific use designations and recommendations reflecting circumstances that vary across regions or among communities.

“We see no compelling reason to restrict the DNLUP to territory-wide issues and broad planning direction if the result would be a plan that either lacks specific direction or is not meaningful to people in Nunavut. ...

...

“The decision to address this issue in the DNLUP is consistent with the principle in section 11.2.1(b) of the NLCA ...

“... Since these areas have a specific and very important value associated with them and many of them are small enough to be included on community maps, it makes good sense from a planning perspective to use a land use plan to signal their importance to land users and regulators and to impose restrictions on land uses where appropriate. ...

“... We also note that several interviewees identified the protection of community drinking water as a high priority for a first generation territory-wide plan. For example, one interviewee stated that this issue is very important for many residents and the need to regulate land use to protect the quality and quantity of drinking water is relatively uncontroversial. As a result, this interviewee suggested that action on drinking water protection was an opportunity to demonstrate significant progress on a key issue in the first generation plan.”

The 2013 IPG Joint Workshop<sup>3</sup> determined that:

<sup>1</sup> (Nunavut Water Board (NWB), 2010-08-31. NPC Public Registry File # 10-092E)

<sup>2</sup> (Dillon Consulting, 2012-06-21. NPC Public Registry File # 10-133E)

<sup>3</sup> (Kennett, 2013-03-20. NPC Public Registry File # 12-032E)

“... The DNLUP has a particularly useful role to play when municipal plans direct the protection of source water but portions of these watersheds extend outside municipal boundaries and are therefore not subject to these plans.

...

“Land use planning can take several approaches to protecting drinking water:

1. Leave this issue to be addressed by the NWB;
2. Establish prohibitions on land uses within community watersheds;
3. Establish results-based direction or guidelines – e.g., the test for acceptable development is whether it will leave water quality and quantity unaffected (this approach was used in the Great Bear Lake Watershed Management Plan); and
4. Establish interim protection measures for proposed secondary watersheds, pending NWB decisions on applications by municipalities to use these watersheds as drinking water sources.”

In 2016, the GoC<sup>1</sup> noted:

“... Even without being addressed in the current Land Use Plan, the Nunavut Water Board consistently considers community water supply protection within its licensing process, and effectively protects this important resource. ...”

In 2017, the GN<sup>2</sup> noted:

“Community water standards are a regulated matter under the Public Health Act.”

### Considerations

Although the NWB has an important role in managing freshwater, including community drinking water, the NLUP can support the management of this important resource. Within municipal boundaries, community drinking water supply watersheds are also managed through municipal land use plans. Where community drinking water supply watersheds extend outside municipal boundaries the NLUP can support the management of these areas.

***The potential value of including guidance in the NLUP for COMMUNITY DRINKING WATER SUPPLIES***

***OUTSIDE OF MUNICIPAL BOUNDARIES is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

***The potential value of including guidance in the NLUP for COMMUNITY DRINKING WATER SUPPLIES WITHIN MUNICIPAL BOUNDARIES is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is overlap of existing legislation and regulations with NPC jurisdiction.*

## 4.5.8 Policy Options for Community Drinking Water Supplies

In 2014, the GN<sup>3</sup> indicated:

*“Recommendation: The GN would like to express its strong support for the decision of NPC to review each of Nunavut’s Community Plans and assign a separate option for each community based on compliance with the Community Plan. Given Article 11.7.4, we feel that this is an entirely appropriate method for decision-making for the protection of community drinking water supplies.”*

In 2015, the GN<sup>4</sup> also noted:

*“Include a conformity requirement in the DNLUP requiring a proponent of an industrial project taking place within a watershed containing a community drinking water source to identify in their proposal: the location of the community drinking water source in relation to the proposed project activities; any potential impacts of project activity on that water source; and mitigation measures to avoid impacts to the community drinking water source.”*

### Considerations

The NPC has not categorized the GN’s comments according to the options below as they provide general information regarding the development of the NLUP.

#### 4.5.8.1 Option 1 – Limited Use

In 2014, the NIRB<sup>5</sup> recommended:

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

<sup>4</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>5</sup> (Nunavut Impact Review Board (NIRB), 2014-02-14. NPC Public Registry File # 12-142E)

“... that some protection be placed around communities waters if they haven't done so/communities should be advised to look at their water sources and make appropriate motions to ensure their water is protected.”

In 2015, NTI and the RIAs<sup>1</sup> stated:

“... There are concerns that the Special Management Area designation for Community Water Source Watersheds does not provide enough protection to community drinking water supplies. A preliminary review of the Special Management Areas indicates that not all inputs into watersheds have been considered. Accordingly, we ask the NPC to provide the scientific basis for watershed boundaries generally and for not creating Special Management Areas for the communities of Gjoa Haven, Iqaluit, Igloodik and Clyde River. Additionally, there are concerns that where community water sources are adjacent or overlap with areas of High Mineral Potential that direction should be provided to ensure that water quality standards are applied for water entering Community Water Source Watersheds.

“Within the Special Management Area, the Nunavut Water Board (NWB) is directed to ‘where appropriate’ mitigate impacts ‘on community water drinking supplies to ensure that the integrity of the drinking water is maintained’. How would this direction add to the requirements within the current regulatory system? Is the NWB not already tasked with this responsibility?”

In 2015, the KivIA<sup>2</sup> stated:

“It is recommended that the NPC provide a mechanism(s) with regard to updating and incorporating new data into the NLUP that will protect the drinking water supply of all Nunavut communities.

“The NLUP does not consider all inputs into watersheds providing the communities with freshwater. No scientific basis is provided in the NLUP to indicate if the community source water watershed land use designations are sufficient to ensure community drinking water supplies are adequately protected. The NLUP should consider and include discussion on:

- appropriate intake protection zones for each community,
- minimum water quality standards for water entering Community Source Water Watersheds

...

- rationale for why some communities have Community Source Water Watershed Special Management Areas while others do not,

“If this recommendation does not alleviate concern for communities currently not specifically protected under the Draft NLUP, Community Source Water Watershed Special Management Areas should be established to ensure long term protection of the drinking water supply from resource related exploration activities and development activities within the sub-watersheds of all Nunavut communities.”

In 2018, the GN<sup>3</sup> noted:

“The Coral Harbour, Arviat, and Kugaaruk water supply watersheds Protected Areas (and associated prohibitions to ‘hydroelectric and related infrastructure’ may unnecessarily impede potential energy infrastructure projects; specifically transmission lines that may come from Manitoba through to Kivalliq communities may be impacted.”

### Considerations

The NPC notes that some participants, including NTI and the RIAs, support the inclusion of detailed protection measures for community drinking water supply watersheds in the NLUP. The NPC also notes the GN has expressed concerns regarding limiting potential energy infrastructure projects with any land use designations.

### 4.5.8.2 Option 2 - Conditional Use

In 2016, NTI and the RIAs<sup>4</sup> noted:

“NTI and the RIAs support an option that would include the delineation of community drinking water supply areas in the DNLUP and would allow for a discussion with the Nunavut Water Board, Government of Nunavut, the Government of Canada, NTI, RIAs and community organizations about what terms and conditions may be appropriate in the DNLUP to protect community drinking water supply areas.”

In 2016, the GoC<sup>5</sup> noted:

“... While the Government of Canada would support the future development of land-use plan based conditions to provide for the protection of community drinking water supplies, it is not clear that all the necessary information is available to proceed with the development of protections

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), 2015-06-22. NPC Public Registry File # 14-086E)

<sup>3</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>5</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

without significantly expanding the work to be done on the first-generation land use plan. ...”

#### Considerations

The NPC notes the NTI/RIA and GoC comments are best characterized as supporting this option. In addition, the comments express a preference to conduct more detailed planning for drinking water supplies in the future. The NPC also notes that the GoC’s overall comments demonstrate support for Option 4, as discussed below.

#### 4.5.8.3 Option 3 - Mixed Use

No participant recommended this option.

#### 4.5.8.4 Option 4 - Valued Component

In 2016, the GoC<sup>1</sup> stated:

“... Consider removing the Term related to cumulative impacts referrals and replace the Special Management Areas with a Mixed Use designation that would provide information to decision makers. ...

“The Nunavut Land Use Plan should indicate that community drinking water supply watersheds are a priority for the second generation of the Plan.”

#### Considerations

The NPC notes the GoC’s recommendation is currently equivalent to Option 4, as this option assigns a MU designation and includes mapping that provides information to decision-makers.

#### 4.5.9 NPC Recommendation - LU and VSEC

Given that:

#### COMMUNITY DRINKING WATER SUPPLIES:

The overall importance of the issue is considered HIGH.

#### COMMUNITY DRINKING WATER SUPPLIES:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH

iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH (Baker Lake and Kugluktuk) LOW (All other communities)
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	HIGH (Outside of municipal boundaries) MODERATE (Within municipal boundaries)

#### Recommendation for Community Drinking Water Supply Watersheds Outside of Municipal Boundaries, Except those for Baker Lake and Kugluktuk

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given the importance of the areas to the health of communities, and their relatively low non-renewable resource potential considering their small size.

#### LAND USE PLAN POLICY RECOMMENDATION

#### COMMUNITY DRINKING WATER SUPPLY WATERSHEDS:

#### OUTSIDE OF MUNICIPAL BOUNDARIES, EXCEPT BAKER LAKE AND KUGLUKTUK

#### LIMITED USE

#### Prohibited Incompatible Uses:

- Oil and gas exploration and production
- Mineral exploration and production
- Quarries
- Hydro-electrical and related infrastructure
- Linear infrastructure

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

## **Recommendation for Community Drinking Water Supply Watersheds Within Municipal Boundaries, and Baker Lake and Kugluktuk**

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify drinking water supply watersheds within municipal boundaries, and Baker Lake and Kugluktuk as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended to give the flexibility to municipalities to manage land use activities within drinking water supply watersheds within their municipal boundaries, and given the large size of the community drinking water supply watersheds of Baker Lake and Kugluktuk.

### **LAND USE PLAN POLICY RECOMMENDATION**

## **COMMUNITY DRINKING WATER SUPPLY**

### **WATERSHEDS:**

## **WITHIN MUNICIPAL BOUNDARIES, AND** **BAKER LAKE AND KUGLUKTUK**

## **VALUED SOCIO-ECONOMIC COMPONENT**

### **4.5.10 Summary of Revisions**

#### **KRLUP and NBRLUP**

The existing regional land use plans do not address community drinking water supply watersheds.

#### **2012, 2014 and 2016 DNLUP**

In the 2012 DNLUP, to support community plans and to maintain the quality and quantity of drinking water, all community water supply watersheds were assigned recommendation BHC-R3. The specific recommendation stated: "Project Proposals located in a community water supply watershed should take into account impacts on the quality and quantity of community drinking water."

In the 2012 DNLUP, some community water supply watersheds were also assigned a Building Healthier Communities designation. These designations were as follows:

- The BHC-5 designation was assigned to the community drinking water supplies for Rankin Inlet, Kimmirut, Cape Dorset and Kugluktuk (up to IOL). The permitted uses for this designation were tourism, recreation and research, and municipal services.
- The BHC-6 designation was assigned to the Cambridge Bay community drinking water supply. The designation permitted municipal services and prohibited all other uses.
- The BHC-7 designation was assigned to the community drinking water supplies for Coral Harbour and Iqaluit. The permitted uses for this designation were municipal services.

In the 2014 DNLUP, community water supply watersheds within municipal boundaries were assigned a MU designation. Community water supply watersheds outside of municipal boundaries were assigned a SMA designation that identified cumulative impact concerns and provided direction to regulatory authorities to mitigate impacts on these areas.

In the 2016 DNLUP (as clarified by the "Errors and Omissions" document), all community drinking water supply watersheds, except Baker Lake and Kugluktuk, were assigned a PA designation. The 2016 DNLUP also addressed community drinking water supplies as follows:

- It identified the Baker Lake and Kugluktuk community water supply watersheds as VSECs;
- It included a recommendation that within five years of the approval of the first-generation NLUP, municipalities must identify for the NPC the boundaries of the watershed of their existing and future drinking water supply; and
- It included a recommendation that in implementing the NLUP, federal or territorial Ministers, department agencies, municipalities, IPGs, the National Energy Board, federal environmental assessment panels, and other regulatory authorities ensure proponents give reasonable consideration to ensure the protection of communities' drinking water supplies.

#### **2021 DNLUP**

The 2021 approach is similar to the 2016 DNLUP.



In the 2021 DNLUP, community drinking water supply watersheds outside of municipal boundaries are assigned a land use designation that prohibits incompatible uses, which is consistent with 2016 although the terminology has changed from a PA designation in earlier versions to LU in 2021. The exceptions remain Kugluktuk and Baker Lake, which draw water from major rivers, and their drinking water supply watersheds are recommended VSEC status again in 2021.

In 2021, community drinking water supply watersheds within municipal boundaries are MU and identified as known VSECs so that all impact assessments must consider potential impacts to water quality, while not restricting uses that would be considered under the municipal plans.

## 4.6 Contaminated Sites

Section 11.9.1 of the NA requires the NPC to identify and prioritize the requirement to clean-up waste sites.

Policy E.2 of the NPC’s Goal of Building Healthier Communities is to identify contaminated sites that should be avoided by residents.

### 4.6.1 Importance of Contaminated Sites

The NPC did not receive comments directly related to the importance of contaminated sites.

The KRLUP recognizes the importance of managing waste sites.

The NBRLUP recognizes the importance of managing waste sites and includes a process in Appendix O for “Developing a Cleanup Priority List” based on work the NPC conducted dating back to the mid-1990s in the west Kitikmeot Region. Although a significant amount of work has been done by the NPC over the years, a prioritized list of sites has not been prepared for all of Nunavut.

#### Considerations

The NPC considers contaminated sites to have an overall high importance and priority. The NPC considers contaminated sites an important issue to be included in the NLUP.

***The overall importance of CONTAMINATED SITES is considered HIGH because:***

- *They have been identified by many participants as a priority;*
- *They have a high cultural value;*
- *They have a low economic value; and*
- *They have a high ecosystemic value.*

### 4.6.2 Types of Contaminated Sites

CIRNAC is the custodian of most federal lands in the North and is committed to managing most contaminated sites. It is responsible for properties identified through its Northern Contaminated Sites Program (NCSP). These sites are located on reserve lands, on federal lands north of the 60<sup>th</sup> parallel, and on any other lands under CIRNAC’s custodial responsibility. In 2002, CIRNAC developed a Contaminated Sites Management Plan.

Land remediation considers Distant Early Warning (DEW) Line sites, administered jointly by the Department of National Defence (DND) and Indigenous and Northern Affairs Canada (INAC). These sites are at different stages of remediation.

Contaminated sites in the NSA are analyzed collectively in the following subsections. “Priority” sites are those identified by the GoC that are of concern for public health and safety.

### 4.6.3 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GoC, 2017	5	0

In 2013, the GoC<sup>1</sup> noted:

“The larger contaminated sites should be identified as it could impact land use. However, the smaller waste sites will not likely affect the use of the land as they are often abandoned barrel caches. Given the amount of information on the maps, this could lead to confusion rather than clarity. Additionally, identifying all the classes of sites misrepresents the territory having it appear more contaminated than it is. AANDC suggests that all small sites be removed or the maps should clearly distinguish between AANDC sites and other sites.”

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)



In 2017, the GoC<sup>1</sup> provided the NPC with an updated list of contaminated sites, including the locations of landfills, for inclusion in the NLUP.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of contaminated sites. The geographic boundaries currently considered were provided by the GoC and are considered highly accurate.

#### ***The certainty of the identified geographic boundaries of CONTAMINATED SITES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

### 4.6.4 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of contaminated sites.

#### Considerations

Although contaminated sites are an important issue for communities, they cover small areas and are not considered to have significant value for wildlife or community use. Based on this, the NPC considers contaminated sites to have low environmental and cultural importance.

#### ***The environmental and cultural importance of CONTAMINATED SITES is considered LOW because:***

- *The importance of the areas to the communities is low; and*
- *The importance of the areas to the environment is low.*

### 4.6.5 Potential for Non-Renewable Resource, Transportation and Linear Infrastructure

Parnautit,<sup>2</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes

to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in contaminated sites is considered low. Contaminated sites cover small areas and are not considered to have significant non-renewable resource potential. Some of the sites have existing airstrips.

#### ***The potential for non-renewable resources, transportation and linear infrastructure in CONTAMINATED SITES is considered LOW because:***

- *The areas have some overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have moderate potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

### 4.6.6 Sensitivity to Impacts

In 2013, the GoC<sup>4</sup> stated:

"An investment such as a landfill (hazardous or non-hazardous waste) requires certain protection in order to maintain its structural integrity. This means that any activity that could impact a landfill should be avoided, including direct drilling, setting up a camp or creating a large landing pad. However uses such as a small helicopter landing pad or a light storage area are acceptable."

#### Considerations

The NPC considers the sensitivity of contaminated sites to impacts from incompatible uses to be moderate and year-round. It is noted that following remediation, certain uses continue to be inappropriate at some sites.

#### ***The sensitivity of CONTAMINATED SITES to impacts is considered MODERATE and YEAR-ROUND because:***

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>4</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

- **Existing uses may be impacted by incompatible uses.**

## 4.6.7 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for contaminated sites.

### Considerations

The NCSP manages contaminated sites under federal responsibility. The program addresses ongoing remediation priorities, but it does not guide other land uses in these areas. The NLUP can manage land uses in contaminated sites.

***The potential value of including guidance in the NLUP for CONTAMINATED SITES is considered HIGH because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is low overlap of existing legislation and regulations with NPC jurisdiction.*

## 4.6.8 Policy Options for Contaminated Sites

### 4.6.8.1 Option 1 - Limited Use

In 2015, the GoC<sup>1</sup> stated:

“Section 4.4.3 (Contaminated Sites) should reflect the Northern Contaminated Sites Program’s ‘open use of land’ intent, and clearly state that remediated sites even though still listed as contaminated sites would be open to future uses, with use restrictions only on landfills, i.e. prohibition of direct drilling, camps or large landing pads. ...”

In 2016, the GoC<sup>2</sup> stated:

“The Government of Canada’s preferred approach would be:

- a) in respect of contaminated sites not yet completely remediated, to limit uses except remediation and monitoring of the sites (INAC will provide the list and spatial area of the sites);
- b) in respect of contaminated sites considered remediated by INAC, to permit all uses except uses not related to remediation and site monitoring that would may [sic] affect engineered structures

and controls such as drilling, blasting, moving and using heavy equipment, watercourse retraining, large landing pads. INAC will continue to refine the list of places and activities that should be restricted;

- c) in respect of both remediated and un-remediated INAC would request that proponent must contact the Nunavut Regional Office of INAC, Land Administration Unit no less than 45 days prior to commencing their activities in the identified area.”

### Considerations

The NPC notes the GoC supports this option, with different prohibited uses for different types of sites. It is not within the NPC’s mandate to enforce the application time periods for those making applications to the GoC.

### 4.6.8.2 Option 2 - Conditional Use

No participant recommended this option.

### 4.6.8.3 Option 3 - Mixed Use

In 2016, NTI and the RIAs<sup>3</sup> stated:

“1. NTI and the RIAs would support an option that does not create prohibitions or a designation for DND or Contaminated Sites in the DNLUP.”

### Considerations

The NPC notes NTI and the RIAs support this option as they have a preference to not include prohibitions or designations.

### 4.6.8.4 Option 4 - Valued Component

In 2016, NTI and the RIAs<sup>4</sup> stated:

“1. NTI and the RIAs would support an option that does not create prohibitions or a designation for DND or Contaminated Sites in the DNLUP.”

### Considerations

As indicated above, the NPC notes the preference of NTI and the RIAs to not include prohibitions or designations.

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

## 4.6.9 NPC Recommendation - LU/VSEC

Given that:

### CONTAMINATED SITES:

The overall importance of the issue is considered HIGH.

### CONTAMINATED SITES:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	LOW
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	LOW
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	HIGH

### Recommendation for Priority Contaminated Sites

Option 1 is recommended.

- Restricts access to uses that are incompatible.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended to reflect feedback received from government agencies, to provide management of these priority NCSP sites that are of concern for public health and safety, and to provide management of public infrastructure.

#### LAND USE PLAN POLICY RECOMMENDATION

### PRIORITY CONTAMINATED SITES

#### LIMITED USE

#### Permitted Uses Until Clean-Up is Completed:

- Remediation and monitoring

#### Prohibited Uses Until Clean-Up is Completed:

- All other uses

#### Prohibited Uses on Landfills After Remediation:

- Drilling
- Camps
- Landing pads

### Recommendation for Remediated and Unassessed Contaminated Sites

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify remediated and unassessed contaminated sites as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 was recommended to inform proponents of the presence of remediated and unassessed contaminated sites.

#### LAND USE PLAN POLICY RECOMMENDATION

### REMEDIED AND UNASSESSED CONTAMINATED SITES

#### VALUED SOCIO-ECONOMIC COMPONENT

## 4.6.10 Summary of Revisions

### KRLUP and NBRLUP

Both the KRLUP and NBRLUP include sections on contaminated sites. Both plans require all land users to follow the “Code of Good Conduct” and ensure that no new waste is left on sites.

In addition, the two existing regional land use plans recommend the principle of the “polluter pays” applies to the cleaning up of waste sites, and add that if identification of the polluter is not possible, the regulatory authorities that had responsibility for the site at the time it was active shall be responsible for remediation of the waste site.

The plans also recommend the NPC works with people in the regions and stakeholders to develop a waste sites clean-up priority list.

### 2012, 2014 and 2016 DNLUP

The 2012 DNLUP included sections on land remediation as well as the NCSP. The recommendations for these areas were as follows:

- To manage the Aboriginal Affairs and Northern Development Canada (AANDC) administered sites that have not been remediated and the DND administered sites, the areas were assigned a Building Healthier Communities (BHC-9) designation. This designation permitted remediation and reclamation activities, and DND operations and activities. It prohibited all other uses.
- To manage NCSP sites, the areas were assigned a Building Healthier Communities (BHC-8) designation. This designation permitted remediation and reclamation activities, and prohibited all other uses.

The 2014 DNLUP included sections on DEW Line sites (under “Land Remediation”) and contaminated sites. The 2014 DNLUP assigned a SMA designation to DEW Line sites and contaminated sites that prohibited incompatible uses. On DEW Line sites, the 2014 DNLUP prohibited all uses except GoC activities and activities associated with the remediation and monitoring of the sites. Similarly, on contaminated sites, the 2014 version prohibited all uses except remediation and monitoring of the sites.

The 2016 DNLUP addressed contaminated sites under the heading “Waste Sites.” As in 2014, the 2016 DNLUP assigned a SMA designation to contaminated sites that prohibited incompatible uses. In the 2016 draft, all uses were prohibited except remediation and monitoring of the sites until clean-up operations were completed. However, in contrast to the 2014 version, only a small number of uses were prohibited after remediation was completed (i.e., drilling, camps and large landing pads on landfills were prohibited following remediation). The 2016 DNLUP also included the following recommendations:

- The NPC recommended that the GN consider formalizing their existing Environmental Guideline for Contaminated Site Remediation into regulations.
- The NPC recommended that where it is possible to identify the person, company or agency responsible for creating an abandoned or inactive waste site, regulatory authorities apply, to the extent of their authority, the “polluter pay” principle to make the person, company or agency absolutely and retroactively liable for the remediation. If identification of the polluter is not possible, the NPC recommended the regulatory authorities that had

responsibility for the site at the time it was active shall be responsible for the remediation of the waste site.

## 2021 DNLUP

The 2021 DNLUP divides contaminated sites into two categories: priority contaminated sites; and remediated and unassessed contaminated sites. Priority contaminated sites are designated LU, with remediation and monitoring permitted before clean-up is completed and three uses (drilling, camps and landing pads) prohibited on landfills after remediation. Remediated and unassessed contaminated sites are identified as known VSECs.

## 4.7 Military Facilities

### 4.7.1 Importance of Military Facilities

In 2013, DND<sup>1</sup> noted:

“In the Arctic, [Canadian Armed Forces] must have the capacity to exercise control over and defend Canada’s sovereignty. As activities and development on land and waters increases in Northern regions, the military will play [a] vital role in demonstrating a visible Canadian presence and helping other government agencies to respond to any threats which may arise. Specifically CAF will maintain the capacity to:

- Provide surveillance of Canadian territory and air and maritime approaches;
- Maintain search and rescue response capabilities that are able to reach those in distress anywhere in Canada on a 24/7 basis;
- Assist civil authorities in responding to a wide range of threats from natural disasters to terrorist attacks.”

In 2017, the GoC<sup>2</sup> noted:

“... Canada’s North has long been a priority for the Government of Canada, and the region continues to be essential to the domestic and continental defence responsibilities of the Department of National Defence / Canadian Armed Forces. Indeed, DND/CAF’s role in the North is broad and multi-faceted, comprising both permanent posture through infrastructure, personnel, operations and exercises, and force projection of national elements that can be deployed into the region during a crisis or emergency. To meet its defence mandate, DND/CAF must maintain both a presence and freedom of movement.

<sup>1</sup> (Government of Canada, 2014-04-11. NPC Public Registry File # 12-183E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

“Canada’s North is also important to the Canada-US defence relationship, as the region represents the majority of North America’s northern air and maritime approaches, as well as more than 75% of Canada’s coastline. As Canada and the US work together through NORAD to defend our shared air and maritime approaches, DND/CAF must be able to effectively operate throughout the Arctic.

“Given the evolving security environment in the broader Arctic, DND/CAF will likely need to increase its Northern footprint in the coming years. One key element in the shifting security environment is that climate change and advancements in technology are leading to increased state, commercial and tourist activity in the region. In particular, a number of state and commercial actors seek to benefit from new access to the region’s transportation routes and resource potential. In addition, in light of Russia’s recent moves toward a more assertive role in the world, many Arctic states are carefully watching Russia’s military activities and capability development in the Arctic.”

### Considerations

Participants generally agreed on the overall moderate importance and priority of military facilities. Military facilities is recognized as an important issue to be included in the NLUP.

***The overall importance of MILITARY FACILITIES is considered MODERATE because:***

- *They have been identified by some participants as a priority;*
- *They have a low cultural value; and*
- *They have a high socio-economic value*

## 4.7.2 Types of Areas Important to Military Facilities

There are several types of military facilities in Nunavut.

North Warning System (NWS) sites provide surveillance of North American airspace. In 2015, DND<sup>1</sup> noted:

“... In Nunavut, there are seven (7) Long Range Radar (LRR) Sites and twenty-four (24) Short Range Radar (SRR) Sites.”

In 2013, the GoC<sup>2</sup> noted:

“DND/[Canadian Forces] only owns one Canadian Forces [Station] in Nunavut (CFS Alert) ...

...

“Eureka is a site shared by multiple Federal Departments such as Environmental Canada, Natural Resources Canada and Department of National Defence. The aerodrome is administered by Environment Canada. Fort Eureka (accommodation building located beside the aerodrome) is maintained by DND, a number of other buildings are located on the site and maintained by Environmental Canada such as the Weather station.

...

“Nanisivik is the future site of the deepwater naval facility and helipad located on Baffin Island, 40 km from the community of Arctic Bay in Nunavut. Once complete, the naval facility will support the Royal Canadian Navy and other Government of Canada operations.”

In 2013, DND<sup>3</sup> noted:

“... The High Arctic Data Communication System is a chain of six microwave repeaters sites link used for communication purposes.”

In 2015, DND<sup>4</sup> noted the following regarding the Joint Seismic Research Facility located in Cambridge Bay:

“... In 1968 the Embassy of the United States and the Canadian Department of External Affairs (currently the Department of Foreign Affairs, Trade and Development Canada) entered into an agreement to establish a facility in this northern community as a response to the 1963 International Agreement banning the testing of nuclear weapons. In 1996 this agreement was replaced by the Comprehensive Test Ban Treaty, to which Canada is a signatory.

“In the 1968 agreement, it was listed in the provisions that DND will administer and control the lands on behalf of External Affairs. This remains in effect to this day.

“DND requires that these lands be secured in order to uphold the provisions of the International Agreement that Canada has entered into with the United States of America. As such the JSRF and its reserve, Reserve 1853, will need to be incorporated and recognized in the draft Nunavut LUP. In doing so, the ongoing obligations of the Federal Government can be recognized and upheld.”

These sites are considered collectively in the following subsections.

## 4.7.3 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GoC, 2015	409	0

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>3</sup> (Government of Canada, 2014-04-11. NPC Public Registry File # 12-183E)

<sup>4</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-066E)



The geographic boundaries currently considered for military facilities were provided by DND,<sup>1</sup> who noted in 2015:

“The *Real Property Management Areas* provided to the NPC by DND were defined as follows:

- Radome Setback Zones – established to minimize the impact of electromagnetic interference upon its facilities. The setback around the radar towers has been set at a distance of 8 km.
- Aerodrome Safety Zones – established around DND airfields and landing pads to ensure the continued safe operation of aircraft. The radii have been set at 4 km, 2.5 km and 1 km intervals applicable to runway, helipad and refuel points respectively.”

Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of military facilities. The locations of all military facilities were provided to the NPC by DND and are considered highly accurate.

***The certainty of the identified geographic boundaries of MILITARY FACILITIES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is high agreement among participants regarding the boundaries; and*
- *The information is current.*

4.7.4 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of military facilities.

Considerations

The NPC recognizes the contributions of DND sites in the NSA to national security and supports the management of these facilities to ensure their continued utility. The DND establishments of CFS Alert, Eureka and Nanisivik promote a military presence in the NSA and are used to control and defend Canada’s sovereignty. In addition, the High Arctic Data Communication System chain of six microwave repeater sites is important for

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-066E)  
<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

communication purposes. Based on this, the NPC considers military facilities to have high environmental and cultural importance.

***The environmental and cultural importance of MILITARY FACILITIES is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to the environment is low.*

4.7.5 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GoC, 2015	409	0	0	0

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in military facilities is considered low. Military facilities cover small areas and are not considered to have non-renewable resource potential. Many of the sites have existing airstrips.

***The potential for non-renewable resources, transportation and linear infrastructure in MILITARY FACILITIES is considered LOW because:***

- *The areas have low overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have potential for transportation and linear infrastructure development;*

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)



- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

## 4.7.6 Sensitivity to Impacts

In 2015, DND<sup>1</sup> noted:

“... many operational DND sites are sensitive to vibration and electromagnetic interference. Activities conducted adjacent to such sites can also pose safety risks. ...”

### Considerations

Participants broadly agreed that the sensitivity of military facilities to impacts from incompatible uses is moderate and year-round.

***The sensitivity of MILITARY FACILITIES to impacts is considered MODERATE and YEAR-ROUND because:***

- *The areas are moderately sensitive to disturbance from incompatible uses; and*
- *The concern regarding potential impacts is year-round.*

## 4.7.7 Other Regulatory Tools

The NPC did not receive comments directly related to other regulatory tools for military facilities.

In section 5.7.17 of the NA (Lands Not Subject to Right of Access), access is restricted to lands that are “dedicated to military or national security purposes or being temporarily used for such purposes under the National Defence Act.”

### Considerations

The NLUP is able to support DND by preventing inconsistent land use proposals at military facilities.

***The potential value of including guidance in the NLUP for MILITARY FACILITIES is considered MODERATE because:***

- *The issue is partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

## 4.7.8 Policy Options for Military Facilities

In 2015, NTI and the RIAs<sup>2</sup> stated:

“There has been some informal indication recently by DND that the Special Management Areas designations may not be necessary. DND should confirm or otherwise clarify their current position on this matter.”

### Considerations

The NPC has not categorized the above comment from NTI and the RIAs according to the options below as it provides general information regarding the development of the NLUP.

### 4.7.8.1 Option 1 - Limited Use

In 2015, DND<sup>3</sup> stated:

“The first finding centres upon the definition of *Special Management Areas* (SMAs) in the current draft Nunavut LUP in that the current definition is somewhat rigid and prohibitive towards any development occurring in the SMAs. At no time did DND intend to prohibit all development from occurring. The intent was to ensure that development, prior to NPC approval, gave consideration to DND and its need to protect against development contrary to its mandate and mission.

...

“DND will agree to redefine those lands currently termed as SMAs in order to displace the restrictions on development. However, DND requires that the above zones remain in effect and remain part of the Nunavut LUP. Moving forward, it is important that DND remain a stakeholder in the management of Real Property and in its care and direction for the territory.”

In 2015, the GoC<sup>4</sup> stated:

“... many operational DND sites are sensitive to vibration and electromagnetic interference. Activities conducted adjacent to such sites can also pose safety risks. Establishing a ‘notification zone’ around designated DND sites to require proponents of Project Proposals in the vicinity of those sites to notify DND would ensure that DND is aware of those Project Proposals and given an opportunity to work with the proponent at resolving issues beforehand.

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>3</sup> (Government of Canada-DND, 2015-05-20. NPC Public Registry File # 14-021E)

<sup>4</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

“It is recommended that ... the following condition be added:

“Recommendation

“It is recommended that, for Special Management Areas # 130-136 and 137-166, the following condition be added:

It is a condition of conformity with the Plan that proponents demonstrate that the Department of National Defence has been notified of the Project Proposal, in order to ensure that development and activities near these sites do not negatively impact the ongoing operations of the sites.

...

“It is ... suggested that the language be changed to ‘All uses are prohibited except Government of Canada and Government of Nunavut activities’ ...”

**Considerations**

The NPC notes that the GoC comments are best characterized as supporting this option because the GoC’s overall preference is to prohibit other uses near military facilities.

**4.7.8.2 Option 2 – Conditional Use**

No participant recommended this option.

**4.7.8.3 Option 3 – Mixed Use**

In 2016, NTI and the RIAs<sup>1</sup> stated:

“1. NTI and the RIAs would support an option that does not create prohibitions or a designation for DND or Contaminated Sites in the DNLUP.”

**Considerations**

The NPC notes NTI and the RIAs support this option as they have a preference to not include prohibitions or designations.

**4.7.8.4 Option 4 – Valued Component**

In 2016, NTI and the RIAs<sup>2</sup> stated:

“1. NTI and the RIAs would support an option that does not create prohibitions or a designation for DND or Contaminated Sites in the DNLUP.”

**Considerations**

As indicated above, the NPC notes the preference of NTI and the RIAs to not include prohibitions or designations.

**4.7.9 NPC Recommendation – LU**

Given that:

**MILITARY FACILITIES:**

The overall importance of the issue is considered **MODERATE**.

**MILITARY FACILITIES:**

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>HIGH</b>
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>LOW</b>
iv.	<b>Sensitivity to Impacts</b>	<b>MODERATE and YEAR-ROUND</b>
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

**Recommendation for Military Facilities Outside Municipal Boundaries**

Option 1 is recommended:

- Restricts access to uses that are incompatible.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given that the areas are important to ensure Canada’s sovereignty in the Canadian Arctic.

LAND USE PLAN POLICY RECOMMENDATION

**MILITARY FACILITIES OUTSIDE MUNICIPAL BOUNDARIES**

**LIMITED USE**

**Prohibited Incompatible Uses:**

<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

- All uses are prohibited except uses by the GoC, GN and municipal governments

### **Recommendation for Military Facilities Within Municipal Boundaries**

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify military facilities within municipal boundaries as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 was recommended to inform proponents of the presence of military facilities on these lands.

#### LAND USE PLAN POLICY RECOMMENDATION

### **MILITARY FACILITIES WITHIN MUNICIPAL BOUNDARIES**

#### **VALUED SOCIO-ECONOMIC COMPONENT**

#### **4.7.10 Summary of Revisions**

##### **KRLUP and NBRLUP**

The KRLUP does not specifically discuss military facilities, while the NBRLUP contains sections on sovereignty and defence. The NBRLUP recommends the following:

“If new military facilities are required in the region, DND should consider existing regional facilities for the establishment of new defence installations. The communities, QIA and other relevant Nunavut bodies, such as the NPC and NIRB, should be consulted before any new construction.”

##### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP included sections on Canadian Forces stations and NWS sites. The recommendations for these areas were as follows:

- To manage the ongoing operations of Canadian Forces stations, the sites were assigned a Building

Healthier Communities (BHC-9) designation. The permitted uses for this designation were remediation and reclamation activities, and DND operations and activities. The designation prohibited all other uses.

- To manage the ongoing operations of the NWS sites, they were assigned a Building Healthier Communities (BHC-10) designation. This designation permitted DND operations and activities, and prohibited all other uses.

Both the 2014 and 2016 DNLUP included sections on DND establishments and NWS sites. The 2014 and 2016 DNLUP assigned a SMA designation to both types of sites that prohibited incompatible uses. The 2014 recommendation for military facilities prohibited all uses except GoC activities. In 2016, the exception was extended to GN activities.

##### **2021 DNLUP**

In the 2021 DNLUP, military facilities are divided into those that are outside municipal boundaries and those that are within municipal boundaries. The 2021 DNLUP assigns a LU designation to military facilities outside municipal boundaries and identifies military facilities within municipal boundaries as known VSECs.

## **4.8 Aerodromes**

Section 11.3.1(f) of the NA requires a land use plan to take into account community infrastructural requirements including health.

Objective E of the NPC’s Goal of Building Healthier Communities is to ensure that land use activities and processes are not detrimental to the health, well-being and safety of Nunavut residents and visitors.

### **4.8.1 Importance of Aerodromes**

The NPC did not receive comments directly related to the importance of aerodromes.

Ingirrasiliqta,<sup>1</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

##### **Considerations**

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

The NPC considers aerodromes to have an overall moderate importance and priority. The NPC considers aerodromes an important issue to be included in the NLUP.

Each municipality in Nunavut contains an aerodrome. At the beginning of the NLUP planning process, not all Nunavut aerodromes had regulations in place to manage land use in the areas, and it was considered to be an important issue that the NLUP could help address. Since that time, regulations have been put in place and participants no longer identify this as a priority issue.

**The overall importance of AERODROMES is considered MODERATE because:**

- They have been identified by few participants as a priority;
- They have a high cultural value;
- They have a moderate economic value; and
- They have a low ecosystemic value.

### 4.8.2 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
Transport Canada	1,244	0.04

The geographic boundaries currently considered for aerodromes were provided by Transport Canada.

#### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of aerodromes. Aerodromes are defined by the *Airport Zoning Regulations* under the federal *Aeronautics Act*. As such, there is a high level of certainty regarding the locations of Nunavut’s aerodromes.

**The certainty of the identified geographic boundaries of AERODROMES is considered HIGH because:**

- The areas are identified with high precision/scale;
- There is high agreement among participants regarding the boundaries; and
- The information is current.

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

### 4.8.3 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of aerodromes.

#### Considerations

All Nunavut communities are dependent on airlift and sealift for all their transportation needs and thus, aerodromes and other transportation infrastructure have high socio-economic importance. Based on this, the NPC considers the environmental and cultural importance of aerodromes to be high.

**The environmental and cultural importance of AERODROMES is considered HIGH because:**

- The importance of the areas to the communities is high.

### 4.8.4 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
Transport Canada	1,244	0	0	0

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

#### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in aerodromes is considered high. Although aerodromes are essential to the economic functioning of the communities and are rated high because they are transportation infrastructure, they are

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

limited geographically in size and present little non-renewable resource potential.

***The potential for non-renewable resources, transportation and linear infrastructure in AERODROMES is considered HIGH because:***

- *The areas have no overlap with areas with evidence of mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have no existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

## 4.8.5 Sensitivity to Impacts

In 2015, the GoC<sup>1</sup> provided suggested language as follows (strikethrough portions and emphasis omitted), which highlighted some potential impacts on aerodromes:

“Land use activities within certified Nunavut aerodromes (i.e. airports) (4 km radius measured from the midpoint of the runway) are required to comply with existing *Airport Zoning Regulations* created under the *Aeronautics Act*; under these regulations, building heights are restricted and additional hazardous uses are often identified, including bird attractants, which can pose a significant threat to aircraft operations.”

### Considerations

Participants broadly agreed that the sensitivity of aerodromes to impacts from incompatible uses is high and year-round.

***The sensitivity of AERODROMES to impacts is considered HIGH and YEAR-ROUND because:***

- *The areas are highly sensitive to disturbance from incompatible uses; and*
- *The concern regarding potential impacts is year-round.*

## 4.8.6 Other Regulatory Tools

As repeated from the subsection above on impacts, in 2015 the GoC<sup>2</sup> suggested language as follows (strikethrough portions and emphasis omitted), which

also highlighted the broader regulatory framework for aerodromes:

“Land use activities ... are required to comply with existing *Airport Zoning Regulations* created under the *Aeronautics Act*; under these regulations, building heights are restricted and additional hazardous uses are often identified, including bird attractants, which can pose a significant threat to aircraft operations.

...

“Regulations are in place for certified Nunavut aerodromes (airports) and the land use plan does not need to duplicate restrictions.”

### Considerations

It is noted that there are now regulations in place to manage land uses in certified Nunavut aerodromes. As such, the potential value of including guidance for aerodromes in the NLUP is now low.

***The potential value of including guidance in the NLUP for AERODROMES is considered LOW because:***

- *The issue is addressed by other regulatory authorities; and*
- *There is overlap of existing legislation and regulations with NPC jurisdiction.*

## 4.8.7 Policy Options for Aerodromes

### 4.8.7.1 Option 1 - Limited Use

No participant recommended this option.

### 4.8.7.2 Option 2 - Conditional Use

No participant recommended this option.

### 4.8.7.3 Option 3 - Mixed Use

In 2014, the GN<sup>3</sup> stated:

*“Recommendation: The GN would like to express its strong support for the decision of NPC to choose ‘Option 1: Assign a designation that permits all uses’ for areas within aerodromes (as defined by Airport Zoning Regulations under the Aeronautics Act). We believe that choosing any other option, which would restrict land use within aerodromes in some manner, would be entirely inappropriate since most community sites are located*

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-203E)

*within aerodromes and include a variety of land uses therein.”*

As noted above, in 2015 the GoC<sup>1</sup> stated (strikethrough portions and emphasis omitted):

“Regulations are in place for certified Nunavut aerodromes (airports) and the land use plan does not need to duplicate restrictions.”

#### Considerations

The NPC notes the GN and GoC support this option.

#### 4.8.7.4 Option 4 – Valued Component

No participant recommended this option.

#### 4.8.8 NPC Recommendation – VSEC

Given that:

##### **AERODROMES:**

**The overall importance of the issue is considered MODERATE.**

##### **AERODROMES:**

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	HIGH and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	LOW

#### Recommendation for Aerodromes

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify aerodromes as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 was recommended to inform proponents of the presence of aerodromes on these lands. A more restrictive designation is not recommended given that regulations are now in place for certified Nunavut aerodromes (airports).

#### LAND USE PLAN POLICY RECOMMENDATION

#### **AERODROMES**

#### **VALUED SOCIO-ECONOMIC COMPONENT**

#### 4.8.9 Summary of Revisions

##### **KRLUP and NBRLUP**

While both regional land use plans recognize the GN’s responsibility for planning and operating community airports, they do not contain any specific land use recommendations.

##### **2012, 2014 and 2016 DNLUP**

In the 2012 DNLUP, to manage municipal aerodromes, the areas were assigned recommendation BHC-R4. The specific recommendation stated: “Project Proposals located in a municipal Aerodrome should take into account impacts on aerodrome safety.”

Aerodromes were not specifically discussed in a separate section in either the 2014 or 2016 DNLUP. The 2014 and 2016 DNLUP both assigned a MU designation to the areas that permitted all uses.

##### **2021 DNLUP**

The 2021 DNLUP is consistent with the 2014 and 2016 versions in that it assigns a MU designation to the areas. However, the 2021 DNLUP also identifies aerodromes as known VSECs.

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)





# 5 Encouraging Sustainable Economic

*The Goal of Encouraging Sustainable Economic Development is described as: “The goal of achieving the economic well-being of communities underlies many of the articles and provisions of the Nunavut Land Claims (NLCA). It is inherent in the NLCA’s objective of encouraging self-reliance and diverse economic opportunities for Nunavummiut and all Canadians which will arise from a long-term, healthy, sustainable renewable and non-renewable resource economy.”*

Encouraging Sustainable Economic Development is one of five planning goals in the NPC’s Broad Planning Policies, Objectives and Goals. While each of the five goals are interrelated and interdependent, Goal 5: Encouraging Sustainable Economic Development and Goal 4: Building Healthier Communities, as discussed in Chapter 4, share a particularly strong alignment with respect to pursuing broader development objectives, in part through the advancement of health and well-being of individuals, families, communities and regions.

The idea of ‘development’ is generally understood to broadly involve the goals of acceleration of sustainable economic growth, as well as the reduction of poverty, disparity and inequality. It can also involve changes in social structure, cultural adaptation (e.g., values, attitudes, priorities) and institutions. The more explicit objectives of development stem from the notion of achieving the ‘*greatest possible improvement in well-being*’ that is equitable and sustainable. The objectives include:

- Increase the availability and widen the distribution of basic *life-sustaining goods* (e.g., food, shelter, health, security);
- Raise *levels of living* (e.g., through income, employment and better education); and
- Expand the range of economic and social *opportunities and choices* available to individuals, families, communities and regions.

Chapter 5 of the 2021 O&R identifies areas in Nunavut that contribute to economic development, or have the potential to contribute to sustainable development and opportunities, at different operational scales (e.g., smaller tourism and outfitting, substantial commercial fisheries sector, and large mining operations) to enable Inuit businesses and communities to align their respective priorities, capacities and capital commitment. Specifically, this chapter:

- Identifies key areas of Nunavut that are known to be important to encouraging sustainable economic development;
- Provides options for managing these key areas; and
- Recommends a preferred option for the management of these areas that is best able to support the Goal of Encouraging Sustainable Economic Development and build on the direction provided by planning policy, pertinent reports and feedback from Planning Partners.

Themes identified by the NPC as important to encouraging sustainable economic development are:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Transportation and communications (terrestrial transportation and communications, and marine shipping corridors); and
- Commercial fisheries (char commercial fishing areas, turbot commercial fishing areas, and shrimp commercial fishing areas).

Nunavut continues to develop a shared and sustainable economy founded on its economic realities. The economic realities reflect: significant natural resource endowment, both renewable and non-renewable; geographic and climatic constraints; high operating costs and labour market challenges; significant infrastructure deficits (as discussed in the transportation and communication corridors section in 5.3.2); and cyclical commodity market demand and price fluctuations.

Natural resource development and sustainable economic growth need to be viewed in the context of the significant challenges in social, economic and health disparities as well as inequalities and barriers faced by Inuit and communities – as discussed in Chapter 4. Land use planning plays a role through land use policies and

designations, which can affect the interconnected Goals of Sustainable Economic Development and Building Healthier Communities by encouraging or potentially constraining social, economic and investment opportunities and choices. One of the fundamental objectives of the NA is the protection and promotion of the well-being of Nunavut's residents and communities, in part through responsible and effective land use planning to achieve a 'balance' among environmental, social and economic needs and potential.

The NPC recognizes that there are different interpretations of 'wealth' and what 'success' means in different communities, regions, cultures and times. Wealth and success can encompass cultural and spiritual wealth, environmental and ecological wealth, and monetary wealth. That said, even in the more traditional communities a monetary component is part of today's definition of wealth and success.

## 5.1 Mineral Exploration and Production

Section 11.3.1(c) of the NA requires a land use plan to take into account economic opportunities and needs.

Objective A of the NPC's Goal of Encouraging Sustainable Economic Development is to encourage diversified economic development that increases employment, business opportunities, training and other benefits.

Objective F of the NPC's Goal of Encouraging Sustainable Economic Development is to ensure that the goals of any proposed restrictions on land use are achieved with the least possible impact on undiscovered mineral resources, while taking into account environmental and social objectives.

### 5.1.1 Importance of Mineral Exploration and Production

Mineral exploration and production is one of the most viable potential economic activities in Nunavut. The mining industry is a key contributor to Nunavut's economy, providing jobs, infrastructure, education,

skills, career development and business opportunities. In 2019, mining contributed some 27% to Nunavut's Gross Domestic Product (GDP) of over \$3 billion. The land use planning and environmental assessment processes in Nunavut have been established to proactively work to resolve potential conflicts between mineral exploration parties requiring access to land, and wildlife and community uses.

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

In 2017, the KivIA<sup>2</sup> submitted:

"In the late 1980's Inuit negotiators and their advisors (McPherson, 2003) established the importance of acquiring mineral rights to land since the Crown had traditionally sub-ordinated the surface holder in the development process. It was known that substantial blocks of mineral rights were going to be granted in the land-selection phase of negotiation, and Inuit became determined to make the best of it by hiring mineral advisors. These mineral advisors prepared a mineral inventory to help guide these deliberations. The ultimate goal of the Inuit negotiators was to gain the right to manage these mineral resources which would allow for the devolution of Crown resources to the new territory of Nunavut and help assure the economic viability of this new territory for future generations of Inuit."

Former Premier Paul Okalik stated in Parnautit:<sup>3</sup>

"Our territory is an increasingly attractive location for investment in natural resource exploration and development. Since 1999 mineral exploration investment has increased five-fold and Nunavut is now the northern leader in exploration investment. As a result of investor interest, we now have our first operating diamond mine and two gold projects in the permitting stage. We are also seeing growing interest in our known deposits of uranium, silver, nickel, copper, iron ore and coloured gemstones."

Former Minister David Simailak stated in Parnautit:<sup>4</sup>

"Building a strong and sustainable economy in Nunavut is a fundamental objective of our government. Fostering a robust exploration and mining industry is a central part of that plan. Nunavut is a vast territory, with a rich and varied

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>4</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

geological history. Its natural resource potential remains largely unexplored and untapped, presenting an unrivalled opportunity for interested investors, mining companies and our citizens alike.”

In 2017, the KivIA<sup>1</sup> stated:

“... exploration and development in areas of high mineral potential may encourage economic development as per Goal 5 which would subsequently improve the socioeconomic status of Nunavummiut employees.”

In 2017, the GoC<sup>2</sup> submitted:

“... The well-being of Nunavut’s residents depends ultimately on a healthy environment that can sustain both a traditional economy and a wage economy. Mineral exploration and mining are significant drivers of the latter. The draft Plan highlights the benefits of the sector and speaks to the attractiveness of the jurisdiction for investment; it is important that the Plan also facilitate the sustainable development of Nunavut’s resource potential.”

In 2017, AEM<sup>3</sup> wrote:

“Agnico Eagle has built considerable trust with the Inuit people of Nunavut and these projects have the potential to transform the future of Nunavut for generations to come with multi-decades of benefits in terms of continuous employment and financial benefits for the communities and governments.”

In 2018, the NWT & Nunavut Chamber of Mines<sup>4</sup> submitted:

“... the minerals industry is by far the largest private sector contributor to Nunavut’s economy ...”

## Considerations

Participants generally agreed on the overall high importance and priority of mineral exploration and production. Mineral exploration and production is broadly recognized as one of the most important issues to be included in the NLUP.

### ***The overall importance of MINERAL EXPLORATION AND PRODUCTION is considered HIGH because:***

- ***It has been identified by many participants as a priority;***
- ***It has a low cultural value;***
- ***It has a high economic value; and***

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

<sup>4</sup> (NWT & Nunavut Chamber of Mines, 2018-10-30. NPC Public Registry File # 16-227E)

- ***It has a low ecosystemic value.***

## 5.1.2 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
GoC/NTI, 2021 (mineral rights)	53,352	2
GoC, 2017 (mineral potential)	980,354	29

The primary considered geographic boundaries of areas with evidence for mineral potential were submitted by the GoC. Existing mineral rights have also been considered, including active prospecting permits, mineral claims, and mineral leases issued by the GoC, and mineral exploration agreements on IOL issued by NTI.

In 2014, the GoC<sup>5</sup> provided the NPC with a list of sites of high mineral potential. The process for delineating these boundaries was not described by the GoC.

In 2015, the GN<sup>6</sup> stated:

“The process for selecting areas of high mineral potential is unclear. ...

“To better understand how inclusive, and accurate, areas of high mineral potential are, it should [identify] what data was considered by the Commission and it should also be confirmed that the latest studies from the Canadian Geologic Survey and the Canada-Nunavut Geoscience Office have been considered by the NPC.

“Areas designated for high mineral potential are misleading, as their title suggests there is a comprehensive understanding of all of Nunavut’s mineral potential, which is not the case. A relatively easy way to address this issue is to refer to areas with high mineral potential as areas with high **known** mineral potential.”

In 2015, NTI<sup>7</sup> stated:

“... NPC should explain why subsurface IOLs were not identified as having high mineral potential by the NPC and included in this designation. NPC should also explain what sources of information were used to derive the high mineral potential areas? The DNLUP states that ‘[a]reas of high mineral potential have been identified based on the

<sup>5</sup> (Government of Canada, 2014-04-11. NPC Public Registry File # 12-182E)

<sup>6</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>7</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

locations of selected mineral occurrences, an examination of historical mineral tenure held in the territory, the extent of favourable geological units based on limited mapping, locations of current and past-producing mines, locations of advanced exploration projects, and those projects currently in the review and permitting stages' ...

"There are concerns that geoscience and mineral potential data in the public domain have not been considered in the development of the Mineral Potential Special Management Area designation. For example, has Natural Resources Canada data on Residual Total Magnetic Intensity, Bouguer Gravity and Airborne Radiometric Surveys been considered? NPC should ensure that all relevant data has been taken into account in developing the designation. There are also concerns regarding how the NLUP will accommodate new data and discoveries within the life of the Plan. ..."

In 2015, the KivIA<sup>1</sup> stated:

"... Although existing mineral occurrences and projects do define areas of mineral potential they do not always point to areas of currently unknown mineral potential. In order to better determine these areas it is necessary to use regional to territory scale geophysical (ie. magnetic, electromagnetic, radiometric and gravity) and geochemical (ie. lake sediment and glacial till) surveys. There is also a wealth of historic geoscience information in the public domain from previous mining company exploration and government surveys. This information would allow for a more completed assessment of Nunavut's mineral potential. This approach would also allow for more focus in future mineral exploration initiatives, the development of new technologies for exploration and outline areas where updating the geoscience information with modern methods would allow for a better assessment of the mineral potential.

"Examples of how the existing geoscience and historic information has been used to define areas of mineral potential are:

- 1) Kivalliq Region – Several geologic structures that parallel the Mel[i]adine Lake gold trend from the shore of Hudson Bay to the west and southwest have not been fully evaluated by mineral exploration. Recent work on the Pistol Bay Trend near Whale Cove has had significant success outlining new gold occurrences. This work was initially based on review of historic records in the public database.

- 2) Qikiqtani Region – The Hall Peninsula of Baffin Island was deemed to have very limited mineral potential until 2008 when diamond bearing kimberlites were discovered. To date approximately 67 kimberlites have been discovered.

"It is recommended that the NPC use existing geoscience information as well as utilizing the local territorial (ie. Canada Nunavut Geoscience Office and GN Minerals Division) and federal (ie. AANDC and GSC) to develop a more accurate representation of the mineral potential of Nunavut. It is also recommended that by expanding the focus of how the geoscience information is used from a geographic like location of the currently known mineral potential to a target driven use where new areas of mineral potential can be identified and used to attract mineral exploration and mining investment.

"The ESED-1 (Encouraging Sustainable Economic Development) designation should be significantly expanded to reflect current and historic mineral projects. All areas beyond the current ESED-1 regions that, once evaluated properly, have mineral potential should be clearly illustrated as multi-use in anticipation of possible mineral discoveries. In addition, more clarity on the sources of information and the decision making process that the NPC used to select the lands designated as ESED-1 is required."

In 2015, the Tundra Copper Corp.<sup>2</sup> stated:

"... While these remain of interest, our primary exploration target focuses on copper mineralization hosted in very shallowly north-dipping sedimentary rocks, in the northern part of the holdings. This style of mineralization is known in rocks of similar age and type elsewhere around the world, and has the potential to form much larger deposits. At Coppermine, the shallow northerly dip of the sedimentary rocks means that the subsurface potential has much greater northwards extent than is currently captured by areas designated as 'high mineral potential' ....

"Accordingly, we would like to request that the NPC amend the area of high mineral potential in the NLUP (see Maps 1 & 2 appended). In the event that we are successful in our exploration efforts we will also need to identify and construct transportation corridors in relation to our properties (all weather or seasonal roads), and would like to request that the future ability to access our mineral claims be grand-parented under the NLUP. ..."

In 2015, the NWT & Nunavut Chamber of Mines<sup>3</sup> stated:

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2015-06-22. NPC Public Registry File # 14-086E)

<sup>2</sup> (Tundra Copper Corp. and Kaizen Discovery, 2015-06-29. NPC Public Registry File # 14-087E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2015-07-13. NPC Public Registry File # 14-093E)

“... it is critical that the areas of known high mineral potential are accurately defined and reflected in the base mapping used to support the planning process, while also acknowledging that in a vast underexplored territory, there are many other areas with high mineral potential that remain to be identified.”

In 2017, North Arrow Minerals<sup>1</sup> stated:

“Defined areas of high mineral potential are an important component being used to develop the land use plan. However, we caution the NPC that, as with any exercise that results in lines being drawn on a map, areas of high mineral potential are difficult to constrain using definitive boundaries. Areas of high mineral potential have been defined by the Government of Canada using the best available public geoscience information. **However, the land use plan should acknowledge that the level of geoscience knowledge in Nunavut is limited and that, over time, geological concepts used to identify areas prospective for the discovery of mineral deposits also change.** For example, had the NWT gone through a similar land use planning process prior to the discovery of diamonds in the Territory, the Lac de Gras area would certainly have fallen outside any areas of high mineral potential defined at that time. Yet, since their discovery, these diamond deposits have been the single biggest driver of the NWT economy. It is therefore very important to recognize that areas located outside of the defined areas of high mineral potential in the 2016 DNLUP may also have mineral potential. **Several of North Arrow’s mineral tenures are located outside of areas of defined high mineral potential, including some tenures of our Qilalugaq Diamond Project that host diamond-bearing kimberlites.**

...

“Recommendation ... **The NLUP should consider all current mineral tenures (prospecting permits, mineral claims, mining leases) as areas of high mineral potential,** regardless of whether or not these areas lie within high mineral potential polygons presented in the 2016 DNLUP.

...

“Recommendation ... In order to ensure balance to the NLUP, **full protection of caribou calving and post-calving grounds should not be considered for areas of high mineral potential. ...**”

In 2017, the GoC<sup>2</sup> provided a revised map of “mineral potential,” which it asked to replace the earlier map of “high mineral potential.” The GoC noted in its submission:

“The Government of Canada first supplied the Commission with a draft map depicting Nunavut’s mineral potential as part of the 2013 Government of Canada Technical Priorities and Comments on the 2011/2012 Draft Nunavut Land Use Plan. The Commission then requested that more definitive data on Nunavut’s mineral potential be provided. Shortly before the release of the 2014 draft Plan, INAC supplied the Commission with information pertaining to two proposed land use categories:

- ‘Mineral Development Leading to Mining Activity’ was intended to illustrate the land areas in the territory forecasted as having the greatest likelihood of mineral resource exploration, evaluation and exploitation being carried out over the next 5 to 10 years.
- ‘Areas Open to Mineral Exploration’ encompassed all other areas of the territory, with the expectation that sensitive areas (territorial and national parks, communities, wildlife sanctuaries and preserves) would be withdrawn from this category by the Commission.

“The ‘Mineral Development Leading to Mining Activity’ land use category was developed based on the following parameters:

- the locations of selected mineral occurrences (showings)[;]
- an examination of historical mineral tenure since 1999[;]
- the extent of favourable geological units based on the available geological knowledge of the territory;
- the locations of past producing and current mines; and
- the locations of advanced exploration projects.

“The areas included in this category, representing 12 to 13% of the territory, were depicted at a low level of cartographic precision (1:2,000,000 or less). This proposed land use category included areas where knowledge of favourable geology and historic mineral exploration activity were concentrated; it was not intended as a comprehensive or definitive map of where mineral potential exists in the territory, particularly in isolation from the proposed ‘Areas Open to Mineral Exploration’ map intended to accompany it. Indeed, accurate forecasting of this potential is not possible.

“The areas that are labelled in the 2014 draft Plan as ‘High Mineral Potential’ and ‘Core Caribou Calving and Post-Calving Areas with High Mineral Potential’ Special

<sup>1</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)



Management Areas together mirror the ‘Mineral Development Leading to Mining Activity’ data set provided by INAC. But neither the 2014 draft Plan nor the accompanying 2014 Options and Recommendations documents mention of the limitations associated with this data. These two Special Management Areas have been a source of concern for stakeholders, because of the implication that only areas included within them have a high potential for mineral development. The 2014 draft Plan did not include anything resembling the ‘Areas Open to Mineral Exploration’ category that the INAC proposed, although it did include large areas with prohibitions on mineral exploration, which was contrary to the intention of this category: to keep most areas open for potential mineral exploration.

“Based on feedback received, INAC has prepared a revised map depicting a ‘Mineral Potential’ layer, that does not include any temporal or areal restrictions. The methodology for this layer is provided below. We are providing this information to inform resource management decisions for consideration by the Commission.

## “Inputs

### 1. Showings

“Mineral Showings are locations where anomalously high concentrations of minerals of economic interest have been identified. The NUMIN (Nunavut Minerals) database catalogues known showings in the territory derived from the following sources:

- Geological Survey of Canada’s (GSC) CanMinIndex (Canada Mineral Occurrence Index) database, maps and geological studies;
- Industry assessment reports submitted to INAC for the maintenance of mineral tenure
- Papers and projects prepared by universities and other research organizations

### 2. Prospective Geology

“GSC Map 2159A was used to identify prospective geological rock types. This is a recent map that provides geological information on the territory at a scale of 1:5,000,000. The map provides information on geological settings, ages and descriptions of lithological units, and the location of structural features such as faults.

### 3. Mineral Tenure

“INAC maintains a data set of mineral tenure from 1999 to present. This data and products derived from it such as assessment report outlines and exploration property

outlines were used to identify areas where significant amounts of exploration have occurred.

## “Buffer Distance

“The buffer distance used was 10 kilometres, as in the previous submission. This is a reasonable distance to account for any subsurface extension of prospective geological units and any other possible unknown anomalous locations around existing showings.”

## Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of areas with evidence for significant mineral potential. There were many criticisms of the former ‘High Mineral Potential’ map provided to the NPC in 2014. The new GoC data appears to address many of these concerns.

The geographic boundaries of areas with evidence for mineral potential considered in this section are comprised of the areas submitted by the GoC<sup>1</sup> in 2017 (as an update to its 2014 proposed boundaries), as well as all areas of 2021 active mineral rights. This means that some areas are defined with more precision than others. It is noted that the updated dataset does not attempt to only identify areas with “high” or “significant” mineral potential and instead is limited to including broad areas with “evidence for mineral potential” as a general indicator of mineral potential in Nunavut.

It is noted that most (92%) of subsurface IOLs are within the considered geographic boundaries for areas with evidence for mineral potential. The NPC has not received details regarding the criteria used for the selection of individual IOL parcels to confirm that all subsurface parcels were selected for their evidence of existing mineral potential, and the remaining parcels have not been included at this time.

***The certainty of the identified geographic boundaries of AREAS WITH EVIDENCE FOR MINERAL POTENTIAL is considered MODERATE OVERALL because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

### 5.1.3 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of the specific areas identified as areas with evidence for mineral potential. However, parts of the areas with evidence for mineral potential may overlap with important caribou habitats, key bird habitats, polar bear denning areas, or community areas of interest, broadly accepted to have high environmental and cultural importance in most cases (see relevant sections in Chapters 2-4 for more details).

#### Considerations

The NPC considers the environmental and cultural importance of areas with evidence for mineral potential overlapping with significant environmental or cultural features to be high. The NPC considers the environmental and cultural importance of other locations to be low.

Areas with evidence for mineral potential occur throughout much of Nunavut and exist independently of areas of particular importance to the environment and culture. There are overlaps between environmentally and culturally significant sites and areas with evidence for mineral potential. These overlaps have been considered in Chapters 2-4 under the subheading “Potential for Non-Renewable Resources, Transportation and Linear Infrastructure.”

***The environmental and cultural importance of AREAS WITH EVIDENCE FOR MINERAL POTENTIAL NOT OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered LOW because:***

- *The areas are not generally used much by the communities for traditional activities;*
- *The areas may generally be used by wildlife species for general purposes such as feeding; and*
- *Wildlife could find alternative habitat to relocate to if disturbed.*

***The environmental and cultural importance of AREAS WITH EVIDENCE FOR MINERAL POTENTIAL OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to biological productivity; and*
  - *The habitat supports concentrations of wildlife.*

### 5.1.4 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GoC/NTI (mineral rights)	53,351	10,495	4,425	
GoC, 2017 (mineral potential)	980,355	168,680	34,584	38,432

Parnautit,<sup>1</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Some sites are within the North Baffin Planning Region. The NBRLUP identifies mining as influencing the regional mixed economy.

Some sites are within the Keewatin Planning Region. The KRLUP identifies mining as important to the economic well-being of the region.

In 2008, Terriplan’s Socio-Demographic and Economic Sector Analysis<sup>3</sup> identified mining as “... one of the most lucrative industries in Nunavut.”

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

In 2017, the NWT & Nunavut Chamber of Mines<sup>1</sup> stated:

“In the Chamber’s view, the 2016 Draft NLUP is already negatively affecting investment in the Nunavut economy. The territory must do all it can to regain investor confidence. Natural Resources Canada’s latest report *Exploration and Deposit Appraisal Expenditures, by Province and Territory* projects that exploration investment in Nunavut continues to decrease. Despite the tremendously strong mineral potential in this region, the tide of investment leaving Nunavut has yet to turn. The 2016 *Fraser Survey of Mining Companies* paints Nunavut as one of the slowest provinces to permit and with substantially the highest level of regulatory uncertainty. Over 80% of respondents indicated that uncertainty about the administration, interpretation, and enforcement of existing regulations is a deterrent to investment in Nunavut; [a] total of 72% of respondents stated that, to some degree, uncertainty over which areas will be protected as Wilderness, Parks, or Archeological Sites is a deterrent to them investing in Nunavut.

“Nunavut is suffering from a land use planning process that threatens mineral investment, both on Crown and Inuit owned land. If approved, the 2016 Draft NLUP will have a serious impact on the Nunavut and Canadian resource economy, with little to no corresponding environmental or social benefit.”

In 2017, the NWT & Nunavut Chamber of Mines<sup>2</sup> stated in another submission:

“Exploration and mining make a significant contribution to territorial economies and to local Indigenous communities. In many instances, the minerals industry is the primary, if not the sole, private sector actor operating in remote parts of the territories. Mining is the North’s economic advantage, with nine geological provinces providing very diverse mineral potential. As the North is largely under-mapped and under-explored, its future mining potential is significant. As the primary private-sector driver for the territorial economies, the minerals industry directly accounts for between 18-25% of their gross domestic product (GDP). In Nunavut, millions of dollars are spent by the mineral exploration and mining industries in the territory each year through jobs, training, taxes, and support for local and growing Indigenous service industries through business opportunities.”

### Considerations

Known mineral potential is a defining characteristic of this criterion. There is agreement that the areas have evidence for mineral potential. In 2021, Nunavut’s operating mines are Meadowbank-Amaruq and

Meliadine, the Hope Bay complex, and Mary River. In addition, a portion of the proposed Kivalliq-Manitoba Road travels through the areas with evidence for mineral potential.

***The potential for non-renewable resources, transportation and linear infrastructure in AREAS WITH EVIDENCE FOR MINERAL POTENTIAL is considered HIGH because:***

- *The areas have significant known mineral potential or oil and gas significant discovery;*
- *The areas have high potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

### 5.1.5 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of the specific areas identified as areas with evidence of mineral potential to impacts. However, parts of the areas with evidence for mineral potential overlap with important caribou habitats, key bird habitats, polar bear denning areas, or community areas of interest, generally accepted to be moderately to highly sensitive to impacts of incompatible uses in most cases (see relevant sections in Chapters 2-4 for more details).

### Considerations

The NPC considers the sensitivity of areas with evidence for mineral potential overlapping with significant environmental or cultural features to impacts from incompatible uses to be high and year-round. The NPC considers the sensitivity of other locations to impacts from incompatible uses to be low and year-round.

By their nature, mineral resources are unlikely to be affected by other human activities. However, some portions of areas with evidence for mineral potential overlap with sensitive environmental and cultural values. These overlaps have been considered above in Chapters 2-4 under the subheading “Potential for Non-Renewable Resources, Transportation and Linear Infrastructure.”

***The sensitivity of AREAS WITH EVIDENCE FOR MINERAL POTENTIAL NOT OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL***

<sup>1</sup> (NWT & Nunavut Chamber of Mines, 2017-03-13. NPC Public Registry File # 16-099E)

<sup>2</sup> (NWT & Nunavut Chamber of Mines, 2017-01-13. NPC Public Registry File # 16-048E)

**FEATURES to impacts is considered LOW and YEAR-ROUND because:**

- *Species are less sensitive to disturbance when using these areas; and*
- *Species use these areas seasonally when disturbance is least likely to occur.*

**The sensitivity of AREAS WITH EVIDENCE FOR MINERAL POTENTIAL OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES to impacts is considered HIGH and YEAR-ROUND because:**

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

### 5.1.6 Other Regulatory Tools

The *Nunavut Mining Regulations*<sup>1</sup> establish the conditions under which a permit may be granted to prospect and mine in Nunavut. The regulations also identify lands withdrawn from disposal by the Governor in Council and those subject to other prohibitions from prospecting.

In response to the 2016 DNLUP's proposal to have the NPC and NIRB co-lead SEAs, the NIRB<sup>2</sup> recommended in its 2017 submission that "... [t]he NLUP should allow for assignment of Strategic Environmental Assessments to the NPC and/or NIRB by federal/territorial government agencies and/or Designated Inuit Organizations as appropriate", reasoning:

"The NIRB's mandate, under the Nunavut Agreement and the NuPPAA, is to conduct impact assessments of proposed projects, with the definition of project and project proposal encompassing physical works subject to government approval. As strategic environmental assessments (SEAs) are focused on evaluating impacts of potential governmental and land administrative decisions, such as policy options, leading or co-leading SEAs is outside the NIRB's primary functions and is considered to be an additional duty or function that may be assigned through section 12.2.4 of the Nunavut Agreement. The NIRB questions the ability of the NLUP to extend the NPC and NIRB's mandated authorities to include self-initiating SEAs

without such assessments being assigned by government or set out in legislation.

"As Nunavut's respective land use planning and impact assessment authorities, the NIRB supports the view that the NPC and the NIRB either jointly or individually may be best-poised to conduct SEAs for specific issues. To this end, the NIRB is presently in discussions with Indigenous and Northern Affairs Canada regarding the assignment of an SEA to the NIRB for oil and gas development in Baffin Bay and Davis Strait, pursuant to section 12.2.4 of the Nunavut Agreement. However, the limits to the NPC and NIRB's mandated authorities should be recognized by the NLUP, with SEAs enabled through the appropriate provisions of the Nunavut Agreement. Further, recognizing that the NPC and the NIRB are independent agencies with differing bylaws, rules of procedure and common practices, jointly conducting SEAs may be problematic and require further consideration, with specific direction possibly provided by federal/territorial government agencies and/or Designated Inuit Organizations as may be appropriate."

The GN<sup>3</sup> noted in its 2017 submission that "... NPC's proposal to lead (or co-lead) strategic environmental assessments for areas in Nunavut with high known mineral potential is outside the scope of its core responsibilities and not aligned with the current federal government[']s emphasis on offshore oil and gas, for which funds have been earmarked" and recommended the NLUP withdraw the recommendation to fund SEAs co-led by the NPC and NIRB.

#### Considerations

While there is an existing regulatory framework for mining in Nunavut, the NLUP must consider the economic opportunities of areas with evidence for mineral potential.

**The potential value of including guidance in the NLUP for AREAS WITH EVIDENCE FOR MINERAL POTENTIAL is considered HIGH because:**

- *The issue is only partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

<sup>1</sup> <http://www.gazette.gc.ca/rp-pr/p2/2014/2014-04-09/html/sor-dors69-eng.html>

<sup>2</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>3</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)



## 5.1.7 Policy Options for Areas with Evidence for Mineral Potential

In 2017, North Arrow Minerals<sup>1</sup> stated:

“... As exploration geologists, we don’t get to choose where a deposit is located. We do, however, need to work diligently and systematically to find one. **Prohibiting the opportunity to conduct mineral exploration and develop mines within areas of high mineral potential could prevent future generations of Nunavummiut from realizing opportunities for economic development and wage economy jobs.**

...

“... **The designation of protected areas, regardless of mineral potential, effectively takes control of the potential development of mineral resources in these areas away from Nunavummiut and local communities.** Communities will no longer have the opportunity to make an informed decision after weighing the potential benefits and impact of mineral exploration and possible mining development in a particular area.”

In 2017, Northquest<sup>2</sup> stated:

“... Protected Areas in the DNLUP are superimposed over areas which the DNLUP identifies as areas of high mineral potential. The importance of getting the correct balance between development and Protected Areas cannot be overstated for the future socio-economic development of Nunavut.”

In 2017, a GoC<sup>3</sup> representative stated at the Qikiqtani hearing:

“... Mineral development and conservation goals can pull decision makers in different directions, but this does not have to be the case. Sustainable development of Nunavut’s mineral resources and the goal of economic self-sufficiency of Nunavummiut are both important. As I have noted, the purpose of the regulatory system as laid out in the Nunavut Agreement is to find a way to respect and promote both of these values. The challenge is to make choices, but also to understand the impacts of those choices.

“As I have noted already, investment in mineral exploration and development is a key driver of the Nunavut economy. The Industry provides benefits such as jobs, training, local business opportunities, benefit agreements, tax revenue, and royalties. We have heard community members acknowledge the mineral potential of areas near them along with concerns for sustaining the wildlife for hunting.

We have also heard comments from community members that they would like certain areas to be protected now, but this could change if they had a voice in decisions at the early stage of exploration.

“It has to be understood that once an area is given some form of protection status, it is unlikely to be considered for mineral potential. Investment decisions on mineral exploration require certainty of access to an area even before exploration activities begin. This is what I mean by fully understanding the implications of land use designations. We request that communities, Governments, and Inuit Organizations closely examine the implications of protecting areas with mineral potential. Should communities to decide to support prohibitions on mineral development, Industry will be sent a negative message, affecting indeed, the overall investment climate of the territory.

“If communities wish to support mineral development after the Land Use Plan has been finalized, there is no certainty that Industry will return or how long the Plan amendment process may take. We ask that the Commission, in discussion with Governments, Inuit, Industry and Communities, clearly and transparently weigh the benefits in what will be given up, so that the choices and consequences of decisions can be well understood by everyone. The Government of Canada recommends that the approach to caribou protection through habitat restrictions be carefully considered so as to have the least possible impact on future mineral exploration and development projects.”

In 2017, the WWF<sup>4</sup> stated:

“There are over 241,000 square kilometres identified as having high mineral potential in Nunavut. Seventy-five per cent of this land is outside of the caribou protected areas proposed by the NPC in the 2016 draft of the NLUP. Protecting critical caribou habitat would mean only 25 per cent of Nunavut’s high mineral potential areas would be off limits because of caribou, with the plan up for review in five years. There would also be implications for accessory uses of other mineral development projects outside of these protected areas in terms of transportation networks and accessibility that would need to be mitigated to ensure responsible economic development occurs outside of these habitats.

“The designation of Protected Area status does not create a National or Territorial Park, nor does it confer total prohibition on incompatible uses in the short or long term. Rather, it assigns incompatible uses that require ministerial exemptions or plan amendments in order to protect

<sup>1</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)

<sup>2</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

<sup>3</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>4</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

identified values within specifically bounded geographical areas of Nunavut. Assigning Protected Area status will trigger a process requiring new industrial development projects to seek a plan amendment in order to explore or operate within critical caribou habitat. At which point, the pros and cons can be weighed by NPC and relevant bodies on the merits of such an application.”

In 2017, the NWMB<sup>1</sup> stated:

“... the NWMB has recommended that the draft Nunavut Land Use Plan prohibit industrial activities within identified caribou calving and post-calving grounds ..., including key access corridors leading to and from the calving grounds, regardless of the area's mineral potential. ...”

In 2017, the Athabasca Dēnesūliné<sup>2</sup> stated:

“The AD strongly urge the NPC to keep the Protected Area Land Use Designation that prohibits incompatible uses, including all areas having high mineral potential.”

### Considerations

The NPC has not categorized the above comments according to the options as the submissions provide general information regarding the development of the NLUP. The NPC notes that several of the comments focus on the need to balance the potential extraction of mineral resources and energy resources with other planning objectives and priorities.

## 5.1.7.1 Option 1 - Limited Use

No participant recommended this option.

### Considerations

Although no participant specifically suggested this option for all areas with evidence for mineral potential, some participants suggested this option for areas overlapping with significant environmental and cultural values (see the above general comments and, more specifically, the corresponding sections in Chapters 2-4 for additional details).

## 5.1.7.2 Option 2 - Conditional Use

No participant recommended this option.

### Considerations

<sup>1</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>2</sup> (Athabasca Denesuline (AD), 2017-01-13. NPC Public Registry File # 16-080E)

Although no participant specifically suggested this option for all areas with evidence for mineral potential, some participants suggested this option for areas overlapping with significant environmental and cultural values, as discussed in Chapters 2-4.

## 5.1.7.3 Option 3 - Mixed Use

In 2016, the WWF<sup>3</sup> stated:

“... remove the prohibitions against conservation areas and tourist facilities in areas designated as high mineral potential and replace it with a Mixed Use designation. We do not see any benefit afforded through prohibiting conservation areas or tourist facilities, and no arguments were put forward by participants at the latest technical meeting in this regard. Assigning a Mixed Use designation does not change the land use options for these areas, as they remain open to development subject to regulatory approval. While we recognize the desire stated by other parties to advertise to industry that Nunavut is available for development, designating these areas as Mixed Use avails the same geographic extent of land for development without conformity issues from the NPC.”

In 2016, the GoC<sup>4</sup> stated:

“... Remove the prohibitions associated with the high mineral potential Special Management Area, and replace with a Mixed Use designation. The Nunavut Land Use Plan should continue to geospatially delineate the areas of high mineral potential, but under a different label.”

In 2016, Baffinland<sup>5</sup> stated:

“Nunavut has had little resource exploration or development activity compared to other parts of Canada. Its geoscience database is limited and thus the definition of High Mineral Potential areas needs to be taken in context and other activities should not be prohibited but a multiple use focus needs to be put into place. The areas of High Mineral Potential will change and expand over time as improved data is gathered, information generated and knowledge built. Restricting exploration activity appears to be misguided given that the discovery of the ‘Lac des Gras’ diamond mines was in an area that had been previously thought to have low mineral potential.

“Areas of High Mineral Potential can and should allow multiple-use activity and there would appear to be no reason for preventing tourism. Similarly to above, flagging these areas will alert non-resource developers to the

<sup>3</sup> (WWF-Canada, 2016-03-04. NPC Public Registry File # 14-160E)

<sup>4</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>5</sup> (Baffinland Iron Mines Ltd., 2016-03-04. NPC Public Registry File # 14-155E)



potential activity and that certain restrictions or allowances may apply to the tourism development.”

In 2017, the KivIA<sup>1</sup> stated:

“... The KivIA proposes that the following options for refinement to the 2016 DNLUP be implemented:

...

2. The DNLUP should be revised to recognize that IOLs were selected predominantly for their mineral endowment (McPherson, 2003).
3. All IOL parcels should designated ‘Mixed Use’.
4. A clearly defined process that outlines how flexible the 2016 DNLUP will be in changing land use designation boundaries and definitions as new information becomes available going forward.”

In 2017, North Arrow Minerals<sup>2</sup> stated:

“The 2016 DNLUP is heavily weighted in favour of conservation through creation of extensive protected areas with full prohibition of industrial activity in caribou calving and post-calving grounds regardless of mineral potential. ... **The sterilization of existing mineral prospects from further evaluation and potential future development through the establishment of full protected areas would be to the detriment of Nunavut’s present and future potential economic development and does not meet the aspirations of Nunavut residents as outlined in Section 1.4.2.1 of the 2016 DNLUP ...**”

#### Considerations

The NPC notes that some participants, including the GoC, support this option. The NPC also understands that there is a preference to not place restrictions on mineral development in areas with evidence for mineral potential unless compelling reasons exist. In most cases, those reasons relate to essential ecological areas, which are defined differently by different participants.

#### 5.1.7.4 Option 4 – Valued Component

In 2017, the GoC<sup>3</sup> stated:

“... The plan should show existing mineral projects or deposits, and the Commission should better describe the analysis undertaken when these choices were made.”

#### Considerations

The NPC notes that in addition to recommending Option 3, the GoC’s comment also reflects that the areas should

be identified as a VSEC. Identifying areas with evidence for mineral potential as a known VSEC would ensure that proponents and regulatory authorities are aware of their locations and value and would help inform the NPC when considering cumulative effects based referrals of project proposals to the NIRB for screening.

#### 5.1.8 NPC Recommendation – VSEC

Given that:

#### MINERAL EXPLORATION AND PRODUCTION:

**Overall importance of the issue is considered HIGH.**

#### AREAS WITH EVIDENCE FOR MINERAL POTENTIAL:

i.	Certainty of the Identified Geographic Boundaries	MODERATE OVERALL
ii.	Environmental and Cultural Importance	<p><b>LOW</b> (Areas <u>not</u> overlapping with significant environmental or cultural features)</p> <p><b>HIGH</b> (Areas overlapping with significant environmental or cultural features)</p>
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	<b>HIGH</b>
iv.	Sensitivity to Impacts	<p><b>LOW and YEAR-ROUND</b> (Areas <u>not</u> overlapping with significant environmental or cultural features)</p> <p><b>HIGH and YEAR-ROUND</b> (Areas overlapping with significant environmental or cultural features)</p>

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

<sup>2</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

v.	Potential Value of Including Guidance in the NLUP	HIGH
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## Recommendation for Areas with Evidence for Mineral Potential

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify areas with evidence for mineral potential as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended to reflect that these areas may be important for mining development in the future, and if possible, activities that would reduce their future economic value should be avoided.

### LAND USE PLAN POLICY RECOMMENDATION

## **AREAS WITH EVIDENCE FOR MINERAL POTENTIAL**

### **VALUED SOCIO-ECONOMIC COMPONENT**

## 5.1.9 Summary of Revisions

### KRLUP and NBRLUP

The existing regional land use plans do not identify areas with evidence for mineral potential and do not assign specific designations.

### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage areas of mineral production, operational mines and areas of known mineral potential that were at advanced stage of exploration were assigned an Encouraging Sustainable Economic Development (ESED-1) designation. The permitted uses for this designation were mining, remediation and reclamation activities, roads, railways, utilities and corridors.

In the 2014 DNLUP, the specific sites of mineral development leading to mining activity provided to the NPC by the GoC were identified as areas of high mineral potential. Areas of known high mineral potential were

assigned a SMA designation that prohibited the following incompatible uses: the establishment of tourism facilities; and the establishment of conservation areas and parks. In addition, core caribou calving and post-calving areas that had been identified for high mineral potential were assigned a SMA designation that identified cumulative impact concerns and provided direction to regulatory authorities to mitigate impacts on these areas.

In the 2016 DNLUP, the specific sites of mineral development leading to mining activity provided to the NPC by the GoC were identified on Map B as areas of VCs. In addition, a recommendation of SEAs in known areas of particularly high mineral potential was proposed.

### 2021 DNLUP

Similar to the 2016 DNLUP, areas with evidence for mineral potential are identified as known VSECs in the 2021 DNLUP, without the recommendation for a SEA for any area. In addition, the 2021 DNLUP states that mineral exploration and production is permitted within all MU areas and CU areas subject to any applicable conformity requirements, and is prohibited within certain LU areas where such uses are considered incompatible with other values.

## 5.2 Oil and Gas Exploration and Production

Section 11.3.1(c) of the NA requires a land use plan to take into account economic opportunities and needs.

Objective A of the NPC's Goal of Encouraging Sustainable Economic Development is to encourage diversified economic development that increases employment, business opportunities, training and other benefits.

Objective F of the NPC's Goal of Encouraging Sustainable Economic Development is to ensure that the goals of any proposed restrictions on land use are achieved with the least possible impact on undiscovered mineral resources, while taking into account environmental and social objectives.

## 5.2.1 Importance of Oil and Gas Exploration and Production

No oil and gas deposits are currently being developed in Nunavut; however, considerable finds have been made and limited oil production has occurred in the past (Bent Horn). Most notably, there are significant deposits in the Sverdrup Basin and offshore in Baffin Bay.

Terriplan's 2008 Socio-Demographic and Economic Sector Analysis<sup>1</sup> noted:

"... Nunavut's oil and gas sector has not seen much activity to this point, yet it holds significant potential for the future of the territory's economy. There are proven oil and gas resources contained within fourteen sedimentary basins. It is estimated that the resources hold 530 million barrels of oil and 12 trillion cubic feet of natural gas.

...

"Nunavut has proven oil and gas potential, accounting for 5% of known oil reserves and 15% of known gas reserves in Canada. Gas production is expected to reach 345 billion cubic feet or 6% of total projected Canadian production.

...

"Nunavut is totally dependent on imported fossil fuels for its energy needs. The cost of imported fuel is dependent on the world price of crude oil and gas; therefore, sustained high oil and gas prices or supply shortages in North America may lead to the situation when a much greater portion of the GN budget will be spent on energy. This, in turn, may trigger further exploration of the territory's oil and gas reserves. ..."

In 2020, the GoC<sup>2</sup> submitted:

"On June 21, 2019, a bill amending the *Canada Petroleum Resources Act* was passed, permitting the Governor in Council to prohibit an interest owner or any other person from commencing or continuing any work or activity authorized under the *Canada Oil and Gas Operations Act* if the Governor in Council considers that it is in the national interest. The Government of Canada issued an order prohibiting certain activities in Arctic offshore waters, freezing the terms of existing licences in the Arctic offshore and suspending all other oil and gas activities.

"The rights granted by existing Significant Discovery Licenses (SDL), included in the 2016 Draft Nunavut Land Use Plan as Valued Socio-Economic Components, remain in

place but oil and gas activity is halted for the duration of the moratorium. ..."

### Considerations

Participants generally agreed on the overall moderate importance and priority of oil and gas exploration and production. Oil and gas exploration and production is broadly recognized as an important issue to be included in the NLUP.

Previous versions of the DNLUP considered only oil and gas licences, most of which are in marine areas. Some commentators have referred to restrictions on oil and gas development in other areas of Nunavut, as they relate to other values (such as restrictions in areas important to migratory birds). In the 2021 O&R, those are addressed on a site-by-site basis, while only oil and gas licences are considered in this chapter. For clarity, only current and former oil and gas licences are considered in this section of Chapter 5. Existing rights for oil and gas development predating the DNLUP are discussed in more detail in Chapter 6.

#### ***The overall importance of OIL AND GAS EXPLORATION AND PRODUCTION is considered MODERATE because:***

- *It has been identified by some participants as a priority;*
- *It has a low cultural value;*
- *It has a high economic value (although the energy outlook for fossil fuels is undergoing reflection); and*
- *It has a low ecosystemic value.*

## 5.2.2 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
INAC, 2017 <sup>3</sup>	3,393	0

The considered geographic boundaries of oil and gas SDL areas were submitted by the GoC. In particular, INAC provided the NPC with a list of sites containing SDLs, which is the only type of licence present within Nunavut at this time. All SDLs are located in the Queen Elizabeth Islands of the Nunavut High Arctic. The boundaries of these SDLs are precisely delimited and represent relatively small areas. INAC<sup>4</sup> noted in 2013:

"Note that the **Significant Discovery Licence** (SDL) specifically referenced here is only one of three types of oil

<sup>1</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

<sup>2</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

<sup>3</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>4</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

and gas licence. The production licence (PL) is required for a company to produce and this would generally be issued congruent with or within the boundaries of a SDL. Although there are currently no production licences in Nunavut, the text of ESED-2 should recognize that a production licence would be issued to replace a SDL in all or in part once all necessary permitting requirements have been met.

**“Significant Discovery Licences** are only issued for discoveries which have been proved by drilling a well. Exploration to locate drilling locations is much more extensive than the resulting significant discoveries and will occur either on exploration licences and/or more broadly still at a basin scale. It is this kind of exploration which has presented Nunavut with an inventory of discovered oil and gas resources, opportunity for employment and benefits in the exploration phase, has stimulated research and helped developed infrastructure. To ensure transparency, it is in our view important to be clear in the DNLUP that oil and gas development does not occur without exploration, that such exploration is necessarily extensive, involving geophysical methods and exploratory drilling, all of which are fully regulated and subject to environmental screening/assessment.

**“Exploration Licences (ELs)** are issued pursuant to regional calls for nominations where areas excluded from the call are clearly indicated, and a subsequent call for bids on a specific block. ... there are currently no exploration licences in Nunavut ...

“It might also be noted that a significant discovery area can increase or reduce in size with new information about the extent of a field.”

In 2020, CIRNAC noted in the GoC<sup>1</sup> submission:

“The rights granted by existing Significant Discovery Licences (SDL), included in the 2016 Draft Nunavut Land Use Plans as Valued Socio-Economic Components, remain in place but oil and gas activity is halted for the duration of the moratorium. It should be noted that SDL077 (located on Ellesmere Island, east of Eureka) appears to be missing from Schedule B of the 2016 Draft Nunavut Land Use Plan. ...”

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of oil and gas SDL areas. Due to the current federal moratorium on offshore oil and gas exploration and development, and the pending federal Minister’s decision on the NIRB Final Report and Recommendations for the Strategic Assessment in Baffin Bay and Davis Strait (2019), the NPC is only considering

oil and gas SDLs in the NLUP. These SDLs have precise locations and were provided to the NPC by the GoC.

***The certainty of the identified geographic boundaries of OIL AND GAS SDL AREAS is considered HIGH because:***

- ***The areas are identified with high precision/scale;***
- ***There is high agreement among participants regarding the boundaries; and***
- ***The information is current.***

### 5.2.3 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of oil and gas SDL areas. However, parts of oil and gas SDL areas overlap with important fish habitats, marine mammal habitats and community areas of interest. These areas are broadly accepted to have high environmental and cultural importance in most cases (see relevant sections in Chapters 2-4 for more details).

In 2014, the WWF<sup>2</sup> stated the following, which is generally relevant to areas with significant oil and gas potential:

“While it is possible to make recommendations based on known and existing ecological and cultural values in this region, it is difficult to ensure that all of these values are adequately captured given the paucity of information about the ecology and species use of multi-year ice habitat. Neither scientific knowledge nor traditional ecological knowledge has been able to fill in the gaps [of] our understanding about the sea ice and waters of the Arctic Archipelago ...”

In 2017, the NIRB<sup>3</sup> stated the following, which is also generally relevant to areas with significant oil and gas potential:

“Within the 2016 DNLUP, the marine areas adjacent to Baffin Bay and Davis Strait near Qikiqtarjuaq, Clyde River, and Pond Inlet have a mixed-use designation, although areas have been assigned VECs. The NIRB recognizes that there is considerable community concern related to potential oil and gas development and marine seismic surveys in these areas, as well as overlap with existing commercial fisheries and Inuit harvesting in this area. While the DNLUP recommends additional research and studies related to oil and gas exploration and seismic

<sup>1</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

<sup>2</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

surveying, the plan does not appear to directly address the community concerns associated with these types of development. The concerns were identified through the NPC and NIRB processes and incorporated into the Nunavut Marine Council's recommendation indicating that a strategic environmental assessment needs to take place in the Baffin Bay and Davis Strait Area prior to oil and gas development occurring. The Government of Canada has also recently designated all of Arctic Canada as indefinitely off limits to future offshore oil and gas licensing, which might enable the NPC to go further in developing complementary restrictions through the NLUP."

### Considerations

The NPC considers the environmental and cultural importance of oil and gas SDL areas overlapping with significant environmental or cultural features to be high. The NPC considers the environmental and cultural importance of other locations to be low.

There are some overlaps between environmentally and culturally significant sites and oil and gas SDL areas. These overlaps have been considered in Chapters 2-4 under the subheading "Potential for Non-Renewable Resources, Transportation and Linear Infrastructure."

***The environmental and cultural importance of OIL AND GAS SDL AREAS NOT OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered LOW because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is low; and*
- *The importance of the areas to wildlife is low.*

***The environmental and cultural importance of OIL AND GAS SDL AREAS OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to biological productivity; and*
  - *The habitat supports concentrations of wildlife.*

## 5.2.4 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
INAC, 2017 <sup>1</sup>	3,393	43

Parnautit,<sup>2</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

Some sites are located in the North Baffin Planning Region. The NBRLUP identifies oil and gas exploration and development as influencing the regional mixed economy.

In 2008, Terriplan's Socio-Demographic and Economic Sector Analysis<sup>4</sup> identified oil and gas with the potential to be a main economic activity in the NSA. As previously noted above:

"... Nunavut's oil and gas sector has not seen much activity to this point, yet it holds significant potential for the future of the territory's economy. There are proven oil and gas resources contained within fourteen sedimentary basins. It is estimated that the resources hold 530 million barrels of oil and 12 trillion cubic feet of natural gas."

### Considerations

Known oil and gas significant discovery is a defining characteristic of this criterion. The current moratorium on offshore oil and gas exploration in Nunavut has tempered interest in this sector. However, there is evidence of enough resources that, in theory, the Nunavut economy could be transformed through widespread oil and gas production.

***The potential for non-renewable resources, transportation and linear infrastructure in OIL AND GAS SDL AREAS is considered HIGH because:***

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>4</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)



- *The areas have significant known oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

## 5.2.5 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of oil and gas SDL areas to impacts.

### Considerations

The NPC considers the sensitivity of oil and gas SDL areas overlapping with significant environmental or cultural features to impacts from incompatible uses to be high and year-round. The NPC considers the sensitivity of other locations to impacts from incompatible uses to be low and year-round.

By their nature, oil and gas resources are unlikely to be impacted by other human activities. However, some portions of oil and gas SDL areas may overlap with areas having sensitive environmental and cultural values, such as important fish habitats, marine mammal habitats or community areas of interest. These environmental and cultural areas are generally accepted to be highly sensitive to impacts from incompatible uses. These overlaps have been considered in Chapters 2-4 under the subheading “Potential for Non-Renewable Resources, Transportation and Linear Infrastructure.”

***The sensitivity of OIL AND GAS SDL AREAS NOT OVERLAPPING WITH ENVIRONMENTAL OR CULTURAL FEATURES to impacts is considered LOW and YEAR-ROUND because:***

- *Species are less sensitive to disturbance when using these areas; and*
- *Species use these areas seasonally when disturbance is least likely to occur.*

***The sensitivity of OIL AND GAS SDL AREAS OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES to impacts is considered HIGH and YEAR-ROUND because:***

- *Wildlife are highly sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

## 5.2.6 Other Regulatory Tools

In 2010, the NIRB<sup>1</sup> mentioned:

“The Keewatin Regional Land Use Plan makes mention of a moratorium on oil and gas exploration around Southampton Island, yet this does not appear to have been carried over into the NLUP. ...”

In 2014, the WWF<sup>2</sup> stated:

“... There are 20 significant discovery licences but there is no current exploration or development activity at this time. New sources of oil and gas (especially through fracking) have recently taken some of the emphasis off exploring or developing oil and gas in more costly and difficult environments such as the Arctic. A recent analysis commissioned by WWF (Adams 2014) suggests that if there is oil and gas development in the area, it will not come for decades. This allows time for planning of any potential development. Existing and potential shipping lanes have been mapped in the Archipelago region. Now is the time to designate this marine region for protection to balance new uses and ensure responsible shipping practices and mitigate impacts on known and yet to be known marine species and habitats.”

In 2017, the NIRB<sup>3</sup> also stated:

“The DNLUP does not appear to consider community concerns related to oil and gas development. The NIRB notes that the Government of Canada has also recently designated all of Arctic Canada as indefinitely off limits to future offshore oil and gas licensing, to be reviewed every 5 years through a climate and marine science-based life cycle assessment ...

“... Community concerns and the current Government of Canada position regarding oil and gas development should be considered and addressed within the Nunavut land use plan.”

In 2017, the GN<sup>4</sup> stated:

“Strategic Environmental Assessments, if included in Section 5.2 for Mineral Potential, should also be included

<sup>1</sup> (Nunavut Impact Review Board (NIRB), 2010-08-27. NPC Public Registry File # 10-086E)

<sup>2</sup> (WWF-Canada, 2014-02-25. NPC Public Registry File # 12-159E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>4</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)



in the Oil and Gas Potential section as a step of the regulatory process.

...

"The GN recommends the following revisions to Section 5.3 of the Plan pertaining to Oil and Gas Potential:

- This section should add the following: 'The 2016 DNLUP prohibits oil and gas exploration and production uses within areas where such uses have been deemed incompatible with other values – refer to Table 1'[:].
- The final sentence of Section 5.3 regarding 'oil spill containment and clean-up technologies' should be rephrased to promote this research in order to improve the long-term feasibility of this industry within Nunavut.
- Section 5.3 of the Plan and Schedule B of the Plan should represent that there are 19 Significant Discovery Licenses in the Sverdrup Basin, and one Significant Discovery License in the Saglek Basin in Davis Strait 76 km SE of the mouth of Frobisher Bay.
- Update Section 5.2.1/5.3 to include the present federal emphasis on [SEAs] for offshore oil and gas activity in the following three regions of the Arctic: the Beaufort Sea; Baffin Bay and Davis Strait[:]; and the Kivalliq, Kitikmeot and other Arctic Islands of Nunavut.
- Update Section 5.2.1/5.3 with the appropriate role of the NPC in 'contributing to the development and review of Arctic marine policy' and a commitment to participate in any forthcoming [SEAs] to the extent provided for in the NA and NuPPAA.
- Consider an additional statement on the status and role of the Nunavut Marine Council.

"Reconsider the extensive prohibitions to oil and gas exploration and production, where appropriate, and supported by impacted communities or Planning Partners."

In 2017, the NWT & Nunavut Chamber of Mines<sup>1</sup> stated at the Qikiqtani hearing:

"Research related to activities such as oil and gas exploration and production, and mineral exploration and development, is prohibited in a number of designated Protection Areas. The Chamber strongly objects to including restrictions on research within the Land Use Plan. The research that is carried out on behalf of mineral

exploration and development companies in Nunavut relies on both scientific methods as well as Traditional Knowledge. This research is relied on to support our members' applications to regulatory and Inuit authorities, but has also served to contribute important scientific information to the body of knowledge we have about Nunavut. The Chamber does not understand why the 2016 Nunavut Land Use Plan would seek to prohibit future collection of such knowledge. ..."

In 2020, the GoC<sup>2</sup> advised the NPC that the NIRB had completed its Strategic Environmental Assessment in Baffin Bay and Davis Strait and that the report was publicly available and would "... inform the five-year review of the moratorium on oil and gas activities in Canada's Arctic offshore waters."

### Considerations

While there is an existing regulatory framework in Canada, the NLUP must consider the economic opportunities of areas with oil and gas potential.

***The potential value of including guidance in the NLUP for OIL AND GAS SDL AREAS is considered MODERATE because:***

- ***The issue is moderately addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

## 5.2.7 Policy Options for Oil and Gas Exploration and Production

In 2014, the WWF<sup>3</sup> stated:

"WWF does not agree that all of the marine waters of the Archipelago should be designated Mixed Use. Mixed Use permits all uses and does not identify the important wildlife habitat that is present in the Archipelago. WWF feels that it is ... critical to take a more precautionary approach by identifying and designating important habitat now, before development pressures intensify.

"The Arctic Archipelago is region rich with natural capital: the sea ice ecosystem, wildlife and non-renewable resources (oil and gas). The Nunavut Land Use Plan must recognize the uniqueness, sensitivity and global importance of the Archipelago and through land use zoning set the course for responsible, sustainable development in the High Arctic. This will be in the long term interest of Nunavummiut and Canadians alike."

<sup>1</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>2</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

<sup>3</sup> (WWF-Canada, 2014-02-14. NPC Public Registry File # 12-149E)

In 2017, the GN<sup>1</sup> stated:

“The extent of the prohibitions to oil and gas exploration and production proposed by the DNLUP may not appropriately support the long-term socio-economic wellbeing of Nunavummiut; in certain cases these proposed prohibitions may not reflect the most impacted Planning Partners’ recommendations to-date. Further some of the plan[’]s prohibitions to oil and gas activity apply in areas where petroleum potential exists. For example, near Pangnirtung where potential exists in the Cumberland Basin, etc. For example Table 3 of the Plan notes that out of sixty-five Nunavut watersheds thirty-nine of these had communities identify ‘potential economic development’ within these, where only twenty-six watersheds did not have this community priority or value listed. Is community support for economic development supported by the extent of NPC’s prohibitions to the promising sector of oil and gas production?”

**Considerations**

The NPC has not categorized the above comments according to the options as the submissions provide general information regarding factors that should be considered in designating areas with the potential for oil and gas exploration and production.

**5.2.7.1 Option 1 - Limited Use**

No participant recommended this option.

**Considerations**

Although no participant specifically recommended this option for all areas of oil and gas potential, some participants suggested this option for areas that may overlap with significant environmental and cultural values (see the above general WWF comment and more specifically the corresponding sections in Chapters 2-4 for more details).

**5.2.7.2 Option 2 - Conditional Use**

No participant recommended this option.

**Considerations**

Although no participant specifically recommended this option for all areas with oil and gas potential, some participants suggested this option for areas that may overlap with significant environmental and cultural

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

values (see the corresponding sections in Chapters 2-4 for more details).

**5.2.7.3 Option 3 - Mixed Use**

No participant recommended this option.

**Considerations**

Although no participant specifically recommended this option, the NPC notes that many of the comments on appropriate designations for areas with evidence for mineral potential, as summarized in the previous section, indirectly have applicability to areas with oil and gas potential.

**5.2.7.4 Option 4 - Valued Component**

In 2017, the GN<sup>2</sup> stated:

“... Schedule B of the Plan should represent that there are 19 Significant Discovery Licenses in the Sverdrup Basin, and one Significant Discovery License in the Saglek Basin in Davis Strait 76 km SE of the mouth of Frobisher Bay.”

**Considerations**

The NPC notes that the GN has expressed support for this option. Identifying SDL areas as known VSECs would ensure that proponents and regulatory authorities are aware of their locations and value and would help inform the NPC when considering cumulative effects based referrals of project proposals to the NIRB for screening.

**5.2.8 NPC Recommendation - VSEC**

Given that:

**OIL AND GAS EXPLORATION AND PRODUCTION**  
The overall importance of the issue is considered **MODERATE**.

**OIL AND GAS SIGNIFICANT DISCOVERY LICENCE AREAS:**

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	LOW (Areas <u>not</u> overlapping with significant environmental or cultural features)

<sup>2</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

		<b>HIGH</b> (Areas overlapping with significant environmental or cultural features)
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>HIGH</b>
iv.	<b>Sensitivity to Impacts</b>	<b>LOW and YEAR-ROUND</b> (Areas not overlapping with significant environmental or cultural features) <b>HIGH and YEAR-ROUND</b> (Areas overlapping with significant environmental or cultural features)
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

#### Recommendation for Oil and Gas Significant Discovery Licence Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify oil and gas SDL areas as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended to reflect that these areas have been prioritized for oil and gas exploration and production.

LAND USE PLAN POLICY RECOMMENDATION
<b><u>OIL AND GAS SIGNIFICANT DISCOVERY</u></b>
<b><u>LICENCE AREAS</u></b>
<b>VALUED SOCIO-ECONOMIC COMPONENT</b>

## 5.2.9 Summary of Revisions

### KRLUP and NBRLUP

The existing regional land use plans do not identify oil and gas areas. The NBRLUP authorizes oil and gas exploration and development. The KRLUP supports a previous moratorium on oil and gas exploration around Southampton Island.

### 2012, 2014 and 2016 DNLUP

In the 2012 DNLUP, to manage areas of oil and gas potential, SDLs were assigned an Encouraging Sustainable Economic Development (ESED-2) designation. The permitted uses for this designation were oil and gas, remediation and reclamation activities.

In the 2014 DNLUP, areas of oil and gas indicated by a SDL were assigned a SMA designation, with the establishment of tourism facilities, conservation areas and parks identified as prohibited uses.

In the 2016 DNLUP, areas of oil and gas potential indicated by a SDL were identified as VSECs. This would ensure that during impact assessments of development proposals, the non-renewable resource potential of the areas would be taken into consideration.

### 2021 DNLUP

Similar to the 2016 DNLUP, areas of oil and gas potential, indicated by a SDL, are identified as known VSECs in the 2021 DNLUP. In addition, the 2021 DNLUP states that oil and gas exploration and production is prohibited within some LU areas where such uses are considered incompatible with other values.

## 5.3 Transportation and Communications

Section 11.4.4(c) of the NA requires the NPC to contribute to the development and review of Arctic marine policy.

Objective C of the NPC's Goal of Building Healthy Communities is to take into account the development and maintenance of territorial and community infrastructure outside municipal boundaries, including existing and future transportation and communication infrastructure.

Objective D of the NPC’s Goal of Encouraging Sustainable Economic Development is that land use planning recognizes that the development of resources requires efficient and safe transportation infrastructure and corridors.

Policy D of the NPC’s Goal of Encouraging Sustainable Economic Development is to take into account Nunavummiut interests related to land, air and marine transportation corridors.

5.3.1 Importance of Transportation and Communications

Ingirrasiliqta,<sup>1</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services, noting Nunavut’s existing transportation system of airports and sealifts was intended to allow for the delivery of basic services and necessities but not for economic growth. It also maps out a vision and plan to improve Nunavut’s transportation infrastructure including through surface links to Canada’s National Highway System.

Terriplan’s 2008 Socio-Demographic and Economic Sector Analysis<sup>2</sup> stated:

**“Transportation:** Transportation infrastructure in Nunavut is in need of updating and expansion. There are no roads or rail lines connecting communities with each other or the rest of the country and, although all the communities can be accessed by air year-round and all but one by sea during the summer months, the marine and air infrastructure is inadequate. These transportation issues need to be addressed to facilitate economic development.

...

**“Communications:** Having adequate communications infrastructure is an essential part of facilitating economic development and improving quality of life in Nunavut. ...

...

**“Opportunities for Future Economic Development**

...

“Potential public infrastructure projects include:

- Construction of a deep-sea port in Iqaluit, currently under study. It is expected to bring benefits to the fishing, tourism and transportation industries as well as reducing shipping costs;
- Manitoba – Kivalliq Road;
- Northwest Passage as a potential gateway;
- Bathurst Inlet Port and Road Project; and
- Hydroelectric development in the vicinity of Iqaluit

...

**“3.3.2.2. CHALLENGES**

“Transportation is closely tied to the daily lives of residents and the future of economic development in Nunavut: addressing Nunavut’s transportation service and infrastructure issues is therefore an immediate concern for the territory. However, there are several factors that present a challenge in updating and improving the transportation system. In addition to the problems inherent in the territory’s geography (i.e., small, widely dispersed population, the long distances between communities, the remoteness from the rest of Canada and the often severe weather conditions), one of the primary challenges to improving transportation in Nunavut is finding the resources to support the needed improvements, upgrades and additions to its transportation infrastructure and facilities.

“After several decades with minimal investment in transportation infrastructure, there are now many competing needs to address. Proposals to update and construct roads, marine facilities and airports are not only in competition with each other for limited funds but also with the other pressing needs of the growing territory such as waste water and housing infrastructure.

“While both the Territorial and Federal government can provide some funding to support the development of transportation infrastructure, such as the recent commitment by the Government of Nunavut to support a road paving project in Iqaluit, and the allocation of Federal funds through the Building Canada Fund for infrastructure projects; the level of funding required to deal with the current and future transportation needs is significant. For example, putting docking facilities in 7 locations around Baffin to support the development of fisheries is projected to cost \$50 million. It is also expected to cost \$40 million to replace the runway at the airport in this region. This is an indication of the challenges that each region confronts in balancing competing transportation needs.

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>2</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

“There may also be a role for companies interested in developing resources in Nunavut in improving infrastructure. For example, the company operating the Baffin iron ore mine at Ma[r]y River is planning to build a railroad to the Foxe Basin. However, a report from the Conference Board of Canada indicated that certain infrastructure projects -- such as the construction of a deepwater port and improving harbour facilities -- are projects that are too expensive to be undertaken by the private sector or the Government of Nunavut independently.

### **“3.3.2.3 BROADER ISSUES**

#### ***“Economic***

“Transportation infrastructure has an impact on the economic development of Nunavut. With air being the only means of travel year round, the costs of doing business are high. The costs of general freight to a community vary depending on the point of departure, but it can be as much as \$18 per kilogram. The current air freight into Nunavut is equivalent to one thousand kilograms per person per year. The only alternative for bringing goods into the territory is by ship, which can create timing challenges for development as shipping only occurs annually.

“In addition to these challenges, which can affect most types of development, there are specific transportation issues for some sectors in Nunavut. The fisheries industry in particular is directly affected by inadequate marine infrastructure. The waters surrounding Nunavut contain the only growth fishery in Canada. However, the potential of the inshore fishery cannot be achieved without the necessary infrastructure improvements. A deep water port and harbour facilities are essential to expanding the industry. Without a port, trawlers must remain anchored at sea for days while fish are offloaded and transported by sealifts, small boats or other means to the processing plant. This is a costly, inefficient and potentially dangerous practice. The mining industry is also limited by lack of transportation infrastructure. Exploration and extraction activities often take place in areas without pre-existing transportation services. This creates challenges for shipping items into and out of these sites. Greater accessibility also has the potential to increase tourism and connections with broader markets.

#### ***“Social***

“Transportation infrastructure has effects on the quality of life for residents of Nunavut. The expense of transporting goods into and out of communities can increase the cost of living for residents, as these costs are passed on to consumers. It is also expensive for residents to travel to other parts of Canada. A return trip from a remote

community to Ottawa is about \$5,000. These costs plus the lack of transportation options outside of communities year-round can restrict residents’ movement.”

In 2014, the GN<sup>1</sup> stated:

“An analysis of any transportation system must begin by looking at the geographical area it is meant to cover, and at the type of goods and services it is meant to deliver. Once those key factors are understood, decisions can be made as to which mode best delivers which functions, and how those modes can be brought together to minimize cost, maximize efficiency, and ensure the system is sustainable over the long term.

“No single transportation mode is ideally suited to all needs of a healthy economy. People and perishable goods moving point to point over long distances are best moved by air, but the mode is expensive and poorly adapted to heavy or oversized loads. Heavy goods and bulk commodities are most efficiently moved by ship, but movement is slow, the season short, and access to tidewater is needed. Roads offer the most flexibility and medium cost, but the cost of infrastructure is much higher than that of the other modes. An effective and sustainable transportation system for Nunavut will require improvement in all modes. It will also require linking the modes together in strategic locations.

“The system of airports currently found in Nunavut was intended to deliver people, services and perishable goods from southern locations into our communities in the shortest time possible; the system of rudimentary sealift beaches was intended to move heavy durable goods from southern locations to those same communities on a seasonal basis. There is no surface component to bridge the large gap between these two modes.

“From outside Nunavut, this has historically been seen as an adequate system for the territory’s needs. People and services could move within the territory and between it and southern centres; food is available year-round; materials to construct housing and basic infrastructure can be brought in during the short summer. There is a basic utility to the system.

...

“For years, there has been general recognition that Canada requires a National Highway Policy with long-term predictable funding to support it. The broad objectives of the National Highway Policy Study, which led to establishment of the National Highway System (NHS), included ensuring ‘that all regions of Canada are provided with adequate and equal levels of service, safety and efficiency in highway transportation in order to serve inter-

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<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

provincial and international trade and travel and enhance Canadian economic competitiveness.’

“To date, the equality, adequacy, and efficiency have stopped at the Nunavut border, and a region comprising one-fifth of the country remains isolated from trade and competitiveness. Markets for many of the commodities Nunavut has in abundance are in record demand around the world. Canada and Nunavut will both benefit from providing access from the territory to the country and to the rest of the world.

...

“The most obvious surface route to [southern] Canada is the connection of the Kivalliq through Manitoba to the National Highway System. The benefits of this route, presently being outlined in a study commissioned jointly by Canada, Nunavut, Manitoba, and the Kivalliq Inuit Association, include the following:

- connect Nunavut to Canada’s National Highway System, the North America Trade Corridor and the sea port of Churchill;
- improve access to necessary commodities and the mineral resources of the Kivalliq Region;
- reinforce Canada’s sovereignty through increased presence in the north;
- develop Churchill into an international gateway of trade in the arctic region;
- promote two-way trade between northern Canada, Europe and other world markets;
- provide equitable treatment and services to the northern communities; and
- provide access to several major potential hydro-electric development sites.

“Because of the existing hub airport at Rankin Inlet, and the potential for a deep-water port, development of a route connecting Nunavut to [southern] Canada through the Kivalliq offers one of the best opportunities to develop a multi-modal hub community in Nunavut.

“The benefits from this investment will not be limited to Nunavut. Increased employment, growth in capacity, and residual infrastructure will be established in the territory; however, the true benefits of mining will largely be realized by manufacturers, suppliers, marketers, and shareholders in Canada as a whole.

...

“Continue to pursue options for a port and road in the Slave Geologic Province.

“A road and port corridor to the arctic coast has been envisioned for decades. Construction of this corridor would truly realize the dream of a Canada connected from coast to coast to coast. Beyond the important issues of sovereignty, national pride, and equality for Nunavummiut with the rest of Canada, it would bring the mineral potential of the Slave Geological Province into feasibility.

“Since the 1930s, the Slave Geological Province has seen almost continuous mining and exploration activity. Large deposits of base and precious metals have been identified at Izok, High Lake, Hackett River, and other nearby sites.

...

“Permanent over-land routes have been established on an informal and ad hoc basis. While administration and control of these routes is currently under federal jurisdiction, the Government of Nunavut has a strong interest in overland route design and construction, given anticipated devolution of land control in the near future. At the same time, access to the land for Nunavummiut is essential for maintaining traditional livelihood activities, recreation and intercommunity visits.”

### Considerations

Participants generally agreed on the overall high importance of transportation and communications. Transportation and communications is broadly recognized as an important issue to be included in the NLUP.

***The overall importance of TRANSPORTATION AND COMMUNICATION CORRIDORS is considered HIGH because:***

- ***They have been identified by many participants as a priority;***
- ***They have a moderate cultural value;***
- ***They have a high economic value; and***
- ***They have a low ecosystemic value.***

### 5.3.2 Areas Important for Transportation and Communications

Two types of transportation and communication corridors are considered in the DNLUP: terrestrial transportation and communications; and marine transportation. Each of these areas is analyzed in the subsections below.



## 5.3.2.1 Terrestrial Transportation and Communications

### 5.3.2.1.1 Defining Geographic Boundaries

Source	Length (km <sup>2</sup> )	% NSA & OLFIZ
Existing NPC, 2016	40	0
Potential NPC, 2021	18,484	1

In 2015, the NWT & Nunavut Chamber of Mines<sup>1</sup> wrote:

“Transportation Infrastructure is a critical need of industry in developing projects throughout Nunavut at remote locations. The Chamber supports the establishment of transportation corridors in Nunavut to add certainty to move forward plans to construct roads and rail links that will add to the economic feasibility of mining projects in the territory. A number of transportation corridors have already been identified in the DNLUP, but not all. For example, the proposed Hope Bay Phase II Road route is known and deserves the consideration of the NPC.

“The Chamber recommends that the NPC include all transportation corridors currently proposed by various proponents and refer them as ‘potential transportation corridors’ in the plan. Also, the Chamber would like to see other important infrastructure elements identified in the plan, including proposed or potential port sites, ice roads and shipping routes.”

In 2015, the KivIA<sup>2</sup> stated:

“The NLUP should expand the transportation and infrastructure corridors in order to add certainty to future plans for road, rail, power line, telecommunications, hydro developments and shipping links. This would greatly assist with the feasibility of mining projects and local community infrastructure developments. In particular, designated transportation corridors should be included in the NLUP for the:

- 1) Kitikmeot Region – BIPR, Izok Lake, Hope Bay and the northern portion of the Slave Geological Province transportation corridors.
- 2) Kivalliq Region – The Nunavut to Manitoba powerline corridor should also include a road option.

“It is also recommended that infrastructure related to existing, planned and potential development projects should be included on the land use base of the NLUP. The collation and use of Environmental Impact Statements for projects that have gone through the NIRB and NWB processes would be very useful for documenting the locations of this infrastructure.”

In 2017, the Hamlet of Chesterfield Inlet<sup>3</sup> stated:

“... the Nunavut Association of Municipalities requested that the Thompson electric transmission corridor be placed back on the plan. The mayors met with you and also requested that this project be placed back on the plan. I have requested that your staff supply us with the current plan map to ensure the roads and the corridor have been recognized and have not received anything as of now.

“The communities have completed over 50% of the road from Chesterfield Inlet to Rankin Inlet. The road between Baker lake and Chesterfield Inlet has been started inline line with corridor plan, which means that they already exist.”

In 2017, the GNWT<sup>4</sup> stated:

“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.”

In 2018, Baffinland<sup>5</sup> stated:

“Baffinland continues to be of the view that all transportation corridors that are applicable to the Mary River Project, including the Northern shipping transportation corridor, the Northern land transportation corridor (road and rail), the Southern land transportation

<sup>1</sup> (NWT & Nunavut Chamber of Mines, 2015-06-20. NPC Public Registry File # 14-070E)

<sup>2</sup> (Kivalliq Inuit Association (KivIA), 2015-06-22. NPC Public Registry File # 14-086E)

<sup>3</sup> (Hamlet of Chesterfield Inlet, 2017-01-13. NPC Public Registry File # 16-059E)

<sup>4</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)

<sup>5</sup> (Baffinland Iron Mine Corp, 2018-11-26. NPC Public Registry File # 16-173E)

corridor (rail) and the Southern shipping route should all be reflected in the Nunavut Land Use Plan (NLUP).

“The Northern transportation corridor is currently included in the North Baffin Regional Land Use Plan (NBRLUP). Baffinland notes that since our submission on the 2016 DNLUP of January 13, 2017 the NBRLUP has been amended to specifically authorize the use of rail within the Northern transportation corridor. Therefore, Baffinland respectfully requests that this amendment be reflected in the NLUP.

“With respect to the Southern transportation corridor, per the NPC’s correspondence of Dec. 9, 2013 to the Government of Canada and the Government of Nunavut, the NPC recommended an amendment to the NBRLUP to include the 35 km portion of the 180 km long land portion of the Southern transportation corridor located inside the North Baffin planning region. ...”

The NBRLUP was amended in May 2018 (Amendment No. 3) to include the Mary River Transportation Corridor. The terrestrial component is limited in width at all points to not greater than 10 km, and is described as the line commencing at the Mary River Mine Site, approximately 71.3N-79.22W, and running generally north for approximately 100 km to the Milne Port at approximately 71.53N-80.54W. The marine component of the Mary River northern corridor is discussed in the marine shipping subsection of this chapter.

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of terrestrial transportation and communications. Several terrestrial transportation and communication corridors are envisioned or planned, but few are in the regulatory stage. Until they are reviewed and approved, the routing could change. The geographic boundaries considered in this section are the routes of existing, proposed or potential linear infrastructure.

***The certainty of the identified geographic boundaries of TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

### 5.3.2.1.2 Environmental and Cultural Importance

In 2017, the KivIA<sup>1</sup> stated the following regarding the proposed Kivalliq-Manitoba Road:

“... This corridor would include an all-season road and a power transmission line, with the possibility of adding fiber optic and telecommunication service lines. ... The [Energy Options Working Group], 2015 report outlined the following benefits for the five Kivalliq communities identified in the report – Arviat, Baker Lake, Chesterfield Inlet, Rankin Inlet and Whale Cove – and any industry clients to include:

- 1) Projected savings to the communities of \$40M annually in diesel energy
- 2) Projected savings of between \$60-\$100M annually for the mining sector in diesel energy
- 3) An estimated reduction of up to 380 thousand metric tons of GHG emissions
- 4) Creation of important infrastructure and a means for high-speed fibre optic communications; and
- 5) A reduction in the dependence on diesel fuel ...”

### Considerations

The NPC considers the environmental and cultural importance of terrestrial transportation and communications overlapping with significant environmental or cultural features to be high. The NPC considers the environmental and cultural importance of other locations to be low.

There are some overlaps between environmentally and culturally significant sites and proposed and potential terrestrial transportation and communication corridors. For instance, portions of these types of corridors overlap with important caribou habitats, key bird habitats, polar bear denning areas or community areas of interest, broadly accepted to have high environmental and cultural importance in most cases. These overlaps have been considered in Chapters 2-4 under the subheading “Potential for Non-Renewable Resources, Transportation and Linear Infrastructure.”

***The environmental and cultural importance of TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS NOT OVERLAPPING WITH***

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

**SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered LOW because:**

- The importance of the areas to the communities for hunting, fishing and/or trapping is low; and
- The importance of the areas to wildlife is low.

**The environmental and cultural importance of TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered HIGH because:**

- The importance of the areas to the communities is high; and
- The importance of the areas to wildlife is high because:
  - Alternative habitat is unlikely to be available;
  - The areas are essential to biological productivity; and
  - The habitat supports concentrations of wildlife.

**5.3.2.1.3 Potential for Non-Renewable Resource Development, Transportation and Linear Infrastructure**

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
Existing NPC, 2016	40	10	5.3	5.2
Potential NPC, 2021	18,484.4	3,754	1,282	1,072.3

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

### Considerations

Terrestrial transportation and communications are a defining characteristic of this criterion. In addition, a

portion of the proposed Kivalliq-Manitoba corridor travels through areas with evidence of mineral potential.

**The potential for non-renewable resource development, transportation and linear infrastructure in TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS is considered HIGH.**

### 5.3.2.1.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the impacts of other activities on terrestrial transportation and communications.

### Considerations

The NPC considers the sensitivity of terrestrial transportation and communications overlapping with significant environmental or cultural features to impacts from incompatible uses to be high and year-round. The NPC considers the sensitivity of other locations to impacts from incompatible uses to be low and year-round.

Terrestrial transportation and communications may have the potential to strongly impact ecosystems, but the infrastructure itself is less likely to be impacted by other uses. Some portions of existing, proposed and potential terrestrial transportation and communication corridors overlap with sensitive environmental and cultural values.

**The sensitivity of TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS NOT OVERLAPPING WITH ENVIRONMENTAL OR CULTURAL FEATURES to impacts is considered LOW and YEAR-ROUND because:**

- Species are less sensitive to disturbance when using these areas; and
- Species use these areas seasonally when disturbance is least likely to occur.

**The sensitivity of TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES to impacts is considered HIGH and YEAR-ROUND because:**

- Wildlife are highly sensitive to disturbance when using the areas;
- Wildlife use these areas when disturbance is likely to occur; and
- The concern regarding potential impacts is year-round.

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

#### 5.3.2.1.5 Other Regulatory Tools

The NPC's jurisdiction in transportation and communication corridors is stated in the following sections of the NA:

"11.1.4 This Article applies to both land and marine areas within the Nunavut Settlement Area and the Outer Land Fast Ice Zone.

...

"11.2.1 The following principles shall guide the development of planning policies, priorities and objectives:

- (a) people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation;

...

"11.2.3 In developing planning policies, priorities and objectives, factors such as the following shall be taken into account:

- (a) economic opportunities and needs;
- (b) community infrastructural requirements, including housing, health, education and other social services, and transportation and communication services and corridors;

...

"11.3.1 A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following:

...

- (d) transportation and communication services and corridors".

Both the KRLUP and the NBRLUP require new transportation and communication corridors to undergo a plan amendment process before those corridors can proceed to impact assessment.

#### Considerations

There is broad agreement among participants that the NLUP should include guidance on terrestrial transportation and communication corridors.

***The potential value of including guidance in the NLUP for TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS is considered HIGH because:***

- *The issue is only partially addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

#### 5.3.2.1.6 Policy Options for Terrestrial Transportation and Communications

In the KRLUP and NBRLUP, all transportation corridors require a plan amendment. This requirement was not included in the 2012 and 2014 DNLUP.

In the 2016 DNLUP, applications for highways and railways required a plan amendment regardless of their location. In addition, all transportation and communication corridor applications were required to submit a robust alternatives assessment.

In 2016, the WWF<sup>1</sup> stated:

"We are in partial support of option 1, which would maintain the approach where Transportation Infrastructure is considered to conform to the requirements of the NLUP in all areas except where they are explicitly prohibited. Recognizing that winter roads and winter skid tracks are permitted in all designations, subject to other licenses, permits, and regulations, we propose that all other forms of linear infrastructure be prohibited in Protected Areas and certain Special Management Areas based on their identified values. Of particular note is the need to prohibit all weather roads in caribou calving and post-calving grounds. Two roads have been submitted to NIRB while no land use plan was in place (Izok and Sabina), which will be subject to the grandfathering policies of NPC. All additional linear infrastructure corridors should be subject to the NLUP conformity process. Thus, it is our view that the next draft of the NLUP should not include proposed linear infrastructure corridors, or hypothetical linear infrastructure corridors on Schedule A. The inclusion of potential linear infrastructure corridors on schedule A is confusing and is not justified as Schedule A does not include other forms of potential development, such as mining sites and oil and gas leases.

"In this regard, we propose that:

<sup>1</sup> (WWF-Canada , 2016-03-04. NPC Public Registry File # 14-160E)

- a) All linear infrastructure be prohibited in Protected Areas and appropriate Special Management Areas based on their identified values.
- b) Potential and unconfirmed linear infrastructure corridors be removed from Schedule A and placed in an Appendix to the NLUP if necessary.”

In 2016, the BQCMB<sup>1</sup> stated:

**“Linear Infrastructure Corridors (Terrestrial) – Manitoba-Kivalliq road corridor** – The BQCMB disagrees with the GoC’s June 2015 recommendation to exempt the entire proposed Manitoba-Kivalliq road corridor from prohibition on all-weather roads, and instead recommends that all-weather roads continue to be prohibited in calving grounds, post-calving areas and spring migration corridors.

**“Response to NPC’s Options for Refinement of the 2014 DNLUP** – The BQCMB re-affirms that it would not support allowing winter roads or all season roads within calving grounds, post-calving areas, and spring migration corridors and would not support Option #1 (permitting winter roads in all designations). The BQCMB also recommends that roads be prohibited from all Protected Areas and that the NLUP not include linear infrastructure corridors that have not yet been confirmed as current proposals.”

In 2017, a representative of the GoC<sup>2</sup> stated at the Qikiqtani hearing:

“... Nunavut’s terrestrial infrastructure currently lacks transportation options for people and goods between communities to southern transportation networks and to viable port locations, which is important for economic development. The Land Use Plan can do better at helping to resolve this deficit. Currently, the default position in the Draft Plan is generally to prohibit linear infrastructure, particularly roads and railways. We are of the opinion that a better balance can be struck. Canada would like to see a Plan in which the default position is to allow linear infrastructure in all Mixed-Use zones and Special Management zones, but with appropriate terms and conditions.

“Linear infrastructure may be prohibited in some Protected Areas where it is incompatible with conservation. We would expect this same approach for all linear infrastructure, including highways and railways. Significant transportation routes that are supported by communities, Inuit Organizations, and Governments, like the proposed Gray’s Bay road and port project, and like the proposed Nunavut-to-Manitoba road should be allowed for in the Plan as permitted land uses regardless of the zone they traverse. It would be a lost opportunity for the significant

support and resources already invested in these transportation links to be overlooked.

“These and other linear projects, if they are pursued, will be assessed by the Nunavut Impact Review Board, which would determine appropriate project-specific mitigation with a view to protecting the values important to particular regions. Canada is not supportive of a default Plan amendment process for each and every linear infrastructure proposal and instead recommends Plan amendments an option only when linear infrastructure is proposed in zones that prohibit that type of land use.

“If linear infrastructure, including highways and railways is permitted in all Mixed Use and Special Management Areas, as we propose, Plan amendments would be a much less frequent requirement. We also do not support conducting alternative assessments during the Plan conformity process for the location or type of linear infrastructure. The fact that there may be better alternatives to a project design is an important issue for the impact assessment process.

“However, when looking at the Land Use Plan, users should be able to tell if the project stands a good chance of getting a positive conformity determination. Including these types of requirements in the Plan creates uncertainty, reduces efficiency, and duplicates in part, the Nunavut Impact Review Board’s impact assessment process. ...”

In 2017, the GoC<sup>3</sup> stated:

“Currently, the draft Plan puts pre-conformity requirements on some project proposals, offering proponents a potential path to conformity but leaving considerable uncertainty as to whether an activity will meet conformity requirements. For example, the draft Plan requires proponents of a linear infrastructure corridor to present an alternatives assessment. This seems inappropriate at the land use planning conformity stage. Either a project conforms to the requirements in the plan, or it does not. The fact that there may be better alternatives to that project configuration is an important issue for impact assessment, but has no bearing on whether the project conforms to the plan.

...

**“Recommendation:** The Government of Canada recommends the following changes to the draft Plan:

- Include linear infrastructure as a permitted land use in protected land use designations except where explicitly prohibited in specific protected areas.

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (QWCMB), 2016-03-04. NPC Public Registry File # 14-156E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

- Include highways and railways as permitted land uses in all mixed-use land use designations.

...

- Remove the requirement to include a 'robust alternatives assessment' for any all-season linear infrastructure, as this requirement seems inappropriate at the land use plan conformity stage.
- Remove the requirement that all applications for highways (meaning inter-community roadways) and railways require a plan amendment. ...

"... We see no reason to exclude inter-community roadways and railways; rather, we believe permitting inter-community roadways and railways in areas designated for Mixed Use will support the shared interest of building Nunavut's infrastructure capacity and building on the draft Plan's goals of building healthier communities and encouraging sustainable economic development.

"Similarly, the Government of Canada does not agree with the blanket prohibition of linear infrastructure in all Protected Area land use designations. In some specific protected areas, such prohibitions may be justified, but given the importance of linear infrastructure as discussed above, prohibitions should be removed in all zones where they are not absolutely necessary to protect identified valued ecosystemic and socio-economic components.

"A land use plan is a rule of general application. The concept of land use planning is based on the proactive review of land use activities in relation to community values and goals to determine where these activities may or may not occur on a general landscape basis to best serve community interests. The process of amending a land use plan on a regular project-specific basis distorts the systematic and integrated regulatory regimes in the Nunavut Agreement, because it begins to duplicate the project-specific review envisioned in the impact assessment regime. Amending the land use plan is of course always an option, and should be done to update a plan in the face of new information or new priorities. However, in our view, it is not an appropriate tool for project-specific regulation. Reliance on habitual project-specific land use plan amendments can create an unwieldy and unnecessary system of double regulation, where a land use plan amendment process resembles an ecosystemic and socio-economic impact assessment process, only to be followed by the actual impact assessment process. This would entail undergoing two successive public hearings and inquiries into essentially the same issues, creating an unnecessary burden for institutions of public government,

the proponent and all other interested parties, including Inuit organizations and individuals.

"The assessment of the most appropriate routing and type of linear infrastructure as proposed in the draft Plan's 'robust alternatives assessment' model requires the Commission to assess the appropriateness of each specific all-season linear infrastructure proposal. This level of assessment seems inappropriate at the land use plan conformity stage. Either a project conforms to the pre-existing requirements in the plan, or it does not. The fact that there may be better alternatives to that project configuration is an important issue for impact assessment, but has no bearing on whether the project conforms to the plan. Moreover, this proposed model begins to duplicate elements of project-specific reviews undertaken within the environmental and socio-economic impact assessment of a project proposal."

In 2017, the GNWT<sup>1</sup> stated:

"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."

In 2017, Baffinland<sup>2</sup> stated:

"Baffinland recommends that the DNLUP distinguish between 'Passenger Railways' that are used to move people and connect communities and 'Freight Railways' that are used for the movement of materials. This is similar in concept to the distinction between 'Highways' which are for general use between communities, 'Public Roads' which are not built between communities, and 'Mine Bulk Hauling Roads' and 'Mine Servicing Roads' which are used for local mining activities.

"We do not agree that all applications and railways should require a plan amendment. The NIRB is well placed to evaluate the potential for socioeconomic impacts from project[s] such as highways and railways. As such, we recommend the following revision to 5.5.1.2: 'all applications for highways and railways will require a ~~plan amendment~~ NIRB screening, due to a high potential for significant socio-economic effects from connecting communities'."

## Considerations

<sup>1</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)

<sup>2</sup> (Baffinland Iron Mines Corporation, 2017-01-13. NPC Public Registry File # 16-055E)



The NPC has not categorized the above comments according to the options as the submissions provide general information regarding the development of the NLUP.

The 2016 DNLUP included an alternatives assessment methodology for proposed new overland linear infrastructure projects. This methodology drew on two sources:

1. The two existing regional land use plans in Nunavut require a plan amendment for any new transportation or communication corridor. This is felt by the NPC to have been too restrictive, but also indicative of the caution that many Nunavummiut have towards linear infrastructure. They are aware that not all impacts from infrastructure are good, and many communities want a high-level review, such as would be required during a plan amendment, in advance of a detailed impact assessment.
2. The NPC's experience in the three plan amendments for transportation to the Mary River site.

The 2016 DNLUP proposed a robust, alternatives assessment process for all terrestrial transportation corridor applications to help proponents make sound financial decisions by reducing the risk of requiring additional conformity determinations, plan amendments and/or environmental assessments. However, many parties do not support the proposed alternatives assessment and the plan amendment requirement for all highways and railways.

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#### 5.3.2.1.6.1 Option 1 - Limited Use

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No participant specifically recommended this option for all types of terrestrial and communications.

#### Considerations

The current NBRLUP provides insight into the application of a LU designation for transportation and communication corridors. The NBRLUP was amended in May 2018 (Amendment No. 3) to include the Mary River Transportation Corridor, and notes:

- “• The terrestrial component, encompassing the Milne Inlet Tote Road, railway and Milne Port, is limited in width

at all points to not greater than 10 km, and is composed wholly of:

- railways, including rail embankments, railway ties and rails, bridges, culverts, tunnels, railway crossings, signals, telecommunication facilities, piers, piles, yards, terminals and service, fuel storage and storage facilities associated with the railways;
- roads (seasonal or permanent) as well as any infrastructure and support facilities, including camps, quarries, terminals, loading and unloading facilities, fuel storage and any other related systems associated with railways and roads; and
- seasonal airstrips/icestrips.”

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#### 5.3.2.1.6.2 Option 2 - Conditional Use

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In 2016, the KivIA<sup>1</sup> stated:

“8. Major **transportation corridors** and **infrastructure** of significant economic importance to the Kivalliq Region (e.g., the proposed Nunavut-Manitoba Road or hydro corridor) should be granted Special Management Area status with appropriate (and if required, stringent) Mobile Caribou Conservation Measures applied.”

In 2016, NTI<sup>2</sup> stated:

“2. NTI and the RIAs support a Special Management Area designation for the Manitoba-Kivalliq road and hydro corridor in the DNLUP with appropriate terms and conditions to protect wildlife and their habitat and other values such as cultural sites. In regards to caribou habitat, the Special Management Area terms and conditions should indicate that a plan amendment would not be necessary if the road and hydro corridor were located on post-calving caribou habitat.”

In 2017, AEM<sup>3</sup> stated:

“Agnico Eagle recommends that infrastructure development of linear infrastructure should be allowed under special Management.”

In 2020, Arviat,<sup>4</sup> Whale Cove<sup>5</sup> and Rankin Inlet<sup>6</sup> residents generally indicated support for the Kivalliq-Manitoba Road irrespective of its route through caribou post-calving habitat, if special conditions were applied. These conditions were not specified.

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<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>3</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

<sup>4</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-273E)

<sup>6</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-265E)

## Considerations

The NPC notes that some participants, including NTI, support this option for the Kivalliq-Manitoba corridor. AEM indicated support for this option more generally.

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### 5.3.2.1.6.3 Option 3 – Mixed Use

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In 2016, NTI<sup>1</sup> stated:

“1. NTI and the RIAs support Option 1 as outlined at page 28 of *NPC’s Refinements Document* that would result in transportation infrastructure being considered to conform to the requirements of the DNLUP except where explicitly prohibited.”

In 2016, Baffinland<sup>2</sup> stated:

***“Issue: Linear Infrastructure Corridors (Terrestrial)/ Linear Infrastructure Corridors (Marine)”***

“The current approach in the DNLUP, which we understand would permit all transportation activity and infrastructure in all terrestrial and marine areas unless explicitly prohibited, has significant merit. The options presented in the Consideration Document would unnecessarily complicate this approach. We do not agree with imposing additional impediments to marine navigation and land and marine transportation infrastructure. As stated above, all proposals are subject to robust and public environmental assessments under the *Nunavut Land Claim Agreement* and NUPPAA. It is important to emphasize that even if project proposals are in conformity with the plan, this does not mean they will necessarily be permitted to proceed by NIRB. The environmental assessment stage should be the process where detailed baseline studies are examined and utilized to support environmental and socio-economic impact statements which can then be publically reviewed by all stakeholders who have a specific interest in that area.

“In order to develop projects, proponents need a reasonable degree of certainty with respect to where development can take place in conformity with the plan. Clarity is essential, and the options presented in the Consideration Documents reduce clarity and certainty. The discovery of resources will drive the need for both marine and terrestrial transportation routes. Not unlike the Roads to Resources initiative commenced in the 1960s, building or designating corridors that have no current purpose (or only reflect current projects) would appear to be confused. Any infrastructure corridor which is established needs to be

functional and this means that they are dependent upon development.”

In 2016, the GN<sup>3</sup> stated:

**“... the GN supports the current approach where Transportation Infrastructure is considered to conform to the requirements of the Plan in all areas of the NSA except where explicitly prohibited;** understanding that three of the four ‘proposed corridors’ transecting conflicting designations may have existing rights or are mid-NIRB assessment, and nonconforming corridors may be approved by applying for a Plan Amendment or a ministerial exemption under *NuPPAA*.

**“The GN ... agrees that NPC should be engaged in early planning processes for all future infrastructure investments.** Further, rather than having proposed, conceptual corridors represented on Schedule A of the Plan, NPC should only identify those corridors that are approved or in existence. Instead, these corridors should be assigned to Schedule B.”

In 2017, the GN<sup>4</sup> stated:

“Return the definition of Mixed Use to what was in NPC’s 2014 DNLUP. Remove the NSA-wide 2016 DNLUP prohibition to highways and railways, as defined therein. Remove the requirement for all highway and railway applications to undergo a Plan amendment. In terms of management, treat all form of linear infrastructure uniformly.

“If the Nunavut Planning Commission feels there are significant public concerns regarding an individual linear infrastructure project, they shall notify the Nunavut Impact Review Board in their conformity determination correspondence.

“Add stipulation to any Protected Area Designation that includes ‘Linear Infrastructure’ that the prohibition may be waived through the submission of a robust alternatives assessment ...”

In 2017, the Hamlet of Arviat<sup>5</sup> stated:

“The Hamlet recommends that the NPC revise the NLUP to remove protected area designations from the speculative transportation corridor between the Kivalliq and Manitoba in order to limit the obstacles to developing an all-weather road link.”

## Considerations

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<sup>1</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>2</sup> (Baffinland Iron Mines Ltd., 2016-03-04. NPC Public Registry File # 14-155E)

<sup>3</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>4</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>5</sup> (Hamlet of Arviat, 2017-01-13. NPC Public Registry File # 16-064E)

The NPC notes that several participants, including NTI and the GN, provided comments that can best be characterized as supporting the designation of terrestrial transportation and communications as MU. The GN’s comment on Schedule B is addressed under Option 4 below.

5.3.2.1.6.4 Option 4 - Valued Component

As noted above under Option 3, in 2016, the GN<sup>1</sup> stated:

“... rather than having proposed, conceptual corridors represented on Schedule A of the Plan, NPC should only identify those corridors that are approved or in existence. Instead, these corridors should be assigned to Schedule B.”

Considerations

The NPC notes that the GN supports this option for proposed and conceptual corridors. Identifying existing, proposed and potential linear infrastructure as VSECs would ensure that proponents and regulatory authorities are aware of their locations and value and would help inform the NPC when considering cumulative effects based referrals of project proposals to the NIRB for screening.

5.3.2.1.7 NPC Recommendation - LU/VSEC

Given that:

TRANSPORTATION AND COMMUNICATIONS:  
The overall importance of the issue is considered HIGH.

TERRESTRIAL TRANSPORTATION AND COMMUNICATIONS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	<div>LOW (not overlapping with significant environmental or cultural features)</div> <div>HIGH (overlapping with significant environmental</div>

		or cultural features)
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	<div>LOW and YEAR-ROUND (not overlapping with significant environmental or cultural features)</div> <div>HIGH and YEAR-ROUND (overlapping with significant environmental or cultural features)</div>
v.	Potential Value of Including Guidance in the NLUP	HIGH

**General Recommendation:**

It is recommended that the alternatives assessment for all transportation corridors and plan amendment for all highways and railways proposed in the 2016 DNLUP be removed. See section 6.2.6 Implementation of Linear Infrastructure and Marine Corridor Information Requirements for additional details.

Recommendation for Kivalliq-Manitoba Linear Infrastructure Corridor

Option 1 is recommended:

- Restricts access to uses that are incompatible with terrestrial transportation corridors.
- When overlapping with another land use designation, the Kivalliq-Manitoba transportation corridor will take priority.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended given that regardless of their suggested policy approaches (CU or MU), communities and participants demonstrated great support for the development of the Kivalliq-Manitoba linear infrastructure corridor. In order to achieve the

<sup>1</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

supports for the road, the NPC recommends a LU designation for the corridor with prohibition of uses that may be incompatible with the development of the road. In addition, it is recommended that this LU designation take priority over other overlapping designations to meet community infrastructure requirements, including transportation and communication services and corridors, as per section 11.2.3(b) of the NA.

#### LAND USE PLAN POLICY RECOMMENDATION

### **KIVALLIQ-MANITOBA LINEAR INFRASTRUCTURE CORRIDOR**

#### **LIMITED USE**

##### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Mineral exploration and production
- Permanent facilities and infrastructure other than those supporting the construction and use of the corridor

#### **Recommendation for Mary River-Milne Inlet Linear Infrastructure Corridor**

Option 1 is recommended:

- Restricts access to uses that are incompatible with terrestrial transportation corridors.
- When overlapping with another land use designation, the Mary River-Milne Inlet transportation corridor will take priority.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 is recommended to carry forward the recent amendment to the NBRLUP into the NLUP with respect to this corridor.

#### LAND USE PLAN POLICY RECOMMENDATION

### **MARY RIVER-MILNE INLET LINEAR INFRASTRUCTURE CORRIDOR**

#### **LIMITED USE**

##### **Permitted Uses:**

- All weather and seasonal roads
- Railways

- Seasonal airstrips or icestrips
- Quarries
- The construction of infrastructure, support facilities and any other related systems associated with the use of the corridor

##### **Prohibited Incompatible Uses:**

- All other uses

#### **Recommendation for Other Existing and Potential Terrestrial Linear Infrastructure**

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify other existing and potential terrestrial linear infrastructure as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is selected as expenditure has been made on transportation feasibility studies along certain routes in Nunavut, and if possible, activities that would reduce their future economic value should be avoided.

#### LAND USE PLAN POLICY RECOMMENDATION

### **ALL OTHER EXISTING AND POTENTIAL TERRESTRIAL LINEAR INFRASTRUCTURE**

#### **VALUED SOCIO-ECONOMIC COMPONENT**

#### 5.3.2.1.8 Summary of Revisions

##### **KRLUP and NBRLUP**

Both the KRLUP and NBRLUP implement the concept of transportation “corridor” as a general policy for terrestrial and marine transportation routes. Both plans require that all parties wishing to develop a transportation and/or communication corridor must submit a plan amendment application including an assessment of alternative routes as well as a cumulative effects assessment. The plans also contain a guideline for the assessment of transportation and communication corridor proposals.

##### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP assigned two designations respecting transportation corridors, both of which provided roads, railways, utilities and corridors as permitted uses. These designations were as follows:

- To manage future transportation infrastructure, proposed transportation corridors were assigned a Building Healthier Communities (BHC-1) designation; and
- To manage the functionality of the NSA's transportation infrastructure, existing land-based transportation routes were assigned a Building Healthier Communities (BHC-2) designation.

In the 2014 DNLUP, transportation infrastructure was considered to conform to the requirements of the plan in all areas of the NSA except where explicitly prohibited.

In the 2016 DNLUP, proposed and potential linear infrastructure corridors, which are not approved but have undergone feasibility studies, were presented as VSECs, with a focus on economic development. Additionally, the DNLUP provided a robust alternative assessment process for ensuring that all major factors were considered before major infrastructure investments were made. Also, applications for highways and railways required a plan amendment regardless of their location.

## 2021 DNLUP

The Kivalliq-Manitoba and the Mary River-Milne Inlet linear infrastructure corridors are permitted along the identified routes regardless of other overlapping land use designations. Other existing and potential linear infrastructure are identified as known VSECs. Applications for plan amendment for other proposed and potential terrestrial linear infrastructure are only required when going through areas where linear infrastructure is otherwise prohibited.

### 5.3.2.2 Marine Shipping Corridors

#### 5.3.2.2.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
Baffinland, 2017	2,518	0

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>2</sup> (NWT & Nunavut Chamber of Mines, 2015-06-20. NPC Public Registry File # 14-070E)

GoC (DFO), 2018	786,666	23
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In 2014, the GN<sup>1</sup> stated:

"All communities in Nunavut are connected to tidewater, and Nunavummiut are traditional harvesters of the bounty of the sea. In addition, all communities in Nunavut will continue to rely on seasonal marine resupply into the foreseeable future. It is Nunavut's long-term desire to extend this program so that every community will eventually be equipped with a Small Craft Harbour appropriately sized to safely accommodate its boating needs."

In 2015, the NWT & Nunavut Chamber of Mines<sup>2</sup> wrote:

"The Chamber recommends that the NPC include all transportation corridors currently proposed by various proponents and refer them as 'potential transportation corridors' in the plan. Also, the Chamber would like to see other important infrastructure elements identified in the plan, including proposed or potential port sites, ice roads and shipping routes."

In 2015, the KivIA<sup>3</sup> stated:

"The NLUP should expand the transportation and infrastructure corridors in order to add certainty to future plans for road, rail, power line, telecommunications, hydro developments and shipping links. This would greatly assist with the feasibility of mining projects and local community infrastructure developments. ..."

In 2018, Baffinland<sup>4</sup> stated:

"Baffinland continues to be of the view that all transportation corridors that are applicable to the Mary River Project, including the Northern shipping transportation corridor, the Northern land transportation corridor (road and rail), the Southern land transportation corridor (rail) and the Southern shipping route should all be reflected in the Nunavut Land Use Plan (NLUP).

"The Northern transportation corridor is currently included in the North Baffin Regional Land Use Plan (NBRLUP). Baffinland notes that since our submission on the 2016 DNLUP of January 13, 2017 the NBRLUP has been amended to specifically authorize the use of rail within the Northern transportation corridor. Therefore, Baffinland respectfully requests that this amendment be reflected in the NLUP.

"With respect to the Southern transportation corridor, per the NPC's correspondence of Dec. 9, 2013 to the Government of Canada and the Government of Nunavut,

<sup>3</sup> (Kivalliq Inuit Association (KivIA), 2015-06-22. NPC Public Registry File # 14-086E)

<sup>4</sup> (Baffinland Iron Mine Corp, 2018-11-26. NPC Public Registry File # 16-173E)



the NPC recommended an amendment to the NBRLUP to include the 35 km portion of the 180 km long land portion of the Southern transportation corridor located inside the North Baffin planning region. ...”

The NBRLUP was amended in May 2018 (Amendment No. 3) to include the Mary River Transportation Corridor, which notes:

“The marine component, encompassing the marine shipping route from the Milne Port North through Milne Inlet and then East through Eclipse Sound to Baffin Bay to the eastern extent of the land-fast ice zone consists of a marine travel route used by ship traffic to navigate and may also include marine infrastructure, including aids to navigation, fixed docks, floating docks, piers, ports, loading and unloading facilities, storage facilities, refueling facilities and any other facilities or infrastructure which is required for operating the port or for ensuring the safe passage of vessels. For greater certainty, the marine component of the Mary River Transportation Corridor does not include winter shipping through ice.”

### Considerations

The NPC considers there to be moderate certainty regarding the geographic boundaries of marine shipping corridors. Additionally, the NPC agrees that previously approved corridors should be carried forward into the NLUP.

While new routes are being pioneered by cruise companies and envisioned by transnational shipping companies, the large majority of marine traffic in Nunavut is along well-established and well-used routes, typically as part of community resupply. These routes have recently been re-evaluated and presented by the NMTCI. The considered geographic boundaries include the approved Baffinland shipping corridors and the potential corridors represented in the NMTCI.

***The certainty of the identified geographic boundaries of MARINE SHIPPING CORRIDORS is considered MODERATE because:***

- *The areas are identified with moderate precision/scale;*
- *There is moderate agreement among participants regarding the boundaries; and*
- *The information is current.*

#### 5.3.2.2.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of proposed and potential marine shipping corridors.

### Considerations

The NPC considers the environmental and cultural importance of marine shipping corridors overlapping with significant environmental or cultural features to be high. The NPC considers the environmental and cultural importance of other locations to be low.

There are some overlaps between environmentally and culturally significant sites and areas with marine shipping corridors. For instance, portions of existing, proposed and potential marine shipping corridors may overlap with important caribou habitats, key bird habitats, important fish habitats, marine mammal habitats or community areas of interest, broadly accepted to have high environmental and cultural importance in most cases. These overlaps have been considered in Chapters 2-4 under the subheading “Potential for Non-Renewable Resources, Transportation and Linear Infrastructure.”

***The environmental and cultural importance of MARINE SHIPPING CORRIDORS NOT OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered LOW because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is low; and*
- *The importance of the areas to wildlife is low.*

***The environmental and cultural importance of MARINE SHIPPING CORRIDORS OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES is considered HIGH because:***

- *The importance of the areas to the communities is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to biological productivity; and*
  - *The habitat supports concentrations of wildlife.*

#### 5.3.2.2.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure



Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

**Considerations**

Marine shipping is a defining characteristic of this criterion.

***The potential for non-renewable resources, transportation and linear infrastructure in MARINE SHIPPING CORRIDORS is considered HIGH.***

**5.3.2.2.4 Sensitivity to Impacts**

The NPC did not receive comments directly related to the sensitivity of marine shipping corridors to impacts.

**Considerations**

The NPC considers the sensitivity of marine shipping corridors overlapping with significant environmental or cultural features to impacts from incompatible uses to be moderate and year-round. The NPC considers the sensitivity of other locations to impacts to be low and year-round.

Marine shipping corridors may have the potential to strongly impact ecosystems, even though the infrastructure itself is not strongly impacted by ecosystemic impacts.

Portions of existing, proposed and potential marine shipping corridors may overlap with important caribou habitats, key bird habitats, important fish habitats, marine mammal habitats or community areas of interest, generally accepted to be moderately sensitive to impacts from incompatible uses in most cases (see relevant sections in Chapters 2-4 for more details).

***The sensitivity of MARINE SHIPPING CORRIDORS NOT OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES to impacts is considered LOW and YEAR-ROUND because:***

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

- *Species are less sensitive to disturbance when using these areas; and*
- *Species use these areas seasonally when disturbance is least likely to occur.*

***The sensitivity of MARINE SHIPPING CORRIDORS OVERLAPPING WITH SIGNIFICANT ENVIRONMENTAL OR CULTURAL FEATURES to impacts is considered MODERATE and YEAR-ROUND because:***

- *Wildlife are moderately sensitive to disturbance when using the areas;*
- *Wildlife use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is seasonal.*

**5.3.2.2.5 Other Regulatory Tools**

Different types of management have been recommended for marine areas in previous sections of the 2021 O&R, including key migratory bird habitat sites, caribou sea ice crossings, walrus terrestrial haul-outs, beluga and bowhead calving grounds, marine on-ice corridors, and community areas of interest. Please see those sections for details.

The NPC's jurisdiction in transportation corridors is stated in the following sections of the NA:

"11.1.4 This Article applies to both land and marine areas within the Nunavut Settlement Area and the Outer Land Fast Ice Zone.

...

"11.2.1 The following principles shall guide the development of planning policies, priorities and objectives:

- (a) people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation;

...

"11.2.3 In developing planning policies, priorities and objectives, factors such as the following shall be taken into account:

- (a) economic opportunities and needs;

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

- (b) community infrastructural requirements, including housing, health, education and other social services, and transportation and communication services and corridors;

...

"11.3.1 A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following:

...

- (d) transportation and communication services and corridors".

The marine environment in the Arctic is subject to a number of laws, regulations, international conventions and treaties, and policies.<sup>1</sup> Participants, in particular the GoC, have referred the NPC to other laws, international agreements and initiatives relating to the marine environment. The GoC's<sup>2</sup> 2017 submission summarized the regulatory regime applicable in Nunavut's marine environment as follows:

"The **Canada Shipping Act, 2001** (CSA, 2001), is the principal legislation governing safety in marine transportation and recreational boating, the protection of the marine environment and the Government of Canada's ability to meet its relevant international bilateral and multilateral agreements. One of its objectives is to protect the marine environment from damage due to navigation and marine transportation activities. Specifically, parts 8 and 9 of the CSA, 2001, speak to the authority over pollution prevention and response held by the ministers of Transport Canada and of Fisheries and Oceans Canada.

"The **Arctic Waters Pollution Prevention Act** (AWPPA) aims to prevent pollution in Arctic waters. It is a 'zero discharge' act, stating, 'no person or ship shall deposit or permit the deposit of waste of any type in the Arctic waters.' It describes offences and the punishments for committing them, and outlines the powers that may be given to pollution prevention officers so that they may enforce the AWPPA under two key regulations: the Arctic Shipping Pollution Prevention Regulations and the Arctic Waters Pollution Prevention Regulations. The AWPPA provides enhanced protection for vessels operating in Canadian jurisdiction north of 60° north latitude. It also provides specific construction standards for vessels engaged in Arctic shipping; a system of shipping safety control zones; a ban on discharges of oil, hazardous chemicals and

garbage; and requirements for vessels to carry insurance to cover damages from any these discharges.

"While the provisions of the CSA, 2001 and its associated regulations apply in all Canadian waters, vessels in Arctic waters north of 60° north and out to the 200-nautical-mile limit of Canada's exclusive economic zone are also subject to the provisions of the AWPPA. There is one notable exception to provisions in the Arctic compared to elsewhere in Canada: discharge limits. The AWPPA prohibits all discharges of oil, chemicals, garbage and other wastes generated onboard vessels except untreated sewage, which may be discharged. The AWPPA is based on the 'polluter pays' principle. The following key regulations support the AWPPA:

- The Arctic Shipping Pollution Prevention Regulations set requirements for how vessels operating in Arctic waters must be built and details conditions of the no-discharge regime. These regulations also establish vessel control systems for preventing a vessel from operating in ice conditions that exceed its capability.
- The Arctic Waters Pollution Prevention Regulations include a civil liability regime for vessels to ensure there is insurance to cover damages should deposits of wastes occur.
- The Oceans Act gives the Minister of Fisheries and Oceans responsibility for providing aids to navigation systems and services; marine communications and traffic management services; icebreaking and ice-management services; channel maintenance; marine search and rescue; marine pollution response; and supporting federal government departments, boards and agencies by providing ships, aircraft and other services."

In 2020, the GoC<sup>3</sup> provided information on a recent amendment:

"On June 21, 2019, a bill amending the *Canada Petroleum Resources Act* was passed, permitting the Governor in Council to prohibit an interest owner or any other person from commencing or continuing any work or activity authorized under the *Canada Oil and Gas Operations Act* if the Governor in Council considers that it is in the national interest. The Government of Canada issued an order prohibiting certain activities in Arctic offshore waters, freezing the terms of existing licences in the Arctic offshore and suspending all other oil and gas activities."

<sup>1</sup> (Nunavut Planning Commission (NPC), 2007-11-07. NPC Public Registry File # 10-013E)(See Appendix 2.)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

Other federal laws applicable in the marine environment include the following, as described by participants:

- The *Canadian Environmental Protection Act*, which enshrines the precautionary principle;<sup>1</sup> and
- The *Fisheries Act*, which regulates “fish” including marine mammals.<sup>2</sup>

In 2015, Oceans North<sup>3</sup> stated:

“Oceans North recognizes that responsible shipping and the protection of harvesting and a healthy marine environment can be accommodated with proper planning and management. We are concerned that the 2014 DNLUP does not contain sufficient provisions for the management of marine shipping/transportation though the North Baffin region. Shipping would seem to be given precedence over all other potential uses of the North Baffin region. Oceans North is particularly concerned that insufficiently managed marine shipping may damage sea ice in the North Baffin region. This could have detrimental impacts on important wildlife habitat and the harvesting activities of several communities.”

In 2016, NTI and the RIAs<sup>4</sup> stated:

“4. NTI and the RIAs identify the following as priority issues:

- Ice-breaking generally and during the shoulder periods (freeze-up/break-up);
- Ice-breaking along caribou crossings;
- Identification of specific travel corridors for ships and the maintenance of appropriate distances from wildlife populations of concern;
- Ensuring that marine access to IOLs is not hindered; and
- Designations for Marine Management Areas and Marine Conservation and Protected Areas.

“5. Some options require more discussion with NPC and regulatory authorities including:

- Special Management Areas for wildlife areas where terms and conditions could be established. For example, terms and conditions for caribou crossings that limits or prohibits ice-breaking on a seasonal basis.
- The use of notices, permits, licenses, registrations and other authorizations to regulate vessel

activities (e.g. Notice to Mariners; modifications to the Marine Environmental Handbook).

“6. To facilitate discussions on marine options for the DNLUP, NTI and the RIAs recommend that NPC and the Government of Canada (Transport Canada, Environment Canada, DFO and the Canadian Coastguard) provide a comprehensive list of notices, permits, licenses, registrations, authorizations, regulatory tools as well as policies and strategies that should be considered in addressing marine issues in the Nunavut Settlement Area ...”

In 2017, the GoC<sup>5</sup> recommended the NPC act under section 15.4.1 of the NA to use the NMC as a forum for dealing with the complex marine transportation issues the NPC has begun to consider “in a consultative, inclusive and dynamic manner.” The GoC indicated participants could discuss “aspects not fully captured within the current regulatory regime” within this forum, which would enable the NPC to finalize this first-generation NLUP. It would also allow for ongoing discussions on marine transportation concerns, while being able to make recommendations to the GoC in its role on the NMC. The GoC also noted forums other than the NMC exist “both in government and in industry, that would allow for collaborative and ongoing discussions regarding marine transportation in the Arctic with the Commission, community members and industry stakeholders.” This GoC submission also made the following recommendation:

“It is essential that the changes be made to the marine transportation restrictions proposed in the draft Plan. While the Commission and the NMC are important actors in this process, the Government of Canada recommends that the Commission ‘change hats’ and work on the complex marine transportation issues outside of the land use planning process, at least during the development of this first-generation land use plan. We further recommend that the Commission explore opportunities to ensure the management of vessel traffic in the Arctic is collaborative and includes key partners such as Inuit communities and organizations, the NMC, the CMAC and the AMAB.

“The Government of Canada is committed to ongoing discussions and collaboration with the Commission to help develop a Nunavut Land Use Plan that furthers the land use planning objectives of the Nunavut Agreement while remaining compatible with the existing marine

<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Oceans North Canada, 2015-06-22. NPC Public Registry File # 14-082E)

<sup>4</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)

<sup>5</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

transportation regime and respecting Canada's international agreements and relationships."

The GN and NTI have also recommended the NPC exercise its power under section 15.4.1 of the NA as part of the NMC.

In 2020, the GoC<sup>1</sup> provided the NPC with an update on marine issues by including a submission from Transport Canada, Prairie and Northern Region. Transport Canada maintained the GoC's position in January 2017 that "... many of the concerns of the Commission over the effects of marine transportation on culturally and environmentally sensitive areas could be addressed in alternate fora as well as under the Government of Canada Oceans Protection Plan (OPP)." Transport Canada also noted the submission was "... intended to provide the Commission with an update on activities that Transport Canada has engaged in under the OPP that may be relevant in the context of ongoing development of the NLUP." The NPC summarizes this submission as follows and notes that while the Transport Canada submission was intended to provide the NPC with an update that may be relevant to the NLUP, it did not make any recommendations that the identified initiatives below be implemented in the NLUP:

- **Proactive Vessel Management (PVM)**, described as "an innovative approach to address marine vessel traffic issues" by bringing together Indigenous and coastal communities and marine stakeholders to develop a national framework that will be used to identify voluntary solutions to address shipping concerns such as communications, speed limits, areas to be avoided, and seasonal and temporal restrictions without changing formal laws and regulations.
- **Creation of the Victoria Island Waterway Safety Committee** that identified priorities to be addressed using a PVM approach and to address the Cumulative Effects of Marine Shipping (CEMS) and the Enhanced Maritime Situational Awareness (EMSA) initiatives.
- **CEMS**, an initiative to "create a National Cumulative Effects Assessment Framework ... for marine shipping; undertake regional cumulative effects assessments in pilot sites; compile existing data to inform the assessments; and identify regional and/or national tools that can be applied to mitigate the cumulative effects of existing vessel movements or future project developments." The initiative sets out four phases for key activities and sets 2022 as a projected date for the

Victoria Island Waterway Safety Committee to identify regional mitigation or management measures responding to impacts found (specifically relating to four types of vessel activities and impacts: (1) ice-breaking and impacts on caribou migration, food security and hunter safety, (2) vessel movements causing impacts on local marine mammals through underwater noise, (3) vessel movements causing impacts on coastal environments from vessel wake, and (4) vessel discharges of oil causing impacts on marine mammals and coastal cultural sites), to be applied to existing vessel movements or future project developments.

- **EMSA**, described by Transport Canada as a web-based system of local maritime data, including vessel traffic, weather, sea-ice and conditions, tidal and underwater current information, vessel information from terrestrial and space based (satellite) Automatic Identification Systems data, information on ecologically sensitive areas, and traditional and cultural knowledge, for Indigenous people, coastal communities, and other stakeholders, currently being piloted in 13 communities in Canada including Cambridge Bay. Transport Canada says the EMSA is to support community-level decision-making and collaboration including with the GoC and Indigenous and coastal communities, with feedback informing system upgrades to meet community needs and priorities, as well as to inform the Victoria Island Waterway Safety Committee's decisions on PVM and CEMS.
- **Appendix A** provided an example on how a PVM approach was implemented in Cambridge Bay. It detailed an "ice-breaking" workshop held in 2019 to draft a Notice to Mariners for vessels with ice-breaking capabilities to proactively avoid migrating caribou and Inuit travelling on sea-ice. It also discussed a communication protocol that addresses contacting communities during voyage planning and engagement between the GoC and industry to increase awareness of ice-breaking impacts on migrating caribou, local food security, and safety of Inuit on sea-ice.

### Considerations

The NPC appreciates the suggestion for greater NMC involvement on issues where the 2016 DNLUP made recommendations regarding marine areas, as the primary function of the NMC is to make recommendations to government that must be taken into consideration. However, the NPC does not take the view that the NMC is a suitable replacement for

<sup>1</sup> (Government of Canada, 2020-02-27. NPC Public Registry File # 16-277E)

enforceable measures that are within the NPC's mandate to include in a land use plan. The NPC also appreciates the relevance of the existing regulatory system for marine shipping and believes there are opportunities for the NLUP to contribute to the overall approach to managing this issue within Nunavut.

***The potential value of including guidance in the NLUP for MARINE SHIPPING CORRIDORS is considered MODERATE because:***

- ***The issue is partially addressed by other regulatory authorities; and***
- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

#### 5.3.2.2.6 Policy Options for Marine Shipping Corridors

In 2015, the GoC<sup>1</sup> stated:

"While recognizing the commitments in the NLCA and that the Commission has an important role in land use planning for the territory, Canada supports an approach to land use planning that both respects Canada's international obligations and builds on Canada's domestic regime, and that encourages free and open navigation within a highly regulated environment.

"Transport Canada has previously provided the Commission with information on the legal regime that governs shipping in the Arctic (see correspondence related to amendments to the North Baffin Regional Land Use Plan dated December 24, 2013 and March 26, 2014). That information indicated that shipping in the north is a highly regulated activity. It is also an inherently international activity. The international rules and standards for vessels are designed to minimize the threat of accidents and pollution from shipping and have on the whole proved effective.

"Canada's domestic legal regime reflects the international legal framework set out in documents such as the ***United Nations Convention on the Law of the Sea*** (UNCLOS) and conventions negotiated by specialized bodies of the United Nations such as the International Maritime Organization (IMO) and the International Labour Organization (ILO) which Canada has ratified.

"The plan should be made expressly consistent with Canada's international legal obligations under these conventions. Transport Canada recommends adding a statement to this effect in the plan to make clear that it is intended, now and in the future, to work within and complement this regime.

"Other bodies, including the Commission, need to be mindful of the effectiveness of the domestic regulatory regime in place for Arctic shipping and the need to balance safe and environmentally responsible shipping with economic development. Transport Canada would be pleased to continue to work with the Commission to support its plan development. ...

...

#### "Recommendations

"To ensure that the NLUP respects Canada's international obligations with respect to navigation and shipping, it is recommended that the following wording be added either immediately before section 4.1.1 or at the end of section 1.5.3 (Application of the Plan) of the DNLUP:

The plan should be interpreted and applied in a way that respects Canada's international rights and obligations including under the ***United Nations Convention on the Law of the Sea, 1982***, customary international law and any other binding international instrument."

In 2016, the GoC<sup>2</sup> stated:

"Choosing the most appropriate tool to address concerns caused by shipping will almost always depend on the goal of a particular control and the nature of the waters in which it will be applied. In order for the Government of Canada to adopt or support binding rules designed to influence or control the movement of vessels, further input from stakeholders that would be impacted is of critical importance. This means that active northern shippers and the customers that depend on the delivery of their cargo need to know what the potential new controls might be, and have an opportunity to consider how they may be affected if they were adopted. This additional input is required to understand the options or alternatives available, to address marine concerns, and to minimize unintended consequences.

"For example:

- will the avoidance of one area or one time period have any negative effect on safety? Are the physical conditions, such as bathymetry, well-known in the alternate route?
- what would be the impact on resupply schedules and cost for fuel, food, construction materials, etc?
- is the alternate route (or alternate timing) likely to cause disturbance to other species or other activities such as harvesting?

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

“It is essential to stress the need for a deliberate and well-consulted approach to the introduction of any new approaches to the influence or control of vessel operation. Where it might be appropriate to adopt controls to affect where vessels can go, it would be challenging to do so without first carefully and fully assessing the implications.”

### Considerations

The NPC has not categorized the above comments according to the options as the submissions provide general information regarding the development of the NLUP. It is important that the NLUP not be interpreted in such a way that would conflict with the GoC’s international rights and obligations, customary international law and any other binding international instrument.

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#### 5.3.2.2.6.1 sOption 1 - Limited Use

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No participant recommended this option.

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#### 5.3.2.2.6.2 Option 2 - Conditional Use

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In 2016, the KWB<sup>1</sup> stated:

##### “3) Chesterfield Inlet

“The Draft Land Use Plan does not contain restrictions on shipping through Chesterfield Inlet.

*“Recommendation – the KWB recommends that the Nunavut Land Use Plan designate Chesterfield Inlet a special management area. Management restrictions should limit the volume of ships permitted to travel through the inlet on an annual basis.*

“Hunters and Elders from Chesterfield Inlet and Baker Lake have repeatedly complained about the impacts of increased shipping through the inlet, associated with the Meadowbank gold mine. There is a well-documented record of observations of changes in sea mammal distribution. Hunters complain that increased shipping has driven sea mammals out of the inlet during the shipping season, impacting wildlife harvesting. The Aqigiq (Chesterfield Inlet) HTO recommended that the Nunavut Land Use Plan limit the amount of ships that travel through the inlet.

##### “4) Coates, Southampton, and Walrus Island

“The Draft Nunavut Land Use Plan does not contain restrictions on shipping near Coates, Southampton, and “Walrus islands.

*“Recommendation – the KWB recommends that the Nunavut Land Use Plan restrict shipping near Coates, Southampton, and Walrus Islands. Marine shipping routes should be placed south of Coates Island, rather than between Coates and Southampton Island.*

“Hunters and Elders from Coral Harbour have repeatedly complained about the impacts of marine ship traffic on walrus habitat between Coates and Southampton islands. In particular, the walrus haul-outs on Walrus Island have been impacted by shipping. At a KWB workshop, the Coral Harbour HTO recommended that ship traffic be rerouted to the south of Coates Island.”

In 2018, NTI and the RIAs<sup>2</sup> stated:

“NTI and the RIAs recommend that consideration be given to establishing a conformity requirement that cruise ship proponents negotiate a Community Services Agreement with each community that it intends to visit and with each community when a cruise ship operator intends to enter into marine areas identified by the community to be harvesting areas or marine community areas of interest. ...”

### Considerations

The NPC notes that one participant supports a CU designation for specific locations. The NPC also notes that participants have generally encouraged the NPC to develop conformity requirements that provide certainty to proponents regarding what activities conform to the NLUP, and suggested procedural requirements do not support this approach.

The current NBRLUP provides insight into the application of a CU designation for marine shipping corridors. In particular, the marine component of the Mary River Transportation Corridor restricts shipping to open water, and this seasonal restriction is consistent with a CU designation. The NBRLUP was amended in May 2018 (Amendment No. 3) to include the Mary River Transportation Corridor, and notes:

“The marine component, encompassing the marine shipping route from the Milne Port North through Milne Inlet and then East through Eclipse Sound to Baffin Bay to the eastern extent of the land-fast ice zone consists of a marine travel route used by ship traffic to navigate and may also include marine infrastructure, including aids to navigation, fixed docks, floating docks, piers, ports, loading and unloading facilities, storage facilities, refueling facilities and any other facilities or infrastructure which is required for operating the port or for ensuring the safe passage of

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<sup>1</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)

<sup>2</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)



vessels. For greater certainty, the marine component of the Mary River Transportation Corridor does not include winter shipping through ice.”

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#### 5.3.2.2.6.3 Option 3 - Mixed Use

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In 2016, Baffinland<sup>1</sup> stated:

***“Issue: Linear Infrastructure Corridors (Terrestrial)/ Linear Infrastructure Corridors (Marine)”***

“The current approach in the DNLUP, which we understand would permit all transportation activity and infrastructure in all terrestrial and marine areas unless explicitly prohibited, has significant merit. The options presented in the Consideration Document would unnecessarily complicate this approach. We do not agree with imposing additional impediments to marine navigation and land and marine transportation infrastructure. As stated above, all proposals are subject to robust and public environmental assessments under the *Nunavut Land Claim Agreement* and NUPPAA. It is important to emphasize that even if project proposals are in conformity with the plan, this does not mean they will necessarily be permitted to proceed by NIRB. The environmental assessment stage should be the process where detailed baseline studies are examined and utilized to support environmental and socio-economic impact statements which can then be publicly reviewed by all stakeholders who have a specific interest in that area.

“In order to develop projects, proponents need a reasonable degree of certainty with respect to where development can take place in conformity with the plan. Clarity is essential, and the options presented in the Consideration Documents reduce clarity and certainty. The discovery of resources will drive the need for both marine and terrestrial transportation routes. Not unlike the Roads to Resources initiative commenced in the 1960s, building or designating corridors that have no current purpose (or only reflect current projects) would appear to be confused. Any infrastructure corridor which is established needs to be functional and this means that they are dependent upon development.

“Shipping in open water and shipping in ice is a key component to resource development and has been performed in Canada’s North and has been occurring for more than a decade without significant effect in both Nunavut and Nunatsiavut without any significant effects. Baffinland has identified mitigation measures that have been successfully applied in the Arctic environment and is confident that the NIRB process will provide a forum to thoroughly evaluate the various options.

“As a note, while we are aware that the Canadian Coast Guard has proposed a marine transportation corridors

initiative, we note this initiative is not intended to restrict shipping, and is specific to safety and reducing risk associated with Marine Transportation. The Arctic has minimal detailed bathymetry, virtually no navigation aids and limited emergency response capability, particularly in comparison to other Arctic countries. The Coast Guard Initiative is for transit through the Arctic waters and improved navigation.”

In 2016, the WWF<sup>2</sup> stated:

“We are in partial support of option 1, which would maintain the approach where Transportation Infrastructure is considered to conform to the requirements of the NLUP in all areas except where they are explicitly prohibited.

***“... Linear Infrastructure Corridors (Marine)”***

*“Issue: What is the best approach for planning for transportation and other marine corridors in Nunavut?”*

“We are in partial support of option 2 which suggests to apply some restrictions on icebreaking in areas of community travel routes and caribou sea ice crossings, subject to safe navigation. However, WWF recommends that the approach for planning transportation and other marine use in the NLUP be the same as the approach suggested above for land based activity, which would mean marine uses are considered to conform with the plan unless they are explicitly prohibited. We believe that the efforts to identify the best routing for vessel is extensive work and does not fall under NPC’s mandate. On the other hand, various processes identified ecologically and culturally significant marine areas and the NLUP should incorporate this information in the planning of marine uses.

“We believe that the planning for transportation and other marine uses in Nunavut must abide to the precautionary principle and recommend that Protected Area designations be applied to areas of particular ecological value that are vulnerable to disturbance. Consequently, since a Canadian Science Advisory Secretariat was held to provide scientific advice and identify Ecologically and Biologically Significant Areas (EBSAs) and several areas were established as priority areas, the NLUP should apply appropriate protection from activities that are suspected to be harmful to these environments. Although Section 2.1.5 acknowledges the importance of these marine ecosystems, the management options applied (generally Mixed Used designation in the current draft) do not protect these marine areas from industrial activities and potential risks in a manner that would ensure sustainable ecosystems and prioritize community values. Inuit have relied on the marine environment for food, clothing, and cultural needs

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<sup>1</sup> (Baffinland Iron Mines Ltd., 2016-03-04. NPC Public Registry File # 14-155E)

<sup>2</sup> (WWF-Canada , 2016-03-04. NPC Public Registry File # 14-160E)

for millennia, thus making healthy marine habitats a vital part of Nunavummiut livelihood. We thus recommend that oil and gas exploration, commercial fisheries and icebreaking be prohibited in the EBSAs, polynyas, and in the caribou sea-ice crossings.

“Industrial shipping in the Arctic is set to grow at a rapid pace and represents the most efficient means for transporting goods to northern destinations. Economic development is urgently needed in Nunavut communities, with many exhibiting amongst the highest poverty level in the country. However these opportunities do not come without risks such as oil and contaminant spills, noise and traffic disturbance of wildlife, or the introduction of invasive species. These risks are simply inherent to shipping and are exacerbated in Arctic due to weather conditions, logistic challenges, and vulnerability of the marine life. Ecosystem-based management and sound shipping planning is essential to ensuring the sustainability of economic development, to reduce the risk of industrial practices, to conserve the ecosystems services of significant habitats in the future, and to safeguard the wellbeing of northern communities.

“Local organizations and community members are highly aware of the benefits of industrial shipping, but they are also the first to experience the negative impacts and to shoulder the risks. Various intervenors have noted in the consultation process that the impacts from current shipping levels have reached their level of acceptability in some communities. We recommend that NPC accounts for the evidence brought forward by the scientific community and the resource users in the Nunavut Settlement Area by restricting future shipping based project proposals in the most vulnerable marine areas of Nunavut through the establishment of Protected Areas that prohibit incompatible uses. Many of these areas are identified both by science and IQ, and management options can be applied to preserve the ecological and cultural values of the areas without compromising economic development and safe navigation. Seasonal restrictions, setbacks, anchoring restrictions, icebreaking restrictions and avoidance areas are measures that should be applied in the NLUP to ensure industrial activities are planned sustainably and account for ecological and cultural values of significant areas. New projects being proposed to NPC will have to conform to the restrictions imposed in the new plan. The imposition of new restrictions will not necessitate any new regulation or implementation support from responsible authorities such as Transport Canada and Canadian Coast Guard because the prohibited activities will simply not be allowed to proceed if they need to be approved by NPC (subject to a ministerial exemption). The establishment of Protected Areas that prohibit shipping activities will have no

jurisdiction over current shipping practices, community resupply, coast guard activities, or safe navigation.

“Overlooking the importance of vulnerable marine areas and not assigning adequate protection measures would be a major flaw in planning the use of land and sea in Nunavut. We look forward to broader discussions on uses of significant marine areas that have high ecological value, but are also highly important to communities, for the purpose of finding the balance between economic development and conservation in the marine portion of the Nunavut Settlement Area.

In this regard, we propose that:

- a) Oil and gas exploration, commercial fisheries and icebreaking be prohibited in EBSAs, polynyas, and caribou sea-ice crossings.
- b) Protected Areas and appropriate Special Management Areas be put in place to restrict activities based on their identified values.
- c) Linear infrastructure corridors be removed from Map A, and placed in an Appendix to the NLUP if necessary.
- d) Once the ecological and culturally significant areas are properly identified and designated as Protected Areas or Special Management areas, the remaining marine habitats be designated as Mixed Use.”

In 2016, the GN<sup>1</sup> stated:

**“... the GN supports the current approach where Transportation Infrastructure is considered to conform to the requirements of the Plan in all areas of the NSA except where explicitly prohibited;** understanding that three of the four ‘proposed corridors’ transecting conflicting designations may have existing rights or are mid-NIRB assessment, and nonconforming corridors may be approved by applying for a Plan Amendment or a ministerial exemption under *NuPPAA*.

**“The GN ... agrees that NPC should be engaged in early planning processes for all future infrastructure investments.** Further, rather than having proposed, conceptual corridors represented on Schedule A of the Plan, NPC should only identify those corridors that are approved or in existence. Instead, these corridors should be assigned to Schedule B.

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<sup>1</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

“... It is vital that NPC develop a Plan that addresses community and other planning stakeholder concerns regarding marine transportation while: (a) respecting any limitations to its authority to impose restrictions; (b) coordinating and avoiding conflict with paralleling regulatory processes/tools/legislation; and [c] imposes restrictions that are not unduly prohibitive where terms may adequately address planning stakeholder concerns.

...

“... the Plan should likely approach general shipping and project-related shipping separately; with Plan designations/terms potentially applicable to the latter category, while general shipping concerns may be addressed in the Plan by providing information to planning stakeholders regarding specific issues. The GN recommends that NPC continue to explore indirect methods of addressing marine shipping concerns through its role in the Nunavut Marine Council, as well as by coordinating with regulatory authorities in ensuring shipping concerns are adequately addressed in processes paralleling the planning framework:

- *Notice to Mariners, Areas to be Avoided* (ATBAs) listed with the International Maritime Organization (IMO).
- Canadian Coast Guard development of a *Northern Marine Transportation Corridors Initiative*.
- GN’s Department of Economic Development and Transportation’s review of its Travel and Tourism Act, and potential development of Restricted Tourism Areas.”

### Considerations

The NPC notes that some participants support this option. The GN’s comment on Schedule B is addressed under Option 4 below.

#### 5.3.2.2.6.4 Option 4 - Valued Component

In 2016, the GN<sup>1</sup> stated:

“... rather than having proposed, conceptual corridors represented on Schedule A of the Plan, NPC should only identify those corridors that are approved or in existence. Instead, these corridors should be assigned to Schedule B.

...

“... the Plan should likely approach general shipping and project-related shipping separately; with Plan designations/terms potentially applicable to the latter category, while general shipping concerns may be

addressed in the Plan by providing information to planning stakeholders regarding specific issues.”

### Considerations

The NPC notes that the GN supports this option for proposed and conceptual corridors.

#### 5.3.2.2.7 NPC Recommendation - MU

Given that:

### TRANSPORTATION AND COMMUNICATION CORRIDORS:

The overall importance of the issue is considered HIGH.

### MARINE SHIPPING CORRIDORS:

i.	Certainty of the Identified Geographic Boundaries	MODERATE
ii.	Environmental and Cultural Importance	<div>LOW (Corridors <u>not</u> overlapping with significant environmental or cultural features)</div> <div>HIGH (Corridors overlapping with significant environmental or cultural features)</div>
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	HIGH
iv.	Sensitivity to Impacts	<div>LOW and YEAR-ROUND (Corridors <u>not</u> overlapping with significant environmental or cultural features)</div> <div>MODERATE and YEAR-ROUND (Corridors overlapping with significant environmental</div>

<sup>1</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

		or cultural features)
v.	<b>Potential Value of Including Guidance in the NLUP</b>	<b>MODERATE</b>

#### General Recommendation

It is recommended that the NLUP expressly provide:  
*"The plan should be interpreted and applied in a way that respects Canada's international rights and obligations including under the United Nations Convention on the Law of the Sea, 1982, customary international law and any other binding international instrument."*

#### Recommendation for Marine Shipping Corridors, including the Northern Marine Transportation Corridors Initiative

Option 3 is recommended:

- Does not restrict access.
- Identified area not discussed in NLUP, and boundary of identified area not shown on Map A or B.

**Rationale:** Option 3 was selected as the MU designation for marine shipping corridors is generally supported by participants and, for all types of marine shipping, there are also seasonal restrictions and setbacks for some LU and CU areas. Option 3 was also selected due to lack of comment regarding inclusion of the NMTCI in the NLUP.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **MARINE SHIPPING CORRIDORS, INCLUDING THE NORTHERN MARINE TRANSPORTATION CORRIDORS INITIATIVE**

#### **MIXED USE**

#### 5.3.2.2.8 Summary of Revisions

#### KRLUP and NBRLUP

Both the KRLUP and NBRLUP implement the concept of transportation "corridor" as a general policy for marine and terrestrial transportation routes. Both plans require that all parties wishing to develop a transportation and/or communication corridor must submit a plan amendment application including an assessment of

alternative routes as well as a cumulative effects assessment. The plans also contain a guideline for the assessment of transportation and communication corridor proposals. In addition, the existing regional land use plans recommend an improved communications system to reduce interference of marine shipping with people and wildlife.

#### 2012, 2014 and 2016 DNLUP

Marine shipping was not specifically discussed as a standalone issue in either the 2012 or 2014 DNLUP. However, in the 2014 DNLUP, shipping was restricted in some areas and setbacks were also included.

In 2016, the DNLUP included recommendations on where nautical charting efforts should focus and improved notices to mariners on environmental areas of importance. The 2016 DNLUP prohibited shipping year-round in some areas and also included seasonal restrictions and setbacks. There were no restrictions on marine shipping for community resupply or emergency response.

#### 2021 DNLUP

For all types of marine shipping, there are seasonal restrictions and setbacks for some LU and CU areas. The 2021 DNLUP also includes the exemption that the shipping restrictions do not apply to vessels engaged in community resupply or emergency response.

## 5.4 Commercial Fisheries

### 5.4.1 Importance of Commercial Fisheries

Besides ecological importance, Nunavut fisheries play an important role in the regional economy as they improve food security, provide employment opportunities, and increase the overall socio-economic well-being of Nunavummiut.

Terriplan's 2008 Socio-Demographic and Economic Sector Analysis<sup>1</sup> stated:

"... Commercial fisheries are an emerging sector in Nunavut's economy. In 2005 it was estimated that the industry added between \$12 and \$14 million annually to the territory's economy and creates 300 seasonal jobs. Value-added processing plants in Nunavut are responsible

<sup>1</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

for the greatest contribution. Currently, there are three main species being fished for commercial purposes in the territory – turbot, shrimp and Arctic char.

...

“... Activity in Nunavut’s commercial fishing industry is predicted to grow. By the year 2013 it is expected to bring in \$85 million to the economy. Efforts to achieve this growth include investments in marine infrastructure, such as ports, docks and harbour facilities, as well as training programs that address the need for a skilled fishing workforce. In addition to expanding the current fisheries, exploration into new fish species will occur.”

In 2016, the GN’s 2016-2020 Nunavut Fisheries Strategy<sup>1</sup> stated:

“The total landed value in 2015 of the 3 main commercial species harvested (turbot, shrimp, Arctic char) was \$86.3 million.”

At the 2017 Qikiqtani regional public hearing,<sup>2</sup> a community participant from Pangnirtung noted:

“... There are many areas that we fish at in the Cumberland Sound. For commercial activities, there was a study done so that there can be economic opportunities for Inuit who don’t have regular jobs, so they can do commercial fishing. The numbers have been increasing. This is for regular community members who don’t have regular jobs, so that they can have some source of income. ...”

### Considerations

Participants generally agreed on the overall high importance and priority of commercial fisheries. Commercial fisheries is recognized as an important issue to be included in the NLUP.

Commercial fisheries are an emerging sector in Nunavut’s economy, with turbot, shrimp and Arctic char currently being harvested. Activity in Nunavut’s commercial fishing industry is predicted to grow.

#### ***The overall importance of COMMERCIAL FISHERIES is considered HIGH because:***

- *They have been identified by many participants as a priority;*
- *They have a high cultural value;*
- *They have a high economic value; and*
- *They have a high ecosystemic value.*

## 5.4.2 Types of Areas Important to Commercial Fisheries

Participants identified a variety of fish habitats which have been considered in previous sections of this 2021 O&R for their ecological importance (see Fish section in Chapter 2) or for their importance to the communities for subsistence fisheries (see Community Areas of Interest section in Chapter 4). Therefore, Chapter 5 only focuses on areas identified as being used or having the potential for the purpose of commercial fisheries development.

In 2013, the GoC<sup>3</sup> stated:

“... DFO strongly suggests protecting the following commercial fishing areas through a land use designation:

- **The Cumberland Sound Turbot Management Area (CSTMA) ...**

...

- **Inshore Areas**

DFO notes that there has been a lot of interest, and some exploratory fisheries, in the inshore areas around Qikiqtarjuaq and Clyde River for Greenland Halibut (turbot), and a lot of recent interest in doing an exploratory fishery for Greenland Halibut (turbot) in Jones Sound near Grise Fiord. There has also been both past and recent interest in exploratory Greenland Halibut (turbot) fisheries from the community of Pond Inlet.

- **NAFO Divisions 0A and B0**

DFO notes that Nunavut has substantial Greenland Halibut (turbot) allocations in these areas, encompassing both the offshore in Davis Strait and Baffin Bay (identified as Zone 1 in Article 15 of the Nunavut Land Claims Agreement) and the inshore inside the Nunavut Settlement Area Boundary. Please see Figure 3 for a map showing NAFO Divisions 0A and 0B.

...

- **The Schedule V of the Northwest Territories Fishery Regulations list of water bodies that can be fished for commercial purposes in Nunavut**

<sup>1</sup> [https://assembly.nu.ca/sites/default/files/TD-277-4\(3\)-EN-Department-of-Environment's-Nunavut-Fisheries-Strategy,-2016-2020.pdf](https://assembly.nu.ca/sites/default/files/TD-277-4(3)-EN-Department-of-Environment's-Nunavut-Fisheries-Strategy,-2016-2020.pdf)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>3</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

...

- **Shrimp Fishing Areas (SFAs)**

..."

The following areas are considered separately below: char commercial fishing areas; turbot commercial fishing areas; and shrimp commercial fishing areas.

#### 5.4.2.1 Char Commercial Fishing Areas

Arctic char is an abundant, accessible and predictable food resource highly valued by Inuit. The commercial fishery of Arctic char is considered a promising means to improve the livelihoods of northern communities.

Most commercial and exploratory fisheries (i.e., test fisheries pending commercial licensing) for Arctic char target the anadromous form and are conducted near river mouths during the late summer upstream migration. During the winter months, commercial fishing is conducted under ice in lakes.

##### 5.4.2.1.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
Arctic Marine Workshop, 1991, 2013	594,466	17
GoC, 2013 (Schedule V)	279 points	NA

The geographic boundaries of char areas of abundance<sup>1</sup> currently considered for commercial fisheries potential were originally identified during the 1991 Arctic Marine Workshop.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

"There is little available information on specific areas in Nunavut that may be considered important habitat for freshwater and marine fish. The summary figure represents known areas of Arctic char abundance, coral and sponges, common areas of occurrence for Greenland halibut, Greenland shark, Icelandic scallop and shrimp (Figure 1-2)."

In 2013, the GoC<sup>3</sup> stated:

"Schedule V of the Northwest Territories Fishery Regulations <http://lawslois.justice.gc.ca/eng/regulations/C.R.C.,c.847/page-13.html#-14> includes a list of water bodies that can be fished for commercial purposes in Nunavut. Specifically, for Nunavut refer to the water bodies and their details that are listed for Regions IV, V, and VI."

#### Considerations

The NPC considers there to be low certainty regarding the geographic boundaries of char areas of abundance. The NPC considers there to be high certainty regarding the Schedule V locations, but the NPC only has point locations for these waterbodies. The Schedule V waterbodies include char as well as other fisheries, and all locations are considered here.

The geographic boundaries considered for char commercial fisheries areas are based on the char areas of abundance data from the 1991 Arctic Marine Workshop and the listed water bodies fished for commercial purposes submitted by DFO in 2013.

***The certainty of the identified geographic boundaries of CHAR AREAS OF ABUNDANCE is considered LOW because:***

- *The areas are identified with low precision/scale;*
- *There is agreement among participants regarding the boundaries; and*
- *The information is not current.*

***The certainty of the identified geographic boundaries of SCHEDULE V (REGIONS IV, V, VI) LISTING CHAR COMMERCIAL AND EXPLORATORY FISHERY WATER BODIES is considered HIGH because:***

- *The areas are identified with high precision/scale;*
- *There is agreement among participants regarding the boundaries; and*
- *The information is current.*

##### 5.4.2.1.2 Environmental and Cultural Importance

Some sites are located in the boundaries of the North Baffin Planning Region. The NBRLUP identifies fisheries as influencing the regional mixed economy.

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-140E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-140E)

<sup>3</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)



Some sites are located in the boundaries of the Keewatin Planning Region. The KRLUP identifies fisheries as important to the economic well-being of the region.

In 2018, the QWB<sup>1</sup> stated:

“Arctic Char and other fish are staple foods for Inuit. Fish are extremely important to the health, culture and economy of Inuit throughout Qikiqtaaluk Region. ...

...

“... Although the sea-run species that Inuit most commonly fish in these rivers and lakes is Arctic char, Inuit also harvest other species where they are present, including but not limited to: landlocked Arctic char, Arctic cisco (whitefish), lake trout, landlocked cod and fish of uncertain species (e.g., ivisaruk in Stanwell Fletcher Lake).”

### Considerations

Participants broadly agreed on the high environmental and cultural importance of char commercial fishing areas.

Char areas are important to the ecology of Nunavut. Arctic char exhibit both anadromous and lacustrine life history types, although the majority of Arctic char populations, especially at more northern latitudes, are anadromous. Arctic char spawn in lakes or rivers where there is gravel or other similar substrate, and char eggs require moving water to pass over them. In addition, Arctic char exhibit the most northerly distribution of any freshwater fish. They also play an essential role in the Nunavut food chain and are a key prey species for many marine mammals.

Char areas are also important to culture in Nunavut. Arctic char are a valuable commercial species harvested throughout their range. Arctic char are also sought after by recreational anglers and are commonly harvested as a food fish in Nunavut. Char are also a key country food for most Nunavummiut.

The NPC notes that both commercial and subsistence fisheries of Arctic char can coexist, and the commercial fishing areas, besides their economic relevance, are also important to Inuit culture.

***The environmental and cultural importance of CHAR AREAS is considered HIGH because:***

- *The importance of the areas to the communities for fishing and/or trapping is high; and*
- *The importance of the areas to wildlife is high because:*
  - *Alternative habitat is unlikely to be available;*
  - *The areas are essential to the biological productivity of wildlife; and*
  - *The habitat supports concentrations of wildlife.*

5.4.2.1.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
DFO, 2013	594,466	101,932	11,193	6,588

Parnautit,<sup>2</sup> the GN’s Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>3</sup> the GN’s Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

In 2008, Terriplan’s Socio-Demographic and Economic Sector Analysis<sup>4</sup> stated:

“... There are three plants in Nunavut that process Arctic char, creating a wide range of products including fresh or frozen, fillets, steaks, smoked and peppered jerky. Together these plants produce just over 100,000 kg of char per year.

...

“In Nunavut, sport fishing for arctic char is a tourism-related activity. Char – both sea-run and freshwater – can be found virtually everywhere in Nunavut. ...”

### Considerations

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-210E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>3</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>4</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in char areas is considered moderate.

***The potential for non-renewable resources, transportation and linear infrastructure in CHAR AREAS is considered MODERATE because:***

- *The areas have limited known mineral potential or oil and gas significant discovery;*
- *The areas have moderate potential for transportation and linear infrastructure development;*
- *The areas have some existing rights for non-renewable resource land use;*
- *The areas have subsurface IOL parcels; and*
- *The areas are relatively large.*

#### 5.4.2.1.4 Sensitivity to Impacts

In 2018, the QWB<sup>1</sup> stated:

“Sea-run fish must be protected from potential development impacts:

- in the lakes and rivers where Inuit harvest them,
- in the downstream rivers and lakes, and the coastal marine waters through which the fish migrate seasonally, and
- upstream from the fishing areas where development could have detrimental impacts on water flow, sedimentation and effluent on harvested fish and their habitats.”

#### Considerations

Participants broadly agreed that the sensitivity of char areas to impacts from incompatible uses is moderate and year-round. Like for other fish species, it is understood that incompatible uses have the potential to negatively impact char populations.

***The sensitivity of CHAR COMMERCIAL FISHING AREAS to impacts is considered MODERATE and YEAR-ROUND because:***

- *Char are moderately sensitive to disturbance when using the areas;*
- *Char use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 5.4.2.1.5 Other Regulatory Tools

In 2016, the GoC<sup>2</sup> stated:

“In the management of fisheries, established fisheries management principles and DFO policies apply. These take into account the principles of conservation and the Precautionary Approach. ...

“Additional safeguards for fisheries are found in the **Fisheries Act**, which requires that projects avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada. This applies to work being conducted in or near waterbodies that support fish that are part of, or that support, a commercial, recreational or Aboriginal fishery. In the **Fisheries Act**, ‘fish’ is defined to include marine mammals.”

#### Considerations

The great importance of char to the economy and ecology of Nunavut is well-known, and there are other regulatory mechanisms in place to protect fish stocks and fish habitat.

There is a very rigorous legislative system around fish, fish habitat and fisheries management in Nunavut and Canada. Canada’s *Fisheries Act* and the *Fishery (General) Regulations* are the main regulatory tools for fisheries management in the Canadian Arctic, including Nunavut. In addition, Nunavut fisheries continue to be managed under the NWT fishery regulations.

***The potential value of including guidance in the NLUP for CHAR COMMERCIAL FISHING AREAS is considered LOW because:***

- *The issue is addressed by other regulatory authorities; and*
- *There is moderate overlap of existing legislation and regulations with NPC jurisdiction.*

#### 5.4.2.1.6 Policy Options for Char Commercial Fishing Areas

In 2013, the GoC<sup>3</sup> provided a list of commercial fishing areas for different species and stated:

#### “Consider Protecting Commercial Fishing Areas by Land Use Designation

“The DNLUP plan identifies most important char and Greenland halibut (turbot) commercial fishing areas, but they are only assigned a recommendation and not a land use designation. Since recommendations are not

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-210E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

conformity requirements and therefore are neither legally binding nor enforceable, DFO strongly suggests protecting the following commercial fishing areas through a land use designation:

...

- **The Schedule V of the Northwest Territories Fishery Regulations list of water bodies that can be fished for commercial purposes in Nunavut**

..."

In 2013, the GoC<sup>1</sup> also noted:

"DFO strongly suggests that commercial/exploratory and important subsistence fisheries are given land use designations. While the designations of commercial and subsistence fishing areas may overlap, it is recommended that important subsistence char fishing areas be explicitly protected."

### Considerations

The NPC has not categorized the above comments according to the options as the submission provides general information regarding the development of the NLUP. However, as the GoC suggests that fishing areas be protected by a land use designation, the NPC notes that the GoC could have been recommending the equivalent of a LU or CU designation for these areas.

#### 5.4.2.1.6.1 Option 1 - Limited Use

In 2015, the Aqigiq HTO<sup>2</sup> stated:

"... Chesterfield Inlet is in the process of developing a commercial fishery for Arctic Char and have already invested greatly in a local fish plant. Char spawning grounds must be protected to ensure that this economic development is not threatened by incompatible land uses. ..."

### Considerations

The NPC notes that the Aqigiq HTO comment is best characterized as supporting this option for one important commercial char area. The NPC notes that the GoC's 2013 comment at the beginning of this policy options section could also be interpreted as supporting this option.

#### 5.4.2.1.6.2 Option 2 - Conditional Use

No participant recommended this option. However, the NPC notes that the GoC's 2013 comment at the beginning of this policy options section could be interpreted as supporting this option.

#### 5.4.2.1.6.3 Option 3 - Mixed Use

No participant recommended this option.

#### 5.4.2.1.6.4 Option 4 - Valued Component

In 2015, the GoC<sup>3</sup> stated:

"Char, Turbot and Shrimp: While some char and turbot areas of abundance have been identified in the DNLUP, Canada recommends that shrimp areas of abundance, in addition to those of char and turbot, also be identified under Schedule B of the DNLUP in order to provide important information for proponents and the public to consider."

### Considerations

The NPC notes that the GoC supports char areas of abundance continuing to be identified on Map B as VSECs.

#### 5.4.2.1.7 NPC Recommendation - VSEC

Given that:

### COMMERCIAL FISHERIES:

**The overall importance of the issue is considered HIGH.**

### CHAR COMMERCIAL FISHING AREAS:

i.	<b>Certainty of the Identified Geographic Boundaries</b>	<b>LOW</b> (Char Areas of Abundance) <b>HIGH</b> (Schedule V)
ii.	<b>Environmental and Cultural Importance</b>	<b>HIGH</b>
iii.	<b>Potential for Non-Renewable Resources, Transportation and Linear Infrastructure</b>	<b>MODERATE</b>
iv.	<b>Sensitivity to Impacts</b>	<b>MODERATE and YEAR-ROUND</b>

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Aqigiq HTO, 2015-09-18. NPC Public Registry File # 14-103E)

<sup>3</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

v.	Potential Value of Including Guidance in the NLUP	LOW
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## Recommendation for Char Commercial Fishing Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify char areas of abundance and Schedule V list of commercial and exploratory fishery water bodies as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 was selected to reflect the interest of developing commercial fishery activities in these areas.

### LAND USE PLAN POLICY RECOMMENDATION

## **CHAR AREAS OF ABUNDANCE AND COMMERCIAL FISHING AREAS**

### **VALUED SOCIO-ECONOMIC COMPONENT**

#### 5.4.2.1.8 Summary of Revisions

### KRLUP and NBRLUP

In the existing regional land use plans, there are no specific designations or policies for commercial fisheries.

### 2012, 2014 and 2016 DNLUP

The 2012 DNLUP mentioned char harvesting. To manage commercial fisheries, fish areas of abundance were assigned Recommendation ESED-R1. The specific recommendation stated: "Project Proposals located in an area of commercial fishery potential should take into account impacts that may reduce the potential of the area."

In the 2014 and 2016 DNLUP, char areas of abundance were designated MU, but were recognized geographically as areas of a VSEC. The 2014 DNLUP also gave direction to regulatory authorities to mitigate impacts on the areas so that impact assessments on

project proposals must consider the habitat of these valuable fish.

### 2021 DNLUP

In the 2021 DNLUP, char areas of abundance and commercial fishing areas are identified as known VSECs.

## 5.4.2.2 Turbot Commercial Fishing Areas

### 5.4.2.2.1 Defining Geographic Boundaries

Source	Area(km <sup>2</sup> )	% NSA & OLFIZ
GoC, 2013	26,167	1
QWB/North Atlantic Fishery Organization (NAFO), 2018	132,938	4
Arctic Marine Workshop, 1991	252,654	7

The turbot commercial fishery (or Greenland Halibut) occurs within NAFO Subarea 0. Subarea 0 is divided into a northern region, Division 0A (Baffin Bay) which extends from 78°10'N to 66°15'N, and a southern region, Division 0B (Davis Strait) which extends from 66°15'N to 60°12'N.

The geographic boundaries of turbot areas of abundance<sup>1</sup> currently considered for commercial fisheries potential were provided as part of the 1991 Arctic Marine Workshop data.

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>2</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

"There is little available information on specific areas in Nunavut that may be considered important habitat for freshwater and marine fish. The summary figure represents known areas of Arctic char abundance, coral and sponges, common areas of occurrence for Greenland halibut, Greenland shark, Icelandic scallop and shrimp (Figure 1-2)."

In 2013, the GoC<sup>3</sup> provided the geographic boundaries of the Cumberland Sound Turbot Management Area (CSTMA).

### Considerations

The NPC considers there to be low certainty regarding the geographic boundaries of turbot areas of abundance. The NPC considers there to be high certainty regarding

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-140E)

<sup>2</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-140E)

<sup>3</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

the geographic boundaries of the CSTMA and NAFO Subarea 0.

The geographic boundaries considered for turbot commercial fisheries areas are based on the turbot areas of abundance data from the 1991 Arctic Marine Workshop and the CSTMA boundaries submitted by DFO in 2013.

***The certainty of the identified geographic boundaries of TURBOT AREAS OF ABUNDANCE is considered LOW because:***

- The areas are identified with low precision/scale;*
- There is moderate agreement among participants regarding the boundaries; and*
- The information is not current.*

***The certainty of the identified geographic boundaries of the CSTMA and NAFO SUBAREA 0 is considered HIGH because:***

- The areas are identified with good precision/scale;*
- There is good agreement among participants regarding the boundaries; and*
- The information is current.*

5.4.2.2.2 Environmental and Cultural Importance

Some sites are located in the boundaries of the North Baffin Planning Region. The NBRLUP identifies fisheries as influencing the regional mixed economy.

Some sites are located in the boundaries of the Keewatin Planning Region. The KRLUP identifies fisheries as important to the economic well-being of the region.

In 2015, the GN<sup>1</sup> stated:

“... Cumberland Sound has been identified as an important fishing area for the community of Pangnirtung. ...”

In 2016, the GN’s 2016-2020 Nunavut Fisheries Strategy<sup>2</sup> highlighted:

“Landed prices for turbot in 2014 averaged \$6,500 per tonne, resulting in an overall landed value for this fishery of \$73 million in 2014-15. Market prices for turbot increased slightly in 2015, averaging \$7,000 per tonne, resulting in an overall landed value for this fishery of \$78 million in 2015-2016.”

<sup>1</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)  
<sup>2</sup> [https://assembly.nu.ca/sites/default/files/TD-277-4\(3\)-EN-Department-of-Environment's-Nunavut-Fisheries-Strategy,-2016-2020.pdf](https://assembly.nu.ca/sites/default/files/TD-277-4(3)-EN-Department-of-Environment's-Nunavut-Fisheries-Strategy,-2016-2020.pdf)

At the 2017 Qikiqtani regional public hearing,<sup>3</sup> a community participant from Pangnirtung noted:

“... this [area] is very important to us. It has a million dollars right in there, the Cumberland Sound. ...”

**Considerations**  
Participants broadly agreed on the high environmental and cultural importance of turbot commercial fishing areas.

It is understood that turbot habitats have important ecological value. Some of the areas where turbot fishing occurs are also used by marine mammals, birds, fishes, and invertebrates such as corals, sponges and sea pens.

It is also understood that the fishing areas have increased interest for community use. Unlike char, turbot is not a species traditionally harvested by Inuit. However, Inuit are increasingly engaged in the commercial harvesting of turbot, providing an important source of income and employment for the communities of Baffin Bay.

***The environmental and cultural importance of TURBOT COMMERCIAL FISHING AREAS is considered HIGH because:***

- The importance of the areas to the communities for hunting, fishing and/or trapping is high; and*
- The importance of the areas to wildlife is high because:*
  - Alternative habitat is unlikely to be available;*
  - The areas are essential to the biological productivity of wildlife; and*
  - The habitat supports concentrations of wildlife.*

5.4.2.2.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
GoC, 2013	26,167	1,983	0	1
QWB/NAFO, 2018	132,938	338	7.14	1
Arctic Marine	252,654	675	19.3	0

<sup>3</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)



Workshop, 1991				
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Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

In 2008, Terriplan's Socio-Demographic and Economic Sector Analysis<sup>3</sup> identified potential for undersea oil and gas in the Davis Strait area in general.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in turbot commercial fishing areas is considered moderate.

***The potential for non-renewable resources, transportation and linear infrastructure in TURBOT COMMERCIAL FISHING AREAS is considered MODERATE because:***

- *The areas have limited known mineral potential or oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively large.*

#### 5.4.2.2.4 Sensitivity to Impacts

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>4</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

"The management of commercial fishing areas should take into consideration other human activities that could potentially impact the commercial fishery for Greenland halibut."

At the 2017 Qikiqtani regional public hearing,<sup>5</sup> community participants from Pangnirtung noted:

"If there were to be an oil development close to the glacier or if there were to be any mineral development, it would flow down to the sea for sure from that area, so that is risky. If there were to be any mineral development or oil and gas development in our surrounding area, the water will flow from that particular site. As I mentioned earlier, anything coming off of the melting glacier would flow down through the rivers and down to the sea. What would be impacted the most would be the halibut and turbot. ..."

### Considerations

Participants broadly agreed that the sensitivity of turbot commercial fishing areas to impacts from incompatible uses is moderate and year-round. Like for other fish species, it is understood that incompatible uses have the potential to negatively impact turbot populations.

***The sensitivity of TURBOT COMMERCIAL FISHING AREAS to impacts is considered MODERATE and YEAR-ROUND because:***

- *Turbot commercial fishing areas are partially sensitive to disturbance when these areas are used;*
- *Turbot use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 5.4.2.2.5 Other Regulatory Tools

In 2016, the GoC<sup>6</sup> stated:

"In the management of fisheries, established fisheries management principles and DFO policies apply. These take into account the principles of conservation and the Precautionary Approach. ...

"Additional safeguards for fisheries are found in the **Fisheries Act**, which requires that projects avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada. This applies to work being conducted in or near waterbodies that support fish that are part of, or that support, a commercial, recreational or Aboriginal fishery. In the **Fisheries Act**, 'fish' is defined to include marine mammals."

### Considerations

There is a very rigorous legislative system around fish, fish habitat and fisheries management in Nunavut and Canada. Canada's *Fisheries Act*, the *Fishery (General)*

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

<sup>4</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-138E)

<sup>5</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

<sup>6</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)



Regulations and the Atlantic Fishery Regulations, as well as the Oceans Act and SARA, are the main pieces of federal legislation under which the Subarea 0 Greenland Halibut fishery is managed.

In addition, DFO has developed a national Sustainable Fisheries Framework to promote an ecosystem-based approach to fisheries management. This policy framework applies to the Subarea 0 Greenland Halibut fishery.

It is noted that due to the existing and expanding importance of the CSTMA, a land use restriction on oil and gas would be appropriate.

**The potential value of including guidance in the NLUP for the CSTMA is considered MODERATE because:**

- The issue is partially addressed by other regulatory authorities; and
- There is high overlap of existing legislation and regulations with NPC jurisdiction.

**The potential value of including guidance in the NLUP for OTHER TURBOT AREAS is considered LOW because:**

- The issue is addressed by other regulatory authorities; and
- There is moderate overlap of existing legislation and regulations with NPC jurisdiction.

5.4.2.2.6 Policy Options for Turbot Commercial Fishing Areas

In 2013, the GoC<sup>1</sup> provided a list of commercial fishing areas for different species and stated:

**“Consider Protecting Commercial Fishing Areas by Land Use Designation**

“The DNLUP plan identifies most important char and Greenland halibut (turbot) commercial fishing areas, but they are only assigned a recommendation and not a land use designation. Since recommendations are not conformity requirements and therefore are neither legally binding nor enforceable, DFO strongly suggests protecting the following commercial fishing areas through a land use designation:

- The Cumberland Sound Turbot Management Area (CSTMA) ...
- ...

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)  
<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

- **Inshore Areas**  
DFO notes that there has been a lot of interest, and some exploratory fisheries, in the inshore areas around Qikiqtarjuaq and Clyde River for Greenland Halibut (turbot), and a lot of recent interest in doing an exploratory fishery for Greenland Halibut (turbot) in Jones Sound near Grise Fiord. There has also been both past and recent interest in exploratory Greenland Halibut (turbot) fisheries from the community of Pond Inlet.
- **NAFO Divisions 0A and B0**

DFO notes that Nunavut has substantial Greenland Halibut (turbot) allocations in these areas, encompassing both the offshore in Davis Strait and Baffin Bay (identified as Zone 1 in Article 15 of the Nunavut Land Claims Agreement) and the inshore inside the Nunavut Settlement Area Boundary. Please see Figure 3 for a map showing NAFO Divisions 0A and 0B.

...”

**Considerations**

The NPC has not categorized the above comment according to the options as the submission provides general information regarding the development of the NLUP. However, as the GoC suggests that commercial fishing areas be protected by a land use designation, the NPC notes that the GoC could have been recommending the equivalent of a LU or CU designation for these areas.

**5.4.2.2.6.1 Option 1 - Limited Use**

In 2015, the GN<sup>2</sup> supported a designation in the 2014 DNLUP which prohibited oil and gas:

“... Cumberland Sound has been identified as an important fishing area for the community of Pangnirtung. The land use designation of Special Management Area supports the management objectives of this area.”

At the 2017 Qikiqtani regional public hearing,<sup>3</sup> community participants from Pangnirtung noted the importance of the CSTMA and identified concerns regarding oil and gas activities in the area.

<sup>3</sup> (Nunavut Planning Commission (NPC), 2017-07-14. NPC Public Registry File # 16-166E)

In 2018, NTI and the RIAs<sup>1</sup> stated:

“1. NTI and the RIAs recommend that NPC retain the Special Management Area designation for the Cumberland Sound Turbot Area.”

Considerations

The NPC notes that the GN and NTI/RIAs request to retain the SMA designation was in response to the 2014 and 2016 DNLUP which included prohibitions as a SMA, and under the current designation framework, this corresponds to a LU designation.

Some participants recommended this option identify areas of interest such as Cumberland Sound and Eclipse Sound where a mix of commercial and subsistence fisheries take place. Chapter 4 addresses these community areas of interest.

The NPC notes that the GoC’s 2013 comment at the beginning of this policy options section could also be interpreted as supporting this option.

5.4.2.2.6.2 Option 2 - Conditional Use

No participant recommended this option. However, the NPC notes that the GoC’s 2013 comment at the beginning of this policy options section could be interpreted as supporting this option.

5.4.2.2.6.3 Option 3 - Mixed Use

In 2016, the GoC<sup>2</sup> stated:

“The Government of Canada supports the current mixed-use area designation of Turbot Areas of Abundance in the draft Nunavut Land Use Plan. In the management of fisheries, including the fisheries that are within Turbot Areas of Abundance, established fisheries management principles and Fisheries and Oceans Canada (DFO) policies will apply, and these principles and policies take into account the principles of conservation and the Precautionary Approach. ...”

Considerations

The NPC notes the GoC supports this option for turbot areas of abundance. The NPC also notes that comments relating to the CSTMA differ from comments relating to turbot areas of abundance.

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

5.4.2.2.6.4 Option 4 - Valued Component

In 2015, the GoC<sup>3</sup> stated:

“Char, Turbot and Shrimp: While some char and turbot areas of abundance have been identified in the DNLUP, Canada recommends that shrimp areas of abundance, in addition to those of char and turbot, also be identified under Schedule B of the DNLUP in order to provide important information for proponents and the public to consider.”

Considerations

The NPC notes that the GoC supports turbot areas of abundance continuing to be identified on Map B as VSECs.

5.4.2.2.7 NPC Recommendation - LU/VSEC

Given that:

COMMERCIAL FISHERIES:  
The overall importance of the issue is considered HIGH.

TURBOT COMMERCIAL FISHING AREAS:

i.	Certainty of the Identified Geographic Boundaries	HIGH (CSTMA and NAFO SUBAREA 0) LOW (Turbot Areas of Abundance)
ii.	Environmental and Cultural Importance	HIGH
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	MODERATE (CSTMA) LOW (Other Turbot Areas)

Recommendation for the Cumberland Sound Turbot Management Area

Option 1 is recommended:

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)  
<sup>3</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

- May include conditions to guide land use.
- Identified area to be included on Map A.

**Rationale:** Option 1 was recommended to reflect comments received from government agencies and the community and to provide management direction to maintain the integrity of the fish habitat.

#### LAND USE PLAN POLICY RECOMMENDATION

### **CUMBERLAND SOUND TURBOT MANAGEMENT AREA**

#### **LIMITED USE**

##### **Prohibited Incompatible Uses:**

- Oil and gas exploration and production
- Disposal at sea

#### **Recommendation for Other Turbot Commercial Fishing Areas (Turbot Areas of Abundance and NAFO Subarea 0 Turbot Management Areas)**

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify turbot areas of abundance and Subarea 0 of NAFO as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended to reflect comments received from government agencies and the community and given that they are broad areas of abundance with limited information available to formulate specific management options.

#### LAND USE PLAN POLICY RECOMMENDATION

### **OTHER TURBOT COMMERCIAL FISHING AREAS (TURBOT AREAS OF ABUNDANCE AND NAFO SUBAREA 0 TURBOT MANAGEMENT AREAS)**

## VALUED SOCIO-ECONOMIC COMPONENT

### 5.4.2.2.8 Summary of Revisions

#### **KRLUP and NBRLUP**

In the existing regional land use plans, there are no specific designations or policies for commercial fisheries.

#### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP mentions turbot harvesting. To manage commercial fisheries, fish areas of abundance were assigned Recommendation ESED-R1. The specific recommendation stated: "Project Proposals located in an area of commercial fishery potential should take into account impacts that may reduce the potential of the area."

Both the 2014 and 2016 DNLUP assigned a SMA designation to the CSTMA that prohibited oil and gas exploration and production and related research; non-exploitative scientific research was exempted in the 2016 DNLUP. Turbot areas of abundance were designated MU, but were recognized geographically as areas of a VSEC. The 2014 DNLUP also gave direction to regulatory authorities to mitigate impacts on the areas so that impact assessments on project proposals must consider the habitat of these valuable fish. NAFO areas were not included in 2014 or 2016 DNLUP.

#### **2021 DNLUP**

The 2021 DNLUP assigns a LU designation to the CSTMA that prohibits incompatible uses. In addition, the 2021 DNLUP identifies turbot areas of abundance and commercial fishing areas as known VSECs.

### 5.4.2.3 Shrimp Commercial Fishing Areas

#### 5.4.2.3.1 Defining Geographic Boundaries

Source	Area (km <sup>2</sup> )	% NSA & OLFIZ
DFO, 2013	201,460	6

The 2012 Nunavut Wildlife Resource and Habitat Values<sup>1</sup> document, commissioned as an independent third-party report by the NPC to inform the NLUP process, stated:

"There is little available information on specific areas in Nunavut that may be considered important habitat for

<sup>1</sup> (Nunami Stantec Limited, 2012-02. NPC Public Registry File # 10-140E)

freshwater and marine fish. The summary figure represents known areas of Arctic char abundance, coral and sponges, common areas of occurrence for Greenland halibut, Greenland shark, Icelandic scallop and shrimp (Figure 1-2)."

DFO provided the NPC with the geographic boundaries of shrimp fishing areas in 2013.

### Considerations

The NPC considers there to be high certainty regarding the geographic boundaries of shrimp commercial fishing areas. The geographic boundaries considered for shrimp commercial fisheries areas are based on the boundaries submitted by DFO in 2013.

***The certainty of the identified geographic boundaries of SHRIMP COMMERCIAL FISHING AREAS is considered HIGH because:***

- *The areas are identified with good precision/scale;*
- *There is good agreement among participants regarding the boundaries; and*
- *The information is current.*

### 5.4.2.3.2 Environmental and Cultural Importance

The NPC did not receive comments directly related to the environmental and cultural importance of shrimp commercial fishing areas.

Some sites are located in the boundaries of the North Baffin Planning Region. The NBRLUP identifies fisheries as influencing the regional mixed economy.

Some sites are located in the boundaries of the Keewatin Planning Region. The KRLUP identifies fisheries as important to the economic well-being of the region.

### Considerations

It is noted that the areas are also used by marine mammals, birds, fishes, and invertebrates such as corals, sponges and sea pens. Based on this, the NPC considers the environmental and cultural importance of shrimp commercial fishing areas to be moderate.

***The environmental and cultural importance of SHRIMP COMMERCIAL FISHING AREAS is considered MODERATE because:***

- *The importance of the areas to the communities for hunting, fishing and/or trapping is moderate; and*

- ***The importance of the areas to wildlife is moderate because:***
  - *The habitat supports concentrations of wildlife.*

### 5.4.2.3.3 Potential for Non-Renewable Resources, Transportation and Linear Infrastructure

Source	Area (km <sup>2</sup> )	IOL Surface (km <sup>2</sup> )	IOL Subsurface (km <sup>2</sup> )	Existing Rights (km <sup>2</sup> )
DFO, 2013	201,460	477	7	0

Parnautit,<sup>1</sup> the GN's Mineral Exploration and Mining Strategy, identifies the need to create conditions for a strong and sustainable minerals industry that contributes to a high and sustainable quality of life for all Nunavummiut.

Ingirrasiliqta,<sup>2</sup> the GN's Transportation Strategy, identifies the need for land and marine transportation networks to facilitate the movement of goods and provision of services.

In 2008, Terriplan's Socio-Demographic and Economic Sector Analysis<sup>3</sup> identified potential for undersea oil and gas in the Davis Strait area in general.

### Considerations

Based on available information, the potential for non-renewable resources, transportation and linear infrastructure in shrimp commercial fishing areas is considered moderate.

***The potential for non-renewable resources, transportation and linear infrastructure in SHRIMP COMMERCIAL FISHING AREAS is considered MODERATE because:***

- *The areas have limited known mineral potential or oil and gas significant discovery;*
- *The areas have low potential for transportation and linear infrastructure development;*
- *The areas have existing rights for non-renewable resource land use;*
- *The areas have no subsurface IOL parcels; and*
- *The areas are relatively small.*

<sup>1</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-244E)

<sup>2</sup> (Government of Nunavut (GN), 2014-05-28. NPC Public Registry File # 12-246E)

<sup>3</sup> (Terriplan Consultants, 2008-08-15. NPC Public Registry File # 10-147E)

#### 5.4.2.3.4 Sensitivity to Impacts

The NPC did not receive comments directly related to the sensitivity of shrimp commercial fishing areas to impacts.

##### Considerations

The NPC considers the sensitivity of shrimp commercial fishing areas to impacts from incompatible uses to be moderate and year-round. Like for other fish species, it is understood that incompatible uses have the potential to negatively impact shrimp populations.

***The sensitivity of SHRIMP COMMERCIAL FISHING AREAS to impacts is considered MODERATE and YEAR-ROUND because:***

- *Shrimp are partially sensitive to disturbance when using these areas;*
- *Shrimp use these areas when disturbance is likely to occur; and*
- *The concern regarding potential impacts is year-round.*

#### 5.4.2.3.5 Other Regulatory Tools

In 2016, the GoC<sup>1</sup> stated:

“In the management of fisheries, established fisheries management principles and DFO policies apply. These take into account the principles of conservation and the Precautionary Approach. ...

“Additional safeguards for fisheries are found in the **Fisheries Act**, which requires that projects avoid causing serious harm to fish unless authorized by the Minister of Fisheries and Oceans Canada. This applies to work being conducted in or near waterbodies that support fish that are part of, or that support, a commercial, recreational or Aboriginal fishery. In the **Fisheries Act**, ‘fish’ is defined to include marine mammals.”

##### Considerations

There is a very rigorous legislative system around fish, fish habitat and fisheries management in Nunavut and Canada. Canada’s *Fisheries Act* and the *Fishery (General) Regulations* are the main regulatory tools for fisheries management in the Canadian Arctic, including Nunavut.

***The potential value of including guidance in the NLUP for SHRIMP COMMERCIAL FISHING AREAS is considered LOW because:***

- *The issue is addressed by other regulatory authorities; and*

- ***There is moderate overlap of existing legislation and regulations with NPC jurisdiction.***

#### 5.4.2.4 Policy Options for Shrimp Commercial Fishing Areas

In 2013, the GoC<sup>2</sup> provided a list of commercial fishing areas for different species and stated:

“The DNLUP plan identifies most important char and Greenland halibut (turbot) commercial fishing areas, but they are only assigned a recommendation and not a land use designation. Since recommendations are not conformity requirements and therefore are neither legally binding nor enforceable, DFO strongly suggests protecting the following commercial fishing areas through a land use designation:

...

- **Shrimp Fishing Areas (SFAs)**

...”

##### Considerations

The NPC has not categorized the above comment according to the options as the submission provides general information regarding the development of the NLUP. However, as the GoC suggests that commercial fishing areas be protected by a land use designation, the NPC notes that the GoC could have been recommending the equivalent of a LU or CU designation for these areas.

##### 5.4.2.4.1.1 Option 1 - Limited Use

No participant recommended this option. However, the NPC notes that the GoC’s 2013 comment at the beginning of this policy options section could be interpreted as supporting this option.

##### 5.4.2.4.1.2 Option 2 - Conditional Use

No participant recommended this option. However, the NPC notes that the GoC’s 2013 comment at the beginning of this policy options section could be interpreted as supporting this option.

##### 5.4.2.4.1.3 Option 3 - Mixed Use

No participant recommended this option.

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)



#### 5.4.2.4.1.4 Option 4 - Valued Component

In 2015, the GoC<sup>1</sup> stated:

“Char, Turbot and Shrimp: While some char and turbot areas of abundance have been identified in the DNLUP, Canada recommends that shrimp areas of abundance, in addition to those of char and turbot, also be identified under Schedule B of the DNLUP in order to provide important information for proponents and the public to consider.”

#### Considerations

The NPC notes that by stating that shrimp areas of abundance be identified under Schedule B, the GoC was recommending that shrimp be identified as VSECs.

#### 5.4.2.5 NPC Recommendation - VSEC

Given that:

#### COMMERCIAL FISHERIES:

The overall importance of the issue is considered HIGH.

#### SHRIMP COMMERCIAL FISHING AREAS:

i.	Certainty of the Identified Geographic Boundaries	HIGH
ii.	Environmental and Cultural Importance	MODERATE
iii.	Potential for Non-Renewable Resources, Transportation and Linear Infrastructure	MODERATE
iv.	Sensitivity to Impacts	MODERATE and YEAR-ROUND
v.	Potential Value of Including Guidance in the NLUP	LOW

#### Recommendation for Shrimp Commercial Fishing Areas

Option 4 is recommended:

- Does not restrict access.
- Identifies areas that are important to particular VECs or VSECs.
- Identified area to be included on Map B.

**Information on VCs:** Identify shrimp commercial fishing areas as areas of known VSECs that should be given particular consideration.

**Rationale:** Option 4 is recommended to reflect comments received from DFO.

#### LAND USE PLAN POLICY RECOMMENDATION

#### **SHRIMP COMMERCIAL FISHING AREAS**

#### **VALUED SOCIO-ECONOMIC COMPONENT**

#### 5.4.2.6 Summary of Revisions

#### KRLUP and NBRLUP

In the existing regional land use plans, there are no specific designations or policies for commercial fisheries.

#### 2012, 2014 and 2016 DNLUP

Shrimp were not specifically discussed in the 2012 DNLUP. However, to manage commercial fisheries, fish areas of abundance were assigned Recommendation ESED-R1. The specific recommendation stated: “Project Proposals located in an area of commercial fishery potential should take into account impacts that may reduce the potential of the area.”

Shrimp harvesting is mentioned within the commercial fisheries sections of the 2014 and 2016 DNLUP, but these previous draft plans did not assign a land use designation to commercial shrimp fishing areas. As such, the 2014 and 2016 drafts assigned a MU designation to the areas that permits all uses.

#### 2021 DNLUP

The 2021 DNLUP is consistent with the 2014 and 2016 versions in that it assigns a MU designation to the areas. However, the 2021 DNLUP also identifies shrimp commercial fishing areas as known VSECs.

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)



# 6 Implementation

This chapter addresses options and recommendations related to designing the 2021 DNLUP for effectiveness, ease of use, and the implementation of the NLUP itself by the NPC and others.

This chapter sets out the implementation strategy and process matters for the 2021 DNLUP pursuant to Article 11 of the NA and the NuPPAA where the NPC is mandated to develop, implement and monitor land use plans. Specifically, this chapter:

- Sets out the purpose and requirements of the NLUP implementation chapter under the NA and the NuPPAA;
- Provides an overview of shared responsibility for NLUP implementation;
- Discusses options and recommendations for each implementation issue the NLUP will address with respect to NLUP implementation by the NPC; and
- Discusses options and recommendations for each implementation issue the NLUP will address with respect to NLUP implementation by Ministers, government departments and agencies, municipalities, and regulatory authorities.

Because there are many different types of issues relating to implementation that have been raised, the rating criteria set out in Chapter 1, and applied in Chapters 2-5, are not used in this chapter of the 2021 O&R. This chapter instead identifies implementation issues, sets out possible policy options and considerations in respect of each issue, and makes recommendations.

References to the NA and the NuPPAA are for reference only as they may be amended from time to time, and readers are directed to those publicly-available instruments to inform themselves as to their contents.

## 6.1 Implementation Strategy Purpose and Requirements Under the NA and NuPPAA

### 6.1.1 Implementation Strategy Purpose

The NPC's Broad Planning Policies, Objectives and Goals, dated November 10, 2007, which were developed by the NPC through comprehensive consultations with the GoC, the GN and NTI, explains the important purpose of the implementation chapter as follows:

"The objective of the planning process, as prescribed under NLCA 11.2.2, is to prepare land use plans which guide and direct resource use and development in a manner which is consistent with the planning policies, priorities and objectives regarding the conservation, development, management and use of land in the Nunavut Settlement Area. Implementation of land use plans is a further objective of the planning process and is critical to the success of the plans' policies, goals and objectives.

"Land use plans have the authority to direct resource use and development by placing obligations on all federal and territorial government departments and agencies, the Nunavut Impact Review Board, Nunavut Water Board, Nunavut Wildlife Management Board and Inuit organizations to conduct their operational activities relating to the management, regulation and use of land in accordance with applicable land use plans, within the extent of their mandates and jurisdictional responsibilities. Plan development and implementation requires the active involvement of both Inuit and Government to ensure the obligations are realistic and appropriate.

"Land use plans are implemented on the basis of jurisdictional responsibility. All federal and territorial government departments and agencies conduct their activities in accordance with approved land use plans. Implementation of land use plans is also achieved by the Nunavut Planning Commission (NPC), which reviews all applications for project proposals to determine whether they are in conformity with the plans. Project proposals that are not in conformity with the plans cannot proceed further into the regulatory system unless the appropriate Minister exempts the project proposal from conformity with the approved plan. Where project proposals are in conformity with the plans the project proposal, along with the NPC conformity determination and any recommendations, is advanced through to the next level of the regulatory system."

As the GoC<sup>1</sup> explained in its technical submission on the 2012 DNLUP received in 2013 in respect of the need for an implementation strategy:

“A Nunavut Land Use Plan needs to be a standalone document that contains the necessary information required by Inuit, government (federal and territorial), Designated Inuit Organizations (DIOs), Institutes [sic] of Public Governance (IPGs), project proponents and other stakeholders to fully understand the plan. ...”

## 6.1.2 NLUP Requirements

Section 11.3.3 of the NA requires the NLUP to include an implementation strategy.

For reference purpose only, and subject to any amendments by Parliament, the NuPPAA provides the following requirements for the NLUP:

“48 (1) A land use plan must provide for the conservation and use of land and guide and direct resource use and development and must, in particular, provide for a strategy regarding the implementation of the plan and take into account

- (a) the broad planning policies, priorities and objectives established for the designated area;
- (b) the specific planning objectives and planning variables identified for any applicable planning region;
- (c) the factors referred to in section 11.3.1 of the Agreement; and
- (d) Inuit objectives for Inuit owned lands.

“(2) A land use plan may contain descriptions of permitted, subject to any terms and conditions that the plan sets out, and prohibited uses of land.

“(3) A land use plan may authorize the Commission to grant minor variances and may set out the conditions subject to which they may be considered and granted.

“(4) A land use plan must identify each requirement set out in that plan whose contravention is prohibited under paragraph 74(f).

“(5) A land use plan must be developed and implemented in a manner that is consistent with the principles and requirements of Articles 5 and 7 of the Agreement.”

As noted above, section 48(1)(c) of the NuPPAA requires the NLUP to provide for a strategy regarding the

implementation of the plan and take into account section 11.3.1 of the NA, which for reference reads:

“11.3.1 A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following:

- (a) demographic considerations;
- (b) the natural resource base and existing patterns of natural resource use;
- (c) economic opportunities and needs;
- (d) transportation and communication services and corridors;
- (e) energy requirements, sources and availability;
- (f) community infrastructural requirements, including health, housing, education and other social services;
- (g) environmental considerations, including Parks and Conservation Areas, and wildlife habitat;
- (h) cultural factors and priorities, including the protection and preservation of archaeological sites and outpost camps; and
- (i) special local and regional considerations.”

In accordance with section 48(1)(a) and (b) of the NuPPAA, readers are encouraged to consult the NPC’s Broad Planning Policies, Objectives and Goals which inform the structure and content of the NLUP.

In addition to the requirement to develop and implement a plan consistent with the principles and requirements of Articles 5 and 7 of the NA under section 48(5) of the NuPPAA, in accordance with section 48(1)(a), the Broad Planning Policies, Objectives and Goals also notes:

**“Land Use Planning also implements requirements of the following Articles:**

- 5 Wildlife
- 7 Outpost Camps
- 8 Parks
- 9 Conservation Areas
- 10 Land and Resource Management Institutions

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

- 11 Land Use Planning
- 12 Development Impact
- 13 Water Management
- 14 Municipal Lands
- 15 Marine Areas
- 16 Outer Land Fast Ice Zone – East Baffin Coast
- 17 Purposes of Inuit Owned Lands
- 19 Title to Inuit Owned Lands
- 20 Inuit Water Rights
- 21 Entry and Access
- 27 Natural Resource Development
- 28 Northern Energy and Minerals Accord
- 32 Nunavut Social Development Council
- 33 Archaeology
- 40 Other Aboriginal Peoples”

The NPC has taken into account Inuit objectives for IOL in accordance with section 48(1)(d) of the NuPPAA through consultations with NTI, RIAs and Nunavummiut. The NPC notes that in March 2019, NTI and RIAs<sup>1</sup> reminded the NPC they “have consistently advocated for revisions to the DNLUP 2016 that do not restrict our authority to make land use decisions on IOLs using the processes in place to address community priorities”, and have taken the position that because IOL subsurface parcels were selected for resource potential that IOL partly or entirely covered by a Mineral Exploration Agreement “not be included in designations that prohibit mineral exploration and development.” See section 6.2.8 “Existing Rights” for more information on this subject.

It is worth noting that many areas identified by Inuit through the NPC’s community consultations between 2007 to 2020 as having environmental and cultural value, which are identified and discussed at length in Chapter 4 of this 2021 O&R as Community Areas of Interest, and as areas requiring protection for conservation of wildlife habitat, as discussed at length in Chapter 2, also overlap with IOL surface and subsurface rights.

Section 48(4) of the NuPPAA also requires that the NLUP identify each requirement set out in that plan whose contravention is prohibited under paragraph 74(f) of the NuPPAA, if any. The NLUP accordingly identifies prohibited works and activities in the land use designations. Some participants have taken the position that the prohibitions in the NLUP need to be more clearly drafted in order to be enforceable. The NLUP has been revised since 2016 to more clearly notify users what the prohibitions are for each land use designation, if any.

### 6.1.3 Shared Responsibility for NLUP Implementation

The NPC is the entry point in the Nunavut regulatory regime. Proponents are required to submit projects to the NPC for conformity determinations and screening reviews before undertaking works and activities in Nunavut. The NLUP must include an implementation strategy to provide the NPC, other regulators, proponents, and its readers objective and clear criteria to be used in the NPC’s exercise of its duties.

The NPC, the federal Minister or territorial Minister, government departments and agencies, municipalities, and regulatory authorities that issue licences, permits or other authorizations all share responsibility for implementing the NLUP, whether generally in the conduct of their duties and powers, or specifically by requiring proponents to follow certain terms and conditions contained in the NLUP. A clear and co-ordinated approach to NLUP implementation is critical to ensure its effectiveness.

This chapter is intended to summarize the reasoning in generating recommendations for inclusion in the implementation chapter in the NLUP. Those responsible for plan implementation must carry out their obligations as written in the approved plan to the extent of their authority to do so.

## 6.2 NLUP Implementation by the NPC

The NPC’s responsibilities and powers are set out in the NA and the NuPPAA. This chapter of the 2021 O&R sets

<sup>1</sup> (Nunavut Tunngavik Incorporated & the Regional Inuit Associations, 2019-03-14. NPC Public Registry File # 16-249E)

out the options and recommendations relating to what to include in the chapter on implementation that must be included in the NLUP.

For ease of reference only, the NPC has the following plan implementation responsibilities under the NA and the NuPPAA once the NLUP is approved:

1. Determine whether projects conform with the NLUP:
  - a. If a project conforms, determine if it should be screened by the NIRB on the basis of criteria outlined in:
    - i. Schedule 12-1 of the NA,
    - ii. The NuPPAA and/or the NA, or
    - iii. On the basis of cumulative effects concerns informed in part by information in Map B;
  - b. If a project does not conform, consider minor variances when the NLUP makes provision to do so;
2. Monitor projects to ensure they remain in conformity with the NLUP;
3. Conduct periodic reviews of the NLUP;
4. Receive or initiate proposed amendments to the NLUP;
5. Maintain a Public Registry as required by the NuPPAA; and
6. Report annually in writing to the federal Minister, the territorial Minister and the designated Inuit organization on the implementation of the NLUP.

While a number of participants have expressed a preference for the regulatory processes that have been in place pending the development and approval of a Nunavut-wide land use plan, in which each project is assessed on its own merits, many including Nunavut's other IPGs, wildlife management boards and communities have asked the NPC to exercise its powers under the NA and the NuPPAA to guide and direct land use, including the imposition of prohibitions where appropriate. A few participants have taken the position that the NLUP should avoid addressing land use planning

matters that overlap with other bodies' jurisdictions. Those submissions suggest letting the NIRB determine mitigation measures, such as CPMs, on a case-by-case basis rather than using a land use designation. Others, including the NIRB<sup>1</sup> itself, take the position that the NLUP is needed to provide guidance on caribou protection to improve the overall decision-making by the integrated regulatory system that has been functioning for years without an updated land use plan.

In 2011, NTI<sup>2</sup> encouraged the NPC to use its authority to set terms and conditions for land use to protect and promote the existing and future well-being of Inuit and IOL:

"The consultation process envisioned in s. 11.5.2 is ascertainable by reference to s. 11.2.1, which firmly anchors land use plans in the priorities and values of the residents. The active and informed participation of Inuit in the preliminary stages, and throughout the planning process, is the core feature of Article 11. Special attention must be devoted to protecting and promoting the existing and future well-being of Inuit and Inuit Owned Lands (s. 11.2.1(b)). It is also expected that an Inuit approvals role for new land use plans will be formalized in the upcoming NPPA legislation.

"Given the above, further steps in the development of substantive features of the Nunavut land use plan must fully engage the Inuit of Nunavut at all levels.

"In terms of content, NTI shares many of the governments' concerns with the draft planning documents. In particular, NTI agrees that a major flaw exists in the NPC's reliance on 'recommendations,' rather than using its own authority to set terms and conditions for land uses. As you know, the NPC's authority to set terms and conditions on permitted uses is a key feature of the draft *Nunavut Planning, and Project Assessment Act*. The NPC's authority to conditionally permit land uses under the draft Act will apply to newly permitted and grandfathered uses, and will form the basis for plan implementation and enforcement."

The NPC notes the NA and the NuPPAA both provide that "land" for the purpose of land use planning by the NPC includes land, waters and resources including wildlife.<sup>3</sup> The NA at section 5.2.36 also addresses overlaps with the jurisdiction of the NWMB as it pertains to wildlife and

<sup>1</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>2</sup> (Nunavut Tunngavik Incorporated (NTI), 2011-10-04. NPC Public Registry File # 10-116E)

<sup>3</sup> NuPPAA, S.C. 2013, c. 14, s. 2 ("40 In this Part, **land** includes land covered by water, whether in the onshore or offshore, waters and resources, including wildlife.")

other entities with powers and duties under the Agreement such as the NPC:

“While habitat management and protection is an integral function of wildlife management, and as such is commensurate with the NWMB’s responsibilities for wildlife matters, primary responsibility for the management of lands, including flora, shall be exercised by the appropriate government agencies and such other related bodies as may be established in the Agreement.”

The NLUP is intended to address land use planning, recognizing that given the broad scope of matters the NLUP is intended to deal with, there may be some overlap between certain matters dealt with in the NLUP from a land use planning perspective and matters delegated to other regulatory authorities and boards.

Participants have noted that the implementation of the NLUP as intended under the NA and the NuPPAA may have implications on existing regulatory processes, and have encouraged the NPC to consider and where possible avoid or minimize any unintended consequences.

This subsection of the 2021 O&R focuses on analyzing the available options on how the approved NLUP will approach the following: NuPPAA application and interpretation; conformity determination processes; overlapping land use designations; implementation of VCs; consultations with third parties in conformity determinations; implementation of liner infrastructure and marine corridor information requirements; implementation of the on-ice transportation routes condition for robust ice-bridging plans; existing rights; sunset clauses; monitoring project conformity; the inclusion of screening criteria for cumulative effects; planning for the placement of cabins outside municipalities; minor variances; plan amendments; and periodic plan reviews and monitoring.

### 6.2.1 NuPPAA Application and Interpretation

As summarized above, the NA and the NuPPAA require the NPC to carry out conformity determinations, screening determinations, minor variances and plan amendments, but the processes to be used are not set

out in either document. Some participants asked that the NLUP describe in detail how the NPC will carry out these functions to increase transparency, usability of the NLUP, and certainty for proponents and regulators. For example, the GN’s<sup>1</sup> 2017 submission recommended the NLUP include more detail on implementation matters such as plan amendments, periodic reviews and minor variances out of concern for regulatory fairness, economic certainty and maintaining the NPC’s incremental approach to planning and adaptability to new information and IQ.

On the other hand, the NPC also heard that the NLUP should not be too prescriptive in the implementation processes, and that the NPC’s interpretation and implementation of its powers under the NuPPAA should be excluded from the plan and published in standalone guidance documents. In its letter submitted in 2017, the GoC<sup>2</sup> expressly cautioned the NPC against being prescriptive in the implementation processes within the NLUP itself at the risk of making authoritative statements that would require amendments if a revision or refinement is later required, and recommended that the NLUP exclude providing detailed guidance on the NuPPAA as it would be considered authoritative, and would furthermore require plan amendments in the event the NuPPAA was later refined:

“Guidance documents on how the Act addresses these issues are important. However it is not clear that the land use plan itself is the optimal vehicle for such guidance. There also is a likelihood that process guidance in a land use plan could be mistaken as authoritative, because the land use plan is authoritative in other respects. Moreover, the Act is in its early days of implementation, and our understanding of the Act is bound to be refined as we work with it over time. It should be possible to revise guidance documents without amending the land use plan.

“For those reasons, we recommend that the Commission create a separation between the land use plan and the Commission’s procedural guidance. Perhaps this could be achieved within the same document, by clearly labelling segments as not forming part of the land use plan. Alternatively the Commission could develop a separate process-guidance document.

“To the extent the Commission will endeavour to explain the statutory framework, it should do so accurately,

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

whether it chooses to do so within the land use plan or, as we suggest, outside of the land use plan.

“The challenge is to find a way to make the explanation accessible, yet fully accurate when describing the complex functioning of the Act. ...”

### 6.2.1.1 Policy Options for NuPPAA Application and Interpretation

#### 6.2.1.1.1 Option 1: NLUP to Provide Detailed Interpretation of the NuPPAA

Some participants support including detailed guidance on the procedures and processes that the NPC will use to implement the NuPPAA in the NLUP. For example, the GN<sup>1</sup> noted that the NuPPAA allows non-conforming projects to move forward to the NIRB if there is a plan amendment or a ministerial exemption and recommended “Repetition of this fact.” The GN also recommended detailing the criteria for NPC referrals of projects to the NIRB on the basis of cumulative impacts concerns.

#### Considerations

Repeating NuPPAA provisions in the NLUP may require plan amendments in the event the NuPPAA is amended.

Codifying prescriptive processes on interpreting and implementing the NuPPAA in the NLUP would mean the NPC would not have discretion to interpret its own enabling legislation and may require plan amendments in the event one or more of those codified processes produces unanticipated consequences.

#### 6.2.1.1.2 Option 2: NLUP Not Interpreting the NuPPAA

Option 2 is to reference the NPC’s mandate under the NuPPAA without summarizing it to avoid any potential conflict between the NuPPAA and the NLUP and to ensure the NPC retains the power to interpret the NA and the NuPPAA. The NPC will develop rules under section 17 of the NuPPAA, and will prepare internal policies,

procedures and guidelines as necessary to clarify the NPC’s implementation of its mandate under the NuPPAA.

In 2016, the GoC<sup>2</sup> suggested in respect of cumulative impact referrals that: “we recommend that the Commission avoid being too procedurally prescriptive in the plan, otherwise it may not be able to refine and evolve its approach without a plan amendment.” It was also noted by the 2012 Independent Review<sup>3</sup> that the GoC had previously recommended implementation processes remain external to the plan so they can be modified without a formal plan amendment.

#### Considerations

With Option 2, plan amendments would not be required in the event the NuPPAA was amended by the GoC. In addition, the NPC can provide and refine its guidance on interpreting and implementing the NuPPAA outside of the text of the plan without requiring a plan amendment.

### 6.2.1.2 NPC Recommendation – NuPPAA Application and Interpretation

Given that:

- *Some participants asked that the implementation chapter of the NLUP provide a significant amount of detail, raising concerns about fairness, economic certainty, and ensuring the adaptability and flexibility of the NLUP to respond to new information, community concerns, and IQ, among others*
- *Other participants pointed out that the NPC’s implementation of the NuPPAA is external to the land use planning process and raised concerns that the NLUP might appear to supersede the NuPPAA, and by providing prescriptive processes for implementing the NuPPAA in the NLUP, the NPC would then only be able to change those processes using a plan amendment*
- *In order to avoid confusion by users in the event of any inconsistency between the NuPPAA, the NA and the NLUP, and to provide the NPC the flexibility required to implement the NuPPAA, it is recommended that the NLUP’s chapter on implementation focus exclusively on guiding the*

<sup>1</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Dillon Consulting, 2012-06-21. NPC Public Registry File # 10-133E)



*NPC, regulators, other users of the NLUP, and the public on how the NLUP itself is to be implemented*

- *The NPC is also recommended to create and publish rules, policies and procedures for implementing its mandate under the NuPPAA to improve transparency, consistency and fairness*

Option 2 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **NUPPAA APPLICATION AND INTERPRETATION**

#### **NLUP NOT INTERPRETING THE NUPPAA**

- The NLUP's chapter on implementation should focus exclusively on guiding the NPC, regulators, other users of the NLUP, and the public on how the NLUP itself is to be implemented and interpreted
- External to the NLUP, the NPC should create and publish rules, policies and procedures for implementing its mandate under the NuPPAA to improve transparency, consistency and fairness

### 6.2.1.3 Summary of Revisions

#### **KRLUP and NBRLUP**

This section is not applicable because the NuPPAA was not in effect at the time of drafting the existing regional land use plans.

#### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP did not discuss the NuPPAA as the draft plan was released before the act was in force. Neither the 2014 nor 2016 DNLUP provided a significant amount of detail regarding the interpretation of the NuPPAA.

#### **2021 DNLUP**

Similar to the 2014 and 2016 DNLUP, the 2021 DNLUP does not provide a significant amount of detail regarding the interpretation of the NuPPAA.

### 6.2.2 Conformity Processes Determination

In general terms, a conformity determination involves the submission of the description of a project by a proponent to the NPC, including details such as the identity of the proponent, the location where the project

will be carried out, and a description of what the project entails, which the NPC posts on its online registry (see NuPPAA section 76(4)). The NPC reviews the project as proposed against the terms of the applicable land use plan and issues a final and binding conformity determination (NuPPAA section 223).

Every project to be carried out in the designated area of Nunavut, including the NSA and OLFIZ, will be submitted to the NPC using an online system. The NPC's conformity officers will consider the land use designation applicable to the project based on its location on Map A. Depending on the applicable land use designation, NPC conformity officers will do the following:

- **LIMITED USE (LU):** If some or all of the proposed project is located in a LU area, NPC conformity officers will consider all components of the project and compare them to the list of works and activities prohibited in the corresponding LU area as listed in the NLUP. If any of the proposed activities are prohibited in the area in which they are proposed, a negative conformity determination will be issued. If none of the proposed activities are prohibited, conformity officers will then determine if any conditions may apply in the LU area. If any components of the project conflict with an applicable condition, and if a minor variance is not available, the requirements of the plan are not met, and a negative conformity determination will be issued. If all components of the project meet any applicable conditions required to conform (i.e., the project does not conflict with any seasonal restrictions or setbacks), a positive conformity determination will be issued. **Minor variances are not available in respect of prohibited uses in LU areas, but may be applied for in respect of conditions in LU areas. The carrying out of a work or activity prohibited by the LU designation, or in a place or at a time that is restricted by the LU designation, is an offence under the NuPPAA. All components of a project that constitute a single project must conform to the land use designations in the places where they are proposed.**
- **CONDITIONAL USE (CU):** If a project is to be carried out partially or entirely in a CU area, seasonal restrictions and/or setbacks (i.e., conditions) may apply. NPC conformity officers will consider all components of the project, including the seasonal timing of the project to be undertaken, and compare them to the list of conditions on works and activities

in the corresponding CU area as listed in the NLUP. If any components of the project conflict with a condition, and if a minor variance is not available, the requirements of the plan are not met, and a negative conformity determination will be issued. If all components of the project meet the conditions required to conform (i.e., the project does not conflict with any seasonal restrictions or setbacks), a positive conformity determination will be issued. **Minor variances may be applied for in respect of conditions in CU areas. Carrying out a work or activity in a place, or at a time, that is restricted by the CU designation is prohibited, and is an offence under the NuPPAA.**

- MIXED USED (MU): If a project is to be carried out entirely in a MU area, there are no prohibited uses or conditions that apply, and a positive conformity determination will be issued.
- VALUED COMPONENTS (VCs): VECs or VSECs may also be identified in any land use designation, indicating a higher likelihood of a project that is otherwise exempt from NIRB screening being referred to the NIRB if other projects may contribute to cumulative impacts on the listed VCs, and the NIRB may then consider whether a project review, for example to mitigate impacts on the VCs, is required. VCs in the NLUP may also be used by proponents to aid in project planning, and by other regulatory authorities when reviewing projects.

As explained by the GoC<sup>1</sup> in 2013, a conformity determination involves the review of a project against the permitted and prohibited uses and any associated terms and conditions of the applicable land use designation set out in the NLUP. In a letter submitted by the GoC<sup>2</sup> in 2017, legal counsel for Justice Canada addressed comments by other participants:

“Some participants in the land use planning process have said that the current Draft Nunavut Land Use Plan is not sufficiently clear on when a conformity determination is required, whether that conformity determination is an initial determination or, in the case of a change to a project, a conformity determination triggered by that change (see for example section 6.5 of the draft plan). This is a topic that is subject to a complex set of rules.

“A conformity determination is the first phase of an assessment under the *Nunavut Planning and Project*

*Assessment Act*. The land use plan does not determine whether or when a conformity determination is required.

“Instead, it is the *Nunavut Planning and Project Assessment Act* that determines whether an activity requires an assessment under the Act, and it also determines when a new assessment is required. Therefore, the only guidance the land use plan could give on this topic is an explanation of how the Act works.”

In 2016, the NWT & Nunavut Chamber of Mines<sup>3</sup> submitted that the information requirements for conformity determinations should not be too technical:

“... The level of detail of required information should be consistent with the fact that this is an entry point into the regulatory process (i.e. detailed technical information does not appear necessary at the conformity determination stage).”

In 2018, in response to a question by the NPC, “Under what circumstances if any do participants suggest the Land Use Plan require the NPC to issue a negative conformity determination rejecting a project rather than a positive conformity determination for further consideration by the NIRB and other regulators?”, the GoC<sup>4</sup> wrote:

“Under article 11.5.10 of the Nunavut Agreement and section 77 (1) of the Nunavut Planning and Project Assessment Act (NuPPAA), the Commission is required to review projects to determine if they are in conformity with approved land use plans. If a proposed project does not meet the requirements set out in the plan then the Commission must issue a negative conformity determination. A land use plan can make provision for the Commission to grant ‘minor variances’, which has the effect of granting conformity to projects that do not fully conform. However the plan must itself establish the power to grant such a variance. We recommend that the plan itself should set clear conditions within which variances may be considered and granted, and help establish a shared understanding of the scope of ‘minor’ variances.

“Therefore, when a project does not conform to the plan (and where a variance is not possible or the Commission declines to grant one), the Commission is required to issue a negative conformity determination. This also means that where the land use plan allows for certain land uses but makes them subject to terms and conditions, the Commission is required to issue a negative conformity

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

<sup>4</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

determination if a proposed project would not meet those terms and conditions.

“The Government of Canada is of the view that any prohibitions and terms and conditions the land use plan will impose should be clear, well thought out, and necessary or conducive to the existing and future well-being of Nunavummiut.”

Under the NuPPAA, the NPC has 45 days to issue a determination, subject to possible time extensions, and the NPC may only determine whether a project conforms to the land use plan that is applicable. The NPC generally does not consult or receive any additional information or submissions from any third parties at the time of making a conformity determination. This is a departure from the existing regional land use plans that made it a conformity requirement that a proponent developing a corridor apply for a plan amendment, subject to a public review process. This document only recommends land use designations and terms and conditions that are capable of being implemented at the conformity determination stage.

As an example, mobile CPMs are supported by many participants, but it is not clear how those measures could be implemented substantively in the NLUP as a conformity requirement. The GN<sup>1</sup> for example in 2018 “recommends that important caribou habitats be protected in the DNLUP through a Special Management Area designation, where development would be subject to seasonal restrictions or shut-downs when caribou are present”, and although “[t]here are no immediate plans for the GN to invest in developing a Nunavut-wide comprehensive system of mobile caribou protection measures”, it takes the position that caribou protection should be determined on a case-by-case basis in the NIRB review process rather than by the NPC through conformity determinations. The full second quote is repeated below:

“The GN is a full participant in Nunavut Impact Review Board (NIRB) review processes, and through its intervenor role within environmental assessments, determines its support for projects on a case-by-case basis. There are no immediate plans for the GN to invest in developing a Nunavut-wide comprehensive system of mobile caribou protection measures. However the GN advocates for

caribou protection measures on a case-by-case basis within NIRB processes.”

Other participants such as WWF<sup>2</sup> argue that CPMs need to be included in the NLUP itself and implemented by the NPC. In 2017, the WWF quoted the NIRB by stating:

“It has been argued that caribou protection can be handled at the individual project level by NIRB.

“This is not accurate or appropriate.

“The NIRB has stated:

*“Territorial and federal government agencies and regional Inuit associations should ensure that the protection of caribou and caribou habitat figure prominently into their contributions towards the Nunavut Planning Commission’s development of a Nunavut-wide land use plan.”*

“(Excerpt from the NIRB’s screening decision report for 11EN046: Anconia’s Victory Lake Area project).”

In 2017, the NIRB<sup>3</sup> explained the importance of the NPC’s conformity determinations in accordance with approved land use plans in the regulatory process, and that some of the issues regularly dealt with by the NIRB would be better suited to land use planning rather than project-specific impact assessments:

“Nunavut’s regulatory system requires integration between the NPC’s land use planning and the NIRB’s development impact assessment processes to operate fully as envisioned. Unfortunately, at present there are significant portions of the Nunavut Settlement Area not addressed by approved land use plans, and not subject to the NPC’s conformity determination process as a result. For those areas which have approved land use plans in place, after more than 15 years since their approval the plans themselves have become dated, and the NIRB has encountered challenges with project-specific impact assessments where feedback from parties has called into question the acceptability of the project *type* and associated land use, something that land use plans are intended to address. As a result of these contentious issues being deferred to the impact assessment process, the NIRB has been providing notice to parties and the NPC where issues raised would more appropriately be addressed at a regional level through land use planning. The feedback provided in this submission is developed from the NIRB’s experience in this regard specifically, with identified issues encountered through many project-specific impact assessments in areas with and without approved land use

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>2</sup> (WWF-Canada, 2017-03-09. NPC Public Registry File # 16-110E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

plans, as well as other items related more directly to the June 2016 draft of the Nunavut Land Use Plan.

...

"... Where there are no approved land use plans in place, or where existing approved land use plans are in place but have become outdated, issues more appropriately addressed through regional land use planning bypass the NPC and are left for the NIRB to address through project-specific impact assessment. This situation presents unique challenges and strains the capability of the development impact assessment process by requiring farther-reaching issues of land or resource use to be addressed on a project-by-project basis. Examples include development of uranium, nuclear power, transportation corridors, oil and gas development, development in caribou calving grounds, etc.; these broad issues deserve consideration through land use planning at a regional and/or territory-wide level as envisioned by the Nunavut Agreement."

### 6.2.2.1 Policy Options for Conformity Determination Processes

#### 6.2.2.1.1 Option 1: Include Non-Prescriptive Conformity Determination Process in the NLUP

Option 1 is to provide detail on how to use the NLUP to determine if a project does or does not conform without providing prescriptive processes so that the NPC can create rules, policies, procedures and guidelines and update those as necessary without requiring a plan amendment.

As noted by the GoC<sup>1</sup> in 2018:

"... the Commission is required to review projects to determine if they are in conformity with approved land use plans. If a proposed project does not meet the requirements set out in the plan then the Commission must issue a negative conformity determination. A land use plan can make provision for the Commission to grant 'minor variances', which has the effect of granting conformity to projects that do not fully conform. ...

"... when a project does not conform to the plan (and where a variance is not possible or the Commission declines to grant one), the Commission is required to issue a negative conformity determination. This also means that where the land use plan allows for certain land uses but makes them subject to terms and conditions, the Commission is required to issue a negative conformity determination if a

proposed project would not meet those terms and conditions."

#### Considerations

It is advisable to provide an explanation of how the NLUP is to be interpreted and implemented so that users of the NLUP can objectively understand and predict the outcomes of conformity determinations.

#### 6.2.2.1.2 Option 2: NLUP Provides Prescriptive Conformity Determination Process

Option 2 is to provide detail on how to use the NLUP to determine if a project does or does not conform, and a prescriptive process and timelines the NPC must follow to make that determination, such that any process changes must be subject to a plan amendment.

#### Considerations

This option would provide considerable certainty for users of the NLUP.

As the NPC implements the NLUP on an ongoing basis it may become aware of circumstances requiring greater flexibility than is permitted by the NLUP, in which case refinements would have to take place pursuant to a plan amendment.

#### 6.2.2.1.3 Option 3: NLUP Provides No Detail on Conformity Determination Process

Option 3 is to not provide any detail in the NLUP on how to use the NLUP to determine if a project does or does not conform. Instead, detail would only be in separate rules, policies, procedures and guidelines that the NPC can create and update as necessary without requiring a plan amendment.

#### Considerations

The conformity determination process under the NLUP would not be explained or set out in the NLUP and would have to be entirely contained in rules made by the NPC under section 17 of the NuPPAA.

This would provide the least amount of assistance to users of the NLUP to predict in advance the likely outcome of a conformity determination.

<sup>1</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

### 6.2.2.2 NPC Recommendation – Conformity Determination Processes

Given that:

- *It should be clear to users of the NLUP whether a project will or will not be determined to conform before a proponent invests a significant amount of time, energy and resources in designing a project*
- *The requirements and timelines for performing conformity determinations are set out in the NuPPAA*
- *The procedure used by the NPC to determine conformity in accordance with the NLUP in the manner required by the NuPPAA should be transparent yet flexible*
- *It is generally undesirable to include prescriptive procedures in the NLUP unless necessary as it would be onerous to require plan amendments to make minor changes to procedures*

Option 1 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **CONFORMITY DETERMINATION PROCESSES**

#### **INCLUDE NON-PRESCRIPTIVE CONFORMITY DETERMINATION PROCESS IN THE NLUP**

- The NLUP includes detail on how to use the NLUP to determine if a project does or does not conform
- The NLUP does not provide prescriptive processes
- The NPC can create project description rules, policies, procedures and guidelines for conformity determination and update those as necessary without requiring a plan amendment

### 6.2.2.3 Summary of Revisions

#### **KRLUP and NBRLUP**

Both the KRLUP and NBRLUP summarize the NA provisions on the NPC's duties regarding conformity determinations for project proposals. Both plans state:

"The NPC shall review all applications for project proposals. Upon receipt and review of a project proposal, the NPC or members thereof or officers reporting to the NPC shall:

- (a) determine whether the project proposals are in conformity with plans;

- (b) forward the project proposals with its determination and any recommendations to the appropriate federal and territorial agencies.

"Under the NLCA, proposals that do not conform to an approved land use plan and that are neither approved pursuant to a minor variance nor exempted from the plan's requirements by the Minister responsible may not be forwarded to NIRB for screening (s.11.5.11). ..."

...

"A project proposal will be determined to conform to this plan if it meets the conformity criteria set out below. ..."

In addition, both plans contain a section that briefly describes the NPC's steps for conformity determination. In the KRLUP it reads:

"A project proposal conforms to this plan if:

1. it satisfies the 'conformity requirements' identified in Chapter 6; and
2. it involves land use of a type
  - a) engaged in or previously contemplated by the communities and land use authorities in the Keewatin region, or
  - b) not previously engaged in or contemplated, yet the proposal is consistent with the principles identified in the following section.

"A proposal not meeting these criteria does not conform to the plan."

#### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP included a brief conformity determination section that described the NPC's steps upon receipt of project proposals.

Both the 2014 and 2016 DNLUP included an overview of the conformity determination process and a proponent's options if a project does not conform to the NLUP; it is noted that the 2014 conformity determination section was more detailed than the 2016 version. Both drafts also provided a flowchart illustrating the NPC's review of project proposals.

#### **2021 DNLUP**

The 2021 DNLUP includes a non-prescriptive conformity determination process that is intended to help users determine whether a project will or will not conform to the NLUP prior to submitting it to the NPC. The 2021

DNLUP also lists a proponent's options if a project does not conform to the NLUP.

## 6.2.3 Overlapping Land Use Designations

In 2017, the NIRB<sup>1</sup> wrote on "Clarity Regarding Overlapping Designations and Approved shipping Projects Especially near Lancaster Sound" in the 2016 DNLUP, Section 1.7.5.4:

### "3.3.2 Comment

"The 2016 DNLUP does not clearly describe the intended process for determining land use restrictions or making determinations in areas with overlapping designations or designations prohibiting previously approved activities. Designations and development restrictions on which a conformity determination is to be made should be explicitly noted in the determination itself to ensure that any subsequent impact assessment by the NIRB is conducted in respect of the applicable conservation requirements.

### "3.3.3 Recommendation(s)

**"Recommendation #5:** Provide direction for parties on how acceptable land uses are to be determined where overlapping designations occur, and specific considerations applicable to any conformity process for projects within these areas. A discussion within the Options and Recommendations document is recommended to assist parties in understanding implications for conformity determinations, and explicit limitations which can be further considered during any subsequent project-specific impact assessment.

**"Recommendation #6:** Provide a discussion on how the designation assigned to the Lancaster Sound area would impact community resupply or currently approved shipping routes through the area. A discussion within the Options and Recommendations document is recommended to assist the reader in understanding the effects of this option, including implications for amendments to previously approved shipping routes through these areas.

### "3.3.4 Rationale

"It is noted that the DNLUP includes a discussion on overlapping designations as follows: *[a project] will be considered to conform as long as all aspects of the project conform to the requirements of both designations.... Proposals must conform to all Designations and meet the most stringent requirements of the overlapping designations.* It is not clear within the plan what the process would be for decision making in areas with

overlapping designations. A description within the Options and Recommendations document would be useful to the reader to understand how overlapping designations would be treated. As an example, for Lancaster Sound, North Water (Pikialaorsuaq) Polynyas [Section 2.6.2 Polynyas (Map 63) – Options and Recommendations document], Option 2 was recommended; however the document notes *"Option 2 was chosen given the well-established and understood ecological importance of these polynyas. Note overlapping section on North Water (Pikialaorsuaq) Polynya (Sec. 2.1.3.29) and Lancaster Sound (Sec. 3.2)".* It is not clear from the document how these overlapping designations would be considered in relation to existing requirements for community re-supply barge traffic, the previously approved open-water shipping activities related to operation of the Mary River Iron Ore Mine, or future considerations should amendments be sought for related activities/amendments."

In 2017, in its written submission<sup>2</sup> and presentation,<sup>3</sup> the GoC noted that, in places, the NLUP has multiple overlapping land use designations that are not easily visible in Schedule A, and made technical recommendations:

**"Recommendation(s):** The Plan should be clear on what land uses are allowed; the Government of Canada therefore recommends the Commission review the draft Plan with a view to limiting overlapping designations. There are various ways to structure the GIS data/overlapping designations for ease of use for both proponents and regulatory bodies; one possible solution is provided in the supporting material section below. However, the Commission should also consider and evaluate other methods in an effort to maximize the accessibility and usability of Schedule A.

**"Supporting Material:** The data structure should maximize usability, eliminate overlapping data within feature classes and group data sources thematically for users interested in only certain layers.

"Top level groupings are intended to be File Geodatabases, which allows a thematic subgrouping of feature data sets (second level groupings) that contain individual feature classes (bottom level groupings). These feature classes should contain similar features distributed across the landscape in a non-overlapping fashion. Judgement should be exercised as to whether proximate individual features should be kept as single-part or multi-part features (e.g., walrus haul-outs in Foxe Basin could be kept as one multi-part feature, or as individual single-part features). In some cases, particularly in the Valued Components geodatabase, there may be feature classes with only a single record, or

<sup>1</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> (Government of Canada, 2017-03-20. NPC Public Registry File # 16-108E)



feature data sets with only a single feature class. While this may seem to be an inefficient storage design, it will allow for highly flexible use of the data.

“Lastly, to achieve greater clarity about the land use conditions at any given site, the designation layers (in Geodatabase, above) could be merged into a single, non-overlapping layer where the layer attributes describe the full set of conditions for any polygon. A draft Geodatabase structure is illustrated in Annex D.”

In 2017, the GN<sup>1</sup> wrote in part:

“Overlap exists between various land use designations. For example, a key access corridor may intersect a post-calving area. To avoid double counting these overlaps, areas for each designation type are calculated individually, and overlapping areas that are different designation types are merged. Using the example above, when determining the total area covered by caribou habitat for a 100 km<sup>2</sup> access corridor that has a 10 km<sup>2</sup> overlap with a 50 km<sup>2</sup> post-calving area, the interior boundaries are dissolved to yield a total area of 140 km<sup>2</sup> thereby removing the overlapping area. The features are considered independently when summarizing the total for an individual land use designation, but merged as described above when summarizing the designation groups. The tables throughout the document reflect this approach.”

### 6.2.3.1 Policy Options for Overlapping Land Use Designations in Map A Series

#### 6.2.3.1.1 Option 1: Represent All Overlapping Designations

Few participants supported retaining the 2016 DNLUP approach to overlapping land use designations. The GoC and the NIRB specifically noted it was not sufficiently clear as to how conformity determinations would be made in the event of overlap.

#### Considerations

Contravening a prohibition on land use in the NLUP is an offence under the NuPPAA and it must be clear what land use activities are permitted, and what land use activities are prohibited. It is also important that all overlapping land use designations are represented for completeness.

#### 6.2.3.1.2 Option 2: Limit Overlapping

In 2017, the GoC<sup>2</sup> recommended limiting overlapping designations by merging layers, and gave an example of a draft geodatabase structure that merged designation layers into a single, non-overlapping layer where the layer attributes describe the full set of conditions for any polygon.

#### Considerations

Participants generally recommended simplifying overlapping layers in the NLUP.

The proposal to merge overlapping layers into a single, non-overlapping layer where there are multiple prohibitions and conditions that are consistent with each other is complex to implement in the Nunavut context given the size of the territory and the multiple overlapping values. Creating a single, non-overlapping polygon for each plan requirement based the values and recommended land use management policies would result in a large number of designations. On the other hand, simplifying and generalizing land use policies to be applied on merged overlapping areas would require a compromise to simplify some plan requirements for certain areas in order to make the single layer solution practical.

### 6.2.3.2 NPC Recommendation – Overlapping Land Use Designations

Given that:

- Few participants supported retaining the 2016 DNLUP approach to overlapping land use designations
- It must be clear what land use activities are permitted, and what land use activities are prohibited
- The NLUP needs to identify all land use designations for completeness
- Simplifying and generalizing land use policies to be applied on merged overlapping areas would require compromises to simplify some plan requirements for

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

*certain areas in order to make the single layer solution practical*

- *An alternative is to merge overlapping layers where it is feasible and will not result in the loss of any plan requirements, and also expand Map A into a series of Maps to separately show an illustrative overview (Map A1) as well as Limited Use areas (Map A2) and Conditional Use areas (Map A3)*

Option 2 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **OVERLAPPING LAND USE DESIGNATIONS**

### **LIMIT OVERLAPPING DESIGNATIONS TO THE EXTENT POSSIBLE AND INCLUDE A SERIES MAP A**

#### **6.2.3.3 Summary of Revisions**

##### **KRLUP and NBRLUP**

This section is not applicable because the KRLUP and NBRLUP were not developed using a zoning or area specific land use designation approach.

##### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP did not specifically discuss overlapping land use designations.

The 2014 DNLUP required projects to conform to the requirements of each of the overlapping designations. The 2014 DNLUP included the following statements:

“In some instances, Protected Areas and Special Management Areas may overlap. When this occurs, all requirements of the Land Use Designation, Terms, Direction to Regulators and Priorities and Values apply.

...

“Where the foot print or study area of a project proposal occurs in more than one land use designation it will be considered to conform as long as all aspects of the project are considered to conform with the requirements of each Designation.”

The 2016 DNLUP took a similar approach to the 2014 version and stressed the need for project's to conform to the most restrictive requirements in the overlapping designations. The 2016 DNLUP contained the following

statement: “Projects/Project Proposals must conform to all Designations and meet the most stringent requirements of the overlapping designations.”

##### **2021 DNLUP**

The 2021 DNLUP takes a similar approach to the 2014 and 2016 versions, but unlike the 2016 Schedule A, Map A1 has been further separated in Map A2 (Limited Use designations) and Map A3 (Conditional Use designations) for ease of use for the readers.

### **6.2.4 Implementation of Valued Components**

Participants generally supported the identification of VCs in the NLUP. Some participants encouraged the NPC to consider using a “Code of Good Conduct” to protect certain areas and resources, as was done in the KRLUP and NBRLUP, which in the NLUP would be consistent with implementing a “Code of Good Conduct” in respect of identified VCs. A number of participants commented on how VCs should be organized and presented.

In 2014, in its submission on the 2011/2012 DNLUP, the BQCMB<sup>1</sup> asked the NPC to explain why “the ‘Code of Good Conduct for Land Users’ and the Caribou Protection Measures, which are measures in the Keewatin Regional Land Use Plan designed to provide protection for caribou (and other wildlife in some cases), were not adapted for inclusion in the Draft Plan.”

A literature review prepared by Trailmark Systems Inc. in 2015 and submitted to the NPC by the NWMB<sup>2</sup> in 2017 noted the KRLUP and NBRLUP could “potentially offer some additional measure of protection to caribou during calving and migration in the form of Conformity Requirements, Terms, and a Code of Good Conduct for Land Users”, noting the existing Code of Good Conduct “recommends against low altitude flights whenever possible in areas where they will disturb wildlife”, “broadly states that land use activities should be conducted in a way that conserves renewable resources in a given area” and “cautions that land use activities should be restricted during calving, post-calving and migration.”

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2014-02-14. NPC Public Registry File # 12-138M)

<sup>2</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

In 2017, the GNWT<sup>1</sup> recommended implementing minimal protection conditions for VCs not otherwise protected by land use designations, specifically in respect of seasonal barren-ground caribou ranges:

“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.”

In 2017, addressing the issue of overlapping features in the NLUP, the GoC<sup>2</sup> supported maintaining a separate database of VCs:

“Similarly, within designations, overlapping features makes it virtually impossible to see the orientation and number of overlapping areas, such as the various caribou habitats that are represented in the database, and therefore to understand the full list of prohibitions and conditions at any given point on the landscape. The development of the current shapefile, where a simple union of all layers was used to combine the layers into one shapefile (i.e., one feature class) also created many small and perhaps meaningless slivers that should be connected to other, larger areas.

...

**“Recommendation(s):** The Plan should be clear on what land uses are allowed; the Government of Canada therefore recommends the Commission review the draft Plan with a view to limiting overlapping designations. There are various ways to structure the GIS data/overlapping

designations for ease of use for both proponents and regulatory bodies; one possible solution is provided in the supporting material section below. However, the Commission should also consider and evaluate other methods in an effort to maximize the accessibility and usability of Schedule A.

**“Supporting Material:** The data structure should maximize usability, eliminate overlapping data within feature classes and group data sources thematically for users interested in only certain layers.

“Top level groupings are intended to be File Geodatabases, which allows a thematic subgrouping of feature data sets (second level groupings) that contain individual feature classes (bottom level groupings). These feature classes should contain similar features distributed across the landscape in a non-overlapping fashion. Judgement should be exercised as to whether proximate individual features should be kept as single-part or multi-part features (e.g., walrus haul-outs in Foxe Basin could be kept as one multi-part feature, or as individual single-part features). In some cases, particularly in the Valued Components geodatabase, there may be feature classes with only a single record, or feature data sets with only a single feature class. While this may seem to be an inefficient storage design, it will allow for highly flexible use of the data.”

In 2019, the North Slave Métis Alliance<sup>3</sup> noted VCs may be considered when regulatory authorities review a project after a conformity determination by the NPC had been carried out:

“Caribou winter range was considered within the 2016 *Draft Nunavut Land Use Plan Options and Recommendations* (NPC 2016b). However, the NPC recommended the most lenient “Mixed Use” designation (Option 3), which allows for all uses except highways and railways. While most project types are allowable in mixed use designation areas, VCs may be considered in the design and regulatory review of projects and project proposals. The only explanation provided by the NPC for the mixed use designation of winter caribou habitat is: “*the large geographic extent of the areas, and the relatively low impacts that disturbance can have (as compared to calving areas)*.” This rationale is not strongly supported by the current scientific evidence on the importance of winter habitat for caribou, and the way in which anthropogenic influences can disturb animals within winter habitat. Therefore, it is difficult to conclude that disturbance within winter habitat would be less impactful, except perhaps due to the lower density of individuals, due to generally lower densities distributed over winter range. However, projects

<sup>1</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> (North Slave Metis Alliance (NSMA), 2019-01-25. NPC Public Registry File # 16-244E)

with a wider geographic scale of impact could impact caribou in winter habitat greatly, and those impacts could manifest in population demographics measured in more northern calving and post-calving habitats.”

### Considerations

Identifying VCs in the NLUP does not provide them with any protection; at the land use planning stage they are for information purposes only although other regulatory authorities may use their discretion to preserve VCs included in the NLUP when making decisions within their respective jurisdictions.

Some VCs were recommended by participants to receive land use designation protections, but the NPC does not have enough information to be able to determine appropriate land use restrictions while ensuring minimal interference with other land uses.

Future amendments to the NLUP may add protections for some things that are only identified as VCs in the present NLUP.

## 6.2.4.1 Policy Options for Implementation of Valued Components

### 6.2.4.1.1 Option 1: Code of Good Conduct

Several participants supported the use of a “Code of Good Conduct” in the NLUP as was used in the KRLUP and NBRLUP, although the GN noted that the “Code of Good Conduct” did not appear to be legally enforceable. No participant opposed the use of a “Code of Good Conduct.” The NLUP could adopt a “Code of Good Conduct” similar to those used in the KRLUP and NBRLUP.

In 2016, the GN<sup>1</sup> noted in its submission on the 2014 DNLUP that inclusion of a “Code of Good Conduct” would be “symbolic and non-legally binding in nature” such that it would not be a “necessary addition” but that the GN would have “no serious concerns with its inclusion.”

Although not referring to a “Code of Good Conduct,” the GoC’s<sup>2</sup> 2016 submission acknowledged requests by participants to have the NLUP control where vessels go

in the marine environment to avoid “environmentally sensitive areas, disturbance to certain species and to the harvesting of those species” and said that the GoC is “open to exploring options to address those concerns” noting a “wide range of binding and non-binding tools can be considered” and that “not every issue raised within the planning process would necessarily be addressed in the same way.”

The GNWT’s<sup>3</sup> 2017 submission, noted above, recommended that implementing minimal protections for VCs not otherwise protected by a land use designation could potentially be met using a “Code of Good Conduct.”

### Considerations

The NLUP could adopt a “Code of Good Conduct” similar to those used in the KRLUP and NBRLUP as a non-binding tool to help protect VCs in all land use designation areas where projects are permitted to proceed.

Although not proposed by participants, if the NLUP included a “Code of Good Conduct” that had a requirement to provide periodic reports to the NPC on the status of VCs impacted by the project, for example at the end of each calendar year in which the project takes place, the NPC would regularly obtain important information about the status of VCs in order to determine if plan amendments are required.

Although not proposed by participants, the NLUP could include annual reporting by proponents on their efforts to follow the “Code of Good Conduct” and observations of VCs in their area of operations as a conformity requirement and the NPC would use those reports to monitor ongoing conformity with the NLUP.

Consistent with the KRLUP and NBRLUP, the “Code of Good Conduct” could apply to all land users including industry, visitors, tourists and local residents, although any reporting requirements, if any, would only apply to proponents of projects approved by the NPC.

### 6.2.4.1.2 Option 2: Directions to Regulatory Authorities

<sup>1</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)

Regulatory authorities did not support the NLUP “directing” them to consider VCs.

In 2015, the GoC<sup>1</sup> noted:

“The second type of direction to regulatory authorities identifies particular concerns worth the attention of other regulators. While the information may indeed be useful to these regulators, it does not appear appropriate to set those out as ‘directions’. Potential project impacts and appropriate mitigation measures are already required to be identified on a project-by-project basis through the environmental assessment process under the NLCA and the range of applicable statutes. Determining whether and what types of mitigation are required is already an outcome of NIRB’s environmental assessment process. Thus the requirement to apply necessary and appropriate mitigation measures always exists as established by the NLCA. The plan should avoid duplicating this requirement, or worse require that the level of mitigation be reviewed again by each regulatory authority after NIRB’s comprehensive review of the same question.

“Despite this, Canada recognizes that through the planning process, the Commission might have gathered and organized information that, without being sufficient to ground land use restrictions, should still be passed on as relevant considerations to others. This should be done in a manner that respects the independence of other decision-makers, without unduly treading on the legitimate jurisdiction of the NIRB, the NWB or other regulatory authorities, or assuming that they will not fulfil their respective mandates.”

Considerations

The NPC notes that most regulatory authorities do not like this option.

6.2.4.1.3 Option 3: Information for Regulatory Authorities

In 2015, the GN<sup>2</sup> recommended including information requirements for conformity determinations based on the VCs existing in individual land use designations:

“Include a conformity requirement in the DNLUP requiring a proponent of an industrial project taking place within a watershed containing a community drinking water source to identify in their proposal: the location of the community drinking water source in relation to the proposed project

activities; any potential impacts of project activity on that water source; and mitigation measures to avoid impacts to the community drinking water source.”

In 2018, the GN<sup>3</sup> recommended avoiding a “prescriptive” approach where information is available but it is unclear whether restrictions are supported:

“Where community values and recommendations remain unclear for specific designations at this late stage of drafting, a less prescriptive planning approach in the first generation plan is preferred in order to avoid the risk of imposing restrictions unsupported by communities and Inuit.”

Considerations

Under this option, as well as the other options, VCs cannot be used by the NPC to determine conformity. As an example, a project that would preclude the community’s use of a MU area with identified VCs would conform to the NLUP.

Other regulatory authorities would use VCs to obtain information and make discretionary decisions on whether to include any terms or conditions on licences, permits and other authorizations in consideration of those VCs.

6.2.4.1.4 Option 4: Valued Components as Information and Annual Reporting Requirement

No participant specifically suggested this option.

In 2016, the GoC<sup>4</sup> recommended modifying the approach of giving “direction to regulatory authorities” to instead provide “information for decision-makers” with reference to Schedule B of the 2014 DNLUP. The information in Schedule B of the 2014 DNLUP is now the VCs approach outlined in this 2021 O&R.

Many participants supported the use of terms and conditions and prohibitions in respect of various areas and wildlife for which this document recommends a MU and VC status. For example, in its 2016 submission, the KWB<sup>5</sup> expressed concern at the “direction to regulatory authorities” approach (now the VCs approach) in the

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>3</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>4</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>5</sup> (Kivalliq Wildlife Board (KWB), 2016-02-26. NPC Public Registry File # 14-149E)



context of walrus haul-outs. As noted below in section 6.2.10, while the NPC does not have the capacity to conduct in-person monitoring, many participants including the GN<sup>1</sup> support annual reporting as a substitute for compliance monitoring where the effectiveness of mobile CPMs remains and there is insufficient resources and capacity to effectively monitor compliance. The NPC expects many participants would support ongoing monitoring of VCs to be considered in periodic reviews to determine if any VCs should receive additional protection in future generations of the NLUP.

Adding a reporting requirement for projects impacting VCs could potentially address the GNWT's<sup>2</sup> 2017 recommendation, noted above, to implement minimal protections for VCs rather than through a "Code of Good Conduct."

The reporting requirement would apply to all land use designations where a overlapping VC is noted, including MU, CU and LU.

At the time of submitting a project for a conformity determination, the NLUP could require a proponent to identify which VCs may be impacted by the project, and the timing of those impacts.

Following a positive conformity determination, proponents would have to include a statement of actual impacts to VCs when submitting annual reports to the NPC to enable the NPC to monitor potential ongoing impacts on identified VCs. Those annual statements on VCs would be for information purposes only and would not be used to determine ongoing conformity of the project.

#### Considerations

Proponents with approved projects where VCs are identified could be required to submit reports to the NPC to assist the NPC in determining whether a periodic review of the NLUP or a NPC initiated plan amendment may be required to manage future projects.

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

### 6.2.4.2 NPC Recommendation - Implementation of Valued Components

Given that:

- *Conformity determination by the NPC has to provide certainty on whether a project conforms or not to the NLUP and should move to the next stage of the regulatory system*
- *A "Code of Good Conduct" is not legally enforceable prior to making a conformity determination*
- *The signatories do not support the NLUP providing prescriptive direction on how regulatory authorities are to implement VCs*
- *The NPC has an obligation to monitor projects to verify they are carried out in conformity with the NLUP under section 14(a) of the NuPPAA*

Option 4 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **IMPLEMENTATION OF VALUED COMPONENTS**

#### **VALUED COMPONENTS AS INFORMATION AND ANNUAL REPORTING REQUIREMENT**

- Proponents of projects proposed where VCs are identified are required to provide a statement of anticipated impacts to VCs at the time of submitting a project for a conformity determination
- Proponents of approved projects must include a statement of actual impacts to VCs (for clarity, those VCs identified at the time of positive project conformity) in annual reports to the NPC within 30 days after the end of each calendar year in which the project is carried out
- Regulatory authorities may review VCs contained in the NLUP and can impose additional or more stringent terms and conditions than are set out in the NLUP when issuing licences, permits or other authorizations
- The NPC's ongoing and periodic review of the NLUP will consider annual reports on impacts to VCs to determine if NPC initiated plan amendments are desirable

<sup>2</sup> (Government of Northwest Territories (GNWT), 2017-01-13. NPC Public Registry File # 16-081E)



### 6.2.4.3 Summary of Revisions

#### KRLUP and NBRLUP

The NBRLUP includes a “Code of Good Conduct” as a conformity requirement:

“3.3.1 All land uses shall be conducted in keeping with the policy of sustainable development in order to protect the opportunities for domestic harvesting. All land users shall avoid harm to wildlife and wildlife habitat and damage to community travel routes through the timing of their operations, through careful selection of the location of their main camps and travel routes, and through other mitigative measures. In order to achieve these ends, all land users shall follow the Code of Good Conduct contained in Appendix H. [CR]”

The KRLUP also includes a “Code of Good Conduct” as a conformity requirement:

“2.15 All land users shall follow the Code of Good Conduct contained in Appendix G. [CR]”

#### 2012, 2014 and 2016 DNLUP

The 2012 DNLUP included “Recommendations” to regulatory authorities to take into account potential impacts on the identified values.

The 2014 DNLUP included “Direction to Regulatory Authorities” that identified issues that regulatory authorities, where appropriate, needed to address during the regulatory review of project proposals.

The 2016 DNLUP included “Information on VECs and VSECs” that identified priorities and values to help inform the NPC on cumulative effects-based referrals to the NIRB, and that regulatory authorities, where appropriate, needed to address when implementing the NLUP during the regulatory review of projects/project proposals.

#### 2021 DNLUP

The 2021 DNLUP requires proponents to consider VCs when planning projects, identify anticipated impacts to VCs in project proposals submitted to the NPC, and annually report to the NPC on actual impacts to VCs. The 2021 DNLUP also encourages regulatory authorities to consider VCs when reviewing projects pursuant to their own jurisdictional powers.

### 6.2.5 Requiring Consultations with Third Parties in Conformity Determinations

Some participants have taken the position that the NLUP should include consultations with others as a conformity requirement.

For example, in its 2014 submission, the QIA<sup>1</sup> provided a guide for a conformity determination process in which proponents would have to consult with communities prior to submitting a project proposal:

- “Prior to the NPC receiving a project proposal for conformity determination, the Proponent will be required to undertake the appropriate level of community consultation and/or notification based on this guide. The Proponent should allow for an appropriate amount of time in order to undertake the necessary consultation and/or notification.
- “This guide outlines the minimum level of consultation and/or notification required based on scale of proposed activities. The guide provides a map indicating which communities may be most affected by a project in a given region. The Proponent shall engage with the affected communities as outlined in the ‘Notification, Informing and Consulting Communities’ section.
- “A list of appropriate groups to receive project proposals is based on the level of activity proposed which is outlined in the ‘Notification, Informing and Consulting Communities’ section and also in Appendix 1.
- “It is the responsibility of the Proponent to contact QIA if they require a discussion with their Community Lands and Resource Committees (CLARCs). Be advised that at least two weeks’ notice will be required.
- “QIA will provide technical assistance when requested by a CLARC.
- “For all meetings with CLARCs the Proponent will be requested to provide financial assistance.
- “The Proponent will provide NPC with a report on the results of the community consultations for consideration in their conformity determination. This shall be submitted using the attached ‘Proponent

<sup>1</sup> (Qikiqtani Inuit Association (QIA), 2014-02-14. NPC Public Registry File # 12-146E)

Consultation Report' for the purposes of summarizing feedback from the communities (See Form 1). This record of consultation will then be forwarded to NIRB and QIA along with the conformity determination.

- "The Proponent will be responsible for administering the use of the Community Checklist (Form 2). This form will serve as a method to review the Proponent's engagement efforts with each community interest group. It will be the Proponent's responsibility to forward the completed Community Checklists to the NPC and QIA.
- "NPC will notify affected communities and QIA when they have received a complete application from a Proponent.
- "Upon completion of the conformity determination process, the NPC will also make its final analysis available to QIA and the affected communities."

The QIA's<sup>1</sup> 2014 proposal continued:

"When determining whether or not a project proposal is complete, the NPC shall consider the following:

- Satisfactory documentation of the Proponent's engagement efforts with affected communities (Form 1)
- Review of Community Checklist (Form 2) responses from various community interest groups as required based on the scale of activity.

#### "The QIA Lands and Resources Department

...

"The number of land use applications in the Qikiqtani Region has greatly increased in recent years and the Department's workload has increased accordingly. QIA has issued a number of exploration permits on Inuit-owned lands in the region to companies prospecting for base metals, gold, and diamonds. QIA has also processed numerous land use applications from scientific researchers in the region, with a vast majority proposed to occur in the High Arctic.

"Community Land and Resources Committees (CLARC) are tasked with reviewing applications for work on Inuit owned lands and on nearby crown lands. CLARCs provide an important link to the communities. They enhance knowledge of the rights and obligations of the Inuit in the region and members can act as resource persons for

communities regarding development and other land use activities in Nunavut. The CLARC members are well placed to make consistent and informed decisions."

In 2016, the GN<sup>2</sup> suggested the inclusion of terms that would apply within SMAs (now CU areas) for polar bear denning, including a requirement that the proponents of "industrial or high disturbance activities" consult with the GN-DOE and local HTOs and Regional Wildlife Board to gauge the likelihood of dens being present in the project area, among other matters.

#### Considerations

The NPC prepares and finalizes a land use plan for approval based on its consultations. Section 207 of the NuPPAA provides that the approval or amendment of a land use plan after a project has been submitted to the NPC is not taken into account in the assessment under Part 3 of the Act. It is unclear how the NPC could take into account any *ad hoc* consultations by a proponent on a particular project for the purpose of making a final and binding conformity determination – to put it another way, it is unclear how the NPC could determine an otherwise conforming project does not conform to the plan solely on the grounds that affected Nunavummiut oppose the project. Information used for cumulative impacts considerations are not limited to the text of the NLUP however, and it may be acceptable for the NPC to use *ad hoc* consultations for this purpose.

#### 6.2.5.1 Policy Options for Requiring Consultations with Third Parties in Conformity Determinations

##### 6.2.5.1.1 Option 1: Proponent-Led Consultations as Information Requirement

In 2014, the QIA's<sup>3</sup> submission noted above appeared to support requiring proponents to consult affected communities as an information requirement and providing those consultation records to the NPC at the

<sup>1</sup> (Qikiqtani Inuit Association (QIA), 2014-02-14. NPC Public Registry File # 12-146E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>3</sup> (Qikiqtani Inuit Association (QIA), 2014-02-14. NPC Public Registry File # 12-146E)

time of carrying out a conformity determination. The consultation record would then be provided to the NIRB.

In 2015, the GoC<sup>1</sup> recommended the following condition be added:

"It is a condition of conformity with the Plan that proponents demonstrate that the Department of National Defence has been notified of the Project Proposal, in order to ensure that development and activities near these sites do not negatively impact the ongoing operations of the sites."

### Considerations

If the NLUP were to require a proponent to consult a third party for the purpose of applying for a conformity determination, the NPC would only be able to assess whether or not the consultation had taken place. The NPC would have a record of the consultation for the purpose of periodic reviews and amendments to the NLUP, but would not be able to consider the substantive outcome of the consultation(s) for the purpose of issuing a conformity determination. In this hypothetical example, if a third party consulted raised concerns with a project and asserted Inuit land uses incompatible with the proposed project that were not already identified in the existing NLUP, the project would still conform to the NLUP and would proceed to the next stage of the regulatory process, and the NPC would then be able to consider whether those newly-identified Inuit uses should be added to the NLUP in the future through an amendment.

#### 6.2.5.1.2 Option 2: Proponent-Led Consultations as Conformity Requirement

In 2017, Ms. Hughson,<sup>2</sup> an individual participant, noted a consultation held in 1990 in respect of uranium mining that led to the amendment of the KRLUP as grounds to make plebiscites a conformity requirement:

**"Issue:** Section 3.6 of the Keewatin Regional Land Use Plan (which was a requirement for community support for uranium development) was not carried forward into the Draft Nunavut Land Use Plan.

"The NPC has not provided any reason for this omission. A requirement for community support for uranium mining is consistent with the values of most Nunavummiut, government policy, and the United Nations Declaration on the Rights of Indigenous Peoples.

**"Recommendation:** The new Nunavut Land Use Plan should include a conformity requirement throughout the Nunavut Settlement Area for community consent to uranium mining, expressed through public plebiscites. Proposed uranium mines must demonstrate community consent prior to receiving a positive conformity determination. This consent must be demonstrated through a democratic process – community plebiscites. Plebiscites must be required for the communities closest to the proposed development."

In 2018, NTI<sup>3</sup> supported inclusion of conformity requirements for cruise ships, suggesting the NPC require proponents to negotiate agreements with communities before they conform to the NLUP:

### "Cruise Ships

"There is growing frustration at the community level with increasing cruise ship traffic and the impact of cruise ships on wildlife and community life. NTI and the RIAs recommend that the NPC discuss with stakeholders the creation of cruise ship conformity requirements that address various community concerns. Specifically, there could be conformity requirements for cruise ship proponents to provide:

- i) A Community Communications Plan; and
- ii) Community Services Agreements.

"A Community Communications Plan could detail what steps a cruise ship proponent will take to inform communities of when they plan to be in proximity to a community or community harvesting areas. In addition, the Community Communications Plan could outline what steps cruise ships will take to communicate with communities the location of the cruise ship at intervals agreed to with the communities (e.g. several weeks, days, or hours in advance of arriving near a community).

"A Community Services Agreement is a recommended voluntary measure in the *Guidelines for Passenger Vessels Operating in the Canadian Arctic* (Transport Canada, November 2017) for when a vessel plans to visit a community. The types of items that are suggested be incorporated in a Community Services Agreement include

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Hughson, Written submission on 2016 DNLUP, 2017-01-13. NPC Public Registry File # 16-075E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2018-11-26. NPC Public Registry File # 16-179E)

the time and date of the visit, the number of passengers visiting and fees for services.

“NTI and the RIAs recommend that consideration be given to establishing a conformity requirement that cruise ship proponents negotiate a Community Services Agreement with each community that it intends to visit and with each community when a cruise ship operator intends to enter into marine areas identified by the community to be harvesting areas or marine community areas of interest. The Community Services Agreement could address marine areas (e.g. inlets) that the community does not wish the cruise ship to enter, appropriate use of zodiacs, wildlife viewing, anchoring sites and any other issue of concern to the community. It is anticipated that communities will need support to identify marine areas of interest and to negotiate Community Services Agreements. If NPC proceeds to establish conformity requirements, it is recommended that the NPC with the assistance of regulatory and Inuit organizations develop a Community Services Agreement Template for the use of communities. In addition, other community support mechanisms should be developed.

“NTI and the RIAs also recommend that the NPC develop a ‘required action’ that regulatory authorities provide a point of contact for communities to report issues related to cruise ships or other marine vessels that are undertaking activities that are of concern or pose a health or safety risk. The point of contact should be responsible for taking action or ensuring that the appropriate authority provides the community with a satisfactory and timely response.”

### Considerations

The NPC notes this approach would provide communities and other regulatory authorities an effective veto on projects, as withholding its agreement would mean a project would not be able to conform to the NLUP.

The use of consultations as a conformity requirement may lead to unpredictable and inconsistent application of the NLUP if it cannot be objectively predicted by a proponent whether a project will or will not be ultimately found to conform to the NLUP.

The NPC must apply the NLUP as it exists on the day a project is submitted for conformity determination and the results of consultations not contained in the body of the NLUP could not be applied to the project.

The NLUP is intended to reflect consultations undertaken by the NPC in the development of the plan, and the

planning policies, objectives and goals approved by government and designated Inuit organizations.

#### 6.2.5.1.3 Option 3: Post-Conformity Proponent-Led Consultation as Condition

As noted above, the GN<sup>1</sup> suggested the inclusion of terms in the NLUP in SMAs (now CU areas) for requiring proponents of “industrial or high disturbance activities” to consult with GN departments and local HTOs and Regional Wildlife Board.

Participants had requested consultations occur before certain types of projects that may affect local communities or others be allowed to proceed.

Some government departments and agencies also requested consultations occur before a project be allowed to be carried out on the grounds that they may have additional information that would affect the project to be carried out.

### Considerations

The NLUP may impose conditions on uses of land by projects. The NLUP could impose as a condition in CU areas a proponent-led consultation with groups and people directly affected by the project to ensure they are aware of the project and its potential impacts, but without providing any affected group or person a veto on the project itself.

The NPC’s conformity determination process is intended to be objective and predictable and pre-conformity consultation requirements may introduce unnecessary subjectivity into the decision-making scheme.

A post-conformity condition would place on the proponent an obligation to ensure communities have been adequately consulted and are aware of the work and timing of the project and of the potential positive economic opportunities and negative ecosystemic impacts that may be expected, if any, without providing any community with a veto on the project itself.

While generally not a recommended approach for the NLUP, this option may be appropriate in exceptional circumstances where projects are likely to affect the

<sup>1</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

health and safety of Inuit, such as breaking on-ice travel routes. See section 6.2.7.2 of this document for the one instance in which this approach has been recommended for inclusion in the NLUP.

#### 6.2.5.1.4 Option 4: No Proponent-Led Consultations at Conformity Stage

In 2017, the GoC<sup>1</sup> commented on other aspects of the 2016 DNLUP that it considered too subjective to include as conformity requirements, explaining the importance of clear, predictable and objective conformity requirements as follows:

“Sound land management includes regulatory efficiency, clarity, certainty and effective implementation, which are best achieved through a land use plan that supports clear and predictable decision making. This clarity and predictability can be achieved by ensuring that conformity requirements are

- explicitly identified as such in the land use plan;
- capable of being determined based on criteria that are as objective as possible; and
- based on criteria that can be met with the limited information that can reasonably be expected at an early stage of project development – specifically, during the development of a project description.

“As the ‘one-window entry’ into the Nunavut regulatory process, the Nunavut Land Use Plan must provide clarity and certainty. Users, regulators and the Commission must be able to predict with reasonable certainty whether a proposed project conforms to the Nunavut Land Use Plan. It is important that the amount of detailed information required at the conformity stage is suitable for determining conformity.

“Currently, the draft Plan puts pre-conformity requirements on some project proposals, offering proponents a potential path to conformity but leaving considerable uncertainty as to whether an activity will meet conformity requirements. ...

...

**“Recommendation:** The Government of Canada suggests that the Commission review the conformity requirements in the draft Plan, ensuring they are based on objective criteria that can be met with the limited information that can reasonably be expected at a very early stage of project development – specifically, at the time the proponent is developing its project description.”

## Considerations

This option recognizes that the outcome of community consultations cannot be predicted in advance and prioritizes the use of objective criteria for conformity determinations under the NLUP.

#### 6.2.5.2 Recommendation – Requiring Consultations with Third Parties in Conformity Determinations

Given that:

- *Land use planning is intended to represent the public interest*
- *It is in the public interest to give proponents clear notice of what does or does not conform to the NLUP, and the conformity determination process under the NLUP should be clear and objective where possible*
- *Unlike other processes in which the NPC must conduct consultations and consider public input, including drafting and revising land use plans to submit for approval, making amendments to approved plans, or issuing minor variances, the NuPPAA does not provide an opportunity for public input when the NPC makes conformity determinations*
- *NPC conformity determinations under Part 3 of the NuPPAA must be conducted on the basis of the NLUP as it exists on the day a project is submitted to the NPC under section 207 of the Act*
- *If proponents are required to undertake consultations prior to submitting a project to the NPC, the NPC would only be able to consider whether a consultation was conducted, but would not be able to consider any new information in that consultation when determining if a project was in conformity with the NLUP, as doing so would be unfair to a proponent that has a right to have the project reviewed solely based on the approved land use plan*
- *A post-conformity condition would place on the proponent an obligation to ensure communities have been adequately consulted and are aware of the work and timing of the project and of the potential positive economic opportunities and negative ecosystemic impacts that may be*

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)



*expected, if any, without providing any community with a veto on the project itself*

- *It is generally not recommended the NLUP impose conditions of post-conformity consultations, however, in the exceptional case of breaking on-ice travel routes this approach is preferred (see section 6.2.7.2 of this document)*

Option 3 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **REQUIRING CONSULTATIONS WITH THIRD PARTIES IN CONFORMITY DETERMINATIONS**

#### **NLUP MAY REQUIRE POST-CONFORMITY PROPONENT-LED CONSULTATIONS AS A CONDITION PRIOR TO UNDERTAKING PROJECTS**

- This recommendation is limited to the exceptional case of projects that interfere with community on-ice travel routes identified in section 4.1.3
- For clarity, post-conformity consultations are to ensure affected land users are fully informed of the details of the project, but a proponent does not require the consent of affected land users for the project to conform to the NLUP

### **6.2.5.3 Summary of Revisions**

#### **KRLUP and NBRLUP**

The KRLUP and the NBRLUP include a “Code of Good Conduct” as a conformity requirement involving third party consultation:

“3. Generally, low-level flights by aircraft at less than 300 metres should not occur where they will disturb wildlife or people. If such flights are necessary, they should only take place after consultation with the appropriate communities.”

#### **2012, 2014 and 2016 DNLUP**

Requiring consultations with third parties in conformity determinations was not discussed in previous versions of the DNLUP.

#### **2021 DNLUP**

The 2021 DNLUP includes a plan requirement that a proponent of a project that will disrupt or destroy on-ice travel routes during the seasons of Upingaksaag and Upingaaq (set out in Table 3 of the NLUP) must consult with all municipal councils, HTOs and RWOs within a 300 km radius of the route and develop an ice-bridging plan before undertaking the project. This requirement does not apply to vessels engaged in community resupply or emergency response.

### **6.2.6 Implementation of Linear Infrastructure and Marine Corridor Information Requirements**

In planning for the construction of roads, railways and the use of marine transportation corridors by project proponents, the NLUP may allow these types of projects in some areas while discouraging them, or outright prohibiting them, in other designated areas. From an implementation standpoint, the challenge is in arriving at a general consensus on what rules should be implemented across the entire territory that will allow sustainable economic development and the building of healthier communities while also conserving and, where appropriate, restoring the environmental integrity of Nunavut. This subsection discusses some of the options considered for linear infrastructure and marine corridors for implementation in the NLUP.

The NBRLUP at section 3.5.11 includes alternative route assessments as a conformity requirement for corridor development projects:

“3.5.11 All parties wishing to develop a transportation and/or communications corridor shall submit to the NPC a detailed application for an amendment. This application must include an assessment of alternative routes, plus the cumulative effects of the preferred route. It shall provide reasonable options for other identifiable transportation and utility facilities. [A][CR]”

The NBRLUP provides at section 3.5.12:

“The NPC, and either NIRB or a panel acting under section 12.4.7 of the NLCA, shall publicly review the proposed corridor to determine whether the proposal adequately meets the guidelines set out in Appendices J and K. Once it is determined that a proposal does meet the guidelines, the NPC may request the ministers to amend the plan to include the new transportation corridor. [A][CR]”

Appendices J and K of the NBRLUP read as follows:



## **“Appendix J: Marine and Terrestrial Transportation/Communications Corridor Alternative Route Assessment**

“Applicants wishing to develop a transportation and/or communications corridor in the North Baffin region are required to provide the NPC with the following information:

1. A description of the proposed corridor, including its use, its general routing, the possible environmental and social impacts, and any seasonal considerations that may be appropriate.
2. A comparison of the proposed route with alternative routes in terms of environmental and social factors as well as technical and cost considerations.
3. An assessment of the suitability of the corridor for the inclusion of other possible communication and transportation initiatives (roads, transmission lines, pipelines, etc.). This assessment should include:
  - the environmental, social and terrain engineering consequences, and the cumulative impacts of the project, and
  - the environmental and social impact of the project on nearby settlements or on nearby existing and proposed transportation systems.”

## **“Appendix K: Marine and Terrestrial Transportation/Communications Corridor Guidelines**

“The following planning guidelines will be used in the assessment of a new transportation / communications corridor proposal:

1. The corridor width shall be a function of:
  - the number and type of identified facilities within the corridor;
  - physical and biophysical conditions;
  - availability of detailed engineering data for one or more transportation modes within the corridor;
  - safe distances between different facilities within the corridor; and

- aesthetics.
2. Corridors shall:
    - minimize negative impacts on community lifestyles;
    - improve access to other resources having high potential for development, while still maintaining the shortest practicable distance between the primary resource areas and the trans-shipment location;
    - be designed in accordance with existing and prospective land use capability including topography, soil, permafrost and wildlife; and
    - be designed in accordance with the availability of granular supplies.
  3. In keeping with existing legal and legislative requirements, including the NLCA, corridors shall not negatively impact:
    - community business, residential and projected expansion areas;
    - important fish and wildlife harvesting areas;
    - key habitat for fish and wildlife species, especially areas used by endangered species;
    - areas of high scenic, historic, cultural and archaeological value.”

In several of the NIRB’s public review processes, community members historically asked whether proponents constructing terrestrial and marine corridors adequately considered alternative routes. A report entitled “Public Comments from NIRB and NWB Public Registries” (dated February 14, 2013) prepared for the NPC by Dillon Consulting Ltd.<sup>1</sup> summarized submissions relevant to the development of the NLUP by the communities of Arctic Bay, Cape Dorset, Gjoa Haven, Grise Fiord and Iqaluit who wanted proponents to consider alternative routing for projects proposing road, railway and sea routes.

In 2014, the GN’s<sup>2</sup> submission on the treatment of transportation infrastructure in the 2014 DNLUP

<sup>1</sup> (Dillon Consulting Limited, 2013-02-14. NPC Public Registry File # 12-027E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

recommended requiring proponents of transportation infrastructure projects to provide the NPC with information on VCs over and above what other proponents are required to provide:

“Nunavut has a severe deficiency in ground-based infrastructure that extends to transportation, energy transmission, and communications systems. No two communities are physically connected and no link exists between Nunavut and another jurisdiction. The DNLUP currently lists all-weather roads and hydro developments (including transmission lines) as prohibited uses in most Protected Areas.

“The GN would support *NLUP* recognition of a broader range of infrastructure corridors that can include, at a minimum, vehicular transportation, energy transmission, and/or communications systems.

“Regarding Option 1 the GN supports the current approach where Transportation Infrastructure is considered to conform to the requirements of the Plan in all areas of the NSA except where explicitly prohibited.

“The GN supports Option 2 and agrees that NPC should be engaged in early planning processes for all future infrastructure investments. ...

...

“The process for which NPC weighs socioeconomic benefits associated with community linkage transportation infrastructure projects needs to be clarified in the Plan. To begin, NPC should require a set of deliverables, over and above what is typically required, from all transportation infrastructure project proponents, necessary for the NPC to adequately weigh socio-economic benefits with area-specific valued components. At a minimum the documents should explain the need for the proposed infrastructure and provide an understanding of the environment, community opinion, and best practices to manage potential impacts. Special recognition should be given to the feedback provided by the original proponents of any impacted designated area.”

In 2016, the KIA’s<sup>1</sup> technical review of the 2014 DNLUP supported the inclusion of the Kivalliq-Manitoba Road in the NLUP and noted the following criteria were used to generate and locate feasible route alternatives:

“The criteria used to generate and locate feasible route alternatives for the proposed all-weather road within the northern, western, central and eastern corridors were as follow:

- Selecting a direct route between communities, to the extent possible and practical
- Selecting a smooth, firm and thaw-stable road foundation
- Avoiding wildlife concerns to the extent possible
- Selection a route accessible to road construction materials
- Selecting gentle terrain to the extent possible (i.e. avoid rolling and rugged terrain if possible)
- Minimizing construction and maintenance costs
- Minimizing length of river crossing; avoid rapids; consider future hydro-electric power generation potential
- Avoiding protected areas where feasible”.

The 2016 DNLUP included two annexes that proposed factors to determine the “robustness” of the routing of proposed alternatives and modalities, excerpted for reference here:

**“7.1 Annex A1: Factors to Determine if the Alternatives Assessment on the Routing of a Proposed Linear Infrastructure Corridor are Robust**

“Applications for LICs in Nunavut must provide the following information before they may be considered complete. Responses should be commensurate with the size and complexity of the proposed project. In some cases, some alternatives may rank nearly equally.

“The purpose of this information requirement is to assist proponents in defining what the proposed LIC is intended to achieve, and then determining if the route selected is the best fit those objectives. The key question are:

1. Is it clear where the LIC needs to originate? *This question refers to where the LIC needs to start from, or if there is more than one potential point of origin.*
2. Is it clear where the LIC needs to terminate? *This question refers to where the LIC needs to go to, or if there is more than one required or possible final destination. For example, for proposed mines requiring a port facility, usually there will be more than one potential location to construct a port. As an alternative example, for projects intended to*

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<sup>1</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

*extend the electricity grid, several communities may be potential destinations for the new power lines.*

3. What are the potential routes between the point of origin and all possible destinations? *This question is seeking an understanding of the possible routes between the point of origin and all possible destinations.*
4. What is the process of elimination of all possible routes to all possible destinations? **Response should be commensurate in detail to the scale and scope of the proposed LIC**, and may include such factors as:
  - a. Significant topography that limits potential routes. *For example, if the only possible LIC is a railway, the number of possible routes will be limited by topography. Alternatively, if the proposal is for a linear line of solar-powered communication relay towers, topography would have a little or no import to the possible routing.*
  - b. Limitations on the mode or modes of LIC that are appropriate or potentially appropriate to the project (see Annex A2).
  - c. Order of magnitude costing.
  - d. Avoidance of Parks, Conservation Areas, Protected Areas, Special Management Areas, or other areas important to particular VECs and VSECs. Where such avoidance is unavoidable, provide a qualitative discussion of the impact of the proposed LIC on VECs and VSECs that may be affected.
  - e. Existing, proposed, or speculative LIC's in the area that could support or be supported by the proposal in establishing a network.
  - f. If a port is involved, factors or import to the marine shipping and Marine Infrastructure that would occur.
5. Will the LIC be permanent or temporary?
  - a. If temporary, is a remediation plan with costing estimate available?
  - b. If permanent, are approximate operation and maintenance expenses available, and has funding for these expenses been committed to by the agency, corporation,

or other party that will be responsible for operations and maintenance? *Operational expenses refer to such factors as emergency response, inspections, etc. Maintenance expenses refer to such factors as testing, repairs, amortized replacement costs, replacement schedule, etc.*

6. If the proposal is for a road, will the road be private or public?
  - a. If private, how will public access be limited?
  - b. If public, are approximate operations and maintenance expenses available, and has funding for these expenses been committed to by the public agency or agencies that will be responsible? *Operational expenses refer to such factors as emergency response, inspections, patrols, distribution of information on road and weather conditions, etc. Maintenance expenses refer to such factors as grading, bridge maintenance and amortized replacement costs, bridge replacement schedule, repaving schedule, pothole repair, repaving if needed before scheduled repaving, line repainting, etc.*

#### **"7.2 Annex A2: Factors to Determine if the Alternatives Assessment on the Modality of a Proposed Linear Infrastructure Corridor (LIC) Corridor is Robust**

"Applications for LIC's in Nunavut must provide the following information before they may be considered complete. Responses should be commensurate with the size and complexity of the proposed project. In some cases, some alternatives may rank nearly equally.

"The purpose of this information requirement is to assist proponents in defining what the proposed LIC is intended to achieve, and then determining if the mode or modes selected are the best fit those objectives. The key question is:

1. Are the different potential LIC modes, as listed in the definitions, explicitly compared to the objectives of the proposed project, or effectively consider potential impacts to VECs and VSECs? This might be accomplished through use of an alternatives assessment comparison table, an example of which is provided below.

Figure 10: Example of an Alternatives Assessment of Potential Modality of a Linear Infrastructure Corridor Proposal

Options	Factors (examples)									
	Haulage Quantity & Frequency	Passenger Numbers & Frequency	Transmission Needs	VECs Impacted	VSECs Impacted	Order-of-Magnitude Costing (Construction and/or O&M)	Capacity for Emergency Response	Difficulty of Patrol or Security (if applicable)	Operability During Severe Weather	etc.
Communication Line										
Highway										
Mine Servicing Road										
Mine Bulk Hauling Road										
Pipeline										
Railway										
Power line										
Undersea Corridor										
Winter Highway										
Winter Mine Servicing Road										
Winter Mine Bulk Hauling Road										
Winter Skid Track										

### 6.2.6.1 Policy Options for Implementation of Linear Infrastructure and Marine Corridor Information Requirements

#### 6.2.6.1.1 Option 1: Alternatives Assessment as Information Requirement

The NLUP could require proponents of linear infrastructure and marine corridor projects to submit an assessment of alternative routes as an information requirement. Proposals that do not include a complete alternatives assessment would be returned to the proponent for additional information. The NPC would only determine if the alternatives assessment is complete and not review or evaluate the information provided itself. The NIRB and other regulators would then consider the proposed project, together with the alternatives assessment, to eliminate to the extent possible, or in the alternative mitigate or minimize, impacts to any VCs identified in the areas affected by the project.

No participant recommended this option.

#### Considerations

While no participant recommended this option, some participants expressed concerns with the NPC undertaking a subjective review as part of a conformity determination. However, under this option, the NPC would not review or evaluate subjective criteria that would be assessed at the NIRB review stage.

Some participants expressed concern at the level of detail required at the initial stage of the regulatory review.

A positive conformity for a linear infrastructure or marine corridor project on the grounds the proponent has completed and submitted an alternatives assessment would enable the project to proceed to the NIRB to determine project-specific mitigation measures even if it is proposed in an area otherwise prohibiting that type of project.

In 2017, as indicated in Chapter 2, the NIRB<sup>1</sup> noted that project-specific impact assessment is not the appropriate forum for determining the acceptability of the type of project being proposed, and recommended that “restrictions on development [be] clearly outlined, and operational limitations [be] clearly stated with positive conformity determinations to inform the subsequent NIRB impact assessment.”

#### 6.2.6.1.2 Option 2: Alternatives Assessment as Conformity Requirement

As noted above, the NBRLUP includes a process whereby proponents developing corridors have to provide information on alternative routes, cumulative effects of the preferred route and reasonable options for other identifiable transportation and utility facilities, and the NPC and NIRB will then review the information to determine whether it meets the applicable guidelines.

In the GN's<sup>2</sup> 2016 submission responding to options presented in the NPC's “Considerations for Potential Refinement to the DNLUP” on addressing linear infrastructure, it recommended against including “proposed, conceptual corridors” and suggested providing specific exemptions to prohibitions on all-weather roads if it could be demonstrated, for example, that there was “no feasible alternative route” available:

**“Plan-embedded exceptions to ‘all-weather road’ prohibitions may be necessary (described in *Sub-section 4.2.1*) in certain circumstances, including:**

<sup>1</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

- where transportation linkages create new connections between communities, on the basis of high long-term socioeconomic impacts.
- where no feasible alternative route is available for a necessary supply link to an otherwise conforming major resource project, subject to the demonstration of significant socio-economic benefits, community approval, and the possibility of mitigating significant environmental impacts.

**“Should such an exception be deemed necessary, then the process for which NPC weighs socioeconomic benefits associated with community and development supply linkage transportation infrastructure projects needs to be clarified in the Plan.** The GN would need to be involved in the development of said process should NPC deem it worthwhile to include in the Plan, particularly to inform stringent criteria/terms/requirements to ensure impacts on the environment and/or other designated areas may be adequately mitigated.”

The GN’s proposal to include a type of “alternatives assessment” as a conformity requirement would allow the NLUP to prohibit linear infrastructure projects where justified while allowing projects to proceed to the next stage of regulatory review where no other feasible route exists. In other words, proponents planning to develop linear infrastructure in an area where it is prohibited, would be required to submit an alternatives assessment as a conformity requirement but not have to apply for a plan amendment. Proposals that do not show there are no alternatives to the proposed route through the prohibited area would be determined to not conform to the NLUP.

In 2017, the GoC<sup>1</sup> stated at length that the approach of requiring alternatives assessments and plan amendments for linear infrastructure the project conformity determination stage was undesirable, and recommended removing the use of alternatives assessments as a conformity determination requirement. With respect to requiring an alternative route assessment in the NLUP, it wrote:

“Currently, the draft Plan puts pre-conformity requirements on some project proposals, offering proponents a potential path to conformity but leaving considerable uncertainty as to whether an activity will meet conformity requirements. For example, the draft Plan requires proponents of a linear infrastructure corridor to

present an alternatives assessment. This seems inappropriate at the land use planning conformity stage. Either a project conforms to the requirements in the plan, or it does not. The fact that there may be better alternatives to that project configuration is an important issue for impact assessment, but has no bearing on whether the project conforms to the plan.

“Another concern is the subjective nature of some pre-conformity requirements in the draft Plan. For example, determining whether an ice-bridging plan conforms or not requires evaluating its ‘robustness.’ This becomes a question of judgment and evaluation, not the objective application of conformity criteria.

**“Recommendation:** The Government of Canada suggests that the Commission review the conformity requirements in the draft Plan, ensuring they are based on objective criteria that can be met with the limited information that can reasonably be expected at a very early stage of project development – specifically, at the time the proponent is developing its project description.

...

“... section 5.5.1.2 of the draft Plan requires that any all-season linear infrastructure must be accompanied with a ‘robust alternatives assessment’. The Commission will use this robust alternatives assessment to determine whether a proposal has selected the appropriate type(s) and routing of linear infrastructure in its design.

“Section 5.5.1.2 of the draft Plan also indicates that all proposals for highways (meaning roads connecting communities) and railways will require a Plan amendment process. Section 5.5.1.2 also states that ‘a public review of a plan amendment may be appropriate in some situations.’

“The Government of Canada does not support the proposed approach to linear infrastructure in the draft Plan, particularly the restrictions placed on inter-community roads and railways. Combined, these restrictions would prohibit inter-community roads and railways in the majority of the planning jurisdiction, and any type of linear infrastructure in most protected area designations.

“The Government of Canada considers this to be a less than ideal and overly prohibitive approach to proposals that contain a linear infrastructure component. The heavy reliance on prohibition as the default starting point, followed by potential plan amendment on a case-by-case basis, is problematic. This closed-door-push-it-open approach can dissuade positive proposals in their infancy, because it sends a negative message from the outset. This approach also places too much reliance on proposal-specific plan amendments as a planning tool. While

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

proponents can propose plan amendments, planning should not rely on proponent-initiated plan amendments, but rather on the planners actively seeking to understand and address the needs and desires of Inuit and the other residents of the Nunavut Settlement Area, and the interests of all Canadians.

**“Recommendation:** The Government of Canada recommends the following changes to the draft Plan:

- Include linear infrastructure as a permitted land use in protected land use designations except where explicitly prohibited in specific protected areas.
- Include highways and railways as permitted land uses in all mixed use land use designations.
  - The definition for ‘Mixed Use’ on page 10 of the draft Plan should be edited to reflect that highways and railways are a permitted use within the draft Plan except where explicitly prohibited. Specifically the phrase ‘except highways and railways’ should be removed from the definition to read ‘Mixed Use is a Land Use Designation that allows for all uses ~~except highways and railways~~ but may identify Valued Components that should be considered in the design and regulatory review of Projects/Project Proposals.’
  - Similarly, section 1.7.5.3, ‘Mixed Use,’ of the draft Plan should be revised to read ‘In Mixed Use Areas, all uses ~~are considered to conform to the Nunavut Land Use Plan with the exception of highways and railways~~; however, Mixed Use Areas important to certain VEC and VSECs are presented in Schedule B.’
- Remove the requirement to include a ‘robust alternatives assessment’ for any all-season linear infrastructure, as this requirement seems inappropriate at the land use plan conformity stage.
- Remove the requirement that all applications for highways (meaning inter-community roadways) and railways require a plan amendment. The exception to this would, of course, be situations where a highway or railway is proposed in a land use designation where highways or railways are prohibited land uses.

...

“The assessment of the most appropriate routing and type of linear infrastructure as proposed in the draft Plan’s ‘robust alternatives assessment’ model requires the Commission to assess the appropriateness of each specific all-season linear infrastructure proposal. This level of assessment seems inappropriate at the land use plan conformity stage. Either a project conforms to the pre-existing requirements in the plan, or it does not. The fact that there may be better alternatives to that project configuration is an important issue for impact assessment, but has no bearing on whether the project conforms to the plan. Moreover, this proposed model begins to duplicate elements of project-specific reviews undertaken within the environmental and socio-economic impact assessment of a project proposal.”

### Considerations

This option was proposed in the 2016 DNLUP for all-season linear infrastructure, which would have required a robust alternatives assessment for “any all-season linear infrastructure.”

There are concerns with the lack of certainty for proponents under this option and for the ability of the NPC to conduct a thorough review of the project, together with a review of the alternatives assessment, within the required 45 day timeline to issue a conformity determination.

As noted by the GoC in 2017, there are concerns with requiring too much information at the land use planning conformity stage, and that in some cases alternative routes may not be known.

#### 6.2.6.1.3 Option 3: Alternatives Assessment as Information Requirement for Plan Amendments in LU Areas Prohibiting Linear Infrastructure and Marine Corridors

This option would be similar to the approach taken in the NBRLUP and KRLUP. Although those regional land use plans require a plan amendment with an alternatives assessment and a cumulative impacts assessment for every proposal to develop a corridor, the NLUP would only require a plan amendment and an alternatives assessment in LU designated areas where linear infrastructure or marine corridors are expressly



prohibited. The proposed prohibition on highways and railways in MU areas has not been carried forward from the 2016 DNLUP.

In 2015, as discussed above, Oceans North<sup>1</sup> noted that many features of the NBRLUP were missing from the then-2014 DNLUP, and that “Management controls on marine transportation, extensive and detailed mapping and management of community land use, and a community-centred approach to planning” were missing.

In 2017, the GoC<sup>2</sup> recommended the territory-wide prohibitions on transportation infrastructure be removed and noted that using plan amendments would be appropriate where the areas are protected.

**Considerations**

Like the NBRLUP, the NLUP could require proponents proposing the development of a corridor to apply to amend the NLUP and include alternatives assessment guidelines for proponents applying for a plan amendment in areas where linear infrastructure is prohibited. The NBRLUP’s Appendices J and K could be reviewed and refined for inclusion in the NLUP. For clarity, the conformity requirement could be applied only in land use designations where linear infrastructure and/or marine corridors are expressly prohibited.

In 2017, the GoC supported using plan amendments to consider linear infrastructure and/or marine corridors in areas in which they are expressly prohibited; it may be appropriate to require an alternatives assessment for those types of amendment processes if not at the conformity determination stage.

6.2.6.1.4 Option 4: No Alternatives Assessment for Linear Infrastructure and Marine Corridors at Conformity Determination Stage

In 2017, as noted above, the GoC<sup>3</sup> said the approach of requiring alternatives assessments and plan amendments for linear infrastructure at the project conformity determination stage was undesirable, and recommended removing the use of alternatives

assessments as a conformity determination requirement.

**Considerations**

The NPC notes the GoC’s submission on this option.

6.2.6.2 NPC Recommendation - Implementation of Linear Infrastructure and Marine Corridor Information Requirements

Given that:

- *These requirements would only apply to linear infrastructure and marine corridor projects and would not be required for other types of project proposals*
- *Some participants support the approaches taken in the existing regional land use plans previously developed through consultations*
- *Participants generally oppose the restrictive approach in 2016 DNLUP*
- *Participants generally recognize a deficiency of linear infrastructure in Nunavut*
- *Alternative routes may not be known at the project planning stage (e.g., the NPC notes hydrographic mapping has not occurred in many areas of the Nunavut marine environment to identify potential alternative shipping routes in advance)*
- *Approaches taken in the existing regional land use plans, specifically requiring plan amendments, could be implemented in LU areas only to avoid unnecessary restrictions on linear infrastructure and marine corridors which support economic development; the NLUP could set out information requirements specific to plan amendments for these types of projects in areas where they are expressly prohibited; for clarity, linear infrastructure and marine corridors would be allowed in all MU and CU areas, subject to any applicable terms and conditions*

Option 3 is recommended:

LAND USE PLAN POLICY RECOMMENDATION

<sup>1</sup> (Oceans North Canada, 2015-06-22. NPC Public Registry File # 14-082E)  
<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

## **IMPLEMENTATION OF LINEAR INFRASTRUCTURE AND MARINE CORRIDOR INFORMATION REQUIREMENTS**

### **ALTERNATIVES ASSESSMENTS AS INFORMATION REQUIREMENT FOR PLAN AMENDMENTS IN LU AREAS PROHIBITING LINEAR INFRASTRUCTURE AND MARINE CORRIDORS**

- The NLUP may prohibit linear infrastructure and marine corridor projects in LU areas
- Any linear infrastructure or marine corridor project proposed in a LU area prohibiting that type of project could only proceed by way of a plan amendment
- The NLUP will adopt the approach used in the existing regional land use plans for developing corridors, but will only apply those information and public review requirements in LU areas that expressly prohibit those types of land uses
- See section 6.2.14 of this document on plan amendments generally

#### **6.2.6.3 Summary of Revisions**

##### **KRLUP and NBRLUP**

For the development of any transportation corridor, both regional land use plans require the proponent to apply for an amendment of the applicable plan.

Appendix I of the KRLUP, and appendix J of the NBRLUP include information requirements for alternatives assessments for a plan amendment application to development a marine and terrestrial transportation corridor.

##### **2012, 2014 and 2016 DNLUP**

The 2012 and 2014 DNLUP did not specifically address information requirements for transportation and communication corridors.

The 2016 DNLUP required proponents of any all-season linear infrastructure to present a robust alternatives assessment, demonstrating that the optimal route(s) and mode(s) of linear infrastructure have been proposed. As discussed above, the 2016 DNLUP included two annexes that proposed factors to determine the “robustness” of the routing of proposed alternatives and modalities.

##### **2021 DNLUP**

In addition to any information requirements set out in the NPC’s rules for plan amendments, the 2021 DNLUP provides specific information requirements for plan amendment applications where proponents wish to allow for linear infrastructure or marine corridor projects in LU areas that otherwise prohibit the types of land uses involved. The specific information required is detailed as follows in the DNLUP:

- (a) a description of the proposed route, including its use, the possible environmental and social impacts, and any seasonal considerations that may be appropriate;
- (b) a comparison of the proposed route with alternative routes in terms of environmental and social factors and technical and cost considerations; and
- (c) an assessment of the environmental, social and terrain engineering consequences, the cumulative impacts of the project, and the environmental and social impact of the project on VCs that may be affected.

#### **6.2.7 Implementation of On-Ice Transportation Routes Condition for Robust Ice-Bridging Plans**

The 2016 DNLUP proposed protecting on-ice transportation routes between communities and from communities to harvesting areas by prohibiting marine vessels crossing on-ice transportation corridors on Schedule A during the seasons of Ukiaq, Ukiuq, Upingaksaag and Upingaaq without submitting a “robust plan to maintain and assist existing on-ice transportation”, assessed for “robustness” based on listed factors in order to conform.

Participant submissions on the issue of on-ice travel routes can also be found in section 4.1.3 of the 2021 O&R. Section 4.1.3.7 of the 2021 O&R recommends a CU designation for on-ice travel routes, imposing a condition that a proponent of a project that will disrupt or destroy on-ice travel routes during Upingaksaag and Upingaaq must consult with all municipalities, HTOs and RWOs within a 300 km radius of the route and develop an ice-bridging plan before undertaking the project; all shipping restrictions do not apply to community resupply and emergency response.

In 2015, Oceans North<sup>1</sup> wrote:

“By contrast, the LSRLUP and NBRLUP contain relatively strong protections for areas of essential use. This was demonstrated in the NPC’s 2015 conformity determination for Baffinland’s Mary River Project Phase Two proposal. The proposal, which included springtime ice-breaking through an essential area to the community of Pond Inlet, was rejected by the NPC, based on sections 3.2.1 and 3.3.1 of the NBRLUP.

“Section 3.2.1 of the NBRLUP reads:

All land users shall refer to the land values and concerns in Appendix G, and to the Areas of Importance map, to determine important land values and concerns in areas where they plan to work, as well as to adjust their work plans to conserve these values.

“Section 3.3.1 of the NBRLUP reads:

All land uses shall be conducted in keeping with the policy of sustainable development in order to protect the opportunities for domestic harvesting. All land users shall avoid harm to wildlife and wildlife habitat and damage to community travel routes through the timing of their operations, through careful selection of the location of their main camps and travel routes, and through other mitigative measures.

“As Baffinland had not produced evidence that its work plans (timing and location) had been adjusted to avoid infringing upon Inuit use of sea ice, in an area which was essential to the community of Pond Inlet, NPC ruled that its proposal did not conform to the NBRLUP.

“Oceans North is concerned that the DNLUP provides insufficient protection for areas of relatively high importance to communities in the North Baffin region. Oceans North recommends the NPC incorporate previous land use mapping exercises and studies to help identify areas of community land use that are essential to community well-being. The existing NBRLUP, as well as mapping exercises conducted by QIA, could provide valuable data sets to begin this exercise. Oceans North recommends the NPC place stricter management conditions on areas of community land use that are essential to communities, to prohibit uses that are incompatible with community use of these areas.”

In 2018, the QWB and HTOs<sup>2</sup> explained the importance of sea ice routes for travel by Inuit as follows:

“From freeze-up to break-up, Inuit use many routes on the sea ice throughout Qikiqtaaluk Region. During winter and

spring, these sea-ice routes are critical for travel between communities and harvesting. Inuit use these routes to access areas on land, on and under the sea ice, and at and beyond the floe edge to harvest many species of seals, whales, fishes and migratory birds, as well as caribou, polar bears and walrus.

“Throughout winter and during early break-up, it is critical for the nutrition and health of all Inuit that the sea ice remain unaffected by ice breakers and other shipping along these routes. Inuit harvest wildlife across wide areas of sea ice between these main routes, and therefore, it is important that shipping does not disturb or break ice between the mapped routes.

“These routes must be protected from ice-breaking activity of ships, regardless of the ships’ ownership or purpose. This includes the Canadian or other Coast Guard or military vessels, tourism-related ships, cargo ships, exploration or survey ships, and any other ships with potential ice-breaking capabilities.

“The locations of the floe edges change throughout each winter, as well as from year to year. Inuit search for marine wildlife on ice routes along most floe edges throughout Qikiqtaaluk Region, wherever those changing floe edges may happen to be at any given time. Routes along floe edges would obviously be very approximate and subject to annual and seasonal changes. Ships should not break ice at or near any floe edge without prior, informed and written consent from all of the Hunters and Trappers Organizations (HTOs) within 250 km. HTO Directors are often on the sea ice, at the floe edge or elsewhere, and therefore may not be available to respond without notice several months in advance. Lack of response from an HTO can never be assumed to indicate consent.”

#### 6.2.7.1 Policy Options for Implementation of On-Ice Transportation Routes Condition for Robust Ice-Bridging Plans

##### 6.2.7.1.1 Option 1: Require a Robust Ice-Bridging Plan as a Conformity Requirement

The 2016 DNLUP provided that “no shipping may occur that crosses any On-Ice Transportation Corridor presented in Schedule A during the seasons of Ukiag, Ukiuq, Upingaksaag, and Upingaaq, without first

<sup>1</sup> (Oceans North Canada, 2015-06-22. NPC Public Registry File # 14-082E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)

presenting a robust ice bridging plan.” A number of participants opposed this, while others supported the proposed approach.

In 2017, Ms. Hughson,<sup>1</sup> an individual participant, recommended including a requirement for public votes as a conformity requirement for “controversial” types of development, which may be relevant to consider in respect of the proposed breaking of on-ice travel routes:

“Including a conformity requirement for community support, expressed through a public vote, would help implement the United Nations Declaration on the Rights of Indigenous Peoples. The UNDRIP includes a requirement for indigenous communities to provide their free, prior, and informed consent to any developments that could affect our lands or rights. Canada has announced that it intends to implement the UNDRIP. Inuit played a key role in drafting and developing it. However, there has been very little discussion as to how the UNDRIP will be implemented in Nunavut, and how the GN and Inuit organizations will determine whether or not communities support proposed development. Including conformity requirements for community consent for the most controversial types of development (uranium mining, oil and gas development, mining in caribou calving grounds) would be a logical place to begin implementing the UNDRIP in Nunavut.”

In 2018, similarly the QWB and HTO<sup>2</sup> relied on IQ to recommend prohibiting ship activities that would break identified on-ice travel routes using a CU area (formerly a SMA) subject to obtaining written consent from local HTOs and RWOs within 300 km of the proposed ice-breaking:

“Conditions:

- Closed to all ship traffic, subject to safe navigation, during Ukiaq, Ukiuq, Upingaksaaq, and Upingaaq.
- All floe edges are closed to all ship traffic, subject to safe navigation, during Ukiaq, Ukiuq, Upingaksaaq, and Upingaaq without prior, informed and written consent from all of the Hunters and Trappers Organizations (HTOs) and Regional Wildlife Organizations (RWOs) within 300 km, and subject to any conditions requested by the HTOs and RWOs. Lack of response from an HTO or RWO does not indicate consent.
- Any project in Nunavut that involves shipping that would violate these conditions is prohibited.

- This condition may be waived through submission of a robust ice-bridging plan.”

### Considerations

Proponents may not know before submitting a project to the NPC whether local communities affected will consent to ice-breaking.

The UNDRIP supports obtaining free, prior, and informed consent; however, the withholding of consent would effectively operate as a third party veto over whether a project conforms to the NLUP.

Section 5.7.25 of the NA reads: “The right of access granted by Section 5.7.16 shall not impede the exercise of the rights of navigation.”

Participants have commented that having the NPC review ice-bridging plans for “robustness” as proposed in the 2016 DNLUP would be too subjective for a conformity determination.

The NPC would not be able to guarantee the effectiveness of any ice-bridging plan it reviewed.

6.2.7.1.2 Option 2: Require Development of An Ice-Bridging Plan Post-Conformity Determination as Condition of the NLUP

This option would require an ice-bridging plan be prepared prior to breaking on-ice travel routes without any evaluation by the NPC. The ice-bridging plan could be prepared before or after the NPC had issued a conformity determination. It would be prohibited to break an on-ice travel route without an ice-bridging plan.

Projects that propose the breaking of on-ice transportation routes would conform to the plan; other regulatory authorities would have to ensure local communities are consulted prior to any ice-breaking be undertaken.

<sup>1</sup> (Hughson, Written submission on 2016 DNLUP, 2017-01-13. NPC Public Registry File # 16-075E)

<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)

In 2017, the GoC<sup>1</sup> generally suggested the NPC ensure conformity requirements be based on objective rather than subjective criteria and recognize there may be limited information available at the early stage of project development.

In 2018, the QWB and HTO<sup>2</sup> supported the submission of robust ice-bridging plans as a conformity requirement in the NLUP, but required those plans be developed by proponents on a case-by-case basis through prior informed and written consent of HTOs and RWOs.

**Considerations**

Maintaining the integrity of on-ice travel routes used by Inuit is a matter of health and safety, and for their rights of access to hunt under the NA. Breaking on-ice travel routes poses risks to the lives and food security of Inuit communities.

Granting positive conformity determinations to projects that disrupt or destroy on-ice travel routes infringes on incompatible Inuit rights of access granted under the NA, and section 5.7.25 of the NA that reads: “The right of access granted by Section 5.7.16 shall not impede the exercise of the rights of navigation.”

The NPC’s Public Registry, maintained in accordance with the NuPPAA, is able to notify potentially affected communities of projects proposing to carryout breaking of on-ice travel routes.

This condition and prohibition under section 74(f) of the NuPPAA would apply to all projects whether or not they proceed to the NIRB and other regulatory authorities for licences, permits and other authorizations. Because some projects may not be screened by the NIRB under section 153(1) of the NuPPAA, it is not known whether all projects that may undertake ice-breaking necessarily require licences, permits or other authorizations to which terms and conditions in the NLUP would have to be applied by regulatory authorities.

The NLUP could prohibit breaking identified on-ice travel routes unless an ice-bridging plan is later developed through community consultations. Proponents would receive positive conformity determinations to proceed to the next regulatory phase, and would have the onus

of consulting and developing ice-bridging plans themselves prior to undertaking any activities that interfere with the identified on-ice travel routes. Failure to do so would result in the project being not in conformity with the plan.

If it is unknown at the time a project is submitted if it will require the breaking of an on-ice travel route, a conformity determination could be issued without authorizing ice-breaking, and the proponent would have to resubmit a new project to the NPC as a significant modification to the original project if it later proposes to break on-ice travel routes.

6.2.7.1.3 Option 3: Do Not Require Ice-Bridging Plans

In 2017, GoC<sup>3</sup> recommended the removal of many marine transportation issues to be dealt with by the NMC:

**“Comment:** ... The information required for a ‘robust ice-bridging plan’ as outlined in Annex B is extensive and depends on many variables — for example, to determine refreezing rates, one must consider air and water temperature, wind speed and direction, ice pressure, current and tides, geography, etc. Some of these factors cannot be accurately determined during the planning process or quickly calculated. The extent of the information required would place additional time constraints on those planning resupply missions. Furthermore, the potential impact of this requirement for robust ice-bridging plans on Canada’s international relations, including possible violations of international commitments, needs to be considered.

**“Recommendation(s):** The Government of Canada understands and respects the needs of the communities to safeguard on-ice transportation corridors through the use of robust ice-bridging plans. We seek to balance marine safety, protection of cultural traditions, and environmental protection with the existing vessel traffic management regime. A collaborative approach to managing on-ice transportation corridors — an approach involving all stakeholders, including industry, Indigenous people, Northern communities, and key territorial and federal departments — will allow for improved marine safety as well as protection of the environment and culturally sensitive areas.

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)  
<sup>2</sup> (Qikiqtaaluk Wildlife Board (QWB), 2018-11-26. NPC Public Registry File # 16-183E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)



“The Government of Canada recommends that the marine transportation issues be removed from the draft Plan and that existing robust vessel traffic regulatory regime continue to operate with input from industry stakeholders, Indigenous people, and key territorial and federal departments to better protect the Arctic environment, cultural practices and culturally sensitive areas, and marine safety.”

#### Considerations

As noted above, maintaining the integrity of on-ice travel routes used by Inuit is a matter of health and safety, and for their rights of access to hunt under the NA. Breaking on-ice travel routes poses risks to the lives and food security of Inuit communities.

The GoC’s submissions on this point would simplify the NLUP, but the NPC has heard from many communities and other participants that the protection of on-ice travel routes should be included in the NLUP.

#### 6.2.7.2 NPC Recommendation – Implementation of On-Ice Travel Routes Condition for Robust Ice-Bridging Plans

Given that:

- *Inuit use on-ice travel routes for travel between communities and harvesting*
- *Inuit have rights of access for harvesting under the NA that does not impede the exercise of the rights of navigation*
- *Breaking on-ice travel routes poses risks to the lives and food security of Inuit communities*
- *Requiring proponents and communities to develop an ice-bridging plan following a positive conformity determination but before the disruption or destruction of an on-ice travel route allows proponents to proceed to the next regulatory step while enabling communities to ensure their own rights and interests are respected*
- *Including municipalities in the list of groups to be consulted will better ensure notification of affected Nunavummiut of the potential breaking of on-ice travel routes*

Option 2 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **IMPLEMENTATION OF ON-ICE TRANSPORTATION ROUTES CONDITION FOR ROBUST ICE-BRIDGING PLANS**

#### **REQUIRE DEVELOPMENT OF AN ICE-BRIDGING PLAN POST-CONFORMITY DETERMINATION AS CONDITION OF THE NLUP**

- A proponent of a project that will disrupt or destroy on-ice travel routes during Upingaksaq and Upingaaq must consult with all municipal councils, HTOs and RWOs within a 300 km radius of the route and develop an ice-bridging plan before undertaking the project
- Proponents must report annually to the NPC on all activities that disrupted or destroyed on-ice travel routes, the consultations undertaken and public awareness measures, and ice-bridging measures undertaken in the calendar year, if any
- An ice-bridging plan is required before a project may destroy or disrupt on-ice travel routes identified in section 4.1.3 of this document, and contravention of this requirement is prohibited under section 74(f) of the NuPPAA
- See section 6.2.5 above regarding consultation with third parties

#### 6.2.7.3 Summary of Revisions

##### **KRLUP and NBRLUP**

Ice-bridging plan for on-ice travel routes were not discussed in the existing RLUP.

##### **2012, 2014 and 2016 DNLUP**

On-ice travel routes were not discussed in the 2012 or 2014 DNLUP.

In the 2016 DNLUP, any proposed ice-breaking that would cross recognized Inuit marine on-ice travel routes would have to present a conceptual but robust plan for ice-bridging. The elements of this were described in Annex B.

##### **2021 DNLUP**

The 2021 DNLUP removes the requirement to submit a robust ice-bridging plan and replaces it with a requirement to consult nearby communities before undertaking the project.



## 6.2.8 Existing Rights

In general terms, as explained by participants' submissions and expert reports, under the NuPPAA, including sections 69, 207, 208 and 235, a use of land by a project proposed to the NPC or approved under the NA and carried out before the implementation of the NLUP may continue despite land use prohibitions in the NLUP so long as it continues to be used for the same purpose without undergoing any significant modifications. Although such projects are exempt from prohibitions contained in the NLUP, they are subject to the imposition of terms and conditions in licences, permits or other authorizations issued by regulatory authorities that have a responsibility to implement the NLUP. The NLUP's treatment of rights and interests in lands is a particularly important issue, as well as contentious.

Participants have expressed a variety of concerns regarding the NLUP and existing rights. For instance, some participants expressed concern that if the NLUP does not expressly exempt rights or interests necessary for certain types of projects, for example natural resource extraction, from application of future conformity determinations, their rights and interests in the land will be effectively expropriated.<sup>1</sup> Other participants drew the NPC's attention to the fact that projects that conform to the NLUP affect the environment as well as limit the rights of Inuit to harvest wildlife or erect outpost camps.<sup>2</sup> Another submission took the position that grandfathering prospecting permits, exploration permits and mineral claims that have not been subjected to NIRB screening or review would violate the constitutional rights of Inuit hunters.<sup>3</sup>

This subsection of the O&R begins by including general submissions on existing rights. It then focuses on existing rights under the NuPPAA. Afterwards, the subsection identifies policy options and the NPC's recommendation for addressing existing rights in the NLUP.

## 6.2.8.1 General Submissions on Existing Rights

Most submissions on existing rights addressed mineral rights and exploration. The submissions approached this issue from a variety of perspectives. Some participants, like Northquest,<sup>4</sup> focused on the importance of the sector to Nunavut's economic and social development. Others such as the GoC<sup>5</sup> explained the issue of existing rights is "broader than mining rights or interests." The KWB's<sup>6</sup> submission, for example, highlighted the broader nature of the issue by noting hunters identified the need to protect important wildlife habitat and hunting areas to protect the well-being of Inuit or Nunavummiut, and that grandfathering existing mineral rights and interests would violate their constitutional rights. This subsection of the O&R provides a chronology of these comments in relation to the development of the NLUP.

In a 2015 paper that was later withdrawn, as explained in its January 2017 submission,<sup>7</sup> the GoC<sup>8</sup> originally recommended that the NLUP include "exemptions" for subsurface rights holders as follows:

"... Therefore, the following scenarios should be addressed through exemptions from the Land Use Plan:

- Subsurface rights holders (i.e. mineral claims, mineral leases ...) would be able to continue the exploratory requirements to keep their tenure in good standing and advance from the Prospecting Permit to Mineral Claim to Mineral Lease stages as permitted under the *Nunavut Mining Regulations*, and
- Subsurface rights holders, in good standing before the Land Use Plan comes into force, would be exempt from the Land Use Plan for projects proposed on their subsurface tenure, and
- Project proposals with pre-existing subsurface rights that are advanced from the exploration stage to mine development would not be deemed by the Commission to be a significant modification of a project, or if they are so deemed, would still be exempt from the Land Use Plan."

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>2</sup> (Nunavut Tunngavik Incorporated & the Regional Inuit Associations, 2019-03-14. NPC Public Registry File # 16-249E)

<sup>3</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>4</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

<sup>5</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>6</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>7</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>8</sup> (Government of Canada, 2015-12-10. NPC Public Registry File # 14-118E)

In response to the GoC's 2015 submission, NTI<sup>1</sup> and the GN<sup>2</sup> raised concerns "about the jurisdictional foundation and legal viability of the GoC's recommendations" (quoted from the NTI submission) to provide exemptions for subsurface rights holders and recommended the NPC retain independent legal advice on whether the NLUP can exempt projects and if so, the limit on that jurisdiction.

In 2015, the Arviat HTO<sup>3</sup> noted that grandfathering projects could result in development in areas it asked be protected:

"The Arviat HTO is aware that the federal government is proposing that existing mineral claims, land use permits, and prospecting permits be 'grandfathered' in the new land use plan. This means, regardless of what protection a new land use plan might give, existing permit holders would be allowed to explore and build mines and roads, in the very areas we want protected. The Arviat HTO is very concerned about this proposal to 'grandfather' existing rights in a 'cradle to the grave' manner."

Also in 2015, the BQCMB<sup>4</sup> recommended that "'guaranteed rights' for all-weather roads should not be granted to all holders of mineral tenures (prospecting permits, mineral claims and mineral leases) regardless of the type of tenures held and where those tenures are located" and that "the proposal to grandfather all mineral tenures to full mine development not be implemented through the NLUP." The BQCMB wrote:

"In the past the BQCMB had been told by federal government staff that prospecting permits and mineral claims provide ensured access to defined parcels of land for a specific purpose (mineral exploration) and a specified time period, but do not provide 'rights' for mine development. The BQCMB does not agree with the interpretation that all tenures were issued with certainty of the right to complete the full mining lifecycle from the initial mineral tenure through to mine development and that no prohibitions on any land uses related to mineral exploration and mining (including all-weather roads) should occur where mineral tenures exist."

In 2016, in an expert report by GeoVector<sup>5</sup> to the KivIA examining the 2016 DNLUP's comparability with the KivIA's mandate, the expert wrote:

#### **"Existing Rights**

"Based on the 2016 DNLUP the Kivalliq Region will be impacted much more than other regions with the loss of 46% of their IOL's, which were negotiated for their mineral rights. Using only the mainland portion of the Kivalliq Region (422,324 square kilometres) the recommendations of the 2016 DNLUP will eliminate 40% of this area from any form of economic development. This is a significant loss and will have a significant negative impact on future generations of Inuit and also the rest of Canada.

"Given the history of how the Inuit negotiators and their advisors (**McPherson, 2003**) established the importance of acquiring mineral rights to their lands (IOL's). The elimination of 46% of the Inuit Owned Lands (IOL's) within the Kivalliq Region will have a significant negative socio-economic impact on this region. In addition, there is no agreement between the statements in the 2016 DNLUP of 'recognizing existing rights' and the land use plan proposed."

In 2016, the KWB<sup>6</sup> noted the need to protect important wildlife habitat and hunting areas despite existing mineral and mining rights, and while supporting "a much more minimal form of grandfathering", argued: "Rights should not be grandfathered through the entire mining cycle, lower level permits should not be grandfathered, there should be no grandfathering of rights within caribou calving grounds." The portion of the KWB's submission on "Existing Mineral Claims, Permits, and Licences" in response to the GoC's earlier proposal to "grandfather" all existing rights held by the mining industry is reproduced at length here:

**"1) The Government of Canada's proposal would undermine the ability of the Nunavut Planning Commission to create a land use plan that adequately protects the interests of hunters in Nunavut.**

"Kivalliq hunters want a land use plan that will provide protection to important wildlife habitat and important hunting areas. Many of the areas hunters have proposed for protection (caribou calving grounds, caribou water crossings, etc.) contain existing mineral and mining rights.

<sup>1</sup> (Nunavut Tunngavik Incorporated (NTI), 2016-03-23. NPC Public Registry File # 14-171E)

<sup>2</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>3</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-107E)

<sup>4</sup> (Beverly and Qamanirjuaq Caribou Management Board (QWCMB), 2016-03-04. NPC Public Registry File # 14-156E)

<sup>5</sup> (Kivalliq Inuit Association (KivIA), 2017-01-13. NPC Public Registry File # 16-052E)

<sup>6</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

If mineral rights are completely grandfathered, it will severely limit the protection of these key areas.

“Because hunting is essential to food security and traditional culture, a land use plan that does not protect hunters’ interests does not protect the wellbeing of Inuit or Nunavummiut. This would be contrary to the primary purpose of land use planning, as stated in the Nunavut Land Claims Agreement.

“the primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote the existing and future well being of those persons ordinarily resident and communities of the Nunavut Settlement Area taking into account the interests of all Canadians; special attention shall be devoted to protecting and promoting the existing and future well-being of Inuit and Inuit Owned Lands.” (11.2.1b)

“The Kivalliq Wildlife Board believes that only minimal grandfathering should be permitted. The Kivalliq Wildlife Board encourages the Nunavut Planning Commission, the Government of Canada, the Government of Nunavut, and Nunavut’s Inuit organizations to work with Hunters and Trappers Organizations and Regional Wildlife Boards to find a way to deal with existing rights that does not undermine the ability of a land use plan to protect hunters’ interests.

**“2) The Nunavut Planning and Project Assessment Act (NuPPAA) already provides a framework for dealing with existing rights in land use planning.**

“The issue of existing rights is dealt with in the Nunavut Planning and Project Assessment Act (NuPPAA). NuPPAA was developed with extensive consultation with representative Inuit organizations, institutions of public government, and territorial government bodies.

“Sections 69 and 207 of NuPPAA contain provisions for existing rights under land use plans. According to these sections, if a project has already been approved, begun an assessment, or begun operations before a new land use plan comes into effect, it will not be subjected to prohibitions under the land use plan. If a company held exploration rights in calving grounds, and a new land use plan prohibited mining and exploration in calving grounds, the company would be allowed to continue its exploration project.

“However, NuPPAA does not imply that proponents automatically have the right to ‘upgrade’ their permits. If a company held exploration rights in calving grounds, and a new land use plan prohibited mining and exploration in calving grounds, the company should not necessarily be permitted to develop their project into a full mine without an amendment to the land use plan.

**“3) Inuit hunters were not adequately consulted when rights were issued to ‘low-level’ exploration activities.**

“The Kivalliq wildlife board believes that Inuit hunters were not properly consulted when many of these prospecting and low-level exploration permits were issued. Basic prospecting and low-level exploration do not require screening by the Nunavut Impact Review Board (NIRB). NIRB screenings are usually the first time hunters find out about exploration work. The only consultative process that considers basic prospecting and low-level exploration is land use planning. However, land use plans are not in place for much of Nunavut. In areas where land use plans do exist (like the Kivalliq region), plans have not been reviewed or updated recently, despite provisions within them for regular reviews and revisions. For example, the Keewatin Regional Land Use Plan was last reviewed in 2000, despite the fact that the plan states that it is to be reviewed every five years.

“As a result, Inuit hunters have not been adequately consulted on prospecting permits, exploration permits, and mineral claims that have not been subjected to a NIRB screening or review. Grandfathering these permits, licenses, and claims would be a violation of Inuit hunters’ constitutional right to be meaningfully consulted on land use in their traditional territory.

**“4) Proponents operating in caribou calving grounds were aware that they were making risky investments by advancing projects in contentious areas that may be subject to land use restrictions and/or prohibitions in the future.**

“The Government of Canada’s position on existing rights claims that proponents expected that they would have the ability to open a mine in the areas they invested in.

““The tenure issued to the current rights holders has been issued in accordance with the ‘rules of the day’. The expectation of these clients is that their investments from the beginning of the cycle to the end are secure and are to be allowed to proceed to the next stage within the expectations of the current regulatory regime. Millions of dollars have been spent on research, field work, administration, and tenure charges in Nunavut by clients who are in the early stages of the mining cycle.’

“In the case of caribou calving grounds, this is not the case. During NIRB screenings for exploration work in calving grounds, proponents were given extensive notice that exploration and mineral development in calving grounds is a contentious issue in Nunavut. Submissions to NIRB screenings from the Government of Nunavut, various Hunters and Trappers Organizations, and various residents of Nunavut have indicated that there is significant concern with, and opposition to, mining and exploration in caribou calving grounds. Likewise, submissions from the Beverly

and Qamanirjuaq Caribou Management Board and various Dene and Metis communities and organizations in Saskatchewan and the Northwest Territories indicated significant concern with and opposition to development in calving grounds.

"In screening decisions for projects in caribou calving grounds, The Nunavut Impact Review Board has repeatedly included recommendations to territorial and federal government agencies, regional Inuit associations, and the Nunavut Planning Commission to consider new protections for caribou and caribou habitat in the Nunavut Land Use Plan.

**"5) A mine in caribou calving grounds would be unable to obtain a social licence to operate in the Kivalliq region.**

"The Kivalliq Wildlife Board is of the opinion that a mine in caribou calving grounds would be unable to obtain a social licence. A mine located in the heart of a major caribou herd's calving grounds would cause significant public concern, that could not be addressed through mitigation measures."

In 2016, in its submission on the 2014 DNLUP, the GoC<sup>1</sup> wrote in respect of "Existing Rights":

"The draft Nunavut Land Use Plan will need to reconcile competing values of stability and predictability of regulatory regime on the one hand with the fact that a new land use plan is intended to bring about important changes. One way that these changes are addressed is by transition provisions of **NUPPAA (s.235)**. The provisions are prescriptive and determine how a new plan affects both potential and existing projects.

"Another way to reconcile predictability and change is by making sure that Commission is aware of existing and potential projects that might be affected by a new plan and ensuring they carefully consider how the new plan might affect those things. Under section 58 of the **NUPPAA**, the Commissioners have the ability and the duty to weigh – among all the other things they must consider – tailoring the draft plan's provisions to ensure that impact of a plan on existing rights or interests are identifiable, reasonable and justifiable.

"Preferred Option

"With the Government of Canada's retraction of the December 2015 discussion paper on existing rights, the Commission must continue to consider existing rights and interests as described under **NUPPAA** s. 58 in the development of the draft plan. The Commission should intensify efforts to ensure that parties with existing rights

that might be affected by the plan are aware of and able to participate in the planning process."

In January 2017, the GoC<sup>2</sup> noted the economic importance of mineral, oil and gas rights in the NLUP as support for the need to grandfather those rights:

**"3.5 Existing Mineral, Oil and Gas Rights and Projects**

...

**"Comment:** The draft Plan would prohibit most forms of non-renewable resource exploration and development from occurring within Protected Areas zoned as core caribou calving areas, post-calving areas, freshwater caribou crossings, key access corridors and walrus haul-outs, as well as certain key migratory bird habitat sites. Many of these areas, in particular those related to caribou, overlap with areas with a significant number of mineral claims and where significant mineral exploration and investment has occurred over many years.

"The prohibitions that would apply in these areas prevent most forms of future mineral exploration and development projects. They would also prevent current exploration projects from moving to more advanced exploration or to mine development if the projects require significant modifications. These prohibitions would therefore lead companies and their investors to abandon current exploration projects and not to pursue future ones. The impact on economic investment and on the socio-economic benefits that would result from exploration spending would be significant.

**"Recommendation(s):** This issue is tied to the recommendations in this submission regarding caribou protection. If the Government of Canada's recommendations in section 3.1 are adopted (i.e., that seasonal and general protection for caribou replace the designation of certain caribou habitat as Protected Areas where all forms of mineral exploration and development are prohibited year round), there are no further changes recommended here.

"However, if caribou habitats remain designated as Protected Areas with year-round prohibitions, with all mineral exploration and development prohibited, then the Government of Canada sees a need to adjust the prohibitions that apply in those areas to allow mineral exploration and development projects that stem from existing rights to conform to the Plan.

"We propose that the Commission consider adjusting the Protected Area designations identified above such that the planning rules do not prohibit activity in specific locations where there are existing rights to the use of minerals. In other words, the plan would identify locations that fall

<sup>1</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

within protected areas but where mineral rights have already been granted, and would specify that the prohibitions against mineral exploration and development would not be applied.

“The Government of Canada could work with the Commission and other interested parties, before and after the public hearing in March, to identify locations to which revised planning rules would apply. Recognizing that the Commission must take into account a variety of relevant factors in making these revisions, we could help the Commission in its considerations by identifying locations where mineral rights currently exist and providing information in the government’s possession about these rights. It is also expected that the holders of mineral rights should be engaged in this process, and should be providing to the Commission an indication of where the ability to continue to exercise those rights remains an important interest.

“**Rationale:** As mentioned earlier (section 3.2), mining and quarrying activity is extremely important to Nunavut’s economy, contributing an average of 16% to the Territory’s gross domestic product.

“Table 1 shows the amounts invested in some of the projects in locations subject to prohibitions under the current draft Plan. The numbers are from a combination of publicly available documents – including company press releases, technical reports and financial statements, as well as publications derived from these sources, such as the *Nunavut Mineral Exploration, Mining and Geoscience Overview* – and information provided directly from the operators of the projects.

**Table 1 – Mineral Exploration Investment for Selected Impacted Projects**

Project Name	Operator	Mineral Exploration Investment	Period
Aberdeen, Turqavik	Cameco Corporation	\$39.8 million	2005–2014
Angilak	Kivalliq Energy Corporation	\$56.7 million	2008–2016
ATLAS, Zac, RB	Anconia Resources Corp.	\$5.2 million	2011–2015
Ferguson Lake	Canadian North Resources Development Corporation (current), various others since 1950	\$125 million	1950–2016
Baker Basin	Kivalliq Energy Corporation	\$7.1 million	2006–2008
Coppermine River	Kaizen Discovery Inc.	\$2.8 million	2013–2015
Hackett River	Glencore plc	\$145 million	2004–2013
Hood	MMG Limited	\$4.5 million	2008–2015
High Lake East	MMG Limited	\$5 million	2010–2012
Kiggavik	AREVA Resources Canada Inc.	\$176.5 million	1974–2015
Nanuq, Nanuq North	Peregrine Diamonds Ltd.	\$12.9 million	2006–2016
North Thelon, NTI Exploration Agreement	Forum Uranium Corp.	\$10.5 million	2007–2015
Pistol Bay	Northquest Ltd.	\$19 million	2011–2015
Qilalugaq	North Arrow Minerals Inc.	\$45 million	2000–present
<b>Total</b>		<b>\$655 million</b>	

“These projects also bring with them socio-economic benefits in terms of local employment and contracts. There is no requirement for operators to release these numbers, but some have provided them; see Table 2.

**Table 2 – Socio-Economic Benefits of Selected Mineral Exploration Projects**

Project Name	Employment (Person-Days)		Salary	Contracts	Period
	Total	Average per year			
Aberdeen, Turqavik	1327	147	\$483,735	\$2.0 million	2006–2014
Angilak	1413	157	Not available	\$29.5 million	2008–2016
Ferguson Lake	Not available		Not available	\$46.0 million	1950–2016
Hackett River	10,320	1032	Not available	\$21.1 million	2004–2013
Kiggavik	75,000 hours (~9375 person-days)	~1042	\$2,000,000	\$24.5 million	2007–2015
North Thelon	3850	385	Not available	Not Available	2006–2016
Pistol Bay	2962	592	\$567,500	Not Available	2011–2015
Qilalugaq	Not available		Not available	\$4.3 million	2002–2004
	1405 hours (~175 person-days)	~175	\$36,800	\$1.0 million	2014
<b>Total</b>	<b>29,422</b>	<b>3530</b>	<b>\$3,088,035</b>	<b>\$128.4 million</b>	

“The draft Plan’s complete prohibitions on mineral exploration and production in protected areas could negate hundreds of millions of dollars of investment and the socio-economic benefits that could flow from these projects. One of the many values the Commission must consider in its decision making is the significant negative impact such a scenario could have on future investment and socio-economic benefits in Nunavut. The recommendation above, to identify locations where mineral exploration and development projects in locations currently prohibited by the draft Plan could proceed, could help mitigate this impact.

“**Note:** Please also see the submission by Justice Canada, via letter to the Chair of the Commission, titled **Transition Rules, Existing Rights and Related Issues in the Nunavut Planning and Project Assessment Act**”

In January 2017, the GoC,<sup>1</sup> in a supplementary written submission, summarized past comments on grandfathering for reference and clarified their updated views:

“In December of 2015, as part of the land use planning process, Indigenous and Northern Affairs Canada circulated a draft paper on the topic of existing rights. This draft paper has been discussed and been the subject of follow-up submissions within the planning process. In particular, Nunavut Tunngavik Inc. filed a March 22, 2016 response to the paper and a follow-up letter dated December 5, 2016. These discussions and responses have been helpful, and as a result of some confusion that the draft paper created,

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

Indigenous and Northern Affairs Canada withdrew its draft paper in May 2016.

“From a legal perspective, the primary issue with the now-withdrawn draft paper is that it gave the impression that the land use plan could exempt projects from the application of the land use plan. Nunavut Tunngavik Inc. and others correctly took issue with that. The land use plan cannot exempt a project from the application of the plan. Exemption was an unfortunate word choice, and does not fit within the jurisdictional framework in which the Commission operates.

“Although this was unfortunately not clear in the now-withdrawn draft paper, it is the Government of Canada’s view that only the *Nunavut Agreement*, or the *Nunavut Planning and Project Assessment Act* if it is consistent with the *Nunavut Agreement*, can exempt or authorize the exemption of projects from the requirement for an assessment and the application of the plan. There is no jurisdiction for the Commission, or for the terms of the plan, to exempt projects from the application of the plan. We are hopeful that this helps address the jurisdictional concerns quite rightly raised in Nunavut Tunngavik Inc.’s submissions.

“Rather, it is Canada’s view that where it is appropriate to do so, the plan’s provisions can be designed to ensure that the plan has the desired impact on potential projects and classes of projects, and does not have undesired impacts. There may be more than one way to achieve this, but one effective technique could be the creation of a permitted use to act as an exception to a prohibition that would otherwise apply.”

In January 2017, the GoC’s<sup>1</sup> primary written submission proposed that the NPC:

“... consider adjusting the Protected Area designations identified above such that the planning rules do not prohibit activity in specific locations where there are existing rights to the use of minerals. In other words, the plan would identify locations that fall within protected areas but where mineral rights have already been granted, and would specify that the prohibitions against mineral exploration and development would not be applied.”

In 2017, the WWF<sup>2</sup> wrote:

#### “3.7.2 Comment

“While there have been significant improvements in the existing rights framework in the 2016 draft of the NLUP, additional clarity is necessary to clarify the requirements for projects to be grandfathered into the plan, and that moving from one stage of mineral exploration and

development to another constitutes a new project, not a significant modification.

#### “3.7.3 Recommendation(s)

“The NLUP needs to provide greater clarity on the issue of grandfathering, significant modifications, and transitioning between stages of mineral exploration and development.

#### “3.7.4 Rationale

“Uncertainty remains on the grandfathering policies of the 2016 draft of the NLUP, specifically around which stage of projects do and do not qualify for grandfathering, and the conformity process of moving from one stage of mineral exploration and development to another. This ambiguity rises from the use of the word ‘may’ in section 6.5 of the NLUP, where it is indicated that projects that were approved or accepted as a completed submission *may* be considered grandfathered, and that the transition from one stage of mineral exploration and development *may* require a new conformity decision.

“We recently commissioned EcoJustice to submit a legal opinion to the NPC on existing rights and the NLUP. This opinion concluded that; an ‘existing right’ does not arise unless the NPC has already made a conformity determination for the project proposal or received a complete project proposal; project proposals without conformity determinations are not ‘existing rights’ eligible for grandfathering; and moving from one stage of mineral exploration and development to another constitutes a new project, not a significant modification.

“We note that no other party has submitted a legal opinion on this matter, and encourage others to engage on this issue. We also would like to request more information arising from the NuPPAA workshop in January on any discussion of existing rights.”

In 2017, the NWT & Nunavut Chamber of Mines<sup>3</sup> recommend that: “The grandfathering of existing rights on all stages of mineral exploration and development without exceptions should be included in the DNLUP.” It explained:

“If the proposed 2016 DNLUP is approved, it could potentially prevent future development of existing claims beyond the exploration stage. The NPC can consider a significant modification and could require a conformity determination and, under the proposed 2016 DNLUP, advanced exploration or mining will no longer meet conformity. The position of Indigenous and Northern Affairs Canada (INAC) was that the grandfathering of existing rights on all stages of mineral exploration and

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>2</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2017-01-13. NPC Public Registry File # 16-048E)



development without exceptions should be included in the DNLUP.”

In 2017, AEM<sup>1</sup> recommend:

“The grandfathering of existing rights on all stages of mineral exploration and development without exceptions should be included in the DNLUP.”

In 2017, Sabina<sup>2</sup> provided the following comment on grandfathering of existing mineral exploration and development:

“Sabina believes that existing rights must be grandfathered and is in agreement with Indigenous and Northern Affairs Canada (INAC) that the grandfathering of existing rights on all stages of mineral exploration and development without exceptions should be included in the Nunavut Land Use Plan.”

In 2017, Northquest<sup>3</sup> discussed the importance of the mining industry in Nunavut and noted at length that the proposed PAs (now LU areas) did not adequately take into consideration existing rights and interests as required by section 58 of the NuPPAA, specifically as they related to mining rights:

“... the published statistics of Statistics Canada indicate that the mining industry is the second largest contributor to the GDP of Nunavut (behind public administration) and that given Nunavut’s geological patterns and known and potential mineralization, mining has the most potential as a significant growth industry in the territory for the immediate and long term futures. ...

...

“... Northquest respectfully submits that the approach to the land use designations by NPC in the DNLUP is too broad in favour of conservation and, despite section 58 of NUPPAA noted above in respect of existing rights and interests, ignores and/or doesn’t appreciate and fully take into account the terms of the governing Nunavut Mining Regulations or the market realities of mineral exploration and development ... by broadly applying Protective Area designations in favour of conservation, with over reliance on minor variances or Ministerial expenditures for future sustainable development on a project by project basis. This does not, and cannot, accord with the principles of the NLCA, NUPPAA or the Nunavut Mining Regulations or mining industry market realities. This is evidenced by the remarkable provision of the DNLUP (at p. 42) which states: *“For clarity, in the event of a conflict between*

***areas of mineral potential and PA’s, the prohibitions in PA’s apply regardless of mineral potential.”***

...

“By designating large tracts of Crown lands as Protected Areas under the DNLUP, as opposed to Mixed Use or Special Management Areas, DNLUP puts at risk the statutory right to security of further and advanced title to mineral claims through statutory expenditures, work and regulatory compliance, **particularly for existing staked and recorded mineral claims (see section 58 of NUPPAA)**, which is the incentive to invest in identifying potential targets. This could directly undermine the true objectives of the free entry system underlying the Canada Mining Regulations: to induce private money and entrepreneurship to generate public and private information about Crown lands, with the longer term potential of significant development generating employment, skills training and capacity building, and income, revenue and social uplift for Governments, communities and individuals.

...

“... section 6.5.1 of the DNLUP as proposed, suggests that there is no grandfathering of Northquest’s existing rights, as the DNLUP indicates that the progression from one stage of mining to another may require a new conformity designation. Although the transition from Mining Claim to Mineral Lease is not specifically addressed, as a practical matter, this represents the progression of a project from exploration, to advanced exploration, to mining, which are all noted in the DNLUP as separate stages of a project and are not grandfathered. Under the process as it exists today, Northquest could progress from a Mineral Claim to a Mining Lease under the Nunavut Mining Regulations as of statutory right, subject to compliance with the provisions in the Regulations requiring the filing of certain materials and no conflicting claims. This right has effectively been extinguished by the DNLUP.

“As currently drafted, the only option available to Northquest in order to proceed with the Pistol Bay Project would be to apply for a ministerial exemption from the provisions of the DNLUP for the Project – a costly, time-consuming and, most importantly, an uncertain process which would require Northquest to continue to invest money in the project to maintain the status of its mineral claims, without any certainty that it could actually proceed to advance to develop a producing mine.”

<sup>1</sup> (Agnico Eagle Mines Limited (AEM), 2017-01-13. NPC Public Registry File # 16-053E)

<sup>2</sup> (Sabina Gold and Silver Corp, 2017-01-04. NPC Public Registry File # 16-041E)

<sup>3</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

In 2017, NTI and the RIAs<sup>1</sup> recommended using the wording for pre-existing rights in the NuPPAA and noted it would require time to consider other proposals:

“At section 6.5 of the DNLUP 2016, NPC provides an explanation regarding what projects may be ‘grandfathered’ based on ‘Existing Rights’ that does not use wording and phrasing from NUPPAA. As much as possible, NTI and the RIAs recommend that Section 6.5 mirror the NUPPAA, Part 5 provisions addressing ‘rights preserved’.

“In light of the previous exchanges of views on the record regarding ‘grandfathering’ of existing mineral rights, if the Commission receives further submissions regarding that issue, NTI and the RIAs will require more time to assess the legal and policy basis of any related proposals and provide recommendations.”

In 2017, the GN<sup>2</sup> noted that it supported a “legally sound existing rights policy” and repeated a prior recommendation that the issue be resolved through a third-party legal expert retained by the NPC to provide an opinion and collaborative discussions between the NPC, GN, GoC and NTI. The GN noted that the signatories were at that time “still in discussions regarding how best the Nunavut Land Use Plan may safeguard existing rights.” The NPC was not involved in the signatories’ negotiations on resolving the issue of safeguarding existing rights. The NPC did not commission an expert report itself, but did receive a legal opinion on “existing rights” from Ecojustice<sup>3</sup>, an expert retained to file a report on behalf of WWF in the DNLUP proceedings.

In 2017, the GN<sup>4</sup> also noted the risk to investment in acquiring mineral rights:

“... The DNLUP’s treatment of existing rights may create uncertainty for developers that have acquired mineral rights in the Nunavut Mining District under a free entry system and developed projects while exercising those rights, which may now be prohibited. Without intervention these developers will lose the value of their investments in their entirety, investments that are in part obligatory requirements to have kept their mineral tenure in good standing.”

In 2018, in response to a question from the NPC asking “what criteria, if any, do the signatories believe is necessary before a restriction on developing existing

mineral claims could be proposed, or do the signatories take the position all mineral claims ought to be grandfathered?” the GoC<sup>5</sup> answered:

“Per section 58 of the *Nunavut Planning and Project Assessment Act* (NuPPAA), existing rights and interests must be considered when the Minister decides to accept or reject the plan per section 54(1). The Minister will be required to balance these considerations with factors laid out in sections 47 and 48 of NuPPAA and section 11.3.1 of the Nunavut Agreement.

“Mineral exploration and development is one of the largest industries in Nunavut and it is critical to the economic well-being of Inuit and northerners. The Government of Canada recommends that the Commission facilitate detailed place-based discussion that focus on how to effectively protect core caribou calving grounds while minimizing social, cultural and economic impacts, and then revise the plan. These discussions should involve Inuit, scientists, industry and government as the interested parties. A better understanding by all parties of the trade-offs involved in particular land use designations and possible restrictions is necessary before the plan could be approved. The Government of Canada maintains its recommendation that Special Management Areas allowing development subject to certain conditions be used in other caribou habitat types.

“If protected areas are established with prohibitions on mineral development in an approved plan, CIRNAC would stop permitting new mineral exploration in these areas. For further information on existing uses within protected areas please see our expert report Transition Rules, Existing Rights and Related Issues in the *Nunavut Planning and Project Assessment Act*, filed November 15, 2016.”

In 2018, the NPC also asked: “... do participants support recognizing existing uses as conforming uses in all land use designations subject to further conformity determinations if significant modifications are made, and if so, how should the Land Use Plan address projects that are developed in stages (or phases)?”. The GoC<sup>6</sup> replied:

“For a more detailed explanation of what follows, please refer to our expert report Transition Rules, Existing Rights and Related Issues in the *Nunavut Planning and Project Assessment Act* (NuPPAA), filed November 15, 2016.

“NuPPAA itself deals with the continued conformity of projects that lawfully pre-existed the adoption of a land use plan. The Act also makes a new assessment (including a

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>2</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>3</sup> (Ecojustice, 2016-08-29. NPC Public Registry File # 16-016E)

<sup>4</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>5</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>6</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

new conformity determination) necessary before an existing project can be significantly modified.

“Where there is a proposal for a significant modification of an existing project, a new project description and conformity determination would be required, as per sections 145 and 146 of NuPPAA. It is therefore imperative that the Commission and the parties carefully consider what zoning should be placed on existing uses where it is foreseeable that the existing project may need to change over time. Further information on the Government of Canada’s position on existing uses can be found on page 25 of the 2017 written submission.”

In 2018, on the treatment of existing uses in the NLUP, the GN<sup>1</sup> explained:

“A project approved prior to the Nunavut Land Use Plan has grandfathered rights as discussed in Comment # 2017-15 in the GN’s January 2017 final written submission.

“Mineral tenure is an interest in land. These rights are not absolute, of course, but mineral rights cannot be entirely destroyed without compensating mineral rights holders. While there is no Constitutional right to property in Canada, it is an accepted principle of statutory interpretation that a statute may not take or expropriate an owner’s land without compensation unless specifically provided for in the enabling statute. Mineral rights cannot be rendered useless without explicit legislative authority.

“NuPPAA sets out the framework for existing mineral rights projects. As far as we are aware, all types of mineral rights constitute ‘projects’. There are three categories of rights:

1. Where a project was commenced before NuPPAA came into force, the project is not subject to NuPPAA unless it is significantly modified. If it is significantly modified, it constitutes a new project and is subject to an assessment, including conformity determination, under NuPPAA Part 3. See NuPPAA s. 235.
2. If a project proposal has been submitted under Part 3 before a land use plan has been approved, the project is predominantly assessed without recourse to the land use plan. Most importantly, there would not be a conformity determination. See NuPPAA s. 207.
3. If a project was approved but then stopped or shut down for less than five years, it is not subject to an assessment under NuPPAA Part 3. If a project was approved but then stopped or shut down for more

than five years, the project may be reassessed under Part 3, but the proposal is deemed to be in conformity with any applicable land use plan. See NuPPAA s. 208.

It is not open to the NPC to deviate from the model the legislature has established. It is important to consider that projects may change over time when zoning for existing uses.”

In 2018, the GoC<sup>2</sup> provided clarification on the effect of the NLUP on prospecting and staking under the Nunavut Mining Regulations:

“... If caribou habitat is identified in an approved land use plan as land subject to a prohibition on prospecting or staking a claim, this land will no longer be open for prospecting or staking in accordance with subsection 5(d) of the *Nunavut Mining Regulations* (NMR). Caribou habitat could also be closed to prospecting or staking, per section 5(e) of the NMR, if it is withdrawn from disposal or set apart and appropriated by the Governor in Council under paragraphs 23(a) to (e) of the *Territorial Lands Act*.

“If caribou habitat is not protected in the plan or withdrawn by the Governor in Council and the land does not meet one of the other prohibitions listed in section 5 of the NMR, the Mining Recorder does not have the discretion to refuse to issue mineral tenure. If the holder of a ‘licence to prospect’ makes an application to record a claim or applies for a prospecting permit, and the requirements of the regulations are met, the Mining Recorder must issue the claim under subsection 33 (4) or permit under subsection 11(2) of the NMR.”

In 2019, as noted elsewhere in this chapter, NTI and the RIAs<sup>3</sup> wrote:

“The GoC provided a submission in response to the NPC’s question #52 regarding Inuit access rights stating that:

*The Nunavut Agreement sets out Inuit access rights to lands for the purposes of harvesting, and sets out rights relating to outpost camps. The land use plan has no direct power to restrict Inuit harvesting access rights or the right to set up outpost camps.*

*However, land use activities that conform to the approved plan can lawfully affect the environment in which those rights are exercised, and in some cases the presence of a development of a certain kind can limit the ability to exercise those rights within a defined area (see Article 5.7.17, for example). This is authorized by and consistent with the rights established in the Nunavut Agreement*

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>2</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>3</sup> (Nunavut Tunngavik Incorporated & the Regional Inuit Associations, 2019-03-14. NPC Public Registry File # 16-249E)

*As developments can affect harvesting and outpost camps, it is important that land use designations and the land use plan as a whole be developed with active and informed participation of Inuit. The Commission should take care to consult with Nunavummiut and especially HTOs to determine whether there are areas of particular importance for harvesting purposes or outpost camps, and should develop zoning rules that consider and balance the different uses to which land use can be put and the priorities and values of the communities.*

“The view of NTI and the RIAs is that the limitation created by subsection 5.7.18 (d) on Inuit access rights is narrow in scope. Inuit access rights can only be limited when there is a direct conflict between an authorized land use activity and only for the period of time necessary to carry out that activity. NTI and the RIAs recommend that the NPC prioritize Inuit access to land and wildlife resources when considering land use designations and that any limitations on Inuit access only occur with the consent of Inuit.”

In April 2019, the QWB, and HTOs of Grise Fiord, Resolute Bay, Arctic Bay, Pond Inlet, Clyde River, Qikiqtarjuaq, Pangnirtung, Iqaluit, Kimmirut, Cape Dorset, Sanikiluaq, Hall Beach and Igloodik<sup>1</sup> submitted “Supplementary Geographic Information for Written Submissions on the 2016 Draft Nunavut Land Use Plan” that read in part:

“In many areas and as expected, there is extensive intersection between designated land areas proposed by the QWB and the HTOs and IOL with surface rights. During the community-based land selection process leading to the Nunavut Final Agreement in the 1980s and early ‘90s, wildlife harvesting areas and important wildlife habitats were two of several major values that Inuit used to select lands that they wanted to own. Extensive intersection between surface IOL and the proposed QWB-HTO land-use designations reflect the continuing importance of these wildlife values for Inuit. On the other hand, the NFA land selection process did not permit inclusion of all the major land areas and none of the important marine areas that are needed for continued Inuit food and cultural security in the future.

“For five (5) IOL subsurface parcels where there are existing exploration and similar agreements, proposed QWB and HTO designations would restrict mineral exploration and production. The approximate total intersecting area for 4 of these parcels is 48 km<sup>2</sup>. For the other one, the intersecting area is 627 km<sup>2</sup>. The applicable parcel numbers are provided in the table below. The QWB and HTOs would like the opportunity to negotiate with NTI and QIA about how these cases could be addressed going forward.”

## Considerations

The exercise of Inuit rights under the NA are generally not “projects” that would be subject to the NLUP. The NPC is mindful of the impact of project approvals on the existing rights of Inuit under Articles 5 and 7 of the NA and the potential to infringe on those rights where the approval of projects means Inuit access is incompatible with the land uses proposed by proponents.

In 2016, an expert report by the NWMB<sup>2</sup> explained that section 5.7.18(d) of the NA “provides for limited indirect authority” for the NPC “with respect to Inuit access to lands provided for in Article 5.7.16”, and that under sections 5.7.18 and 5.7.18(d) of the NA, Inuit “[a]ccess rights are subject to override by any land use activity that is authorized under Article 11 (Land Use Planning).” The NPC notes sections 7.2.2 and 7.3.2 relating to the establishment and tenure of outpost camps also rely on the rights granted by section 5.7.16, meaning a positive conformity determination by the NPC can infringe on any Inuit rights of access or to outpost camps that are incompatible with the proposed land use activity.

### 6.2.8.2 Existing Rights under the NuPPAA

The NPC notes section 58 of the NuPPAA requires that existing rights and interests be taken into account by the NPC together with “all relevant factors” including the purposes of the NLUP set out in section 47 and the contents of the NLUP required under section 48. For reference, sections 47, 48 and 58 of the NuPPAA read:

“**47** A land use plan has the following purposes:

(a) to protect and promote the existing and future well-being of the residents and communities of the designated area, taking into account the interests of all Canadians; and

(b) to protect and, if necessary, restore the environmental integrity of the designated area or the planning region, as the case may be.

“**48 (1)** A land use plan must provide for the conservation and use of land and guide and direct resource use and development and must, in particular, provide for a strategy regarding the implementation of the plan and take into account

<sup>1</sup> (Qikiqtaaluk Wildlife Board (QWB), 2019-04-10. NPC Public Registry File # 16-250E)

<sup>2</sup> (Nunavut Wildlife management Board (NWMB), 2016-12-13. NPC Public Registry File # 16-154M)

- (a) the broad planning policies, priorities and objectives established for the designated area;
- (b) the specific planning objectives and planning variables identified for any applicable planning region;
- (c) the factors referred to in section 11.3.1 of the Agreement; and
- (d) Inuit objectives for Inuit owned lands.

“(2) A land use plan may contain descriptions of permitted, subject to any terms and conditions that the plan sets out, and prohibited uses of land.

“(3) A land use plan may authorize the Commission to grant minor variances and may set out the conditions subject to which they may be considered and granted.

“(4) A land use plan must identify each requirement set out in that plan whose contravention is prohibited under paragraph 74(f).

“(5) A land use plan must be developed and implemented in a manner that is consistent with the principles and requirements of Articles 5 and 7 of the Agreement.

...

“58 In exercising their powers and performing their duties and functions under sections 49 and 52 and subsections 54(1) to (3), the Commission, the federal Minister, the territorial Minister and the designated Inuit organization must take into account all relevant factors, including the purposes set out in section 47, the requirements set out in section 48 and existing rights and interests.”

In 2016, Ecojustice<sup>1</sup> submitted a legal opinion as an expert report on behalf of the WWF regarding grandfathering that recommends the DNLUP be revised on the basis its treatment of existing rights “conflict with legal requirements under the [NA] and the [NuPPAA].” The report explained:

“To ensure that the grandfathering rules comply with the NLCA and the NuPPAA ... change the rules to clarify that:

- an ‘existing right’ does not arise unless the NPC has already made a conformity determination for the project proposal or received a complete project proposal;
- project proposals without conformity determinations are not ‘existing rights’ eligible for grandfathering; and

- moving from one stage of mineral exploration and development to another constitutes a new project, not a significant modification.”

The Ecojustice report addressed three issues, specifically the legal rights existing mineral tenures confer, whether the approach to existing rights in the 2016 DNLUP complied with the NuPPAA and the NA, and proposed recommendations for NLUP amendment. In summarizing the process for obtaining, and the limitations of, mineral tenure, the first section of the Ecojustice<sup>2</sup> report explained:

“While it is true that a proponent of a mineral extraction project obtains specific legal rights by obtaining authorizations under the Regulations, these rights largely relate to the right to exclude others from developing or exploring within the subject area. Mineral tenures do not grant an unlimited right to engage in the full build-out or closure and reclamation of a mine.

“The NuPPAA does not automatically exempt mineral tenures granted under the *Territorial Lands Act* and the Regulations from the application of the land use plan or the subsequent requirement to obtain approval from NIRB and the responsible Minister. The mining recorder who issues mineral rights under the Regulations is a public body responsible for issuing licences, permits and other authorizations required under territorial law for a project to proceed. As such, the mining recorder is a ‘regulatory authority’ for the purposes of the NuPPAA.

“Accordingly, the mining recorder and the Minister under the Regulations would normally be subject to subsection 69(1) of the NuPPAA, which requires each regulatory authority to ensure that any licence, permit or other authorization that it issues implements any applicable requirements of any applicable land use plan. This means that such authorizations must themselves conform to and implement the requirements of an approved land use plan (subject to the specific exceptions set out in the NuPPAA). As noted above, similar requirements are reflected in the Regulations themselves in section 5(d).

“This means that the ability to transition from one stage of the mining process to another in terms of acquiring more advanced mineral tenures is constrained by law to those applications that conform to an approved land use plan.

...

“The issuance of a mineral tenure does not guarantee approval of mining projects from beginning to end of life cycle in Nunavut or a full legal right to develop a mine. To the extent that a proponent expects such a guarantee upon

<sup>1</sup> (Ecojustice, 2016-08-29. NPC Public Registry File # 16-016E)

<sup>2</sup> (Ecojustice, 2016-08-29. NPC Public Registry File # 16-016E)

issuance of mineral tenure, the expectation would not be reasonable if it is based on mineral tenure alone. As set out above, mineral tenures in Nunavut are not for an indefinite duration and proponents must meet requirements under the Regulations to maintain tenure. A mineral tenure alone does not necessarily confer rights to engage in a specific use of land, such as exploration, mining or remediation. The fact of the existence of a mineral tenure also does not mean that the land is actually being used for all of the purposes that the tenure would allow.”

The second section of the Ecojustice<sup>1</sup> report explains that the “NuPPAA requires the NPC to make a conformity determination for every ‘project’” and that grandfathering of existing rights and activities based on rights recognized under other regulatory regimes would effectively exempt certain projects from the NLUP, contrary to the NuPPAA and the NA:

“Importantly, a ‘project’ refers to the actual physical work (for example, exploration project or mining project). Pursuant to the transitional sections 69, 207, 208 and 235 of the NuPPAA, it is the project which must be submitted to the NPC or approved under part 3 or the NLCA to have an argument for grandfathering.

“The term ‘existing rights’ is not defined in the NuPPAA and is not defined in the NLCA ... Article 11 provides no exemptions for ‘operators’ from land use plan provisions.

“The NPC has no power under the NuPPAA or the NLCA to exempt projects from the need to be subject to a conformity determination. Under the NuPPAA, project proponents must submit project proposals to the NPC and the NPC must determine whether the project conforms to the land use plan. ...

“The NCLA and the NuPPAA both obligate the NPC to assess every project proposal for conformity. Only if the NPC determines that the proposal is in conformity with the land use plan may it subsequently forwarded [*sic*] to the NIRB. Until a project is submitted to the NPC and the NPC has made a conformity determination, the project is prohibited and so are all other authorizations. This includes more advanced mineral tenures.

“Notably, section 58 of the NuPPAA, which requires the NPC to ‘take into account’ existing rights and interests and a number of other factors when developing a land use plan, does not authorize or require the NPC to exempt projects with such rights and interests from conformity or conformity determinations.

...

“No provision in the NLCA or the NuPPAA provides any express authority for the NPC to exempt ‘projects’ that may be wholly or partially authorized under *the Territorial Lands Act* and the *Nunavut Mining Regulations* from the legal requirement for conformity with the land use plan requirements. Authority to deal with non-conforming projects that were not previously submitted to the NPC is set out entirely in sections 81 and 82 of the NuPPAA. These sections provide for a minor variance or a ministerial exemption.

...

“The NuPPAA contains transitional provisions which ... provide that a project assessed or approved by the NPC under the NLCA before the NuPPAA came into force is not subject to the Act. ... In essence, these provisions require that the NPC review an activity to see if it fits within the boundaries of a project that was subject to a prior conformity determination. If not, then the proposed activity is a new ‘project’ and a new conformity determination is required.

...

“The NuPPAA’s requirement that other authorizations or licences conform with the land use plan is also subject to transitional rules ... set out in sections 69, 207 and 208 of the NuPPAA.”

The Ecojustice<sup>2</sup> report interpreted NuPPAA sections 69, 207 and 208, noting the circumstances in which a new land use plan is or is not applicable to a project that has been submitted to the NPC, noting at length:

“None of the above transitional rules fully exempts previously assessed projects from the land use plan. They provide partial exemptions from the conformity requirements to projects that previously were submitted to the NPC and were found to conform at that time. This means that a project that was already reviewed by the NPC is not re-assessed every time the land use planning provisions change. These provisions do not exempt new projects that have mineral tenures but that were never previously submitted to the NPC or approved under the land use planning provisions of the NLCA.

“Nevertheless, the 2016 DNLUP rules on grandfathering existing rights can be interpreted as fully exempting a particular project from a conformity determination even where the NPC has not previously assessed its conformity. For example, the 2016 DNLUP grandfathering rules leave open the possibility that progressing from one stage of the Mineral Exploration and Development cycle to another may not require a conformity determination, even if the NPC did not previously assess the new stage for conformity.

<sup>1</sup> (Ecojustice, 2016-08-29. NPC Public Registry File # 16-016E)

<sup>2</sup> (Ecojustice, 2016-08-29. NPC Public Registry File # 16-016E)



As a result, the grandfathering rules may conflict with legal requirements under the NuPPAA and NLCA in some cases.

...

“The proposed 2016 DNLUP definition of ‘existing rights’ has some analogy to land use planning doctrines in that it appears to require an on the ground *de facto* use of land, such as an operating mine in the phrase ‘use of land that lawfully existed’. This implies that there must be (i) an actual physical use (ii) the use must be lawful at the time the new or amended land use plan is brought into force.

“However, this doesn't address the scope of the ‘existing right’ or what use of land is considered to ‘lawfully exist’ as between different stages of the Mineral Exploration and Development. Nor does it fully clarify that the ‘use of land’ must be in fact and not only exist as a legal right.

“Because NuPPAA prohibits carrying out a project unless a project proposal has been submitted for a conformity determination, the definition of ‘existing right’ should be changed to clarify that a use does not lawfully exist until such a proposal has been submitted to the NPC. This could be done by defining an ‘existing right’ in terms of a project/project proposal that has been assessed for conformity by the NPC previously, and where the project has all other approvals required to operate.

“The grandfathering rules are also unclear in that they could be read to mean that not all ‘projects’ will require a conformity determination. This is particularly apparent in the phrase ‘However, the transition from one stage of Mineral Exploration and Development to another may require a new Conformity Determination’ [emphasis added].

“This aspect of the language is inconsistent with NuPPAA and the NLCA. All projects require a conformity determination. Situations in which the transition between one stage of Mineral Exploration and Development and another that would not constitute a new project will be unusual and likely only occur where a multi-stage project proposal was submitted to the NPC. The relevant questions under NuPPAA and the NLCA for a project with some form of mineral tenure are whether:

- a) *The proposed activity is within the scope of a project previously submitted or approved by the NPC or if the project is a ‘new’ project that has aspects that are outside the scope of the previously submitted or approved project description?*
- b) *The proposed activity is not a ‘new’ project, but nevertheless has a significant modification to the activity that was included in the previously submitted project description?*

c) *The proposed activity is operating in fact and with lawful authority when the new land use plan or amended plan is brought into force?*

d) *The new project conforms with the current land use plan?*

“For example, a proponent might submit an exploration project to the NPC to have a small exploration camp in the late summer and the conformity determination might be affirmative. If the same proponent subsequently proposes a project for advanced exploration, with greater impacts and longer duration, the advanced exploration would be a new ‘project’ because the physical activities and intensity are not the same as those previously submitted and assessed. The new advanced exploration project would be subject to a conformity determination requirement under the NuPPAA or the NLCA under the existing land use plan provisions in force at the time the new project is submitted. If there were subsequent amendments prohibiting mining, then the new project could not proceed.

“In contrast, the 2016 DNLUP does not say that a project moving to a more advanced development stage will be *required to conform*. It says only that it ‘might’ trigger the requirement for a conformity determination if it is a significant modification. This is not consistent with the NuPPAA or the NLCA. This wording gives little clarity that the proponent must indeed submit a new project proposal for a conformity determination and will be bound by the determination on conformity as a mining project evolves.

“The 2016 DNLUP also conflates the concept of a ‘significant modification’ with the concept of a new ‘project’. Significant modification is a concept in the NuPPAA that applies to projects approved by the NPC as conforming under the NLCA before the NuPPAA was brought into force. It also applies under sections 145 and 146 of NuPPAA which require assessments of conformity by the NPC for significant modifications. These significant modification provisions do not apply by virtue of a project having some other form of legal rights, such as mineral tenure. Significant modification applies when a proposed activity is not included in the project description of a previously NPC-approved conforming project. It does not apply simply by virtue of a previously approved mineral land use or tenure.

“The 2016 DNLUP language appears to leave it to the proponent to evaluate whether a project has ‘existing rights’. The definition of existing rights does not include an activity that conforms to the land use plan; it applies only to non-conforming land uses. It is not clear how the proponent will know it has ‘existing rights’ (i.e. a non-conforming project) without submitting its project for a conformity determination. It is also not clear how a proponent would self-assess if its activity meets the other requirements for ‘existing rights’ such as an actual use of

land that is lawful. Seemingly under the 2016 DNLUP language, if a proponent self-assesses in this manner, no conformity determination is required by the NPC.

“For example, for a mining proponent moving from exploration to an operating mine with a milling operation, it is not clear under the proposed language whether a) a conformity determination is required b) a new project proposal must be submitted, or whether the conformity determination for a previous project proposal (for exploration) can be relied upon to deem the project (operating mine) to conform. Likewise it is unclear what is required for moving from active mining to closure or reclamation stages.

...

“... The NPC has no jurisdiction to create additional exemptions from the conformity determination requirement other than those set out in the NuPPAA and the NLCA. ...

“To conform with legislative requirements, the land use plan should clarify that all projects must be submitted for a conformity determination. The NPC should then evaluate whether it is a new project, or a previously submitted/approved project. If it is a previously submitted/approved project, the NPC should determine whether there is a significant modification requiring a new conformity determination.”

In 2017, the North Slave Métis Alliance<sup>1</sup> endorsed the 2016 Ecojustice submission regarding grandfathering on the basis they “will provide reasonable and strong protection for the barren-ground caribou and migratory wildlife habitats.” The North Slave Métis Alliance made the following recommendation regarding a wording change to the DNLUP based on the EcoJustice report on grandfathering:

**“Section 6.5 – Grandfathering of Existing Rights in respect of Projects/Project Proposals**

“The NLUP and any future Plan Amendments may apply to some Projects/Project Proposals that had Existing Rights before the approval the NLUP. Users are encouraged to refer to the NUPPAA for guidance on whether the NLUP applies in specific circumstances.

“NUPPAA requires a Project/Project Proposal to be submitted for a Conformity Determination if there is a ‘significant modification’ to a Project/Project Proposal with Existing Rights. Significant modifications may include but

are not limited to a change in scale or intensity of the Project/Project Proposal, new or modified works, activities, or components that were not included in the original Project/Project Proposal carried out prior to the approval of the NLUP as well as the following examples of significant modifications:

1. *Any change to the location of the work or activity;*
2. *Any change to the type of land use;*
3. *Any change to intensity or scale of the activity that, for example results in a larger footprint, deeper excavation, increased pollution or more human activity; and*
4. *Any change to the timing of the work or activity (e.g. seasonal changes).*

*This list is non-exhaustive and simply illustrates what the NPC may consider to be a ‘new project’ or ‘significant modifications’ from a planning perspective.”*

In 2018, the GoC<sup>2</sup> referred to a paper from legal counsel for Justice Canada, titled Transition Rules, Existing Rights and Related Issues in the *Nunavut Planning and Project Assessment Act*, as an “expert report” which it says was filed on November 15, 2016. The NPC notes that the paper was filed on January 13, 2017 as a supplementary written submission,<sup>3</sup> and not as an expert report or as a response to an expert report, which would have had to been submitted on November 15, 2016 or December 15, 2016 respectively.<sup>4</sup>

In the GoC’s<sup>5</sup> supplementary 2017 submission, legal counsel for Justice Canada explained the “issue is broader than mining rights or interests”, noting that “identified existing rights and interests ... must be taken into account when determining what the rules in the land use plan should be”, suggesting the NPC consider “whether it is desirable for a new land use plan to affect the anticipated exercise of pre-existing rights and interests, or whether it is desirable to avoid this.” The letter recommended the NLUP be carefully drafted to avoid undesired consequences. In particular, the

<sup>1</sup> (North Slave Metis Alliance (NSMA), 2017-01-13. NPC Public Registry File # 16-072E)

<sup>2</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>3</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>4</sup> (Nunavut Planning Commission, 2016-08-30. NPC Public Registry File # 16-005E)

<sup>5</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

submission outlined the NPC's jurisdiction with respect to projects that do or do not involve existing rights:

"When the Commission considers it appropriate to do so after taking into account the matters referred to in section 58 of the Act, the Commission has the ability to design land use plan requirements so that they apply selectively or differently to projects involving the exercise of pre-existing rights or interests. The Commission has the jurisdiction to draft a plan that applies differently to otherwise similar projects – for instance, the plan can be tailored to permit a project arising from existing rights or interests, while being more restrictive of projects that do not arise from rights or interests that pre-date the plan. ...

"The factors identified in section 58 that are applicable to any given area might point in different directions. In a given area, some factors might point to a more permissive zone (economic opportunities, transportation, energy (from *Nunavut Agreement* section 11.3.1(c), (d) and (e)). At the same time in the same area, other factors might point to a more restrictive zone (environmental considerations, cultural factors (from *Nunavut Agreement* section 11.3.1(g) and (h)). In every case, the Commission is tasked with striking a balance to the benefit of Inuit, other Nunavut residents and Canadians in general.

"The ability to craft different rules for a project arising from pre-existing rights or interests facilitates striking the right balance. It empowers the Commission to develop the general rules it considers appropriate, while still giving the Commission the ability to shelter the pre-existing rights or interests if the Commission considers it appropriate to do so. Greater latitude on this point better positions the Commission to achieve the purposes and balance the factors identified in the Act and the *Nunavut Agreement*.

"In the absence of this ability, the Commission would have fewer tools to make finely calibrated decisions that precisely achieve the balance the Commission is seeking among the section 58 considerations.

"On that basis – and in the absence of any indication in the Act or in the *Nunavut Agreement* to the contrary – the Commission can tailor the rules in the land use plan to give effect to the Commission's intended treatment of projects arising from existing rights or interests."

On the issue of whether the NLUP can exempt a project from a conformity determination, Justice Canada<sup>1</sup> explained:

"From a legal perspective, ... [t]he land use plan cannot exempt a project from the application of the plan. ...

"... it is the Government of Canada's view that only the *Nunavut Agreement*, or the *Nunavut Planning and Project Assessment Act* if it is consistent with the *Nunavut Agreement*, can exempt or authorize the exemption of projects from the requirement for an assessment and the application of the plan. There is no jurisdiction for the Commission, or for the terms of the plan, to exempt projects from the application of the plan. We are hopeful that this helps address the jurisdictional concerns quite rightly raised in Nunavut Tunngavik Inc.'s submissions.

"Rather, it is Canada's view that where it is appropriate to do so, the plan's provisions can be designed to ensure that the plan has the desired impact on potential projects and classes of projects, and does not have undesired impacts. There may be more than one way to achieve this, but one effective technique could be the creation of a permitted use to act as an exception to a prohibition that would otherwise apply."

On the issue of transition provisions within the NuPPAA, Justice Canada<sup>2</sup> explained the NuPPAA at length, recommending in particular that the NLUP avoid providing guidance on how to interpret the NuPPAA's transition provisions, or clearly explain that the NLUP is not authoritative on the interpretation of the Act so as to avoid confusion:

"Some participants in the land use planning process have said that the current Draft Nunavut Land Use Plan is not sufficiently clear on when a conformity determination is required, whether that conformity determination is an initial determination or, in the case of a change to a project, a conformity determination triggered by that change (see for example section 6.5 of the draft plan). This is a topic that is subject to a complex set of rules.

"A conformity determination is the first phase of an assessment under the *Nunavut Planning and Project Assessment Act*. The land use plan does not determine whether or when a conformity determination is required.

"Instead, it is the *Nunavut Planning and Project Assessment Act* that determines whether an activity requires an assessment under the Act, and it also determines when a new assessment is required. Therefore, the only guidance the land use plan could give on this topic is an explanation of how the Act works.

"Guidance documents on how the Act addresses these issues are important. However it is not clear that the land use plan itself is the optimal vehicle for such guidance. There also is a likelihood that process guidance in a land use plan could be mistaken as authoritative, because the land use plan is authoritative in other respects. Moreover,

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

the Act is in its early days of implementation, and our understanding of the Act is bound to be refined as we work with it over time. It should be possible to revise guidance documents without amending the land use plan.

“For those reasons, we recommend that the Commission create a separation between the land use plan and the Commission’s procedural guidance. Perhaps this could be achieved within the same document, by clearly labelling segments as not forming part of the land use plan. Alternatively the Commission could develop a separate process-guidance document.

“To the extent the Commission will endeavour to explain the statutory framework, it should do so accurately, whether it chooses to do so within the land use plan or, as we suggest, outside of the land use plan.

“The challenge is to find a way to make the explanation accessible, yet fully accurate when describing the complex functioning of the Act. The Act must cover a wide variety of potential scenarios, and treats different scenarios differently. The Act is therefore quite complex on these points.

### *1. General*

In our view, any explanation of how the Act determines whether an assessment is required would include the following:

- i) the definition of ‘project’ in section 2, which includes the de minimis threshold below which the Act does not apply;*
- ii) the idea that the Act only applies to projects, and identifies the project as a whole, not individual components or activities or specific permits or authorizations, as the subject of the assessment;*
- iii) the Act’s requirement to group multiple projects into a single project when they are ‘so closely related that they can be considered to form a single project’ (section 76(3));*
- iv) the requirement to submit a project proposal to trigger the assessment (section 76); and*
- v) the requirement that the Commission conduct the conformity determination against an applicable land use plan (section 77).*

### *2. Coming into force of the Act*

*The Act came into force in 2015, but applies selectively to projects that already existed or were already under assessment under the Nunavut Agreement when the Act came into force. Any guidance on how the Act affects whether an assessment under the Act is required would include the following implications of section 235 of the Act:*

- i) the Act does not apply, and therefore an assessment is not required under the Act, where:*
  - a. the project was being lawfully carried out before the Act came into force;*
  - b. an assessment of the project under the Nunavut Agreement began before the Act came into force;*
  - c. the project was assessed before the Act came into force, and was started and then stopped for less than five years;*
  - d. the work was assessed before the Act came into force, was built and then was closed for less than five years; or*
  - e. the project was assessed before the Act came into force and the project is commenced within five years of its approval; however*
- ii) where there is contemplation of a significant modification (within the meaning of that phrase as it is used in section 145 of the Act) to a project or work falling in one of the categories listed in (i), then the Act applies and an assessment under the Act would be required. How the Act addresses this kind of change in a project will be returned to in paragraphs 4 and 5 below.*

### *3. Adoption of a new land use plan*

*Any guidance on how the adoption of a new land use plan affects a project that has either already begun or has completed its assessment under the Act*

would include the following implications of sections 69 and 207:

- i) the project is exempted from prohibitions created in the newly adopted plan; however
- ii) the project will be subject to terms and conditions set out in the newly adopted plan.

This effect is achieved by setting rules for how authorizing agencies must regulate the project; it does not require additional assessment steps under the Act (i.e., the existing conformity determination stands).

These rules also mean that in the plan development process, careful drafting is required to ensure that there is a sharp distinction between prohibitions and terms and conditions.

#### 4. Change in the project during assessment

The above subjects address change caused by the coming into force of the Act or adoption of a new land use plan. When the change is in the project itself, different rules apply.

Any guidance on how the Act deals with change in a project that has already begun, but not yet completed, its assessment under the Act would include:

- i) a new conformity process is required if the Nunavut Impact Review Board rescopes the project to include components that were not included in the original project proposal document (section 99(3));
- ii) a new assessment (starting with a new conformity process) is required when a proponent wishes to make a significant modification to a project while that project is still under assessment – but that assessment can rely on previous assessment activities (sections 141 and 142); and
- iii) a new assessment (starting with a new conformity process) is required where the assessment was terminated before being finished – but the new assessment can rely on previous assessment activities (sections

143(7) and (8) as well as sections 144(4) and (5)).

#### 5. Post-assessment project change

This is a portion of the Act that we believe is generally not well understood. After a project has been assessed, any change in that project is treated by the Act as a separate project. That separate project may or may not require an assessment, depending on the significance of the change.

Therefore, any guidance on how the Act deals with change in an already assessed project would explain that the Act treats a change in a project as a new project that would modify an existing project.

The original project is not reassessed, and in some cases no new assessment is required:

- i) if the new proposed work or activity is a project under the Act, but would not significantly modify the original project, then no assessment under the Act is required (sections 145 and 75(3)); and
- ii) if the new proposed work or activity is a project under the Act, and would significantly modify the original project, then the new project requires an assessment under the Act. However it is the new work or activity – and not the already approved project – that is subject to an assessment (section 146(1)).

#### 6. Assessments can expire

Any guidance on how the Act deals with delays or interruptions in projects would explain that:

- i) projects that were assessed and approved under the Act, but were not commenced within five years of approval, will have their assessments expire; a new assessment is required to undertake such a project (section 147); and
- ii) projects that were assessed and approved under the Act that stop, shut down or close for a period can restart without a new assessment if the interruption is for less than five years (section 208)."

The NPC notes there are differences in the opinion in the Ecojustice report and the written submission by Justice Canada. For ease of reference, the NPC has compiled a table to illustrate the respective positions (paraphrased) on several of the main issues related to grandfathering existing rights that were identified in each document:

Issue	Ecojustice Opinion (paraphrased)	Justice Canada Submission (paraphrased)
<b>NPC jurisdiction to exempt projects from conformity determinations</b>	<i>The NPC does not have jurisdiction under the NuPPAA or NA to create new exemptions from conformity determinations. Exemption only where proponents submit multi-stage project proposals to the NPC that transitioning from one stage to another would not constitute a new project; significant modification applies when a proposed activity is not included in the project description of a previously NPC-approved conforming project, not by based on a previously approved mineral land use or tenure.</i>	<i>The NLUP cannot exempt a project from a conformity determination required by the NuPPAA. Some participants said that the 2016 DNLUP “is not sufficiently clear on when a conformity determination is required, whether that conformity determination is an initial determination or, in the case of a change to a project, a conformity determination triggered by that change ...” The NuPPAA and not the NLUP is determinative; recommendation that the NPC develop a separate process-guidance document outside the NLUP.</i>
<b>Nature of mineral tenures</b>	<i>Mineral tenures are limited rights; the NuPPAA does not exempt mineral tenures granted under other laws from the NLUP; a mineral tenure is not a right to engage in exploration, mining or remediation.</i>	<i>No comment.</i>
<b>NuPPAA s. 69(1) and Nunavut Mining Regulations s. 5(d)</b>	<i>Minister and mining recorder to implement land use plans; mineral tenures are subject to land use plans under s. 5(d) of the Regulations.</i>	<i>No comment.</i>

Issue	Ecojustice Opinion (paraphrased)	Justice Canada Submission (paraphrased)
<b>NuPPAA requires conformity determinations</b>	<i>NuPPAA requires the NPC to make conformity determinations for all projects and significant modifications.</i>	<i>A conformity determination is the first phase of an assessment under the NuPPAA; only the NuPPAA and not the NLUP determines whether or when a conformity determination is required (whether of a new activity or if a new assessment for a pre-existing project is required).</i>
<b>NuPPAA s. 58</b>	<i>Section 58 does not authorize the NPC to exempt projects from conformity determinations.</i>	<i>After considering factors in s. 58, the NPC may design the NLUP to apply selectively or differently to projects involving pre-existing rights or interests. The NPC may craft different rules for a project arising from pre-existing rights to achieve the purposes and balance the factors identified in the NuPPAA and NA – there is no indication in the Act or NA to the contrary.</i>
<b>NuPPAA ss. 69, 207, 208, 235 (transition provisions)</b>	<i>NuPPAA transition provisions do not provide full exemptions for projects previously submitted to the NPC; under s. 69, 207, 208 and 235, a project must be submitted to the NPC to be grandfathered when the NLUP is approved; transition provisions require the NPC to see if a project fits within the boundaries of a project subject to a prior conformity determination, and</i>	<i>NuPPAA applies to “projects” as defined (including where grouped into single projects under s. 76(3)), applies selectively to projects previously in existence or already under assessment when NuPPAA came into force based on a set of transition rules (s. 235), and applies to such projects if there is a significant modification. Sections 69 and 207 mean pre-existing projects are exempt</i>



Issue	Ecojustice Opinion (paraphrased)	Justice Canada Submission (paraphrased)
	<i>if it does not, a conformity determination is required.</i>	<i>from prohibitions, but subject to terms and conditions. Changes to projects during or after assessment may require a new conformity determination; delays or interruptions in an approved project may mean a new assessment is required under the NuPPAA.</i>
<b>NuPPAA ss. 81 and 82</b>	<i>Sections 81 and 82 provide the only authority to address non-conforming projects that were not previously submitted to the NPC through minor variances or Ministerial exemptions.</i>	<i>No comment.</i>

In 2017, as noted above, Northquest<sup>1</sup> argued the NLUP's PAs (now LU areas) jeopardized existing rights and interests in mining contrary to section 58 of the NuPPAA, noting other regulatory tools are available to ensure protection of the natural environment and the cultural, traditional and socio-economic interests of Inuit, Nunavummiut, and other interested parties and Canadians in general:

"The Nunavut Mining Regulations are based on the modern modified principle of 'free entry' (as are most mining lands regimes in Canada and other common law jurisdictions). The free entry system to staking mineral claims is essential to a competitive mineral exploration process. Prospectors and geologists use their knowledge and training to develop private and public information about Crown lands regarding mineral prospects or potential prospects that may contain sufficient mineralization to warrant development.

"The commonly accepted rule of thumb is that less than one in one thousand targets will result in discovery of sufficient minerals to justify the significant capital cost of developing a mine. Evolving technologies, metallurgical processes, geologic concepts, and economic conditions

offer the potential to make areas once thought to be of low mineral development potential into new exploration targets. Only by encouraging prospectors, geologists and exploration companies to risk their money to locate or stake claims by granting them legislative paths to secure title to lands open for mineral exploration through free entry, all within a broader environmental and regulatory framework, will investments in new sources of mineral resources occur.

#### **"Imbalance of DNLUP Land Use Designations in Favour of Conservation**

"By designating large tracts of Crown lands as Protected Areas under the DNLUP, as opposed to Mixed Use or Special Management Areas, DNLUP puts at risk the statutory right to security of further and advanced title to mineral claims through statutory expenditures, work and regulatory compliance, **particularly for existing staked and recorded mineral claims (see section 58 of NUPPAA)**, which is the incentive to invest in identifying potential targets. This could directly undermine the true objectives of the free entry system underlying the Canada Mining Regulations: to induce private money and entrepreneurship to generate public and private information about Crown lands, with the longer term potential of significant development generating employment, skills training and capacity building, and income, revenue and social uplift for Governments, communities and individuals.

"By imposing large tracts of Protected Area lands with reliance upon minor variance and Ministerial exemptions on a project by project basis, the DNLUP in essence superimposes a Crown concession system of mineral tenure in those areas in Nunavut and undermines the proven principle of free entry underlying the Nunavut Mining Regulations.

"It must be noted that free entry does not include an automatic right to mine. ... To develop a mine, a claim and the lease holder must obtain a wide range of territorial and federal permits and approvals ... and the processes associated with applying for, evaluating and approving those permits and approvals under the current robust regulatory regime of governments and the IPG's in Nunavut protect the natural environment and the cultural, traditional and socio-economic interests of Inuit, Nunavummiut and other interested parties and Canadians in general, by ensuring that mining occurs only after having been thoroughly evaluated using rigorous scientific technical and environmental analysis and socio-economic and cultural analysis. The laws and processes that require these permits and approvals provide an appropriate and rigorous regime that provides for balance between the

<sup>1</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

competing interests and objectives interested in land use, conservation, management and development.”

Northquest<sup>1</sup> also argued that because section 6.5.1 of the 2016 DNLUP did not expressly grandfather its mineral rights, it would extinguish rights granted under the *Nunavut Mining Regulations*:

### **“3 Specific Comments and Recommendations**

#### **“Uncertainty - Significant Adverse Impact to Northquest**

...

“As discussed above, section 6.5.1 of the DNLUP as proposed, suggests that there is no grandfathering of Northquest’s existing rights, as the DNLUP indicates that the progression from one stage of mining to another may require a new conformity designation. Although the transition from Mining Claim to Mineral Lease is not specifically addressed, as a practical matter, this represents the progression of a project from exploration, to advanced exploration, to mining, which are all noted in the DNLUP as separate stages of a project and are not grandfathered. Under the process as it exists today, Northquest could progress from a Mineral Claim to a Mining Lease under the *Nunavut Mining Regulations* as of statutory right, subject to compliance with the provisions in the *Regulations* requiring the filing of certain materials and no conflicting claims. This right has effectively been extinguished by the DNLUP.”

### **Considerations**

The NPC notes that the submissions of the GoC, NTI and GN collectively agree that the NLUP cannot legally exempt any project from a conformity determination required by the NuPPAA, which is further supported by the Ecojustice expert report. The NLUP’s treatment of existing rights by “grandfathering” therefore cannot interfere with any existing rights in a manner not already contemplated by the NuPPAA, which, as the NWT & Nunavut Chamber of Mines<sup>2</sup> said in 2016, prevails over the NLUP itself and, as stated in the NuPPAA, over “any other Act of Parliament, except the *Nunavut Land Claims Agreement Act*, or any territorial law or any regulation made under that Act or that territorial law”<sup>3</sup> to the extent of any inconsistency or conflict. Although the NPC’s mandate under the NuPPAA and the NA requires it to consider factors listed in section 58 of the NuPPAA which includes “existing rights and interests”, neither the NuPPAA nor the NA give the NPC the authority to exempt

projects from the NLUP based on any rights asserted under the *Nunavut Mining Regulations* or other statutes.

The GoC recommended removing guidance on the interpretation of the NuPPAA from the NLUP to avoid causing uncertainty on the issue of grandfathering and transition rules. If the NLUP were to remain silent on grandfathering, the provisions of the NuPPAA as they were enacted by Parliament would clearly and exclusively govern whether an asserted right is or is not subject to a conformity determination by the NPC.

Participants are in disagreement on whether the NLUP is able to grandfather existing rights and interests. Some participants say that existing rights, specifically mineral rights, must be grandfathered because laws and regulations other than the NuPPAA grant interests in subsurface minerals, and resource extraction will have economic and social benefits. Two participants say a grandfathering clause for mineral tenures is required in the NLUP to avoid the possibility of expropriation, and the GN noted a statute may not take or expropriate an owner’s land without compensation unless provided for in the enabling statute. The GoC takes the position the NLUP can provide for grandfathering, but cautions it must be carefully drafted to avoid unintended consequences.

Other participants such as the WWF through its expert report by Ecojustice, and the North Slave Métis Alliance in its agreement with that report, take the position that grandfathering activities that are “projects” under the NuPPAA, or deeming significant modifications of projects to not require conformity determinations, would in effect create “exemptions” which are contrary to the NuPPAA and the NA. Similarly, with respect to the proposed treatment of the Manitoba-Kivalliq road corridor, the BQCMB<sup>4</sup> wrote in 2017:

“More generally, the NLUP should not designate exemptions from protected area prohibitions for linear infrastructure corridors that have not yet been submitted as proposals for approval. Roads and other linear infrastructure should be prohibited from all protected areas initially, with project proposals requiring scrutiny by NPC through an alternatives assessment and subsequent review by the NIRB and other regulatory authorities.”

<sup>1</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

<sup>2</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

<sup>3</sup> NuPPAA s. 3(2)

<sup>4</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2017-01-13. NPC Public Registry File # 16-057E)

When the GoC suggested in 2015 that subsurface rights holders in good standing before the NLUP comes into force be exempt from the NLUP and deemed not to be a “significant modification” when advancing from exploration to mine development, NTI and the GN expressed concerns about jurisdiction and the legality of doing so and recommended the NPC obtain legal advice on whether the NLUP can exempt projects and if so, the limit on that jurisdiction. The WWF filed a legal opinion on this issue in August 2016, and participants were invited to file expert reports in response to any expert reports filed by another participant. No expert response to the Ecojustice report was provided, although as noted above, the GoC filed a paper as a supplementary submission that addressed some of the opinions given in the Ecojustice expert report, and similarly concluded that the NLUP cannot exempt projects from conformity determinations required by the NuPPAA.

As noted elsewhere in this chapter, many participants including the GoC, GN, NTI and WWF agree that the NLUP cannot exempt a project that must be submitted to the NPC for a conformity determination under the NuPPAA and the NA. Other participants including the GoC and the NWT & Nunavut Chamber of Mines, recommended that the NLUP not provide guidance on existing rights that might conflict with the NuPPAA. As explained by both the GoC and Ecojustice, under the NuPPAA, projects submitted to the NPC before the bringing into force or amendment of a plan are exempt from the new or amended plan, except to the extent that licences, permits or other authorizations issued by regulatory authorities must implement provisions of the NLUP.

### 6.2.8.3 Policy Options for Existing Rights

#### 6.2.8.3.1 Option 1: Expressly “Grandfather” Existing Rights and Interests

Based on submissions received, section 58 does not allow the NLUP to exempt projects from a requirement for a conformity determination where it is required by the NuPPAA. Submissions have, however, advocated for tailoring land use designations to ensure mining projects may proceed despite any prohibitions where existing

rights and interests were acquired prior to approval of the NLUP.

Where a proponent has registered a right or interest with a third party but not submitted a project to the NPC, the NLUP could provide that physical works and physical activities relating to and arising from those acquired rights and interests conform to the NLUP notwithstanding otherwise applicable prohibitions as long as they do not expand in size, and that any terms and conditions of the NLUP applicable to the area shall be incorporated into any licences, permits or other authorizations by regulatory authorities.

#### Considerations

Although this option would not exempt a project from the NLUP where a conformity determination is required by the NuPPAA, it would mean that a proponent’s acquisition of rights and interests from third parties could lead to development despite the NPC having information about VCs that would be adversely impacted by development, incompatible Inuit rights of access or outpost camps, other priorities such as conflicting types of development, or other rights and interests that the NLUP would otherwise protect through applicable prohibitions.

#### 6.2.8.3.2 Option 2: Entitle Rights and Interests to Minor Variances

In 2017, as noted above, Northquest<sup>1</sup> argued the use of PAs with the option of applying for minor variances jeopardizes existing rights and interests and “superimposes a Crown concession system of mineral tenure in those areas in Nunavut and undermines the proven principle of free entry underlying the Nunavut Mining Regulations.”

In 2018, the GoC’s<sup>2</sup> submission on IIBAs noted a minor variance may be used to allow a project to proceed in a LU area (formerly a PA) notwithstanding prohibitions on the project:

“A protected area in a land use plan, where certain uses are prohibited or subject to conditions, is a type of zoning designation and is not intended to last forever as it may be amended during periodic review of the plan. In addition, prohibited activities may be permitted in these areas if

<sup>1</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

<sup>2</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

projects receive a minor variance or amendment to the plan from the Commission or an exemption from the Minister. ...”

### Considerations

Although some participants recommended that the NLUP should consider minor variances as a way to allow normally prohibited projects to conform, this is contrary to planning practices of considering variances to relax terms or conditions, but not to allow an explicitly prohibited use. For example, the NLUP could allow for minor variances to reduce setbacks or modify seasonal restrictions, but not to allow projects where they are prohibited. Changes to the type of use allowed by a plan are significant, rather than minor, as they change the intent of the approved plan and should require a full public review through a plan amendment process. Minor changes (variances) to terms and conditions can be authorized with a shorter and more focused public review on the specific project proposed.

#### 6.2.8.3.3 Option 3: Amend the Existing Rights Provisions in 2016 DNLUP

The Ecojustice<sup>1</sup> report, noted above, endorsed by the North Slave Métis Alliance,<sup>2</sup> provides the only submissions with specific proposed wording revisions for the section on grandfathering of existing rights in the 2016 DNLUP. Other submissions recommended the NPC amend the section to avoid unintended consequences or expropriation without suggesting how to do so. The recommended wording changes from Ecojustice are as follows:

“Existing Rights means a project which the NPC has previously determined to conform with the land use plan and which has not been:

- a) significantly modified pursuant to sections 146 and 235(2) of the Act; or
- b) stopped or closed for five years or more pursuant to section 208 of the Act.

“Any change to the work or activity may result in a new project or significant modification that is subject to a conformity determination including but not limited to:

1. A change to the location of the work or activity;
2. Any change to the type of land use;
3. Any change to the intensity or scale of the activity that, for example results in a larger footprint, deeper excavation, increased pollution or more human activity;
4. Any change to the timing of the work or activity (e.g. seasonal changes).

“This list is non-exhaustive and simply illustrates what the NPC may consider to be a ‘new project’ or a ‘significant modification’ from a planning perspective.

“The NLUP and any future Plan Amendments may apply to some Projects that had Existing Rights before the approval of the NLUP. Users are encouraged to refer to the NUPPAA for guidance on whether the NLUP applies in specific circumstances.

“NUPPAA requires every Project/Project Proposal that is not subject to section 235 that does not have Existing Rights to be submitted for a Conformity Determination. For clarity, NUPPAA requires a new Project/Project Proposal to be submitted for a Conformity Determination if there is a ‘significant modification’ to a Project/Project Proposal with Existing Rights or if the Project/Project Proposal with Existing Rights has been stopped or closed for five years or more.

“For clarity, the transition from one stage of Mineral Exploration and Development to another will require a new Conformity Determination unless the change in stage was assessed by the NPC as part of a Project/Project Proposal and determined to conform with the NLUP and the change of stage does not constitute a significant modification. Ordinarily, a change in stage of Mineral Exploration and Development will constitute a new project.

“Where an operating mineral project is grandfathered under prior NPC approvals, and where the project submitted to NIRB excluded remediation and closure activities, the NPC will consider minor variances for non-conforming closure and remediation activities provided that the conditions of closure or remediation are approved by the NIRB and other regulatory authorities.”

### Considerations

The NPC notes the recommended wording changes to the 2016 DNLUP provided by Ecojustice.

#### 6.2.8.3.4 Option 4: Remove “Grandfathering” of

<sup>1</sup> (Ecojustice, 2016-08-29. NPC Public Registry File # 16-016E)

<sup>2</sup> (North Slave Metis Alliance (NSMA), 2017-01-13. NPC Public Registry File # 16-072E)

A fourth option is to remove “grandfathering” from the NLUP entirely and refer readers to the NuPPAA, the NA, and other laws and regulations as they may be applicable.

### Considerations

This option would allow the relationship between the NuPPAA, the NA and other regulatory instruments to be discussed and interpreted outside the context of the NLUP.

It would also avoid the risk that the NLUP may cause confusion, whether by seemingly exempting “projects” from conformity determinations that ought to be reviewed, appearing to expropriate rights or interests in a manner not intended by the NuPPAA, or creating “existing rights and interests” in lands that are not otherwise recognized by other applicable laws. A simple explanation in the NLUP could say that, in accordance with the NuPPAA, any project that has been previously approved by or submitted to the NPC on or prior to the day the NLUP comes into force may continue to be carried out provided it is not significantly modified in a manner that requires a new conformity determination by the NPC under the NuPPAA.

This approach would mean some proponents who have expended substantial amounts of time and resources to acquire rights and interests, but who have not yet submitted projects to the NPC, would be potentially prevented from pursuing further development without applying for a minor variance or plan amendment, or seeking a ministerial exemption.

### 6.2.8.3.5 Option 5: Adjust LUs to Not Prohibit Existing Rights

As the GoC<sup>1</sup> said in its 2017 submission, quoted above:

“... consider adjusting the Protected Area designations identified above such that the planning rules do not prohibit activity in specific locations where there are existing rights to the use of minerals. In other words, the plan would identify locations that fall within protected areas but where mineral rights have already been granted,

and would specify that the prohibitions against mineral exploration and development would not be applied.”

### Considerations

Several participants have taken the position that imposing prohibitions on land use without grandfathering existing rights and interests amounts to expropriation.

This option would not exempt existing active projects and subsequent modification from the NLUP, but would ensure prohibitions do not apply to expropriate previously-acquired rights and interests.

Mineral projects in particular require significant time and financial investment to develop from the initial stages of research and exploration before a project can be submitted to the NPC for a conformity determination, and imposing land use prohibitions that would prevent the development of a long-planned mine could cause the loss of those investments unless a Ministerial exemption or plan amendment was approved.

Mineral projects contribute towards the economic well-being of Nunavummiut and are the second-largest contributor to Nunavut’s GDP behind public administration.

Consistent with Objective F and its associated policies under Goal 5 of the NPC’s Broad Planning Policies, Objectives and Goals, the NLUP could identify those previously-obtained existing mineral rights which would be allowed to proceed to fully operating mines, subject to other regulatory requirements/review, notwithstanding any proposed LU land use designations; all mineral rights first obtained after the public release of the 2021 DNLUP would be subject to any prohibitions contained in LU areas as those rights would have been acquired with the knowledge that the NLUP may prohibit the development of a mine in identified areas.

This option could be tailored to only apply to projects that had previously been reviewed and approved under the NuPPAA and the NA as identified in Appendix A of the DNLUP.

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)



## 6.2.8.4 NPC Recommendation – Existing Rights

Given that:

- The NA provides at section 5.7.18(d) that authorization of a land use activity by the NPC can infringe on any incompatible Inuit rights of access to lands granted under section 5.7.16 (and by extension to outpost camps in section 7.2.2 and 7.3.2) for as long as necessary to permit the authorized land use to be exercised
- At least one participant has taken the position that grandfathering of existing rights will violate their constitutional rights, whereas others take the position that failing to grandfather existing rights will amount to expropriation
- The NuPPAA does not expressly say that the NPC may, or must, grandfather existing rights and interests, and also does not address the issue of expropriation when the federal and territorial governments approve of the NLUP
- Participants have made conflicting submissions on the interpretation of these sections of the NuPPAA and whether the NuPPAA enables the NLUP to provide for grandfathering, but generally agree the NLUP cannot “exempt” a project from a conformity determination required by the NuPPAA, and that the NLUP should not cause confusion over whether a conformity determination is or is not required
- As noted by the GoC, the NuPPAA provides “a complex set of rules” which are an exhaustive set of conditions that must be met for projects to be exempt from the prohibitions contained in the NLUP
- The GoC suggests the NLUP can be tailored to “ensure that the plan has the desired impact on potential projects and classes of projects, and does not have undesired impacts” giving as an example “the creation of a permitted use to act as an exception to a prohibition that would otherwise apply”
- The NuPPAA does not define the “existing rights and interests” the NPC must take into account together with other factors under section 58, but does refer to “Inuit rights” under the NA at section 9(1), and at section 48(5) it requires the NLUP to be “developed and implemented in a manner that is consistent with the principles and requirements of Articles 5 and 7 of the Agreement” which set out Inuit rights of access to harvest wildlife and place outpost

*camps subject to any conflicts with projects approved by the NPC under the NLUP*

- *In developing the NLUP, including its treatment of “existing rights and interests”, the NPC is mindful of the risks of unintended consequences to rights and interests, including but not limited to any that may have been granted by other regulatory instruments, tribunals or landowners in respect of subsurface mineral rights, as well as on Inuit rights under Articles 5 and 7 of the NA, which address wildlife and outpost camps respectively and which may be infringed by projects that conform to the NLUP*
- *Prohibitions recommended for inclusion in the NLUP are not in force until approved by the GoC, GN and designated Inuit organization, and remain subject to Ministerial exemptions and plan amendments*
- *As noted elsewhere in this chapter, the NPC’s Broad Planning Policies, Objectives and Goals also directs the NPC to consider other articles of the NA dealing with matters including: parks, conservation areas, municipal lands, marine areas, purposes of IOL, title to IOL, Inuit water rights, entry and access, natural resource development, Nunavut Social Development Council, archaeology and other Indigenous Peoples; these and other rights contained in the NA, in addition to the goals of the Broad Planning Policies, Objectives and Goals and other factors listed in section 58 of the NuPPAA, have informed the development of the NLUP*
- *Most participants recognize the importance of mining to Nunavut’s economy and employment for Nunavummiut*
- *The NPC’s Broad Planning Policies, Objectives and Goals support tailoring prohibitions in the NLUP to avoid infringing existing rights and interests while ensuring prohibitions do apply to any rights and interests that are newly acquired with knowledge of proposed prohibitions in the NLUP to protect and conserve identified VCs*

Option 5 is recommended:

### LAND USE PLAN POLICY RECOMMENDATION

#### **EXISTING RIGHTS**

#### **ADJUST LUs TO NOT PROHIBIT EXISTING RIGHTS**

- The implementation strategy will include plan requirements whereby LU land use designations will be



tailored to allow mineral exploration and production projects arising from existing rights and interests registered with the Nunavut Mining Recorder or NTI that are identified as active projects previously reviewed under the NuPPAA or the NA in Appendix A of the NLUP to be exempt from requirements prohibiting that type of land use under section 74(f) of the NuPPAA

- All other requirements in the land use designation, including the prohibition on breaching any applicable terms and conditions, shall apply to projects identified in Appendix A of the NLUP

## 6.2.8.5 Summary of Revisions

### KRLUP and NBRLUP

The NBRLUP includes terms concerning oil and gas exploration existing rights:

“3.7.1 Holders of existing rights in Lancaster Sound and Baffin Bay may submit a proposed drilling program, for approval to the National Energy Board and carry out this exploration program involving the communities at all stages. If, at the conclusion of this program, no significant discovery has been made, then no additional exploration licences shall be issued in these areas without prior community consultation. [A]”

The KRLUP, does not discuss existing rights.

### 2012, 2014 and 2016 DNLUP

The implementation strategy in the 2012 DNLUP included a section on legal non-conforming uses. The 2012 DNLUP indicated that “Any use of land which does not conform to the Plan but which lawfully existed prior to the approval of the Plan is a legal non-conforming use.” The 2012 DNLUP also included the following statements:

“The Commission will:

- recognize uses that existed prior to the approval of the Plan as a legal non-conforming use;
- recognize that until the legal rights of a Proponent terminate, the use may expand or rebuild to maintain its viability; and
- recognize that once rights of a legal non-conforming use terminate any future land use must comply with the Plan.”

The implementation strategy in the 2014 DNLUP included a section on existing rights that referenced the NuPPAA. In particular, this section stated:

“In accordance with NUPPAA transitional clauses the approved Plan does not apply to:

- a project that is being assessed or is being, or has been, lawfully carried out on the day on which the Plan comes into force;
- a project that was approved before the day on which the Plan comes into force, was commenced and then stopped or shut down for a period of less than five years, calculated from that day;
- the rebuilding of a work that has been closed for a period of less than five years calculated from the day on which the Plan comes into force, if it relates to a project that was approved before that day and lawfully carried out; and
- a project that was approved before the day on which the Plan comes into force and commenced within five years of that day.

“For greater certainty a land use plan or plan amendment will not apply to project proposals with existing rights.

“Despite the above, if, after the Plan comes into force, there is a significant modification to a project referred to in any of paragraphs (a) to (d), the Plan applies to that project.”

The implementation strategy in the 2016 DNLUP included a section on grandfathering existing rights in respect of projects/project proposals. This section encouraged users of the NLUP to refer to the NuPPAA for guidance on specific circumstances. This section also provided the following information:

“NUPPAA requires a Project/Project Proposal to be submitted for a Conformity Determination if there is a ‘significant modification’ to a Project/Project Proposal with Existing Rights. Significant modifications may include but are not limited to a change in scale or intensity of the Project/Project Proposal, new or modified works, activities, or components that were not included in the original Project/Project Proposal carried out prior to the approval of the NLUP as well as the following examples of significant modifications:

1. Any change to the location of the work or activity;
2. Any change to the type of land use;
3. Any change to the timing of the work or activity (e.g. seasonal changes), and;
4. An increase or modification in a work or activity that, for example, requires changes to a land use.”

The implementation strategy in the 2016 DNLUP also included a subsection on existing rights and minerals. This subsection noted the complexity of grandfathering in the mining sector because of the seven key stages mineral exploration and development projects move through, from prospecting to monitoring. The 2016 DNLUP also stated:

“A Project/Project Proposal, as it was approved or accepted as a completed submission, prior to approval of the NLUP, may be considered grandfathered under the NUPPAA for the purposes of Conformity Determination. However, the transition from one stage of Mineral Exploration and Development to another may require a new Conformity Determination.”

### 2021 DNLUP

The 2021 DNLUP includes a plan requirement that a mineral exploration and production project previously approved under the NuPPAA or the NA and identified in Appendix A of the DNLUP is exempt from prohibitions on mineral exploration and production in LU areas when the project undergoes a significant modification if: (a) it is arising from and related to existing rights and interests identified as projects in Appendix A; and (b) it remains within the same footprint of the project identified in Appendix A. The 2021 DNLUP also includes other plan requirements related to this provision.

## 6.2.9 Sunset Clauses

Some participants proposed the use of “sunset” clauses in the NLUP, that would cause prohibitions to expire after a period of time unless explicitly renewed. For example, in 2017, the GN<sup>1</sup> recommended the NPC “consider the applicability of minimum ‘sunset clauses’ (expiries) for caribou designated areas”, explaining:

“... Sunset clauses would act as recognition of the need to periodically review the accuracy of these areas. Timing of the sunset clause could begin once the Plan is in effect and restart should the Plan undergo a full periodic review or Plan Amendment for that given area.”

In 2017, North Arrow<sup>2</sup> raised concerns that the NLUP may be “imperfect” when approved, noting an “overabundance of caution with respect to the designation of large protected areas”, and that the

reliance on future amendments to “address identified shortcomings”, to “change ineffectual components of the plan”, or to reduce protections “if too much land is protected” would be problematic, and said:

“... as drafted, **the 2016 DNLUP does not qualify protected areas as temporary measures or as having sunset clauses or rollover requirements with any subsequent review or amendments. We are unaware of any instance in Canada where a park, wildlife sanctuary or other protected area has been reduced in size and it should not be acceptable to rely on potential future amendments as justification for accepting an imperfect land use plan.**”

In 2018, in response to a question posed by the NPC regarding the use of “temporary restrictions on development in some caribou core calving, post-calving, key access corridors, and freshwater crossings, to study whether there is a measurable benefit to caribou herds”, the GN<sup>3</sup> replied:

“Assuming NPC is referring to ‘temporary restrictions’ similar to DNLUP embedded sunset clauses, the GN recommended that the NPC consider sunset clauses for caribou designated areas in its January 2017 submission in comment # 2017-2. Sunset clauses allow for the periodic review of the accuracy of the designated caribou areas.

“We recommend that the NPC consult Nunavummiut regarding the inclusion of sunset clauses in the DNLUP.”

In 2019, on the issue of IIBAs, NTI and the RIAs<sup>4</sup> sought “commitments to a fixed timeline for the periodic review of an approved NLUP or the sunseting of land use restrictions once the restrictions are in place” on the grounds it was unclear how long prohibitions in LU areas may be in effect:

“... Another factor is the length of time that land use restrictions will be in place. The GoC suggests that restrictions in a land use plan ‘are not intended to last forever as it may be amended during periodic review of the plan’. This is not a satisfactory response as there are no commitments to a fixed timeline for the periodic review of an approved NLUP or the sunseting of land use restrictions once the restrictions are in place.

“Land use restrictions proposed in the DNLUP 2016, as currently envisioned and designed, would be in place for an indefinite period of time creating designations that are akin to Parks and Conservation Areas. ...”

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>2</sup> (North Arrow Minerals inc., 2017-01-13. NPC Public Registry File # 16-071E)

<sup>3</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>4</sup> (Nunavut Tunngavik Incorporated & the Regional Inuit Associations, 2019-03-14. NPC Public Registry File # 16-249E)

## 6.2.9.1 Policy Options for Sunset Clauses

### 6.2.9.1.1 Option 1: Include Sunset Clauses

The NLUP could include sunset clauses that would apply to prohibitions in LU areas where there is disagreement among participants on whether prohibitions are appropriate, recognizing that failure to renew the prohibitions within a fixed period of time will result in the lapse of prohibitions in areas subject to the sunset clauses. Additional consultation may be required prior to incorporating sunset clauses into the NLUP as recommended by the GN.

#### Considerations

The failure to complete a periodic review or plan amendment for any reason before the expiry of a sunset clause would result in no prohibitions being applicable in the associated LU area(s), which would allow projects to proceed despite any adverse effects on VCs identified in Chapters 2-5 of this document as requiring prohibitions.

### 6.2.9.1.2 Option 2: Do Not Include Sunset Clauses

Recognizing the concerns of participants who argue the NLUP should not impose prohibitions for an indefinite amount of time, the NLUP could instead set a fixed time for a periodic review of the NLUP to ensure the land use designations remain appropriate on an ongoing basis.

#### Considerations

Committing to a periodic review instead of using sunset clauses would ensure prohibitions do not lapse in LU areas leaving VCs for which prohibitions are recommended otherwise unprotected by the NLUP.

## 6.2.9.2 NPC Recommendation – Sunset Clauses

Given that:

- *Participants who made submissions on sunset clauses generally associated them with the need for a fixed period in which the NLUP should undergo periodic reviews*
- *Any requirement of the NLUP that prohibits a land use that is subject to a sunset clause would become*

*inapplicable in the event it expires prior to being renewed through a periodic review or plan amendment*

- *Land use planning in Nunavut requires a large amount of time and resources to ensure the informed, active and meaningful participation of all Nunavummiut and there is a risk that a fulsome periodic review could not be completed before a sunset clause expires*

Option 2 is recommended:

### LAND USE PLAN POLICY RECOMMENDATION

#### **SUNSET CLAUSES**

#### **DO NOT INCLUDE SUNSET CLAUSES**

- The NLUP will provide for periodic reviews instead of the expiry of prohibitions by way of sunset clauses

## 6.2.9.3 Summary of Revisions

### KRLUP and NBRLUP

Sunset clauses are not discussed or included in the existing regional land use plans.

### 2012, 2014 and 2016 DNLUP

Sunset clauses were not discussed or included in previous versions of the DNLUP.

### 2021 DNLUP

The 2021 DNLUP does not include sunset clauses.

## 6.2.10 Monitoring Project Conformity

Section 11.4.4 of the NA and section 14(a) of the NuPPAA require the NPC to monitor projects to ensure they are carried out in conformity with the NLUP. The legislation does not provide the NPC with guidance on how it is intended to monitor projects for ongoing conformity.

The NPC maintains an online Public Registry to support implementation of the NLUP. The NPC online Public Registry is located at [www.nunavut.ca](http://www.nunavut.ca). Interested parties may subscribe to receive notifications when projects are submitted or approved on the NPC online Public Registry.

No participant gave constructive input on how the NPC could monitor projects for conformity with the NLUP on

an ongoing basis. Several participants made submissions about the importance of monitoring caribou and land use restrictions. Those submissions are noted here to provide guidance on potential options for monitoring project conformity by the NPC under the NLUP.

In 2010, the BQCMB's<sup>1</sup> submission included a 2004 position paper, which noted that a caribou monitoring program run by INAC and the GNWT from 1978 to 1990 had its funding cut and that monitoring and enforcement was inadequate:

"The caribou monitoring program, which was run by INAC and the Government of the Northwest Territories from 1978 to 1990, primarily provided information on calving ground distribution and post-calving movements of caribou within designated [Caribou Protection Areas] CPAs, and was used to restrict land use activities through prohibition and application of the CPM. From 1978 to 1990, CPA boundaries for Beverly and Qamanirjuaq caribou were delineated based on the caribou herd's use of calving grounds and post-calving areas over the previous 5-year period, and were adjusted following an annual review of boundaries and patterns of range use. The Caribou Monitoring Program [CPM] was discontinued in 1991 when INAC withdrew funding. The CPM have been applied since then without current information on caribou range use patterns.

...

"In the Keewatin Regional Land Use Plan, NPC states that 'the existing caribou protection measures are adequate' (NPC 2000: 47). However, Weihs and Usher (2001) report that land managers adopted NPC's recommendation to use modified CPM (which they called Mobile Caribou Protection Measures) throughout Nunavut, following their development for the West Kitikmeot Draft Regional Land Use Plan.

"The feasibility and efficacy of the original CPM and Mobile CPM need to be assessed for the Kivalliq region and specifically for the protection of Beverly and Qamanirjuaq herds. Use of the original CPM as the primary tool for protecting caribou has several limitations.

- CPM were included in terms and conditions of land use permits using out-dated information on caribou range use patterns. Information on range use during calving and post-calving periods has not been collected, and monitoring has not occurred, since 1990.

- Enforcement of CPM has been inadequate. Inspection of land use operations was generally insufficient to determine whether CPM conditions were being followed. For example, patrols by wildlife officers to inspect mining camps usually occur once a year, which is clearly not adequate, but reflects current levels of funding and staff.
- CPM were developed to address disturbance resulting from exploration, not development projects.
- CPM were developed to minimize disturbance to caribou, but do not provide any habitat protection."

In 2013, the GoC<sup>2</sup> recommended using the socioeconomic and ecosystemic information generated by the NGMP to contribute to "Monitoring Plan Implementation" but did not make a recommendation on ongoing monitoring of project conformity.

In 2014, the NIRB<sup>3</sup> recommended the NPC clarify how the NLUP would be monitored for effectiveness:

"... The NPC has identified itself as the authority responsible for reviewing all projects within the NSA within the Working Together document, though it remains unclear from our review whether the jurisdiction of the NLUP and the NPC's consideration of projects would extend into National Parks, historic places, or within established municipal boundaries.

"The document references 'partners in the implementation' of the NLUP, however the roles that each partner would play in that implementation were not clear to our reviewers. It does not appear that the document describes how these partners would be involved in the monitoring of projects, or what, if any, their responsibility for reporting on the effectiveness of the NLUP would be and what the process for reporting would be. It is suggested that NPC provide further clarification on what it expects the role of each partner as identified in the Working Together Document would be, and how they would be involved with the implementation of the NLUP, including a discussion of the potential monitoring roles and responsibilities of agencies as applicable."

<sup>1</sup> (Beverly and Qamanirjuaq Caribou Management Board (BQCMB), 2010-08-27. NPC Public Registry File # 10-085E)

<sup>2</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2014-02-14. NPC Public Registry File # 12-141E)

In 2014, the QIA<sup>1</sup> questioned why the NPC would conduct in-person visits if regulatory authorities are already conducting them:

“Section 5.4: Project Monitoring: QIA questions why the NPC plans on conducting site visits and reviewing permits, licenses and authorization issued by regulatory agencies. Is this not duplicating what is already done by authorizing agencies? What additional value is there to NPC conducting these visits?”

In 2017, the GoC's<sup>2</sup> submission on caribou protection in the 2016 DNLUP recommended that “comprehensive prohibitions on mineral development and exploration in designated caribou habitats” be replaced with “a combination of seasonal and general protection conditions”, and noted the importance of ongoing monitoring to ensure recommended protections are being applied and are effective:

“We suggest that this approach would achieve the desired effect of protecting caribou from disturbance, yet at the same time allow development activity in areas and at times when caribou are in a different part of their range. Any such activity would of course be subject to any other applicable existing legislation.

“Inherent in this approach is a requirement for caribou monitoring and research, designed in cooperation with the appropriate regulatory bodies, land owners, and interested parties, as well as ongoing monitoring and research into ... how these protection conditions are being applied and how effective they are. The Government of Canada is committed to participating in future discussions regarding appropriate monitoring and protection for caribou.

...

“... In the Government of Canada's view, the proposed seasonal prohibitions and general conditions on activity to avoid disturbance to herds at critical points in their life cycle are appropriate as a land use planning tool. However, we note that other elements of the regulatory regime (most notably the NIRB, the Nunavut Wildlife Management Board, and the Government of Nunavut's implementation of its Wildlife Act) are best placed to assess the specific risks from projects on a case-by-case basis, consider mitigation, respond to the latest information on caribou, and determine the most effective management approaches for specific projects. We suggest that the draft Plan use seasonal and general protection conditions to guide exploration and development in caribou habitats, and then allow the other regulators to apply their mandates and

expertise to ensure caribou are protected from other project specific impacts.”

In 2018, the NWT & Nunavut Chamber of Mines<sup>3</sup> made a brief submission attaching a technical review by EDI Environmental Dynamics Inc. (dated February 17, 2016) of the GN's recommended CPMs and PAs for the DNLUP, which noted in part that proponents have conducted disturbance effect assessments that have been reviewed in the NIRB environmental assessment process, and argued that habitat protection should not be implemented until protection measures and management effectiveness monitoring is in place:

“Mining proponents have conducted a number of disturbance effects assessments for projects proposed in tundra migratory caribou range. ... These assessments use realistic potential disturbance scenarios and were subject to technical and regulatory scrutiny during the environmental assessment review process. ... Generally, the findings to date have shown that industry has an effect that is cumulative to existing disturbances, but those effects are generally site-specific and manageable. Regardless, through ongoing mitigation and monitoring plans, the approved projects have focused protection measures on reducing disturbances to caribou when present. ...

...

“After a review of nearly 50 years of published research on tundra migratory caribou and general understanding of traditional knowledge and Inuit Qaujimajatuqangit, it is unclear exactly how much or if habitat protection will contribute to recovery or sustainability of caribou. It is clearly an overstatement to suggest that habitat protection (to the point of not disturbing *any* habitat) is ‘critical’ — it is not. Caribou habitat use is dynamic. The level of habitat loss that will trigger an *effect* is unknown and there is no evidence to date suggesting that there has been one, or will be one in the near future for the mainland Nunavut caribou herds.

“Since at least 1978, when caribou protection measures were first implemented to protect Qamanirjuaq and Beverly caribou, the measures have been used throughout the territory on various projects, including exploration and development. Those measures have continued to focus on reducing disturbance to caribou, and that protection will continue into the future regardless of the results of this land use planning process. The exploration and mining industry should continue to implement and develop those protection measures and incorporate new tools and

<sup>1</sup> (Qikiqtani Inuit Association (QIA), 2014-02-14. NPC Public Registry File # 12-145E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> (NWT & Nunavut Chamber of Mines, 2018-10-30. NPC Public Registry File # 16-227E)

develop enhanced measures with new data and analytical methods. That, in combination with other management tools (e.g., managing or reducing caribou mortality), and continuing research and response to knowledge about habitat effects, will be key to caribou population sustainability. In addition to the current protection of the caribou themselves, habitat protection may one day become an important management focus.

“The GN’s habitat protection recommendations could be based on a more sound information base. Habitat protection needs to be considered in the context of an overall approach to caribou conservation. Regardless of the issues with specific methods used to date (i.e., data, consideration of alternatives), sound management decisions have to be made on clear evidence, justification of what will work, and a commitment to follow-up management effectiveness monitoring. Without a strategy and having those tools in place, it is premature to jump to habitat protection.”

In 2018, Annex B to the GoC’s<sup>1</sup> submission was a report entitled “Assessing caribou vulnerability to oil and gas exploration and development in Eagle Plains, Yukon: A report submitted to Yukon’s Department of Energy, Mines and Resources” by Don Russell and Anne Gunn of Shadow Lake Environmental (dated March 2017). The report aimed to “assemble information available on potential impacts, mitigation and best practices for caribou interacting with oil and gas development.” On the subject of adaptive capacity, the report noted the need for monitoring to determine effectiveness of management practices, and a general lack of feedback reporting on the effectiveness of “Best Management Practices:”

“... Adaptive capacity is what needs to be done to reduce the potential impacts. Thus within the concept as applied to oil and gas development and the PCH, adaptive capacity includes habitat and harvest management and project-specific mitigation. Further, to improve the project-specific mitigation, the effectiveness of mitigation measures needs to be monitored and deficiencies identified, mitigation adjusted and implemented – the adaptive monitoring cycle. Thus, there needs to be a collaborative caribou technical advisory group to oversee the process.

“In our review, we found that the distinction between Best Management Practices and mitigation is unclear. As a generality, Best Management Practices are normally in place thorough policy or legislation and their goal is to ‘avoid’ and/or ‘minimize’ industry effects on caribou.

Typically, they are broad-level recommendations at the regional scale. ...

“What we know the least about Best Management Practices is how they are implemented and reviewed. For example, within the existing BMP for seismic operations, we do not know how they work in practice, as there appears to be no feedback reporting on how they are implemented or how adaptive mitigation for specific developments would provide feedback on any gaps in the seismic BMP.

“Potential impacts include that caribou avoid roads and traffic at variable distances depending on vegetation, observation methods, predation and hunting. However, the results of reducing those impacts through monitoring and mitigation are uncertain. We found many proposed actions based on speed, stopping distances etc but almost no follow-up to determine effectiveness. The same general point can be made about other proposed mitigation and thresholds to modify mitigation through monitoring. While much information is available on best practices and mitigation, it is mostly for boreal and mountain caribou and there is less information for migratory tundra caribou. This leads us to suggest that a more collaborative approach, integrating baseline information on movements with environmental variation, would be the basis for best practices and mitigation.”

### 6.2.10.1 Policy Options for Monitoring Project Conformity

#### 6.2.10.1.1 Option 1: Monitoring Undertaken by Regulatory Authorities with Annual Reporting to the NPC

The QIA’s 2014 submission suggested the NPC would not need to conduct in-person site visits to monitor projects for ongoing conformity if regulatory authorities were already doing so. Section 68 of the NuPPAA says each federal or territorial Minister, each department or agency and each municipality have the obligation to implement the NLUP to the extent of their authority to do so and carry out their activities in conformity with it. The NLUP could require federal or territorial Ministers, government departments, agencies and municipalities to report to the NPC with information relating to projects to enable the NPC to monitor project conformity with the NLUP on an ongoing basis.

<sup>1</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-230E)



## Considerations

The NPC does not have resources to conduct in-person site visits and it has no powers of inspection or an express ability to require proponents to provide information to the NPC on an ongoing basis.

The NLUP could require the federal or territorial Minister, government departments, agencies and municipalities who must implement the NLUP to report to the NPC. However, such an obligation may not apply to all regulatory authorities which under section 2(1) of the NuPPAA are defined to also include “any other public body responsible for issuing a licence, permit or other authorization”, who may only have the obligation to incorporate terms and conditions of the NLUP into proponents’ licences, permits and other authorizations.

If this approach were adopted, the federal or territorial Minister, government departments, agencies and municipalities who must implement the NLUP would require guidance on what information the NPC would require in order to determine ongoing project conformity, and the reporting process may require ongoing discussions and refinements to the information being collected and submitted to the NPC. While the reporting requirement could be included in the NLUP, the guidance could be set out in “Guidance documents”, as was recommended by the GoC<sup>1</sup> in its 2017 letter, to allow for revisions and refinements without the need for a plan amendment.

### 6.2.10.1.2 Option 2: Monitoring Undertaken by Proponents Self-Assessing and Annually Reporting to the NPC

Under this option, the NLUP would require proponents to provide information to the NPC annually and the NPC would use a suite of tools to review that information to monitor project compliance on an ongoing basis. For example, proponents could be required to answer questions and provide information listed in rules enacted by the NPC under section 17 of the NuPPAA, advising the NPC as to a general description of the project undertaken in that calendar year including the location of works and

activities and their timing, and any modifications since the original project was submitted to the NPC, on an annual basis. The NPC would review the original project proposal, as well as publicly-available reports, licences, permits and other authorizations issued by regulatory authorities and undertake site visits when resources permit, to confirm the accuracy of the proponents’ reports.

No participant specifically recommended this option. However, several participants including the GN,<sup>2</sup> and the KIA<sup>3</sup> referred to annual reporting in the context of monitoring the effectiveness of mobile CPMs. The GN’s<sup>4</sup> 2018 submission noted the need for annual reporting by proponents for compliance monitoring, and that the mobile protection measure approaches remained “theoretical” and “may not be realistically implemented in the short-term, largely due to the lack of monitoring capacity issues.”

## Considerations

Participants are generally assumed to agree that it is important to monitor projects for conformity.

This option would require proponents to provide information that the NPC could use to determine ongoing conformity with the NLUP.

The NPC could develop the questions for proponents to answer in rules that it would make available for public comment under the NuPPAA.

The NPC would review information provided against the original project proposal and the terms and conditions of the NLUP as well as publicly-available information held by other regulatory authorities.

For projects that are completed in the calendar year, or for projects taking place over one or more calendar years, proponents could be required to submit the information at the end of the calendar year.

Under the NuPPAA it is an offence for proponents to knowingly provide false or misleading statements or information to the NPC.

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>2</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>3</sup> (Kivalliq Inuit Association (KivIA), 2016-05-04. NPC Public Registry File # 14-182E)

<sup>4</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

Instead of providing that the failure to submit reports results in a non-conformity, the NLUP could make the submission of up-to-date reports an information requirement for future conformity determinations for related projects or significant modifications to existing projects, meaning that the NPC would not consider the project proposals complete until all reports are submitted.

#### 6.2.10.1.3 Option 3: In-Person Monitoring Undertaken by the NPC with Adequate Resources

As the BQCMB 2004 position paper noted above commented, where previous funding and staffing only allowed for annual patrols by wildlife officers to inspect mining camps, those inspections were generally insufficient to determine whether caribou protection measures then in place were being followed.

#### Considerations

In order to be effective, the NPC would require substantial additional funding to effectively implement this option.

#### 6.2.10.2 NPC Recommendation - Monitoring Project Conformity

Given that:

- *The NPC does not have resources to conduct regular in-person conformity monitoring*
- *Proponents may be required to self-report as a condition under the NLUP*
- *Proponents may require additional conformity determinations in the event they later propose to undertake a project related to one already approved or underway, or if they undertake a significant modification to such a project as defined under the NuPPAA*
- *The NLUP may require ongoing reporting as an information requirement before subsequent related projects or significant modifications of projects conform to the NLUP*

Option 2 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### MONITORING PROJECT CONFORMITY

#### MONITORING UNDERTAKEN BY PROPONENTS SELF-ASSESSING AND ANNUALLY REPORTING TO THE NPC

- The NLUP will require proponents to provide information to the NPC on an annual basis in accordance with rules enacted by the NPC under section 17 of the NuPPAA
- The NPC will monitor the ongoing conformity of projects using the information provided by proponents as well as the original project proposal and information made public by other regulatory authorities
- It is an information requirement for future conformity determinations for related projects, including any significant modification of the original project, that all annual reports that proponents must submit to the NPC be up to date; for clarity, proposals for a related project or significant modification for a project will be considered incomplete until reports are submitted with the project proposal

#### 6.2.10.3 Summary of Revisions

#### KRLUP and NBRLUP

Both the KRLUP and the NBRLUP state:

“The NPC will monitor the implementation of the plan and issue annual reports to the Ministers of DIAND and DSD and to the DIO (Section 11.4.4[m]). The report will include information on the status of the plan’s implementation, identify problems and successes, and provide recommendations to the Ministers on possible improvements.”

#### 2012, 2014 and 2016 DNLUP

The 2012 DNLUP addressed ongoing project conformity within the implementation strategy chapter as follows:

“The Commission will monitor the implementation of the Plan. The Commission may:

- conduct site visits to ensure Projects are operating within the requirements of the Conformity Determination;
- review permits, licenses and authorizations issued by Regulatory Authorities;
- consult with Planning Partners; and

- implement other monitoring strategies to evaluate the effectiveness of the Plan in fulfilling the Broad Planning Policies, Objectives and Goals.”

The 2014 DNLUP took an approach similar to the 2012 version. The 2014 implementation strategy chapter addressed the NPC’s role in monitoring project conformity as follows:

“The NPC, in conjunction with its Planning Partners, will monitor projects to determine whether they are operating within the parameters which they were considered. In fulfilling this responsibility, the NPC may:

- (a) Conduct site visits;
- (b) Review permits, licenses and authorizations issued by Regulatory Authorities;
- (c) Consider monitoring and inspection reports from NIRB, DIOs and other agencies; and
- (d) Consult with Planning Partners.”

The implementation strategy chapter in the 2016 DNLUP also addressed the NPC’s role in monitoring projects, but removed the list of potential actions the NPC could carryout. This draft stated:

“As set out in paragraph 14(a) of the NUPPAA and section 11.4.4(l) of the NLCA, the NPC will monitor projects to determine whether they are operating in conformity with the Plan. Annual reports to the Ministers and Designated Inuit Organizations regarding the implementation of the NLUP will be prepared in accordance with paragraph 14(b) of the NUPPAA and section 11.4.4(m) of the NLCA.”

## 2021 DNLUP

The 2021 DNLUP includes plan requirements with respect to proponents annually reporting to the NPC. The DNLUP also notes the NPC monitors the ongoing conformity of projects using the information provided by proponents annually, as well as project proposals and information made public by other regulatory authorities.

## 6.2.11 Inclusion of Screening Criteria for Cumulative Effects in the NLUP

Under the NuPPAA, if the NPC determines that a project conforms to the NLUP, it must then determine if the project is exempt from screening by the NIRB. Some participant submissions suggest that because the NIRB conducts screening of projects, the NPC should avoid land use designations that would prohibit industrial development activities and that projects should instead be allowed to proceed to screening by the NIRB for a case-by-case consideration.<sup>1,2</sup> Other participants advise that the NIRB has taken the position in multiple screening decision reports that it is not in the NIRB’s mandate to protect wildlife habitat,<sup>3</sup> and that screenings are highly technical and that some may not have the opportunity to participate in screenings in a meaningful way.<sup>4</sup>

If a project conforms to the NLUP and is listed in Schedule 12-1 of the NA, it is exempt from screening unless the NPC identifies “... cumulative ecosystemic and socio-economic impacts that could result from the impacts of the project combined with those of any other project ...” (NuPPAA section 80). The NPC nevertheless has jurisdiction to refer projects otherwise exempt from screening to the NIRB on the basis of anticipated cumulative impacts inside and outside of the NSA. Some participants have recommended consultations to include detailed thresholds for determining cumulative effects referral criteria in the NLUP itself, whereas others recommended removing referral criteria from the NLUP on the basis that it would be prescriptive and would be difficult to refine or alter except through plan amendments.

In 2013, the GoC<sup>5</sup> set an expectation that the process for determining when a project would be referred to the NIRB due to cumulative impacts concerns be “based on objective criteria and stated in the plan.”

In 2013, the GoC<sup>6</sup> also suggested that the NPC work with the NIRB and NWB to develop a process for the referral of projects otherwise exempt from screening to

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>2</sup> (NWT & Nunavut Chamber of Mines, 2018-10-30. NPC Public Registry File # 16-227E)

<sup>3</sup> (Rankin Inlet HTO, 2018-11-27. NPC Public Registry File # 16-226E)

<sup>4</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>5</sup> (Government of Canada, 2013-03-28. NPC Public Registry File # 12-034E)

<sup>6</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

determine if the NPC has any concerns about the cumulative impacts of a project, to be made available to proponents before they submit their project descriptions to help them understand how a proposed project may be impacted if the NPC believes a screening is required.

The NIRB's comment<sup>1</sup> on the 2014 DNLUP give the following comments on cumulative impacts:

"No information provided on the type of thresholds that would be used for cumulative impacts.

"Information should be provided on the thresholds that would be used. The Options and Recommendations document indicates that there are no agreed upon threshold. The development of thresholds for cumulative impacts is an essential component of the NLUP.

"Suggest that NPC consider public engagement to develop thresholds for cumulative impacts."

The NWMB<sup>2</sup> noted in its 2015 Workshop Report on caribou that it is the ongoing absence of up-to-date land use plans that has required the NIRB to engage in project-specific screenings where the process does not allow for adequate consultation of HTOs:

"... The Kivalliq Wildlife Board has long held the recommendation that mining and mineral exploration should not be permitted on calving grounds, and have repeatedly passed resolutions affirming and reaffirming this position. This opinion is also shared by the Dene and Metis communities who share herds with Nunavut. The Kivalliq Wildlife Board would also like to see more resources provided to Hunters and Trappers Organizations to help them make pertinent decisions related to caribou and caribou habitat. In the absence of up to date land use plans for the territory, decisions about caribou habitat have been made through the Nunavut Impact Review Board. The Nunavut Impact Review Board's screening process is brief with strict timelines, making it very difficult for Hunters and Trappers Organizations to consider proposals for development and submit comments. Screenings and reviews are also highly technical, and Hunters and Trappers Organizations lack the staff and technical expertise to participate in a meaningful way. ..."

In 2016, the GoC<sup>3</sup> commented on the 2014 DNLUP saying that "[i]ncluding cumulative impact referrals as a general term throughout Table 1 appears to be redundant and may actually lead to the misinterpretation that it is only

with respect to those areas already noted where, due to cumulative impact concerns, the Commission might refer a project to NIRB for screening", and made the following recommendation:

"Option 1: Consider removing cumulative impact referrals as a Term of the plan. It may also be useful for the plan to set out a general approach to how the Commission will go about considering cumulative impact referrals. However we recommend that the Commission avoid being too procedurally prescriptive in the plan, otherwise it may not be able to refine and evolve its approach without a plan amendment."

In 2016, in response to the 2014 DNLUP which included specific areas where cumulative effects referrals would be made, the GN<sup>4</sup> wrote that the criteria for cumulative impacts should be included in the implementation chapter of the NLUP itself rather than removing cumulative impact referrals from the NLUP:

"Generally the GN agrees that having NPC's cumulative impact referral power listed as Plan terms associated to specific designated areas may not be appropriate. Rather this power provided to NPC through *NuPPAA* should be clearly described – along with the criteria for which impacts are measured – within *Section 7 Implementation Strategy* of the Plan.

"Regarding option 1 [removing cumulative impact referrals as a term of the plan], where geospatial data is available to support Special Management Areas with specific terms/conditions, the GN would generally support these. In the context of polar bear denning areas, heritage rivers, community drinking supply watersheds, and some seasonal caribou habitats, the GN has recommended specific terms for NPC to consider (please see comments for these respective topics).

#### "REVIEWER'S RECOMMENDATIONS

**"The GN is in support of both options presented by NPC in their *Considerations for Potential Refinement to the DNLUP* document: cumulative impact referrals to NIRB should not be listed as a term for specific designated areas, and criteria for NPC referrals should be detailed within the Plan."**

In 2016, the NWT & Nunavut Chamber of Mines<sup>5</sup> wrote:

<sup>1</sup> (Nunavut Impact Review Board (NIRB), 2014-02-14. NPC Public Registry File # 12-142E)

<sup>2</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>5</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

“In section 7.4 p.46, the Plan provides a list of Project Proposals that may be considered to raise cumulative impact concerns ...

...

“Rather than the type of Project Proposal, in determining whether there is a potential cumulative impact concern it may be preferable to focus on the number of existing and permitted Project Proposals in the vicinity of the Project Proposal in question.”

In 2017, as noted above, the GoC<sup>1</sup> suggested generating express guidelines on interpreting the NuPPAA outside the NLUP itself.

In 2017, the GN<sup>2</sup> also said in part:

“The NPC’s [cumulative impacts] referral power is outlined in the NuPPAA, and is independent of any existing or future land use plans.”

In 2017, the NWB<sup>3</sup> oral presentation suggested:

“The NWB requests that an express reference be included in the Nunavut Land Use Plan to recognize that the Commission’s decision to refer a project proposal to the NIRB on the basis of cumulative effects be informed by information from, and consultation with, the IPGs (including NWB) and other relevant agencies with up to date cumulative effects data in the area.”

Many participants commented in their submissions that cumulative effects are not capable of being adequately assessed at the environmental assessment stage of a project. For example, the GoC’s<sup>4</sup> 2018 submission included an annexed report that wrote:

“... In our experience, reliance on a single proponent of a development to undertake a cumulative effects analysis is unrealistic and a collaborative approach between stakeholders is more effective. Consequently, cumulative effects analysis seldom precedes or is inadequately integrated into an environmental assessment. Yet one of the most frequent concerns about the future of migratory tundra caribou is the impacts of the cumulative effects of changing climate and land-use activities across herd’s ranges. ...”

In 2018, similarly WWF-Canada<sup>5</sup> wrote:

“With the delays in the NLUP process, critical caribou habitat remains open to staking and exploration subject to

individual project Environmental Impact Assessment (EIA). EIA does not effectively consider impacts at the range level, consider the cumulative impacts of multiple projects on the range of a herd of caribou, or consider future development scenarios resulting from exploration including accessory uses such as roads. The continued granting of mineral permits and leases in caribou calving grounds while there is no plan in place undermines the eventual effectiveness of the NLUP and threatens barren-ground caribou herd recovery. We continue to call on the Government of Canada to immediately issue a moratorium on issuing new mineral permits and leases in barren-ground caribou critical habitat until the NLUP is in place.”

In 2019, in a submission on walrus, the GoC<sup>6</sup> wrote that climate change may contribute to increased cumulative impacts, noting that loss of habitat due to climate change may make walrus occupy areas that are more sensitive to shipping-based disturbances:

“Potential for cumulative impacts exists as climate change-induced reductions in sea ice drive more walrus onto terrestrial haul-outs for longer periods of time and likely in greater numbers. At the same time, climate change driven increases in vessel traffic will intensify disturbance along coastal areas that are both important shipping routes and walrus habitat (Stewart et al. 2018). Cumulative impacts on walrus may therefore arise if loss of ice-habitat drives greater occupancy of coastal terrestrial haul-out zones where shipping-based disturbances are greater. Climate change could also drive a shift to more pelagic food webs at the expense of the tight link between ice algae production and benthic communities that walrus rely on (Grebmeier and Barry 1991). Potential for cumulative impacts therefore also exists with anticipated shipping increases coupled with reduced benthic prey populations, as walrus could abandon current haul-out sites if they are too close to shipping zones or no longer close enough to productive bivalve communities.”

The NPC had an expert report prepared in 2009, the Cumulative Effects Referral Criteria Report,<sup>7</sup> and in 2015 the NPC developed a list of criteria to determine when there may be cumulative impact concerns requiring a NIRB screening and published them in its Internal Procedure on Conformity Determination:

“Questions such as, but not limited to the following, will assist NPC staff in determining if a project proposal that

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>2</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>3</sup> (Nunavut Water Board (NWB), 2017-02-21. NPC Public Registry File # 16-102E)

<sup>4</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-230E)

<sup>5</sup> (WWF-Canada, 2018-11-26. NPC Public Registry File # 16-182E)

<sup>6</sup> (Government of Canada, 2019-01-25. NPC Public Registry File # 16-242E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2009-05-24. NPC Public Registry File # 10-148E)

falls within Schedule 12-1 of the NLCA should be referred to the NIRB because of cumulative impact concerns:

- (a) Does the project proposal occur in the same general location as a previous project OR where there is an existing project OR a proposed project?
- (b) Does the project proposal use the same resources as past projects OR as a current project OR as a proposed project?
- (c) Does the project proposal occur in an area where there is a sensitive environmental system?
- (d) Does the project proposal have the potential to induce activity (e.g., could its implementation lead to additional activity in the region)?”

With input from the NuPPAA Working Group, the NPC updated the criteria in its Internal Procedure on Conformity Determination<sup>1</sup> in October, 2020 with the following:

“Three criteria together must be met before a referral to the NIRB can be made: (i) the project must create an impact on a Valued Component, (ii) the impact could act cumulatively with those from other projects, and (iii) the resulting cumulative impact must be of concern. Questions such as, but not limited to the following, will assist NPC staff in determining if a project proposal that falls within Schedule 12-1 of the NA should be referred to the NIRB because of cumulative impact concerns:

- I. Could the project create an impact on a Valued Component?

*[Factors to be considered]*

- a. Does the project occur in, or in proximity to, an area where there is an identified Valued Component including areas used or relied on by communities or wildlife that is sensitive to disturbance?
- b. What is the timing and frequency of the project, for example, is it a continuous use all year, or is it an occasional use on a seasonal basis, and does the timing of the use coincide with any community uses or the presence of wildlife?
- c. What is the intensity of the activity and how large an area of land will be affected by the project’s activities and

by-products (e.g. vibrations, noise, dust, fumes and/or wastewater)?

*- If the project will NOT impact on a VC, the project will not be referred to NIRB for cumulative impact concerns.*

*- If the project will impact on a VC, go to ii).*

- II. Are there other projects that could impact the same Valued Component?

*[Factors to be considered]*

- a. Does the project occur in the same general location as a previous project OR where there is an existing project OR a proposed project?
- b. Does the timing of the project coincide with the activities of other nearby projects?
- c. Does the project use the same resources as past projects OR as a current project OR as a proposed project?
- d. Are there impacts from other projects that could combine or overlap with those of the project, (e.g. vibrations, noise, dust, fumes and/or wastewater)?

*- If there are no other projects that could impact on the same Valued Component, the project will not be referred to NIRB for cumulative impact concerns*

*- If there are other projects that could impact on the same Valued Component, go to iii).*

- III. Is the resulting cumulative impact on the Valued Component a concern?

*[Factors to be considered]*

- a. Are there reasonable concerns regarding potential cumulative impacts in the area of the project that have been raised by communities, Inuit organizations, academic/research organizations, government or regulatory bodies during previous planning or impact assessment exercises?
- b. Is the VC a species at risk?

<sup>1</sup> <https://www.nunavut.ca/proponent-information/internal-procedures>



- c. Are there any non-project related environmental stressors (drought or flood conditions) impacting the VC that could increase its sensitivity to disturbance?

*- If the resulting cumulative impact on the Valued Component is not a concern, the project will not be referred to NIRB*

*- If the resulting cumulative impact on the Valued Component is a concern, the project will be forwarded to NIRB for screening."*

### 6.2.11.1 Policy Options for Inclusion of Screening Criteria for Cumulative Effects in the NLUP

#### 6.2.11.1.1 Option 1: Screening Criteria for Cumulative Effects External to the NLUP

As noted above, the GoC<sup>1</sup> and GN<sup>2</sup> 2017 submissions both appear to support the development of cumulative impacts referral criteria outside the NLUP to avoid establishing prescriptive procedures in the NLUP and the need for plan amendments to change its process. The NWB<sup>3</sup> recommended noting cumulative effects referrals are informed by information from, and consultation with, the IPGs (including NWB) and other relevant agencies with up-to-date cumulative effects data.

#### Considerations

As noted above, developing screening criteria for cumulative effects in guidance documents external to the NLUP will allow for further revision and refinement on an as-needed basis.

#### 6.2.11.1.2 Option 2: Screening Criteria for Cumulative Effects Included in the NLUP

The GN<sup>4</sup> initially supported including cumulative impacts referral criteria in the NLUP for certainty and

consistency, although doing so would require plan amendments as necessary if the criteria or process requires, but in its 2017 submission the GN<sup>5</sup> appeared to agree that the NPC's power to make referrals notwithstanding an exemption from NIRB screening is independent of the NLUP.

#### Considerations

If the screening criteria for cumulative effects is included in the NLUP it would provide a greater level of certainty for proponents and users that those criteria would be followed unless they are changed through a plan amendment.

### 6.2.11.2 NPC Recommendation - Inclusion of Screening Criteria for Cumulative Effects in the NLUP

Given that:

- *Reaching agreement on prescriptive thresholds or guidelines for cumulative impacts referrals to include in the NLUP may delay completion or approval of the NLUP*
- *As noted by the GoC on May 30, 2016, if cumulative impact referral thresholds are included in the NLUP, a plan amendment would be required to make any changes*
- *If the NLUP does not include prescriptive cumulative impacts referral criteria and thresholds and removes all automatic cumulative impact referrals, the NLUP may explain that the NPC has discretion to refer projects to the NIRB based on cumulative impacts concerns under the NuPPAA, and that the NPC will develop referral criteria outside the plan development process*
- *The NPC, NIRB and NWB need time and resources to develop and finalize cumulative impacts referral criteria*
- *The NPC approved a new Internal Procedure on Conformity Determination in October, 2020 based on feedback from the NuPPAA Working Group on its original 2015 criteria*

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

<sup>2</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>3</sup> (Nunavut Water Board (NWB), 2017-02-21. NPC Public Registry File # 16-102E)

<sup>4</sup> (Government of Nunavut (GN), 2016-05-16. NPC Public Registry File # 14-186E)

<sup>5</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

Option 1 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **INCLUSION OF SCREENING CRITERIA FOR CUMULATIVE EFFECTS IN THE NLUP**

#### **SCREENING CRITERIA FOR CUMULATIVE EFFECTS EXTERNAL TO THE NLUP**

- The process and criteria to be used for determining cumulative impacts screening be developed and published separately from the NLUP

### **6.2.11.3 Summary of Revisions**

#### **KRLUP and NBRLUP**

Both existing regional land use plans require that cumulative effect assessment of the preferred route be conducted as part of the plan amendment process for the development of a transportation corridor.

The NBRLUP includes a section discussing cumulative effect referrals:

“Article 12.3.3 states that the NPC may refer an exempted project to NIRB for screening “where the NPC has concerns respecting the cumulative impact of that project proposal in relation to other development activities in a planning region.”<sup>29</sup> Article 13.4.4 states that “Where the NPC has concerns respecting the cumulative impact of development activities in a planning region, it may refer water applications to NIRB for screening even though the application falls within Schedule 12-1.”

However, none of the existing plans include screening criteria for cumulative impacts.

#### **2012, 2014 and 2016 DNLUP**

The 201 DNLUP did not include screening criteria for cumulative impacts. The draft’s implementation strategy included the general statement that: “A Project Proposal that conforms to the Plan and is exempt from Screening as set out in NLCA Schedule 12-1 may be referred by the Commission to the NIRB where the Commission has concerns respecting Cumulative Impacts.”

The 2014 DNLUP did not include screening criteria for cumulative impacts. However, within its section on conformity determinations, the draft included basic procedural information on project proposals exempt from screening. The 2014 DNLUP addressed the

scenarios of “no cumulative impact concerns” and “cumulative impact concerns” as follows:

#### “No Cumulative Impacts Concerns

“If a project is exempt from screening and the NPC does not have concerns in respect of the cumulative impacts it must indicate in the decision that the assessment of the project has been completed. The proponent may carry out the project, in accordance with any requirements of the Plan and subject to obtaining any licence, permit or other authorization required by or under any Act of Parliament or any territorial law and complying with any other requirements set out in such an Act or law. ...

...

#### “Cumulative Impacts Concerns

“If the project is exempt from screening and the NPC has concerns with respect to any cumulative ecosystemic and socio-economic impacts that could result from the impacts of the project combined with those of any other project that has been carried out, is being carried out or is likely to be carried out wholly or partly inside the designated area, it will send the project proposal to the NIRB to conduct a screening of the proposal.”

The 2016 DNLUP provided in part at section 6.3.2: “... The NPC may develop policies and procedures including a list of factors to be considered to determine the likelihood and severity of Cumulative Impacts for the purpose of determining whether a Project/Project Proposal should be screened by the NIRB, notwithstanding an exemption.” A list of criteria was not included in the 2016 DNLUP.

#### **2021 DNLUP**

The 2021 DNLUP includes a statement that the process and criteria to be used by the NPC for determining cumulative impacts have been developed and published independently from the NLUP. This statement is referring to the Internal Procedure on Conformity Determination (October, 2020), which is cited above.

The 2021 DNLUP also contains a plan requirement related to cumulative impacts with respect to information requirements for plan amendments to develop linear infrastructure and marine corridors in LU areas. In particular, when applying for a plan amendment to develop linear infrastructure or a marine corridor in a LU area, the proponent must provide an assessment of the environmental, social and terrain engineering consequences, the cumulative impacts of the project,

and the environmental and social impact of the project on VCs that may be affected.

## 6.2.12 Planning for Placement of Cabins Outside Municipalities

In a Community Communication Log maintained by the NPC<sup>1</sup> from Summer 2007 to January 2008, the NPC noted a discussion with representatives of the Hamlet of Cambridge Bay in September 2007 regarding the regulation of cabins, specifically:

“Cabins: Discussion about need for leases for non-Inuit to build cabins. No one applies for them. If they are outside the surveyed area then its Commissioner’s land and application should be made with CGS. The hamlet doesn’t necessarily want leases issued. The issue is that there are no controls on where cabins are built in hinterland areas. These are all within municipal boundaries right now but if the hamlet decides to put controls in place, some people may choose to buil[d] cabins outside municipal areas. This could become a planning issue for us.”

In 2016, the KWB<sup>2</sup> wrote in its submission on designating caribou core calving grounds and key access corridors as PAs in the NLUP regardless of mineral potential that Elders teach hunters to avoid making permanent changes in calving grounds:

“... The wisdom and values of Elders is an important aspect of Inuit knowledge, or IQ. Elders explained that there are traditional rules to protect caribou during calving and caribou calving grounds. Inuit have traditional hunting seasons, and do not hunt cows and calves during the spring and summer months. Further, many Elders instruct hunters to avoid making permanent changes to the landscape in calving grounds (e.g. they teach that cabins and other permanent structures should not be built in calving grounds).”

In 2015, the Arviat HTO<sup>3</sup> similarly said that Elders explain cabins are not allowed to be built in caribou calving grounds:

“The Elders explained that the calving grounds used today have been used by caribou ever since there were caribou in the Kivalliq. The Elders said they try and [teach] youth to

leave these areas alone during calving season, and to avoid making any permanent changes to the area. We are not to build cabins or leave garbage in the calving grounds, and keep the area clean. One Elder explained that calving grounds are like nurseries for human babies. Just like a nursery for a human baby must be quiet and clean for babies to be healthy, calving grounds must be quiet and clean for caribou calves to grow healthy.”

A presentation noted in NWMB’s<sup>4</sup> 2017 Workshop Report similarly explains the teaching of Elders to “respect caribou calving and caribou calving grounds” and to “carefully avoid making changes to these areas, such as building cabins or leaving behind tent rings.”

In 2018, Annex A of the GoC’s<sup>5</sup> submission included summaries of three research papers regarding the impacts of the placement of recreational cabins (resorts) on caribou in Norway, noting reindeer did not habituate to the presence of human activities, that reindeer would abandon areas within a 1 km radius of tourist cabins and roads, and that areas within 4 km of human structures were avoided despite low levels of traffic.

In 2019, as noted above, NTI and RIAs<sup>6</sup> said that any limitations on Inuit access should only occur “with the consent of Inuit”:

“The view of NTI and the RIAs is that the limitation created by subsection 5.7.18 (d) on Inuit access rights is narrow in scope. Inuit access rights can only be limited when there is a direct conflict between an authorized land use activity and only for the period of time necessary to carry out that activity. NTI and the RIAs recommend that the NPC prioritize Inuit access to land and wildlife resources when considering land use designations and that any limitations on Inuit access only occur with the consent of Inuit.”

In 2020, the NPC’s<sup>7</sup> Cambridge Bay consultation discovered that participants in the community remain concerned “with the construction of cabins near the community.”

### Considerations

It is not clear that Inuit constructing a cabin outside a municipality constitutes a “project” under the NuPPAA to which the NLUP would apply.

<sup>1</sup> (Nunavut Planning Commission (NPC), 2007-07-12. NPC Public Registry File # 10-002E)

<sup>2</sup> (Kivalliq Wildlife Board (KWB), 2016-03-04. NPC Public Registry File # 14-158E)

<sup>3</sup> (Arviat HTO, 2015-09-24. NPC Public Registry File # 14-107E)

<sup>4</sup> (Nunavut Wildlife Management Board (NWMB), 2017-01-13. NPC Public Registry File # 16-074E)

<sup>5</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-178E)

<sup>6</sup> (Nunavut Tunngavik Incorporated & the Regional Inuit Associations, 2019-03-14. NPC Public Registry File # 16-249E)

<sup>7</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

Regulating the placement of cabins as “projects” could unintentionally infringe on Inuit rights of access.

The NPC is unclear on the factual distinction between “cabins”, which are not defined in the NA, and “outpost camps”, which are defined as having “the purposes of wildlife harvesting and the associated use and enjoyment of lands” and are addressed at length under Article 7 of the NA.

Section 7.2.2 of the NA says that approval of HTOs is required to establish a new outpost camp.

6.2.12.1 Policy Options for Placement of Cabins Outside Municipalities

6.2.12.1.1 Option 1: Include Cabins Outside Municipalities as Projects in the NLUP

Participants and communities have expressed concern over the placement of cabins outside of municipalities, but no participant specifically recommended the inclusion of cabins as a “project” in the NLUP.

Considerations

HTOs have jurisdiction under Article 7 of the NA to approve outpost camps.

It is not clear that constructing a cabin is a “project” requiring an NPC conformity determination.

Restricting the placement of cabins in the NLUP could unintentionally infringe on Inuit rights under Article 7 of the NA if they cannot be objectively and factually distinguished from “outpost camps” in the NLUP.

6.2.12.1.2 Option 2: Do Not Restrict Placement of Cabins Outside Municipalities in the NLUP

No participant recommended the inclusion of cabins as a “project” in the NLUP.

In 2018, as noted above, the GoC<sup>1</sup> wrote that the NLUP cannot directly restrict the placement of outpost camps:

“The Nunavut Agreement sets out Inuit access rights to lands for the purposes of harvesting, and sets out rights relating to outpost camps. The land use plan has no direct power to restrict Inuit harvesting access rights or the right to set up outpost camps.”

Considerations

Article 7 of the NA addresses outpost camps at length, and provides that HTOs approve the placement of outpost camps, or that the placement of outpost camps in parks and conservation areas can be determined by the terms of an IIBA.

If cabins are in fact “outpost camps” as provided in the NA, they can potentially be displaced if their continued presence is inconsistent with a project that the NPC determines to conform to the NLUP.

6.2.12.2 NPC Recommendation - Planning for Placement of Cabins Outside Municipalities

Given that:

- While communities and Elders have expressed concern over the placement of cabins, it is not clear that Inuit constructing a cabin outside a municipality constitutes a “project” under the NuPPAA to which the NLUP would apply
- Inuit access rights for “outpost camps” provided in the NA could potentially be infringed if their presence is inconsistent with a project that the NPC determines to conform to the NLUP
- Regulating the placement of cabins without further information on how they are distinct from “outpost camps” could unintentionally infringe on Inuit rights of access
- Failing to protect existing cabins and/or outpost camps from development of those lands by project proponents could result in displacement of Inuit families or groups occupying them
- Cabins have been identified as important components of community areas of interest dealt with in Chapter 4
- HTOs approve the placement of outpost camps in accordance with Article 7 of the NA

Option 2 is recommended:

LAND USE PLAN POLICY RECOMMENDATION

<sup>1</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

## **PLANNING FOR PLACEMENT OF CABINS OUTSIDE MUNICIPALITIES**

### **DO NOT RESTRICT PLACEMENT OF CABINS OUTSIDE MUNICIPALITIES IN THE NLUP**

- The construction of cabins outside municipalities will not be regulated as projects in the NLUP

#### **6.2.12.3 Summary of Revisions**

##### **KRLUP and NBRLUP**

The placement of cabins outside municipalities are not discussed in the existing RLUP.

##### **2012, 2014 and 2016 DNLUP**

The placement of cabins outside municipalities was not discussed in previous version of the DNLUP.

##### **2021 DNLUP**

The 2021 DNLUP does not include plan requirements respecting the placement of cabins outside municipalities.

#### **6.2.13 Minor Variances**

Section 11.5.10 of the NA provides that a land use plan could include the ability to grant minor variances:

“The NPC shall review all project proposals. Upon receipt and review of a project proposal, the NPC or members thereof or officers reporting to the NPC shall:

- (a) determine whether the project proposals are in conformity with plans; and
- (b) forward the project proposals with its determination and any recommendations to the appropriate federal and territorial agencies.

“The land use plan may make provision for the NPC to approve minor variances.”

Section 48(3) of the NuPPAA gives the NPC discretion on whether to include in a land use plan the authorization to grant minor variances and the conditions subject to which they may be considered and granted. The NuPPAA says in part that a land use plan may provide for minor variances, and sets out the public consultation requirements when the NPC considers whether to grant a minor variance:

“48(3) A land use plan may authorize the Commission to grant minor variances and may set out the conditions subject to which they may be considered and granted.

...

“81 (1) If the Commission determines that the project is not in conformity with an applicable land use plan, it must verify whether that land use plan authorizes it to grant a minor variance with respect to such a project and whether the conditions set out under subsection 48(3), if any, are met.

“(2) If the land use plan authorizes the granting of minor variances and if the conditions, if any, are met, the Commission may, within 20 days after its determination that the project is not in conformity with the plan,

- (a) grant a minor variance, in which case it must verify whether the project is exempt from screening and comply with the requirements of section 79 or 80, as the case may be; or

- (b) refuse to grant a minor variance.

“(3) Before granting a minor variance under paragraph (2)(a), the Commission must make the proposed minor variance public and must do so in a manner designed to promote participation in its examination by the public.

“(4) Any interested person may, within 10 days after the proposed minor variance is made public, indicate to the Commission in writing that the proposed minor variance should not be granted because

- (a) the land use plan does not authorize the granting of the minor variance;
- (b) the conditions subject to which a minor variance may be granted are not met; or
- (c) the minor variance is not appropriate, in their opinion, for any other reason that they specify.

“(5) The Commission may only grant a minor variance under paragraph (2)(a) after taking into account any reasons for which an interested person has indicated, under subsection (4), that it should not be granted and, if it considers it appropriate to do so, conducting a public review in accordance with the by-laws and rules made under section 17 and taking into account any submissions made during that review.

“(6) If the Commission is of the opinion that more time is needed to make a decision under subsection (2), it may extend the period referred to in that subsection by up to 10 days and must notify the proponent of the extension in writing.”



The 2016 DNLUP explained what a minor variance is in general terms, and that a request for a minor variance would “only be considered in respect of Conditions that include setbacks or seasonal restrictions.” Specifically, the draft provided:

“The conditions that will be considered to determine if a Project/Project Proposal is eligible for a Minor Variance are:

- (a) The proposed Minor Variance is necessitated by unique physical features or limitations of the Project/Project Proposal location, such as those related to topography and vegetation;
- (b) The granting of the proposed Minor Variance will not cause the Project/Project Proposal to have incompatible or Obnoxious Land Use ;
- (c) The granting of the proposed Minor Variance will not be inconsistent with similar Minor Variances previously granted by the NPC.
- (d) Reasonable, given the geographic location and existing conditions;
- (e) In accordance with the general intent and purposes of the Draft Nunavut Land Use Plan (DNLUP);
- (f) Appropriate in the context of surrounding land uses and designations;
- (g) Does not set an undesirable precedent, and;
- (h) Granting [t]he Minor Variance does not cause unacceptable adverse impacts to persons, projects, wildlife, or the environment.”

In 2017, the GN<sup>1</sup> asked the NPC to ensure “regulatory fairness and economic certainty, while supporting the NPC’s intended ‘incremental approach’ to planning” and suggested the NPC “may want to expand on its scoping of ‘Minor Variances’ to allow for a more flexible implementation of conformity determinations.” The GN’s full supporting quote is included under Option 3 below.

In 2017, Northquest<sup>2</sup> wrote in its submission:

**“... the actual approach to land use designation taken by NPC is too broadly prohibitive in favour of conservation**

**with over reliance on prospective minor variances or Ministerial exemptions for future sustainable development on a project by project basis. ...**

“By imposing large tracts of Protected Area lands with reliance upon minor variance and Ministerial exemptions on a project by project basis, the DNLUP in essence superimposes a Crown concession system of mineral tenure in those areas in Nunavut and undermines the proven principle of free entry underlying the Nunavut Mining Regulations.”

In 2017, the Nunavut Association of Municipalities (NAM)<sup>3</sup> expressed concern that it was not clear enough in the text of the NLUP that communities would be consulted with respect to proposed minor variances:

### **“3.2 Treatment of Conflicting Perspectives on Land Use**

“It is unclear to NAM from the current draft of the NLUP how the NPC plans to address conflicting or opposing views on land uses that may be taken into consideration post NLUP approval. For instance, the Plan amendment application and consideration processes are not clear, nor are plans for the NPC’s consideration of minor variance applications, including if and when public consultation or review would be included as a part of these processes, and if so, how those would play out.

#### **“3.2.1 Recommendation and Rationale**

“NAM recommends ... the process for minor variance applications, the Commission’s consideration of these, and public review/consultation opportunities should also be outlined. This information is necessary prior to the Public Hearing, as the treatment of these requests may impact on NAM or the communities’ support for the overall NLUP if for instance, information on treatment of conflicting perspectives is lacking and participants are unable to adequately assess the NPC’s proposed procedures. Also, the public should be able to comment and request clarification from the NPC as to these important processes – the Hearing provides an opportunity for these to occur on the public record and for the NPC to consider changes to its processes prior to finalizing within the NLUP.”

In 2017, in their joint submission, NTI and the RIAs<sup>4</sup> explained:

#### **“3.4.4 Waste Sites /Contaminated Sites and DND Establishments – Recommendations**

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

<sup>2</sup> (Northquest Ltd, 2017-01-11. NPC Public Registry File # 16-046E)

<sup>3</sup> (Nunavut Association of Municipalities (NAM), 2017-01-13. NPC Public Registry File # 16-070E)

<sup>4</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)



...

"2. NTI and the RIAs recommend that minor variances should be available when sites have been cleaned-up for activities outside of landfills (when the NLUP has not yet been amended).

...

#### **"3.4.4 Waste Sites /Contaminated Sites and DND Establishments – Rationale and Supporting Documents**

...

"In the event that a site has been cleaned up and amendment to the NLUP has not occurred to reflect the change, proponents should be able to apply and receive a minor variance and receive a positive conformity determination for activities outside of landfills within the Special Management Area. The wording of Section 6.3.3 of the DNLUP (minor variances) should be adjusted to allow for minor variances for 'setbacks, seasonal restrictions and activities outside of landfills within Contaminated Sites and DND designations'.

...

#### **"3.6.1.4 Wording Inconsistencies with NUPPAA**

"There are a few wording inconsistencies in the DNLUP 2016 with NUPPAA. These include:

- Minor Variance, which is defined at p.10 of DNLUP 2016 as meaning:

*relief or reasonable deviation from certain Conditions of a Land Use Designation while not permitting additional uses or changing a Land Use Designation. [emphasis added]*

This definition is roughly consistent with NUPPAA, which treats a minor variance as permission to deviate in a small way from the obligation to comply with a land use plan requirement. However, at p. 50 of the DNLUP 2016, a different definition is provided, suggesting that a Minor Variance 'is a small change to a Term'. **For consistency, NTI and RIAs recommend that this wording at p. 50 be amended to 'is a small deviation from the obligation to abide by a certain Condition'.**"

In 2018, in its responses to questions from the NPC, the GN<sup>1</sup> recommended expanding the scope of minor variances to allow flexibility where projects demonstrate positive socio-economic effects:

"... more clarity is needed in emphasizing the intended long-term flexibility of land use designations. Further scoping of DNLUP minor variance, plan amendment, and ministerial exemption avenues would contribute to the DNLUP flexible implementation and periodic review.

...

"The GN has noted in the past that we are opposed to the extent of prohibitions throughout the Nunavut Settlement Area.

"The NPC may want to expand on its scoping of 'Minor Variances' to allow for more flexible implementation of conformity determinations.

"A variance granted for a project demonstrating positive-socio economic reasons may be justifiably minor. A broadening of the NPC's minor variance power may limit the regulatory burden on Plan Amendment or Ministerial Exemption avenues."

### **6.2.13.1 Policy Options for Minor Variances**

#### **6.2.13.1.1 Option 1: Do Not Include Minor Variances in the NLUP**

This option is to not allow for minor variances in the NLUP. If this option is selected, all prohibitions, terms and conditions must be complied with by all projects, unless a project is exempt by operation of the NuPPAA or obtained a ministerial exemption on a case-by-case basis.

No participant recommended this option.

#### **Considerations**

Leaving minor variances out of the NLUP would give greater certainty that the NLUP would be implemented as written. However, there would be less flexibility in the event a project largely conforms to the NLUP but only deviates from the requirements of the NLUP in a minor way or to an insignificant extent.

#### **6.2.13.1.2 Option 2: Include Minor Variances for Terms and Conditions in the NLUP**

Minor variances would only be available for relief from terms and conditions in CU and LU areas imposing

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

setbacks or seasonal restrictions. For clarity, MU areas do not include any land use seasonal restrictions or setbacks.

No participant objected to this option and some provided recommendations on the criteria to be included in the NLUP to determine if a proposal is eligible for consideration.

In 2015, the GN<sup>1</sup> noted:

“... given the large area and varying scale of operations and development that the Plan will apply to, it is critical that the criteria or conditions for granting a minor variance be applicable to a range of circumstances, and easily interpreted by Plan users so as to avoid misuse in the future.

...

#### “REVIEWER’S RECOMMENDATIONS

“Adopt additional conditions for determining a minor variance so that they may be easier to interpret and apply. For instance, some or all of the following additional conditions may be applied:

“The proposed minor variance:

- (a) is reasonable given the geographic location and existing conditions;
- (b) is in accordance with the general intent and purposes of the DNLUP;
- (c) is appropriate in the context of surrounding land uses and designations;
- (d) does not set an undesirable precedent;
- (e) does not cause unacceptable adverse impacts to persons, projects, wildlife or the environment.”

In 2016, the NWT & Nunavut Chamber of Mines<sup>2</sup> commented on the criteria to be considered to determine if a project proposal is eligible for a minor variance:

“These criteria should not be presented as mandatory requirements but as considerations for the NPC’s decision making with respect to minor variances. ... the Chamber

suggests that it is not appropriate or necessary to bind the NPC to past determinations in this manner.”

In 2018, the GoC<sup>3</sup> noted:

“... A land use plan can make provision for the Commission to grant ‘minor variances’, which has the effect of granting conformity to projects that do not fully conform. However the plan must itself establish the power to grant such a variance. We recommend that the plan itself should set clear conditions within which variances may be considered and granted, and help establish a shared understanding of the scope of ‘minor’ variances.”

#### Considerations

Participants broadly support the inclusion of minor variances in the NLUP and request clear criteria under which they are available and can be considered.

Minor variances will allow for greater flexibility in implementing the NLUP while allowing for engagement of the public when considering such requests.

#### 6.2.13.1.3 Option 3: Include Minor Variances for Both Prohibitions and Terms and Conditions in the NLUP

Some participants recommended that minor variances be considered for prohibited uses as well. Under this option, minor variances would be available for a proponent to seek a project-specific exemption from any prohibition under section 74(f) of the NuPPAA, as well as relief from seasonal restrictions and setbacks.

In 2016, the NWT & Nunavut Chamber of Mines<sup>4</sup> noted:

“... the NPC should retain a general discretion to consider other matters for minor variances, at the request of a project proponent, a DIO, a regulatory agency or the NPC. As an example, an all weather road route which runs through a very small portion of a prohibited area may be an appropriate candidate application for a minor variance, in certain circumstances.”

In 2017, as noted above, the GN<sup>5</sup> asked the NPC to ensure “regulatory fairness and economic certainty, while

<sup>1</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>2</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

<sup>3</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>4</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

<sup>5</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

supporting the NPC's intended 'incremental approach' to planning" and suggested:

"The Nunavut Planning Commission may want to expand on its scoping of 'Minor Variances' to allow for a more flexible implementation of conformity determinations, and where appropriate, exceptions to Plan restrictions. This is in keeping with the Nunavut Planning and Project Assessment Act: '48(3) A land use plan may authorize the Commission to grant minor variances and may set out the conditions subject to which they may be considered and granted.'"

"Currently NPC's minor variance power wouldn't allow for exceptions/exemptions to a prohibited use: 'A request for a minor variance will only be considered in respect of Conditions that include setbacks or seasonal restrictions' (2016 DNLUP, p. 50).

"A variance granted for a Project demonstrating positive-socio economic, regulatory fairness, or community support reasons may still be minor, even if a prohibition is waived. A broadening of the NPC's minor variance power may limit the regulatory burden on Plan Amendment or Ministerial Exemption avenues. There are cases (e.g. priority Government and Regional Inuit Association supported infrastructure projects) where exceptions/minor variances to Plan restrictions may be appropriate without having to undergo a full Plan Amendment."

### Considerations

Under the NuPPAA, minor variances are only posted for public comment for 10 days to determine whether a public review is required. Interested persons may not be able to respond in time, meaning carefully-considered prohibitions in the approved NLUP may be effectively removed in respect of individual projects without adequate and meaningful consultation of those people most likely to be affected.

Participants have taken the position that the outcomes of the NPC's conformity determinations need to be predictable, and granting minor variances in respect of prohibitions would create an *ad hoc* approach within LU areas.

#### 6.2.13.2 NPC Recommendation - Minor Variances

Given that:

- *Participants broadly support the inclusion of minor variances as a tool in the NLUP to provide some flexibility for proponents*

- *Minor variances are intended to provide some relief from specific plan requirements, but not for the approval of a use that is explicitly prohibited*
- *Participants generally support, or do not oppose, the consideration of minor variances for conditions such as setbacks and seasonal restrictions if the criteria for obtaining a minor variance are clear*
- *It is commonly accepted in land use planning practice that conditions such as setbacks and seasonal restrictions may be modified through a minor variance process if it is shown that relief from the condition is necessary and will not result in unacceptable impacts on the value that the condition is intended to protect*
- *The 2016 DNLUP identified setbacks and seasonal restrictions as conditions that would be eligible for a minor variance and included a list of criteria to determine if a proposal is eligible; participants supported this approach and some recommended that minor variances also be considered for prohibited uses (see Option 3 above)*
- *Section 48(3) of the NuPPAA provides that the NLUP "may authorize the Commission to grant minor variances and may set out the conditions subject to which they may be considered and granted"*
- *It should be noted that the increased flexibility in a land use plan for minor deviations from approved conditions requires public input on a scale that is significantly less than the requirements for a plan amendment*
- *While it is noted that the NA and the NuPPAA do not place limits on what type of deviation from a plan may be considered under a minor variance process, it is advisable to include minor variances to provide some relief from specific plan requirements, but not for the approval of a new use that is explicitly prohibited as the NuPPAA places time limits on opportunities for public consultations in respect of minor variances*
- *In accordance with section 11.2.1(d) of the NA, in order to approve a new use that is explicitly prohibited by the NLUP, substantial and meaningful public input through the active and informed participation by Inuit and other residents is most appropriately conducted through a plan amendment process*
- *Some participants supported the inclusion of conditions for minor variances in the NLUP, provided the NLUP is not over-reliant on minor variances to allow for sustainable economic development, and made submissions asking for further scoping or*

*clarification of the conditions under which they may be granted, but few recommended specific wording or procedures*

- *Since the NPC's hearing on the 2016 DNLUP in 2017, the NPC made new Rules for Public Proceedings that apply to public reviews of minor variances*

Option 2 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **MINOR VARIANCES**

#### **INCLUDE MINOR VARIANCES FOR TERMS AND CONDITIONS IN THE NLUP**

- Consider minor variances for relief from setbacks and seasonal restrictions in CU and LU areas; a minor variance is not to be issued for relief from a prohibition
- Criteria that will be considered are whether the proposed minor variance:
  - (a) is necessitated by unique physical features or limitations of the project location, such as those related to topography, vegetation or climate;
  - (b) will cause unacceptable adverse impacts or interference with persons, projects, wildlife, the environment or existing uses or interests;
  - (c) is consistent with the general intent and purposes of the NLUP;
  - (d) is appropriate in the context of surrounding land uses and land use designations; and
  - (e) will set an undesirable precedent.

### **6.2.13.3 Summary of Revisions**

#### **KRLUP and NBRLUP**

The existing regional land use plans do not discuss minor variances.

#### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP stated that requests for minor variances would only be considered for setbacks in two BCH land use designation areas; one area pertained to two existing roads and the other pertained to three alternative energy source sites. The 2012 version did not include a list of criteria to determine if a proposal is eligible for a minor variance.

The 2014 DNLUP identified setbacks and seasonal restrictions as terms that would be eligible for a minor

variance and included a list of criteria to determine if a proposal is eligible. The 2014 draft also noted that to be considered minor, the change must be less than a 50% reduction to the distance established by a setback or the timing of a seasonal access restrictions.

Similar to 2014, the 2016 DNLUP identified setbacks and seasonal restrictions as conditions that would be eligible for a minor variance and included an expanded list of criteria to determine if a proposal is eligible.

#### **2021 DNLUP**

The 2021 DNLUP provides for minor variances in respect of conformity requirements (i.e., seasonal restrictions and setbacks) in CU and LU areas. It includes a list of criteria to be considered by the NPC in determining whether to grant a minor variance. The 2021 DNLUP also includes a plan requirement that a minor variance is not to be issued for relief from a prohibition.

### **6.2.14 Plan Amendments**

This subsection of the 2021 O&R addresses two topics regarding plan amendments: information requirements for plan amendments; and prescribing processes for plan amendments. This subsection first provides information that applies to both topics. It then considers the policy options and recommendations for each of these two topics separately.

The NA and the NuPPAA provide for the NPC to receive, or initiate, and process plan amendments. The NA provides in Part 6 of Article 11:

“11.6.1 Government, a DIO, or any person affected by a plan, may propose amendments to the plan to the NPC.

“11.6.2 The NPC shall consider a proposed amendment and, if it deems a review appropriate, review the proposal publicly.

“11.6.3 Upon completion of the process in Section 11.6.2, the NPC shall recommend to the Minister of Indian Affairs and Northern Development and the Territorial Government Minister responsible for Renewable Resources that:

- (a) the proposed amendment be rejected in whole or in part; or
- (b) the proposed amendment be accepted, in whole or in part.

“11.6.4 If the Ministers reject the recommendations of the NPC, Sections 11.5.6 and 11.5.7 shall apply mutatis mutandis.

“11.6.5 An amendment to a plan shall be effective when approved by the Ministers.”

Similarly, for reference purposes, the NuPPAA provides the following requirements for plan amendments:

“59 (1) The federal Minister, the territorial Minister, the designated Inuit organization or any person, including a corporation or other organization, affected by a land use plan may propose to the Commission an amendment to that plan.

(2) The Commission must consider the proposed amendment and, if it considers it appropriate to do so, conduct a public review in accordance with the by-laws and rules made under section 17.

(3) The Commission may, on its own initiative, propose an amendment to a land use plan and must subsequently conduct a public review in accordance with the by-laws and rules made under section 17.

(4) If the Commission conducts a public review in respect of a proposed amendment, the Commission must make the proposal public in a manner that is designed to promote public participation in its examination.

“60 The Commission must consider the submissions made during a public review in respect of a proposed amendment and may make any revisions to the proposed amendment that it considers appropriate.

“61 (1) The Commission must submit the original or revised proposed amendment to the federal Minister, the territorial Minister and the designated Inuit organization with a written report of any public review and its recommendation as to whether the amendment should be accepted or rejected, in whole or in part.

(2) Despite subsection (1), the Commission may, following public review, withdraw a proposed amendment that it initiated.

“62 (1) As soon as practicable after receiving the proposed amendment, the federal Minister, territorial Minister and designated Inuit organization must accept the Commission’s recommendation jointly or reject it, in whole or in part, with written reasons.

(2) If the Commission’s recommendation is rejected, in whole or in part, by the federal Minister, the territorial Minister or the designated Inuit organization, the

Commission must, after considering the reasons, which it may make public, undertake once again any measures in relation to the holding of a public review under subsections 59(2) and (4) and section 60 that it considers necessary, make any changes it considers appropriate and submit a revised proposed amendment to the federal Minister, territorial Minister and designated Inuit organization.

(3) As soon as practicable after receiving a revised proposed amendment, the federal Minister, territorial Minister and designated Inuit organization must accept it jointly or reject it with written reasons.

(4) Any amendment to a land use plan based on an original or revised proposal for amendment comes into force when it is approved under subsection (1) or (3).

(5) The Commission must make any amendment to a land use plan public.”

The existing regional land use plans require plan amendments as a conformity requirement including public reviews by the NPC and the NIRB of alternative routes and cumulative assessments for projects proposing the development of transportation and/or communications corridors.

In 2013, the GoC<sup>1</sup> noted the NPC “... must consider all plan amendment requests ... NPC does not have the discretionary authority to make any exceptions, even in the case of prohibited uses as suggested in this section.”

In 2015, the GN’s<sup>2</sup> submission on the 2014 DNLUP proposed with respect to plan development, implementation, amendment and review:

“- Describe the process that will be used to routinely update data sets and general information in the Plan without triggering a formal Plan Amendment or Review; and

- Provide greater clarity around the processes for Incremental Planning, Plan Amendment, Periodic Review, and revision of the Plan.”

In 2017, the GN<sup>3</sup> asked the NPC to ensure “regulatory fairness and economic certainty, while supporting the NPC’s intended ‘incremental approach’ to planning” and suggested the 2016 DNLUP establish different processes based on the foreseeable types of plan amendments that may proposed in the future:

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>3</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)



**“Plan Amendments:** NPC should develop more contextualized protocols, timelines, guidelines, and parameters for Plan Amendments, to provide applicants with a reasonable expectation that NPC may recommend relief from Plan restrictions. Likewise the NPC should develop clearer Plan Amendment parameters geared towards the continued engagement of planning partners regarding caribou habitat land use management.

...

“NPC should consider better defining its Plan Amendment process for the following reasons:

- **Regulatory Fairness:** Without a clear and scoped Plan Amendment process, conflicts regarding any approved NLUP may ultimately be mediated via less inclusive processes such as Ministerial Exemptions;
- **Economic Certainty:** Clear and scoped parameters associated with NPC’s Plan Amendment process will result in Nunavut being seen as a more secure and favourable environment for investment. The DNLUP is not intended to be a static regulatory document, nor can amendments be seen as a panacea for conflict resolution in the first generation Plan; and
- **Incremental Approach:** In the 2016 DNLUP NPC describes its incremental approach to Planning in Chapter 1. This approach is appropriate given the scope of the first generation Plan, but, consequentially, NPC’s processes pertaining to Plan Amendment and Periodic Review must support this approach; ensuring the DNLUP is adaptive and flexible to new information, IQ, community feedback, and other Planning Partner concerns.

“The Commission should go beyond what is outlined in their Internal Procedures document, proactively foreseeing types of Amendments that will occur and cater processes for each type.”

In 2017, as noted above in respect of minor variances, the NAM<sup>1</sup> wrote:

“NAM recommends that the NPC provide for the information of all participants, details on how Plan amendment applications and the Commission’s consideration of these will be handled, including process steps, and the opportunities for public involvement. ... This information is necessary prior to the Public Hearing, as the

treatment of these requests may impact on NAM or the communities’ support for the overall NLUP if for instance, information on treatment of conflicting perspectives is lacking and participants are unable to adequately assess the NPC’s proposed procedures. ...”

In 2017, the GoC<sup>2</sup> recommended plan amendments when new information becomes known or new priorities are identified:

“... Amending the land use plan is of course always an option, and should be done to update a plan in the face of new information or new priorities. However, in our view, it is not an appropriate tool for project-specific regulation. ...”

#### 6.2.14.1 Policy Options for Information Requirements for Plan Amendments

##### 6.2.14.1.1 Option 1: NLUP to Include All Information Requirements for Plan Amendments

Participants generally support efficient plan amendment processes. The two existing regional land use plans include detailed information requirements for persons proposing the development of a transportation and/or communications corridor. The NLUP could set out minimum information criteria in order to propose plan amendments.

The NPC has the power under section 17 of the NuPPAA to make bylaws and rules respecting a number of matters including procedures for making submissions and complaints to the NPC, and procedures for collecting information and opinions, including procedures for conducting formal and informal public hearings and public reviews. The NPC has enacted rules respecting the holding of public hearings and public reviews applicable to plan amendments. If the NLUP provides for a specific process to conduct a plan amendment, the process in the NLUP would govern.

Prior to the coming into force of the NuPPAA in 2015, the NPC prepared an Internal Procedure: Amendments to Land Use Plans<sup>3</sup> that complemented the former Rules of Procedure for Public Hearings and Public Reviews. This

<sup>1</sup> (Nunavut Association of Municipalities (NAM), 2017-01-13. NPC Public Registry File # 16-070E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>3</sup> <https://www.nunavut.ca/proponent-information/internal-procedures>



internal procedure outlines the process for making a plan amendment application as follows:

## **"2 Communications In Advance of a Proposed Amendment**

"2.1 Before submitting a proposed amendment, potential applicants are encouraged to contact the Executive Director to schedule an informal meeting, where the intent of the policies, objectives, goals, and land use plan will be discussed as they regard the applicant's conceptual proposal.

"2.2 Fifteen days prior to the meeting, applicants are requested to provide information they may have, describing or explaining the proposed amendment, and the reasons of the proposed amendment to the plan to the NPC.

"2.3 During this meeting the NPC staff will further advise the applicant on:

- (a) the information required by the applicable land use plan;
- (b) any other information or materials deemed necessary or appropriate by the NPC; and
- (c) the need to provide translated versions of the proposed amendment materials. Submission of a proposal for amendment may be required in English, Inuktitut, Inuinnaqtun and/or French.

## **"3 Submitting a Proposed Amendment**

"3.1 Following the initial informal meeting, the applicant may submit an amendment application. Fifteen (15) hardcopies with required translations, and one complete digital package of the application, must be submitted to the NPC for review by either:

- (a) submitting the application in person at one of the NPC's regional offices; or
- (b) submitting the application by mail to one of the NPC's regional offices.

"3.2 Following receipt of a formal plan amendment application, within 7 days NPC staff shall review the application and determine if it is complete.

"3.3 If the amendment proposal appears incomplete, the applicant may be asked to provide additional information, and the NPC will reserve the right to request further information.

## **"4 Initial Consideration of Proposed Amendment**

"4.1 If the application is deemed to be complete by NPC staff, the materials will be uploaded to the NPC's Public Registry.

"4.2 A letter from the Executive Director will notify the applicant that the proposed amendment has been received and is being assessed by NPC staff.

"4.3 NPC staff may, at any time during the assessment of a proposed amendment make a written request to the applicant for additional information.

"4.4 Proposed plan amendment applications must be received at least 60 days in advance of an in-person Commission meeting for it to be considered. If it is not received within that timeframe, the application will be considered at a subsequent Commission meeting.

"4.5 The Executive Director will prepare a written report for the Commission that will include:

- (a) the proposed amendment;
- (b) an initial analysis of the proposed amendment based on the intent of the land use plan and any guidelines contained in the plan and the NLCA.

"4.6 The Commission may invite the applicant to be present at the meeting where the proposed amendment is being considered.

"4.7 As soon as practicable after the Commission meeting where the proposed amendment is considered, the applicant will be advised in writing of the decision by the Commissioners that:

- (a) The proposed amendment is not consistent with approved planning policies and objectives, or the purpose of the land use plan, and the Commission has recommended that it be rejected in whole or in part;
- (b) The proposed amendment is appropriate, no public review is required, and the Commission has recommended that it be accepted; or
- (c) The proposed amendment requires a public review before a recommendation can be made.

## **"5 Public Review of Proposed Amendment Considered Appropriate**

"5.1 If the Commission determines under 4.7(c) that a public review is required, it will be undertaken in accordance with the NPC's approved workplan. The public review will be conducted in accordance with the *Rules of Procedure for Public Hearings and Public Reviews* in a manner considered appropriate by NPC to derive the most meaningful insights and input from the public.

“5.2 A Public Review provides an opportunity for public input; it does not necessarily imply a public meeting or hearing. The need for a public meeting will depend on the significance of the amendment and the degree of public concern/interest the Commission anticipates the proposal may generate. If the Commission believes the level of public concern/interest is not significant, the public review may be conducted by providing the opportunity for written submissions or presentation at a regular Commission meeting.

#### “6 Commission Recommendation

“6.1 If the Commissioners determines that a public review is not required under 4.6(a) or 4.6(b), at that time the Commission will recommend to the federal Minister, the territorial Minister and the designated Inuit organization, that the proposed amendment be accepted or rejected, in whole or in part.

“6.2 Upon completion of a public review under 4.6(c), the Commissioners will recommend to the federal Minister, the territorial Minister and the designated Inuit organization, that the proposed amendment be accepted or rejected, in whole or in part.

6.3 The NPC will provide written reasons for its recommendation. The written reasons will also be provided to the applicant and posted on the NPC Public Registry.

#### “7 Final Decision

7.1 The final decision shall be governed by the process described in Section 62 of NUPPAA (see Appendix A).

#### “8 Publication

8.1 Any approved amendment to a land use plan will be made public by including it on the NPC’s Public Registry, and posting notice of the amendment in a newspaper with territorial distribution.”

### Considerations

The Internal Procedure: Amendments to Land Use Plans provides some information requirements including initial meetings with NPC staff, and the submission of an application in multiple languages and formats.

The Internal Procedure: Amendments to Land Use Plans was not made into a formal rule by the NPC and has not been updated or provided for public comment, and its ability to impose information requirements not set out in rules or the NLUP remains uncertain.

Participants in the NLUP hearing process raised concerns that translation requirements may be inconsistent with the right of people to participate in the NPC’s

proceedings in the language of their choice. These concerns may extend to requiring applicants for a plan amendment to provide translated materials.

Providing general information requirements in the NLUP that would apply to all applications for plan amendment would ensure consistency. Including general information requirements for plan amendments in the NLUP would require a plan amendment itself to revise those requirements.

6.2.14.1.2 Option 2: Provide Guidance on Information Requirements for Plan Amendments in Rules Made by the NPC

The NPC could give guidance on information requirements and procedures for undertaking plan amendments outside the NLUP. As noted above, the NPC has the power under section 17 of the NuPPAA to make bylaws and rules respecting a number of matters including procedures for making submissions and complaints to the NPC, and procedures for collecting information and opinions, including procedures for conducting formal and informal public hearings and public reviews. The NPC has already enacted rules respecting the holding of public hearings and public reviews applicable to plan amendments, and could make rules providing for information requirements for plan amendment applications.

### Considerations

The NLUP could remain silent on information requirements for plan amendments, and either say the NPC will work with applicants to determine what information is required to proceed with a plan amendment on a case-by-case basis, or that rules will be prepared and circulated for public comment establishing information requirements for plan amendments. It is noted that developing information requirements on a case-by-case basis could cause uncertainty for applicants.

6.2.14.1.3 Option 3: NLUP to Include General and Specific Information Requirements for Plan Amendments with

Participants generally support efficient plan amendment processes. In 2017, the GN<sup>1</sup> recommended the NLUP anticipate foreseeable types of plan amendments and provide requirements specifically “catered” for each type.

As noted above, the two existing regional land use plans include detailed information requirements for persons proposing the development of a transportation and/or communications corridor.

This 2021 O&R elsewhere recommends that projects proposing to develop linear infrastructure and marine corridors in LU areas undergo plan amendments with information requirements specific to those project types. Future generations of the NLUP could provide specific information requirements for other types of plan amendments if necessary.

### Considerations

Including general and specific information requirements for plan amendments in the NLUP would require a plan amendment itself to revise those requirements.

High-level information requirements could be included in the NLUP that would apply to all applications for plan amendments. For example, the NLUP could generally require an applicant for a plan amendment to provide the new information or new policies not previously considered by the NPC at the time of preparing the existing NLUP, or an explanation as to why that information was not previously available.

It may be appropriate for the NLUP to set out detailed information requirements for certain types of plan amendments relating to projects proposed in LU areas, in which those types of land uses are prohibited, before the NPC begins considering an amendment application pursuant to its rules governing public hearings and public reviews. For example, it is recommended elsewhere in this 2021 O&R that proponents of linear infrastructure and marine corridors proposed in LU areas be required to submit plan amendments, and the NLUP could set out

detailed information required in its appendices as was done in the existing regional land use plans.

Section 17(1) of the NuPPAA does not expressly say that the NPC may make rules respecting information requirements for plan amendments, but does provide for rules respecting the following:

- “(c) procedures for making submissions and complaints to the Commission;
- (d) procedures for collecting information and opinions, including procedures for conducting formal and informal public hearings and public reviews;
- (e) the form and content of descriptions to be submitted with respect to projects; and
- (f) the admissibility of evidence.”

The NPC can make rules respecting information requirements for plan amendments under the power to make bylaws and rules for “making submissions and complaints”, and/or “procedures for collecting information opinions.” This would allow for public review and comment on proposed rules without requiring a plan amendment to revise and refine the information requirements.

### 6.2.14.2 NPC Recommendation - Information Requirements for Plan Amendments

Given that:

- *Participants have recommended providing guidance for information requirements for plan amendments*
- *It is elsewhere recommended in this 2021 O&R that the NLUP provide information requirements for plan amendment processes where linear infrastructure and/or marine corridor projects are proposed in LU areas in which they are expressly prohibited*
- *The NPC’s existing rules do not include information requirements for plan amendments*
- *Either the NLUP or the NPC’s rules made under section 17 of the NuPPAA could impose general information requirements for plan amendments*
- *Including information requirements in the NLUP would require a plan amendment to revise or refine those requirements, whereas using rules external to the NLUP would allow for greater flexibility while*

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

*ensuring public input prior to the making of those rules*

- *The NLUP could provide that the NPC may request any additional information it believes necessary to proceed with the consideration of the plan amendment application*

Option 3 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **INFORMATION REQUIREMENTS FOR PLAN AMENDMENTS**

#### **NLUP TO INCLUDE GENERAL AND SPECIFIC INFORMATION REQUIREMENTS FOR PLAN AMENDMENTS WITH DETAILED REQUIREMENTS IN RULES**

- General information requirements would include a requirement applicants provide new information or new priorities not previously considered by the NPC at the time of preparing the existing NLUP, or an explanation as to why that information was not previously available
- Specific information requirements would apply where proponents wish to amend the NLUP to allow for linear infrastructure and marine corridor projects in LU areas that otherwise prohibit the types of land uses involved (see subsection 6.2.6 above)
- The NPC may make rules under section 17 of the NuPPAA supplementing the NLUP's information requirements for plan amendments
- The NLUP should give the NPC express authority to request any additional information it believes necessary to proceed with the consideration of a plan amendment application

#### **6.2.14.3 Summary of Revisions**

##### **KRLUP and NBRLUP**

The two existing regional land use plans only include detailed information requirements for persons proposing the development of a transportation and/or communications corridor, however they do not include general information requirements for all plan amendment proposals.

##### **2012, 2014 and 2016 DNLUP**

The 2012, 2014 and 2016 DNLUP did not include information requirements for plan amendments.

##### **2021 DNLUP**

The 2021 DNLUP includes plan requirements respecting information requirements for proposed plan amendments. These requirements require applicants to provide, in addition to any information requirements set out in the NPC's rules, the following: any new information not considered by the NPC at the time the NLUP was prepared, or an explanation as to why that information was not previously available; and any new priorities not considered by the NPC at the time the NLUP was prepared. The plan requirements also state that the NPC may request additional information if that information is necessary to proceed with the consideration of a plan amendment. As discussed above in subsection 6.2.6, the 2021 DNLUP requires proponents to provide additional information when applying for a plan amendment to develop linear infrastructure or a marine corridor in a LU area.

#### **6.2.14.4 Policy Options for Prescribing Processes for Plan Amendments**

##### **6.2.14.4.1 Option 1: NLUP to Include Process Steps for Plan Amendments**

Some participants, including the NAM, requested the NLUP set out the processes that would be used in amending the NLUP.

##### **Considerations**

The NLUP could use elements of the Internal Procedure: Amendments to Land Use Plans to provide a high-level overview of the plan amendment process, leaving the detailed procedures for the holding of public reviews to be dealt with in the NPC's Rules for Public Proceedings made under NuPPAA section 17.

If the NLUP sets out a prescriptive processes for plan amendments, the NPC would not be able to tailor, vary or refine the process without undertaking a plan amendment.

If the NLUP provides any processes for plan amendments they will prevail over the extent of any inconsistency with the NPC's Rules for Public Proceedings.

#### 6.2.14.4.2 Option 2: Procedural Steps for Plan Amendments Set Out in NPC Rules

The NuPPAA at section 17 provides the NPC the authority to make rules respecting “procedures for collecting information and opinions, including procedures for conducting formal and informal public hearings and public reviews.”

#### Considerations

The NPC has made rules following a public comment period that set out the processes and rules for public reviews and public hearings, which would apply to plan amendments.

#### 6.2.14.5 NPC Recommendation - Processes for Plan Amendments

Given that:

- *Part 6 of Article 11 of the NA and section 59 to 62 of the NuPPAA set out the minimum process steps that plan amendments must follow*
- *The NPC has created rules that will apply to public hearings of plan amendments following a public consultation period as set out in NuPPAA section 38*
- *Including prescriptive processes in the NLUP itself will require a plan amendment in the event the NPC believes revisions or refinements are required*

Option 2 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

#### **PROCEDURES FOR PLAN AMENDMENTS**

#### **PROCEDURAL STEPS FOR PLAN AMENDMENTS SET OUT IN NPC RULES**

- Specific procedures applicable to public reviews on plan amendments are set out in the NPC’s rules made under section 17 of the NuPPAA and will not be included in the NLUP

#### 6.2.14.6 Summary of Revisions

#### KRLUP and NBRLUP

The two existing regional land use plans do not include details on the plan amendment process, but only note that:

“Article 11, Part 6 of the NLCA governs amendment and review of land use plans. The NPC will consider all recommendations for amendments and will recommend those that it considers suitable to the Minister of DIAND and the Minister of DSD.”

#### 2012, 2014 and 2016 DNLUP

The 2012 DNLUP included a general description of the key steps involved in plan amendments.

The 2014 DNLUP included a lengthy description of the procedural steps involved in plan amendments.

The 2016 DNLUP explained when plan amendments would be considered, but did not set out procedural steps. The draft referenced the NPC’s Plan Amendment Internal Procedure.

#### 2021 DNLUP

The 2021 DNLUP does not include specific procedural steps for plan amendments.

#### 6.2.15 Timing of Periodic Plan Reviews

Despite the best efforts of the NPC to collect information necessary to create the NLUP, some data gaps remain. Participants have generally taken the position the NLUP must require a periodic review. The GoC has suggested a full review in five years as an appropriate interval for the review of a first-generation plan.<sup>1</sup>

In 2013, the GoC<sup>2</sup> informed the NPC of its expectations that a first-generation land use plan would be based on incomplete information and that an adaptive management approach should be adopted with a commitment to periodic review:

“The GoC recognizes that the existing information base is incomplete and presents a challenge to land use planning, especially at the territorial level. The GoC also acknowledges that the pace of development in Nunavut is on the increase and will likely continue to increase in the decade to come. Significant resource development activity

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Government of Canada, 2013-03-28. NPC Public Registry File # 12-034E)

and the related impact assessment processes are now underway or being seriously pursued. Climate change will also increasingly become a major factor with respect [to] the use of land in the NSA.

“The GoC acknowledges and supports reference to a formalized approach to adaptive management within the current DNLUP. An adaptive management approach, formalized within the plan review cycle, provides all planning parties, stakeholders and Nunavummiut with the flexibility to adapt to new improved information and evolving values over time. It recognizes that monitoring, research and information gathering are ongoing processes that should be committed to over the long term, continually improving the information base on which land use decisions are based.

...

“Current information gaps and uncertainties should be identified in the DNLUP along with a commitment that future iterations of the plan will address these gaps through continued research and data gathering. For example, it is likely that critical habitat and management approaches for a number of avian, terrestrial and marine species will be identified in the short to medium term. Similarly, the Government of Canada has committed to establishing new national parks and new marine conservation areas over time in all un-represented or under-represented natural regions within Nunavut. Such new information is expected to inform future iterations (plan reviews) of the NLUP or be incorporated through plan amendment”.

In 2013, the GoC<sup>1</sup> also explained the NGMP:

“The Nunavut General Monitoring Plan is another multi-stakeholder forum where socioeconomic and ecosystemic information will be generated. Among other uses, this information could contribute to the monitoring of the NLUP.”

In 2013, the NWB<sup>2</sup> noted the importance of the NLUP using the NGMP to inform plan reviews:

“... Given the importance of continuously acquiring and incorporating data and information to update land use plans, the Nunavut General Monitoring Plan (NGMP) should also be closely linked to the amendment and periodic review processes and detailed accordingly in the DNLUP.

*“Nunavut General Monitoring Plan*

“The monitoring of environmental components is a fundamental tool for managing natural resources, protecting the environment, restoring impaired ecosystems, and informing the public of the status of monitored environmental components. The Nunavut General Monitoring Plan (NGMP) is a key mechanism for collaborative environmental monitoring in Nunavut. As such, the DNLUP should make reference to the NGMP and discuss how it may assist in management of land use across Nunavut. Currently, the NGMP is mentioned in the Table of Acronyms of the DNLUP, but does not appear to be discussed or mentioned anywhere else in the document.”

In 2015, NTI and the RIAs<sup>3</sup> stated, “There are also concerns regarding how the NLUP will accommodate new data and discoveries within the life of the Plan.”

In 2015, as noted above in respect of plan amendments, the GN’s<sup>4</sup> submission on the 2014 DNLUP proposed the following with respect to plan periodic reviews:

“Plan development, implementation, amendment and review:

...

- Describe the process that will be used to routinely update data sets and general information in the Plan without triggering a formal Plan Amendment or Review; and
- Provide greater clarity around the processes for Incremental Planning, Plan Amendment, Periodic Review, and revision of the Plan.

...

“Regularly scheduled Periodic Reviews are an important aspect for the continued evolution of the DNLUP. To improve the first generation plan, it is suggested that the Plan be reviewed, and undergo a Periodic Review after 5 years to ensure that it, ‘continues to reflect the changing needs and environment of the NSA and its residents’ (DNLUP, p.50).

“... The NPC should elaborate on its proposed 5 year review process so that planning partners may anticipate the method and manner in which input will be sought and provided.”

<sup>1</sup> (Government of Canada, 2013-07-18. NPC Public Registry File # 12-061E)

<sup>2</sup> (Nunavut Water Board (NWB), 2013-08-14. NPC Public Registry File # 12-064E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2015-06-22. NPC Public Registry File # 14-081E)

<sup>4</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)



In Appendix A of that submission, the GN<sup>1</sup> made the following recommendations relating to periodic plan reviews:

**“7-015** Develop criteria and timelines for determining when a public review of a plan amendment may be necessary and the timelines for such reviews. ...

...

**“7-018** State which issues, and/or provided criteria to determine which issues must be dealt with immediately through plan amendment, and those that can be deferred until a comprehensive Periodic Review. ...

**“7-019** Revise the definition and subsequent use of ‘Periodic Review’ to mean ‘a complete and comprehensive review of the Plan, as it appears, every 5 years,’.

“Include a description of what a complete Periodic Review process will entail.

“Provide additional information or procedures to clarify what can be expected with a ‘...combination of formal and informal processes’. ...

**“7-020** Provide clarification on how the NPC will review and revise the Plan.

“Consider combining the Periodic Review and comprehensive Plan revision into the same process, with the results of the review justifying the revisions that follow.

“Revise the considerations that the NPC may use when deciding to initiate Plan revision to include certain thresholds that are measurable and therefore adequately assessable.

“Explain the distinction between ‘comprehensive review’ and ‘periodic review,’ and what the NPC hopes to achieve with each. ...

**“7-021** Include a detailed definition of ‘comprehensive revision’ in the DNLUP.

“Describe how the need for a comprehensive revision is determined and what the revision process entails.

“Assign a definitive timeline to the comprehensive revision process or consider combining it with the Periodic Review process (see Comment 7-020 above) so that the results of the review may justify the revisions that follow. ...”

In 2016, the NWT & Nunavut Chamber of Mines<sup>2</sup> expressed concern at a commitment to a five-year timeline for periodic reviews, noting:

“... Given the extensive consultation that has taken place in the last two decades, and the cost associated in developing this Draft land use plan to date, is a 5-year review period realistic or necessary? The Chamber is concerned that this type of requirement would result in a continuous cycle of land use planning review.”

In 2017, the NIRB<sup>3</sup> noted:

“Finally, the NIRB believes it is important to recognize the significant time required to develop and approve land use plans for the Nunavut Settlement Area; it is the NIRB’s view that caution should be exercised when deferring issues to be addressed by future versions of the NLUP, following approval. The NPC has frequently noted that, to date, the DNLUP has been developed over a period spanning more than 10 years; it is also unclear how much time may remain until a NLUP is approved and can begin to be implemented. Without further clarity regarding the process for revisiting the NLUP once approved, the approach to be taken and associated timetables, assumptions, etc. there should be limited confidence in a 5 year timeframe being feasible for updates to the NLUP. Nunavut’s integrated regulatory system has been challenged by areas lacking land use plans and the absence of updates to the existing plans that are currently approved; this should provide motivation to the NPC and all parties to ensure consensus on the process for NLUP updates once approved.”

In 2017, NTI and the RIAs<sup>4</sup> wrote:

### **“3.1 Periodic Review – Recommendations**

1. NTI and the RIAs recommend that the NLUP state that NPC will complete a public review between five to ten years from the time the NLUP first comes into effect. The public review should be initiated by the fifth anniversary of the NLUP coming into effect.
2. NTI and the RIAs recommend that the NLUP state that specific designations may be reviewed on a more frequent basis. Designations that are likely to require more frequent review are those related to wildlife populations such as caribou.

### **“3.1 Periodic Review – Rationale and Supporting Documents**

<sup>1</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>2</sup> (NWT & Nunavut Chamber of Mines, 2016-05-16. NPC Public Registry File # 14-183E)

<sup>3</sup> (Nunavut Impact Review Board (NIRB), 2017-01-12. NPC Public Registry File # 16-051E)

<sup>4</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

“Under NPC’s Goal 1 – Strengthening Partnership and Institutions, NPC lists the objective that land use planning ‘requires comprehensive, transparent procedures for all aspects of land use planning’. By refusing to commit to a set timetable for the public review of the NLUP, the NPC is failing to meet its transparency objective under Goal 1. The NLUP should be a dynamic document that is amended on an on-going basis to reflect changing priorities and realities in Nunavut. NPC must commit to conducting a full public review of the NLUP within a set period. NPC should not be relying on other parties to bring forward amendments in an ad-hoc manner as a mechanism to update the NLUP. The amendment process is not a substitute for a full public review of the NLUP.

“In part, support for the NLUP is derived from the understanding that the proposed designations in the NLUP are temporary to address issues in the best way possible today. Without the assurance that the NLUP will be reviewed regularly and changed to take into account up-to-date information and community views, there is lack of confidence in the process going forward. This lack of confidence can be remedied by NPC guaranteeing that it will initiate a public review within a set time period. This step would increase the level of transparency and confidence in the land use planning process.

“The importance of regular reviews for approved land use plans is highlighted in the article ‘Fix It Up: Why and How to Put Land Use Planning on Track for Success’, which states:

*... review and amendment processes should guarantee that periodic changes will be made in a deliberate, transparent, and inclusive manner...An approved land use plan should, therefore be seen as a framework for change, not a straightjacket.*

“Additionally, an examination of other northern land use planning processes shows that carrying out public reviews of land use plans in a timely manner is not an easy task. To date, there is not an example of a northern land use plan where a public review and amendment process has actually been undertaken within a ten-year time frame, which highlights the important[ce] to NPC committing to a set timeline within the NLUP. Examples of other land use planning review processes include:

- The Gwich’in Land Use Plan, approved in 2003 has undergone a public review. However, final approval has not been obtained for the revised Gwich’in Land Use Plan to date.

- The North Yukon Regional Land Use Plan, approved in 2009 and no public review has been announced.”

On July 16, 2017, the NPC<sup>1</sup> asked all participants a series of questions including the two following questions:

“74. ... Many participants have provided further information to the Commission, and where information gaps remain, they have urged the Commission to apply the precautionary principle. How do participants propose the Nunavut Land Use Plan define and implement the precautionary principle, recognizing the weight the Commission gives to traditional knowledge and IQ?”

“75. ... Participants including the NIRB and NWMB recommend using the precautionary principle in the Land Use Plan and the NWMB’s submissions ask the NPC to use protected areas to protect caribou. Under what circumstances would the signatories say this application of the precautionary principle is appropriate?”

In 2018, in response to the NPC’s questions 74 and 75, the GoC<sup>2</sup> wrote:

**“74. ... How do participants propose the Nunavut Land Use Plan define and implement the precautionary principle, recognizing the weight the Commission gives to traditional knowledge and IQ?”**

“The Government of Canada’s Privy Council Office (PCO) document ‘A Framework for the Application of Precaution in Science-based Decision Making About Risk’ (2003) (at this link: [http://www.who.int/ifcs/documents/forums/forum5/precaution\\_e.pdf](http://www.who.int/ifcs/documents/forums/forum5/precaution_e.pdf)) guides the Government of Canada on principles for precautionary measures. The document discusses five principles for precautionary measures:

- 1) Precautionary measures should be subject to reconsideration, on the basis of the evolution of science, technology and society’s chosen level of protection.
- 2) Precautionary measures should be proportional to the potential severity of the risk being addressed and to society’s chosen level of protection.
- 3) Precautionary measures should be non-discriminatory and consistent with measures taken in similar circumstances.
- 4) Precautionary measures should be cost-effective, with the goal of generating (i) an overall net

<sup>1</sup> (Nunavut Planning Commission (NPC), 2018-07-16. NPC Public Registry File # 16-138E)

<sup>2</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

benefit for society at least cost, and (ii) efficiency in the choice of measures.

- 5) Where more than one option reasonably meets the above characteristics, then the least trade-restrictive measure should be applied.

“Government of Canada departments refer to this Privy Council Office framework. For example, Fisheries and Oceans Canada’s (DFO) ‘A Fishery Decision-Making Framework Incorporating the Precautionary Approach’ refers to this framework, as well as to domestic and international commitments that Canada has made, in describing how it implements the precautionary approach into its decision-making framework for fisheries. Please see: <http://www.dfo-mpo.gc.ca/reports-rapports/regs/sff-cpd/precaution-back-fiche-eng.htm>. It says: ‘In general, the precautionary approach in fisheries management is about being cautious when scientific knowledge is uncertain, and not using the absence of adequate scientific information as a reason to postpone action or failure to take action to avoid serious harm to fish stocks or their ecosystem. This approach is widely accepted as an essential part of sustainable fisheries management.’

“Traditional knowledge, IQ, and scientific knowledge can complement one another. See for example, the Canadian Science Advisory Secretariat (CSAS) Research Document 2012/0001 ‘A synthesis of narwhal (*Monodon Monoceros*) scientific advice and Inuit knowledge collected during Nunavut community consultations (May 25-31, 2011)’ [’] (at this link: <http://waves-vagues.dfo-mpo.gc.ca/Library/345414.pdf> ), which combines scientific advice related to narwhals and the Inuit knowledge collected during consultations in six Nunavut communities in 2011. In general, the scientific advice and the Inuit knowledge shared at the consultations complemented each other, but there were also some areas where the two types of information diverged.

“Please see our response to question 75 below for further information on the precautionary principle.

**“75. ... Under what circumstances would the signatories say this application of the precautionary principle is appropriate?”**

“As stated on page four of the Government of Canada’s 2017 submission on the 2016 Draft Nunavut Land Use Plan, we believe that a clear description of what the Commission has heard, options under consideration, and a discussion of the rationale for the recommended option would enhance the planning process. While the Government of Canada agrees that some issues do not have enough evidence to

definitively support one option over another, the Commission should still consider the evidence that is available and the views of interested parties prior to making recommendations.

“In other words, it may be appropriate to take precautions, but the Commission should provide rationale for why these actions are necessary and identify what the potential outcomes of these actions would be and why one option is preferable to another. We suggest that the Commission be explicit as to what the residual uncertainty is after considering the evidence on the record, then indicate what degree of caution is needed/warranted in the Commission’s recommendation on any given subject. Since the precautionary principle inherently applies to decisions made with imperfect information, our main recommendation is that the degree of uncertainty be transparent, so recommendations can be seen in proper context. Per the Priority Expectations for a First Generation Nunavut Land Use Plan shared with the Commission in March 2013, the Government of Canada expects that the Plan will be based on a transparent process that makes decisions on competing land uses based on a consideration of facts and values.”

In 2018, in response to both of the NPC’s questions 74 and 75 above, the GN<sup>1</sup> wrote:

“Based on our review of the case law regarding the precautionary principle, the GN states that this principle likely does not apply to the Commission’s land use planning decision-making. Should the Commission choose to apply the precautionary principle, as that principle is understood at law and as enunciated in *114957 Canada Ltée (Spraytech, Société d’arrosage) v. Hudson (Town)*, the Commission should ensure that decisions based on the precautionary principle are clearly set out. The Commission should ensure that the Nunavut Agreement/NuPPAA drafters had some intention for the precautionary principle to apply.”

The NPC’s<sup>2</sup> question number 76 read in part: “Can participants suggest mechanisms which would address the need for clarity and certainty when it comes to the periodic review?” In response, the GoC<sup>3</sup> explained:

“Section 66 of the *Nunavut Planning and Project Assessment Act* (NuPPAA) provides that the Commission may conduct a periodic review of a land use plan. A periodic review should evaluate whether the plan continues to serve its purposes and requirements set out by the Nunavut Agreement and NuPPAA, as well as to identify whether there are gaps to fulfill these purposes and

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2018-07-16. NPC Public Registry File # 16-138E)

<sup>3</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

requirements. Conducting periodic reviews of an approved land use plan is also a common best practice of land use planning.

"In order to facilitate effective evaluation, careful consideration should be given in setting up well-defined goals with supporting, measurable objectives in a land use plan. The periodic review could begin with evaluating whether the implementation of the plan is contributing to meeting those objectives. Frequency is another aspect for period reviews. Sufficient interval in between each review should be given for implementation of a land use plan in order to gather enough data to evaluate the plan.

"Good practice and successful examples of effective mechanisms for period reviews of a land use plan are in place in many other jurisdictions. We recommend that the Commission look to other jurisdictions to learn from their success and lessons about setting up an appropriate and effective mechanism for periodic review."

The GN<sup>1</sup> answered question 76 as follows:

"NPC notes the relevance of their 5-year periodic review of the 2016 DNLUP as a means of achieving its 'incremental planning' approach. However, more clarity is needed in emphasizing the intended long-term flexibility of land use designations. Further scoping of DNLUP minor variance, plan amendment, and ministerial exemption avenues would contribute to the DNLUP flexible implementation and periodic review. A clear amendment process laid out by NPC would be one step towards certainty in approving this first generation land use plan."

The NPC<sup>2</sup> also asked in question 77: "Can participants recommend specific research topics and themes that should be addressed to fill important gaps in knowledge?" The GoC<sup>3</sup> replied:

"The Government of Canada has no specific recommendations for additional research topics and themes that should be addressed to fill important gaps in knowledge. As new information becomes available, the priority of research themes may change. For the Government of Canada, implementation of research priorities is also subject to appropriations, priorities and budgetary constraints. Keeping the aforementioned considerations in mind, in broad terms, some research areas that might be focused on by the Government of Canada and/or its partners and/or other organizations could include: impacts of climate change to marine habitat; areas required for critical life functioning of marine species; cumulative effects of stressor and risks of various marine

activities to species, habitats, and climate variability (e.g. species sensitivities to underwater noise, vessel grey water, ballast water exchange, heavy fuel oil and ice breaking); and development of baseline information, with assistance from community monitoring, on the status and change of biota in a region and on the occurrence of new biota to an area."

In 2018, the Spence Bay HTA<sup>4</sup> responded to question 77 recommending research on caribou and marine mammals on and around the Boothia Peninsula.

### 6.2.15.1 Policy Options for the Timing of Periodic Plan Reviews

#### 6.2.15.1.1 Option 1: Commitment to Set Time for Periodic Review

A number of participants recommended the NLUP commit the NPC to conduct a full periodic review of the NLUP every five years. No participants specifically supported approving a NLUP with no commitment to a fixed time for a periodic review.

Several participants suggested the NPC use the NGMP to fill in information gaps and to determine if a periodic review is advisable.

#### Considerations

The NPC understands that few, if any, public reviews of land use plans in Northern jurisdictions have been completed within five years.

To date, the NGMP has not yet issued a first report on the socioeconomic and ecosystemic environment of Nunavut, and it is not clear when its reports will be ready for consideration by the NPC for the purpose of a periodic review.

A significant amount of time and resources are required to undertake land use planning at the territorial level.

The NPC believes that it would be reasonable to initiate a periodic review within 7 years of the approval of the NLUP, with the intention of completing the periodic

<sup>1</sup> (Government of Nunavut (GN), 2018-11-26. NPC Public Registry File # 16-175E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2018-07-16. NPC Public Registry File # 16-138E)

<sup>3</sup> (Government of Canada, 2018-11-26. NPC Public Registry File # 16-177E)

<sup>4</sup> (Spence Bay HTA, 2018-11-23. NPC Public Registry File # 16-172E)

review within 3 years of its initiation (and within 10 years of approval of the NLUP).

The Minister would know that from years 7 to 10 following the approval of the NLUP, the NPC would need supplementary funding and staffing resources to complete a periodic review.

#### 6.2.15.1.2 Option 2: Commitment to Assessment of Need for Periodic Review

Although not proposed by any participant, the NPC's Internal Procedure: Periodic Review<sup>1</sup> proposes a regular determination of whether a periodic review of the NLUP is necessary every three years. The NLUP could require the NPC to begin considering whether to undertake a periodic review every three years following the approval of the NLUP, based on these factors in the Internal Procedure:

- (a) the number and nature of applications for project proposals for conformity determination;
- (b) the number and nature of land use plan amendments that were accepted or rejected since the approval of the land use plan;
- (c) the number and nature of minor variances that were granted or refused since the approval of the land use plan;
- (d) the number and nature of project proposals found not to conform with the land use plan since the approval of the land use plan;
- (e) the number and nature of project proposals that have been referred to the NIRB for screening because of concerns regarding cumulative impacts;
- (f) the extent to which the policies, objectives and goals of the land use plan are being achieved through implementation of the land use plan;
- (g) the emergence of new concerns in the NSA;
- (h) the emergence of policy initiatives at the Commission and/or the emergence of relevant policy initiatives from a Planning Partner;
- (i) any feedback and/or recommendations included in the Commission's annual report on the implementation of plans, prepared under the

*Monitoring Land Use Plan Implementation Internal Procedure;*

- (j) the availability of new data on the NSA, including updated statistical information, wildlife data, emerging economic opportunities or trends and the NGMP; and
- (k) the availability of funding dedicated to a periodic review.

If based on a consideration of these factors the NPC determines a periodic review is required, it would then initiate a periodic review.

#### Considerations

It is not recommended that a periodic review be started too soon after the approval of the NLUP to enable the NPC to collect adequate information to determine if the existing provisions of the NLUP are meeting their objectives.

Every three years, the NPC could include in its annual report to the Minister on the implementation of the NLUP under section 14(b) of the NuPPAA a recommendation on whether or not a periodic review is required. This would enable the Minister to know in advance that the NPC would need supplementary funding and staffing resources to complete a periodic review.

Participants generally opposed the approach taken in the 2016 DNLUP that included the consideration of factors to determine if a periodic review was required without committing to a timeframe to complete such a periodic review.

#### 6.2.15.2 NPC Recommendation - Timing of Periodic Plan Reviews

Given that:

- *The NGMP will generate socioeconomic and ecosystemic information on an ongoing basis relevant to the NLUP, but it is not known when the reports will be available*
- *Participants concerned with the effect of proposed prohibitions requested either sunset clauses or periodic reviews on a fixed schedule to ensure*

<sup>1</sup> <https://www.nunavut.ca/proponent-information/internal-procedures>

*prohibitions are not “indefinite” and remain justified following careful consideration on a going forward basis; for the reasons noted above, sunset clauses are not recommended*

- *Although some participants supported a five-year requirement for a periodic review, in the last two decades the NPC engaged in extensive consultations to create the NLUP and requiring a periodic review every five years would lead to a “continuous cycle” of having to start collecting information for the next periodic review immediately after the conclusion of the last one*
- *The NPC believes it would be reasonable to initiate a periodic review within 7 years of the approval of the NLUP, with the intention of completing the periodic review within 3 years of its initiation (and within 10 years of approval of the NLUP)*

Option 1 is recommended:

#### LAND USE PLAN POLICY RECOMMENDATION

### **TIMING OF PERIODIC PLAN REVIEWS**

#### **COMMITMENT TO SET TIME FOR PERIODIC REVIEW**

- The NLUP will require the NPC to commence a periodic review within 7 years of the approval of the NLUP and to complete the periodic review within 3 years (10 years after the approval of the NLUP), and will include a review of the most recent Broad Planning Policies, Objectives and Goals document

#### **6.2.15.1 Summary of Revisions**

#### **KRLUP and NBRLUP**

The KRLUP and the NBRLUP provide that:

“Reviews of land use plans will normally take place every five years, unless circumstances warrant more or less frequent review.”

#### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP stated that the NLUP will be reviewed periodically, and should be reviewed within 5 to 10 years of the date of its approval.

The 2014 DNLUP indicated a periodic review should occur every five years and that it may consist of a combination of formal and informal processes. The 2016 DNLUP stated that the NPC Commissioners will consider

undertaking a full review of the plan every five years minimum, and referenced the NPC’s Plan Amendment Internal Procedure as well as the role of stakeholder input on the timing and direction of plan amendments.

Both the 2014 and 2016 DNLUP provided a list of questions in relation to the NLUP content that could be considered during the review. Both drafts also referenced the annual reports to the Ministers and designated Inuit organizations regarding the implementation of the NLUP and how the NPC will evaluate the results of its annual reports and periodic reviews to determine the timing or need for a comprehensive review and revision of the entire NLUP content.

#### **2021 DNLUP**

The 2021 DNLUP states that the NPC will commence a review of the NLUP within 7 years of the Plan’s approval and will complete the review within 3 years thereafter (i.e., within a maximum of 10 years after the NLUP is approved). Further, a similar review will be conducted every 7 years after the completion of the prior review.

## **6.3 NLUP Implementation by Ministers, Government Departments and Agencies, Municipalities and Regulatory Authorities**

Under section 68 of the NuPPAA, federal and territorial Ministers, departments and agencies, and each municipality in Nunavut must implement the approved NLUP and carry out their activities in conformity with the NLUP.

Regulatory authorities, meaning Ministers, government departments and agencies, municipalities as well as other public bodies responsible for issuing a licence, permit or other authorization required to carry out a project must ensure their licences, permits and



authorizations implement applicable requirements of the NLUP.<sup>1</sup>

In cases where a project may be otherwise exempt from prohibitions contained in the NLUP, regulatory authorities are required to include applicable terms and conditions from the NLUP at the licencing, permitting and authorization stage to the extent of their authority to do so.

In the case of municipalities, municipal plans must also be developed in accordance with Article 11 of the NA and in cooperation with the NPC to ensure compatibility between municipal plans and the NLUP.

In 2015, the GN<sup>2</sup> wrote on the 2014 DNLUP:

#### **“SUMMARY OF NPC’S CONCLUSIONS**

“The DNLUP explains that land use designations are tailored to manage land use through the application of one or more additional concepts. ‘Direction to regulatory authorities’ is one concept and is initially described in the DNLUP as:

“**“Direction to Regulatory Authorities:** identify issues that regulatory authorities, where appropriate, need to address during the regulatory review of Project Proposals,’ (DNLUP, p. 20).

“As further described in the DNLUP:

“Direction to regulatory authorities, ‘identify issues that regulatory authorities, where appropriate, need to address during regulatory review of Project Proposals’.

“Further, ‘Priorities and Values’ identify priorities and values of residents that need to be considered in the design, review and conduct of an activity. Priorities and Values can apply to all Land Use Designations’ (DNLUP, p. 45).

“Direction to Regulatory Authorities: ‘may identify priorities and values that NIRB, NWB and other regulatory authorities, where appropriate, need to mitigate impacts,’ (DNLUP, p. 46).

“As seen in Table 1, throughout ‘Directions to Regulatory Authorities’ are provided for various land use designations:

“‘Regulatory Authorities, where appropriate, need to mitigate impacts on [issue X, for example ‘on calving and post-calving areas’ (p. 62)].’

#### **“REVIEWER’S COMMENTS AND SUPPORTING RATIONALE**

“The NPC has no law making power and cannot create or place legal obligations on regulatory authorities.

“It is not the responsibility of regulators to mitigate impacts. Rather, **project proponents** create impacts and they have the responsibility to avoid, minimize, or otherwise mitigate those impacts.

“As per the established regulatory review process, the proponent will develop proposed mitigation strategies, and regulatory authorities, with the help of stakeholders and technical expertise, will determine whether the proposed measures are adequate.

#### **“REVIEWER’S RECOMMENDATIONS**

“The text related to ‘Direction to Regulatory Authorities’ on p. 45 – 46 and provided in various designations in Table 1 should be clarified to reflect that regulators must consider the need for proponents to mitigate impacts as identified in a specific land use designation/area as part of the review process”.

In 2016, the GoC<sup>3</sup> recommended the phrase “direction to regulatory authority” in the 2014 DNLUP be changed to “information for decision makers”:

“... Option 2 proposed by the Commission is: ‘Consider removing the Term related to cumulative impacts and replace the Special Management Areas with a Mixed Use designation that would provide Direction to Regulatory Authorities’. The modification to this option that is recommended by the Government of Canada is that ‘direction to Regulatory Authorities’ be replaced by ‘information for decision-makers’. \*

...

“Please note the Government of Canada’s previous recommendation that the items presently presented in the draft land use plan as ‘direction to regulatory authorities’ should be recast as ‘information for decision-makers’. This item is addressed in section 2.19 below.

...

#### **“2.19 Direction to Regulatory Authorities**

##### **“Issue and Discussion**

“The issue identified in the Refinements document is whether Direction to Regulatory Authorities should be refined to clarify the intent.

<sup>1</sup> See, for example: (Ecojustice, 2016-08-29. NPC Public Registry File # 16-016E)

<sup>2</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

<sup>3</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

“Where there is sufficient and specific information to justify either prohibitions or terms and conditions attaching to permitted uses, the Commission should develop appropriate restrictions, including prohibitions on activities and/or conditions for conformity of projects, and clearly identify those land use restrictions as such. In areas where there is not enough available information to justify land-use restrictions, it may still be useful for the plan to signal specific information, considerations or concerns. For those situations, Canada recommends changing the wording from ‘Direction to Regulatory Authorities’ to ‘Information for Decision-makers’. This should be done in a manner that respects the independence of other decision-makers, without unduly treading on the legitimate jurisdiction of the NIRB, the NWB or other regulatory authorities, or assuming that they will not fulfil their respective mandates.

#### “Preferred Option

“Option 2: Consider changing the wording from ‘Direction to Regulatory Authorities’ to ‘Information for Decision-makers’. For example, ‘The value of (*identified issue*) should be given particular consideration in the screening and review of project proposals within this area.’”

In 2017, NTI and the RIAs<sup>1</sup> recommended that the 2016 DNLUP Table 1 be revised to clarify the responsibility of regulatory authorities to implement the NLUP’s terms and conditions, and for proponents to follow those requirements:

#### **“3.6.1.1 Responsibility to implement Conditions in Table 1**

“The DNLUP 2016 should have more explicit language that is consistent with NUPPAA regarding the parties that are responsible for implementing conditions presented in Table 1. In some cases, it is not clear which parties are responsible for implementing conditions. For example, proposed designation #41 has a condition that states:

*No vessel may approach within five (5) km seaward of a walrus haul-out, at any time during the year. Any project in Nunavut that involves shipping that would violate these conditions is prohibited.*

“The condition appears to be directed at proponents under subsection 74 (f) of NUPPAA. It is not explicit in the wording of the condition that Regulatory Authorities must implement the condition by virtue of subsection 69(1) of NUPPAA. There should be a notation within Table 1 when conditions are directed to proponents that the condition is also applicable to Regulatory Authorities. We recognize that there is a reference at section 1.7.5.4 at p. 23 of the DNLUP 2016 that states that Regulatory Authorities

implement ‘relevant Conditions through the issuance of permits, licences, and authorizations...’. However, this general reference is not repeated in Table 1, which refers to the implementation responsibility of Regulatory Authorities in connection with many, but not all conditions. This creates uncertainty regarding implementation of conditions in Table 1. **NTI and the RIAs recommend that wording be added to Table 1 stating that Regulatory Authorities are required to implement general conditions such as the one proposed for designation #41.**

“Most designations in Table 1 have conditions stating that Regulatory Authorities ‘must incorporate’ a specific requirement ‘during the issuance of permits, licences, and authorizations’. It is not explicit in the wording of the conditions that proponents also are required to abide by these conditions independently of the action of Regulatory Authorities. Sections 1.7.5.1 and 1.7.5.2 at p. 22 of the DNLUP 2016 state clearly that subsection 74(f) of NUPPAA, requiring proponents to comply directly with identified plan requirements, is intended to apply to all applicable plan restrictions: ‘It is prohibited to contravene any applicable restrictions in...under 74(f) of the NUPPAA’. Accordingly, the wording in Table 1 should make clear that proponents must also comply with the conditions directed at Regulatory Authorities. **NTI and the RIAs recommend that wording be added to Table 1 that makes it explicit that proponents must abide by conditions directed to Regulatory Authorities.**

...

#### **“3.6.1.3 Implementation of Prohibited Uses**

“It is not explicit in the DNLUP 2016 that Regulatory Authorities have the obligation to implement prohibited uses, as well as conditions. **NTI and the RIAs recommend that section 1.7.5.1 include the statement that Regulatory Authorities are required to not issue permits, licences, and other authorizations that contravene prohibited uses, and to incorporate the requirement not to engage in a prohibited use in their authorizations where the prohibited use otherwise would be authorized.**”

In 2017, as noted above, the GoC’s<sup>2</sup> supplementary submission recommended “careful drafting ... to ensure that there is a sharp distinction between prohibitions and terms and conditions” because of the possibility of projects to be exempt from prohibitions contained in LU areas under section 69 of the NuPPAA. For reference purpose only, and subject to any amendments, the NuPPAA provides the following references to the implementation of the NLUP at section 69:

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>2</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-066E)

**“69 (1)** Each regulatory authority must, to the extent of its authority to do so, ensure that any licence, permit or other authorization that it issues implements any applicable requirements of any applicable land use plan, including those identified under subsection 48(4).

**“(2)** If a minor variance or a ministerial exemption has been granted in respect of a project under paragraph 81(2)(a) or 82(2)(a), as the case may be, subsection (1) does not apply in respect of the requirements for that project in respect of which the variance or exemption was granted.

**“(3)** Subsection (1) does not apply in relation to land uses that,

(a) in the case of a project referred to in subsection 207(1), are prohibited by a land use plan approved after the day on which the project proposal was submitted in accordance with section 76 or by amendments made to a land use plan after that day;

(b) in the case of a project referred to in subsection 207(2) or paragraph 208(1)(a), are prohibited by a land use plan approved after the day on which the carrying out of the project was authorized under Part 3 or by amendments made to a land use plan after that day;

(c) in the case of the rebuilding of a work referred to in paragraph 208(1)(b), are prohibited by a land use plan approved after the day on which the carrying out of the project to which the work relates was authorized under Part 3 or by amendments made to a land use plan after that day;

(d) in the case of a project referred to in subsection 208(6) relating to a project that has been stopped or shut down for five years or more, are prohibited by a land use plan approved after the day on which the carrying out of the original project was authorized under Part 3 or by amendments made to a land use plan after that day; or

(e) in the case of a project referred to in subsection 208(6) relating to the rebuilding of a work that has been closed for five years or more, are prohibited by a land use plan approved after the day on which the carrying out of the original project to which the work relates was authorized under Part 3 or by amendments made to a land use plan after that day.

**“(4)** For greater certainty, subsection (1) applies, in the case of a project described in any of paragraphs (3)(a) to (e), in relation to terms and conditions in respect of land uses that are set out in a land use plan approved after the day set out in the relevant paragraph or that are set out in amendments made to a land use plan after that day.

**“(5)** For greater certainty, a regulatory authority may impose, to the extent of its authority to do so, requirements that are in addition to, or more stringent than, those referred to in subsection (1).

**“(6)** A regulatory authority may consult the Commission with a view to determining the most effective means of complying with its obligation under subsection (1) and may, for that purpose, send a draft licence, permit or other authorization to the Commission in order to obtain its comments and recommendations.”

In 2017, the GN<sup>1</sup> provided a specific recommendation that the NLUP direct proponents to the Heritage Division of the Department of Culture and Heritage to obtain terms and conditions that are tailored to their land use activity by adding a section in the NLUP dedicated to Archaeological and Palaeontological Sites after section 3.4.2 of the 2016 DNLUP that reads:

*“The Nunavut Government, Department of Culture and Heritage is the Regulatory Authority which oversees the protection and management of heritage resources in Nunavut, in partnership with land claim authorities, regulatory agencies, and the federal government. Regardless of any additional restrictions included in this Plan, it is illegal to alter or disturb any site of archaeological, ethnographical or historical importance, interest or significance within the Nunavut Settlement unless permission is first granted through all the territory’s regulatory agencies via permitting processes. Nunavut Archaeological and Palaeontology Sites Regulations Permits may be required for development activities, research and touristic site visitation. Proponents with Territorial Land Use Regulations Land Use Permits must also respect Archaeological and Palaeontological Resources Terms and Conditions imposed by the Department of Culture and Heritage. These terms and conditions are dependent on and commensurate with the Proponent’s proposed activity, and may include the need for a professional archaeologist/palaeontologist to perform an overview assessment and field survey before proceeding with any activity involving ground disturbance such as trenching, stripping, drilling, blasting, rock bulk sampling, runways, camp establishments of a certain size, geotechnical studies or any other extractive or land disturbance activities.”*

### Considerations

The NPC notes that section 69(5) of the NuPPAA says that regulatory authorities may impose requirements in licences, permits or other authorizations “that are in addition to, or more stringent than” any terms and

<sup>1</sup> (Government of Nunavut (GN), 2017-01-13. NPC Public Registry File # 16-062E)

conditions the NLUP may require be imposed. It is also not clear from the GN's submission whether it is intended that proponents would be directed to consult the Department of Culture and Heritage in order to be determined to conform to the NLUP. The NPC must determine whether a project conforms based on the NLUP as it is written on the day the project is submitted.

### 6.3.1 Policy Options for NLUP Implementation by Ministers, Government Departments and Agencies, Municipalities and Regulatory Authorities

#### 6.3.1.1 Option 1: Detailed Implementation Guidance for Ministers, Government, Municipalities and Regulatory Authorities

The NLUP could give detailed guidance to Ministers, government, municipalities and regulatory authorities on plan implementation. It has also been suggested by some submissions that regulatory authorities require express direction in the NLUP on mitigating impacts on projects that are allowed to proceed.

In 2017, as noted above, NTI and the RIAs<sup>1</sup> recommended using notations within the NLUP “when conditions are directed to proponents that the condition is also applicable to Regulatory Authorities.” They also suggested that the NLUP expressly identify which general requirements must be implemented by regulatory authorities and that the NLUP say that proponents must “abide by conditions directed to Regulatory Authorities.”

In 2017, the WWF<sup>2</sup> noted that the 2014 DNLUP provided “very little direction to regulatory authorities to mitigate disturbance on denning polar bears by development projects.”

The NLUP could take the approach used in the NBRLUP and KRLUP to impose an obligation on Ministers, municipalities and regulatory authorities to develop their

own detailed implementation plans for review and approval by the NPC.

#### Considerations

Recognizing that the GoC and GN have both expressed concern at prescriptive requirements in the NLUP placing additional obligations on them, this option would be unlikely to receive support.

The NPC is not aware of any detailed implementation plans having been developed by regulatory authorities pursuant to the existing regional land use plans.

#### 6.3.1.2 Option 2: Provide General Guidance to Ministers, Government, Municipalities and Regulatory Authorities to Prepare Implementation Plans

As noted above, some participants raised concerns at the NLUP being overly prescriptive and did not agree that the NLUP could “direct” Ministers, departments, agencies, municipalities and other regulatory authorities to take specific steps to implement the NLUP. As the GN<sup>3</sup> suggested in its submissions on the 2014 DNLUP included above, the NLUP could generally remind regulatory authorities of their obligation to: “consider the need for proponents to mitigate impacts as identified in a specific land use designation/area as part of the review process”.

Apart from establishing requirements and prohibitions under section 74(f) of the NuPPAA, the NLUP could give a general reminder to regulatory authorities to include terms and conditions in licences, permits and other authorizations that are required by the land use designations in the NLUP. For example, a proponent may be subject to a seasonal restriction or setback. Under the NuPPAA, regulatory authorities are required to implement the NLUP and to incorporate those terms and conditions into the licences, permits and other authorizations issued to the project. The general reminder would expressly not add to the requirement already set out in the NuPPAA.

#### Considerations

<sup>1</sup> (Nunavut Tunngavik Incorporated & The Regional Inuit Associations, 2017-01-13. NPC Public Registry File # 16-073E)

<sup>2</sup> (WWF-Canada, 2017-01-13. NPC Public Registry File # 16-065E)

<sup>3</sup> (Government of Nunavut (GN), 2015-06-19. NPC Public Registry File # 14-063E)

As requested by the GoC, the phrase “directions to regulatory authorities” in prior versions of the DNLUP has been changed to provide information to regulatory authorities in the VC maps to consider when making decisions under their respective jurisdictional authorities, that are included in the NLUP. The NPC can specifically note those VCs in NPC’s conformity determinations which are addressed to regulatory authorities.

Although the NuPPAA requires regulatory authorities to apply terms and conditions to licences, permits and other authorizations, the NLUP could generally explain to users that regulatory authorities must incorporate terms and conditions set out in the NLUP in licences, permits and other authorizations issued to proponents who conform to the NLUP, as well as where a project does not conform but is exempt from the applicable prohibitions in the NLUP.

The NuPPAA already expressly requires Ministers, departments and agencies, and municipalities that are not acting as regulatory authorities (i.e., they are not in the process of issuing a licence, permit or other authorization) to generally implement the NLUP and carry out activities in conformity with it. It is not necessary to repeat that requirement in the NLUP.

6.3.2 NPC Recommendation - NLUP Implementation by Ministers, Government Departments and Agencies, Municipalities and Regulatory Authorities

Given that:

- *Under the NuPPAA, Ministers, departments and agencies, and municipalities must implement the NLUP to the extent of their authority to do so and carry out their activities in conformity with it*
- *The NuPPAA requires regulatory authorities to ensure that any licence, permit or other authorization that it issues implements the terms and conditions required by the NLUP*
- *Where projects may be exempt from prohibitions in the NLUP, they remain subject to applicable terms and conditions in the NLUP to be imposed by regulatory authorities*

- *Regulatory authorities may review VCs contained in the NLUP and can impose additional or more stringent terms and conditions than are set out in the NLUP when issuing licences, permits or other authorizations*
- *The signatories to the NLUP did not support any prescriptive requirement that would affect how they choose to implement the NLUP pursuant to their duties under the NuPPAA*
- *Under sections 69(3)(a) to (e) of the NuPPAA, some projects will be exempt from prohibitions contained in LU areas in the NLUP*
- *The NLUP can include terms and conditions to be integrated into licences, permits and other authorizations by regulatory authorities including where a project is exempt from any prohibitions contained in the NLUP*

Option 2 is recommended:

LAND USE PLAN POLICY RECOMMENDATION

NLUP IMPLEMENTATION BY MINISTERS, GOVERNMENT DEPARMENTS AND AGENCIES, MUNICIPALITIES AND OTHER REGULATORY AUTHORITIES

PROVIDE GENERAL GUIDANCE TO MINISTERS, GOVERNMENT, MUNICIPALITIES AND REGULATORY AUTHORITIES TO PREPARE IMPLEMENTATION PLANS

- The NLUP will include general guidance on implementation and refer users to the obligations of Ministers, departments and agencies, municipalities, and regulatory authorities under the NuPPAA to implement the NLUP and include terms and conditions from the NLUP in licences, permits and other authorizations issued to proponents
- The NLUP will provide terms and conditions both for CU and LU land use designations, to be implemented by regulatory authorities including where a project may be exempt from prohibitions in an applicable plan

6.3.3 Summary of Revisions

KRLUP and NBRLUP

Both regional land use plans discuss the responsibilities of governments and designated Inuit organizations for the implementation of the plan and recommend the development of implementation plans following the approval of the regional land use plans. Part of section 5.1 of the NBRLUP reads:

“Plan implementation is largely the responsibility of government departments and Inuit organizations. Preparation of detailed implementation plans will follow approval of the land use plan. Implementation plans should be prepared by DSD, on behalf of all Government of Nunavut departments and agencies, and

“DIAND, on behalf of all federal departments and agencies, QIA and NTI. Implementation plans should include the implications of the plan, clearly defined roles and responsibilities, and cost estimates. This will not only aid in the approval process, but will hasten actual implementation.”

In addition, both plans include series of recommendations and actions to be implemented by regulatory authorities, designated Inuit organizations, municipalities and proponents.

#### **2012, 2014 and 2016 DNLUP**

The 2012 DNLUP provided a series of recommendations to be implemented by regulatory authorities, designated Inuit organizations, municipalities and proponents. In the absence of data, these recommendations were used to identify the values for consideration as part of an integrated regulatory process. It was envisioned that as information was provided that supported sound decision-making by the NPC, the recommendations would evolve into land use designations over time.

The 2014 DNLUP included direction to regulatory authorities. This direction identified issues that regulatory authorities, where appropriate, needed to address during the regulatory review of project proposals.

The 2016 DNLUP included information on VECs and VSECs. This information identified priorities and values to help inform the NPC on cumulative effects-based referrals to the NIRB, and that regulatory authorities, where appropriate, would need to address when implementing the NLUP during the regulatory review of projects/project proposals. The 2016 DNLUP also included blue boxes throughout that included recommendations to users of the DNLUP, including IPGs

and other regulatory authorities, as specifically indicated in each box.

#### **2021 DNLUP**

In its implementation strategy chapter, the 2021 DNLUP provides general information on plan implementation by Ministers, government departments and agencies, municipalities and regulatory authorities.



## Appendix A: Existing Rights

NUNAVUT



*C a n a d a*






**Scale: 1:10,750,000**



Date: July, 2021

Esri, GEBCO, DeLorme, NaturalVue

- Nunavut Communities
-  Border of Nunavut Regions
-  Designated Area
-  Areas outside NPC's jurisdiction (e.g., National Parks)



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Nunavunmi Parnaiyiit  
Nunavut Planning Commission  
Commission d'Aménagement du Nunavut

90°W

50°N

ID	Company Name (Owner)	Project Names
1	Graham Gill (100%)	Amaruk
2	ValOre Metals Corp. (100%)	Angilak
3	Canadian Orebodies Inc. (100%)	Belcher Island Diamond Drilling Program
4	Peregrine Diamonds Ltd. (100%)	Childliak on Baffin Island
5	Peregrine Diamonds Ltd. (100%)	Childliak Nanuq in Kivalliq
6	Churchill Diamond Corporation (100%)	Churchill Diamond
7	North Country Gold Corp. (100%)	Committee Bay
8	Agnico Eagle Mines Limited (100%)	Cone Hill Project
9	Tundra Copper Corp. (100%)	Coppermine
10	Arctic Copper Corp. (100%)	COPPERMINE
11	North Arrow Minerals Inc. (100%)	CSI
12	Alex McPherson/Brian Labadie	Exploratory Drilling for Mineral Deposits
13	Canadian North Resource and Development Corporation	Ferguson Lake
14	Trevor Boyd (100%)	Ferguson Lake Project
15	North Country Gold Corp. (100%)	Gibson MacQuoid Project
16	Agnico Eagle Mines Limited Aura Silver Resources Inc.	Greyhound Project
17	Xstrata Canada Corporation	Hackett River Project
18	Inukshuk Exploration Incorporated	Hood River
19	TMAC Resources Inc. (100%)	Hope Bay and Elu Greenstone Belt Mapping Project
20	John Tugak (100%)	Huckleberry
21	Apex Geoscience Ltd. (100%)	Itchen Lake
22	West Kitikmeot Gold Corp. (100%)	Itchen Lake
23	MMG Resources Inc. (100%)	Izok Corridor
24	Solstice Gold Corp/Kodiak Copper Corp	Kahuna Diamond/Kahuna Property/Kahuna Gold
25	Orano Canada Inc. (100%)	Kiggavik-Sissons
26	NxGold Ltd.	Kuulu Project
27	North Arrow Minerals Inc. (100%)	Luxx Project
28	Anconia Resources Corp. (100%)	Marce Claims Exploration
29	Baffinland Iron Mines Corporation (100%)	Mary River Project
30	5530 Nunavut Inc. (100%)	Meadowbank Precious Metal Project
31	North Arrow Minerals Inc. (100%)	MEL Project
32	Agnico Eagle Mines Limited (100%)	Meliadine Exploration Project
33	Agnico Eagle Mines Limited (100%)	Meliadine Project
34	IsoEnergy Ltd. (100%)	Mountain Lake
35	Benchmark Metals Inc. (100%)	Muskox Diamond Project

36	Exploratus Limited (100%)	Napajut Lake Property
37	William Love (100%)	Noomut Project
38	Agnico Eagle Mines Limited (100%)	Parker-Peter-Fox Lakes
39	Agnico Eagle Mines Limited (100%)	Parker Lake Exploration Project
40	Agnico Eagle Mines Limited (100%)	Peter and Fox Lakes Exploration Project
41	Northquest Ltd. (100%)	Pistol Bay
42	Leeward Capital Corp. (100%)	Pistol Lake
43	Glencore Canada Corporation (100%)	Sabina Hackett River
44	Strongbow Exploration Inc.	Silvertip Project
45	Jeff Stuart (100%)	STEIN
46	Aston Bay Holdings Inc. (100%)	Storm Project
47	Bathurst Metals Corp. (100%)	TTMG
48	Corrine Tugak (100%)	Tugak Gold Project
49	Agnico Eagle Mines Limited (100%)	Whale Cove Area Exploration Project
50	Agnico Eagle Mines Limited (100%)	White Hills Project
51	North Arrow Minerals Inc. (100%)	Naujaat Project
52	Teck Mining Worldwide Holdings Ltd. (100%)	Sabina Hackett River Mine

# Appendix B1: Details of Specific Migratory Bird Sites

The majority of this section is reprinted (and re-organized) from the Environment Canada Book of Migratory Birds<sup>1</sup>.

## B1.1 Red-Listed Key Migratory Bird Habitat Sites With Recommended Prohibitions

### KITIKMEOT REGION

#### Bathurst / Elu Inlet - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Hosts more than 10% of a national population of one or more migratory bird species (Common Eider, Thayer's Gull)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' than the population can tolerate (Common Eider)
- **Feature bird group:**
  - Seaduck, Seabird
- **Site details:**
  - Species at risk: Polar Bear (special concern), Peregrine Falcon (special concern)
  - Non-binding designations: Important Bird Area; International Biological Programme Site
- **Current human activities at site:**
  - Shipping; mining lease; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; mine construction and mineral production; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activity:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills

and operational releases originating from ships; potential from dredging of channel to support large ship access; increase in air traffic disturbance related to mining activities; human disturbance from mining activities

- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution; potential for direct or indirect impact on seaduck food sources; potential for bird-aircraft collisions originating from air traffic at low altitude or from flying too close to concentration of birds; 2ii. Disruption of feeding and nesting birds resulting in loss of eggs and/or young
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- The site contains Inuit Owned Lands;
- The site is in an Arctic char area of abundance and has mineral leases;
- The site has Use and Occupancy Mapping activity and possible caribou sea ice crossings; and
- Priorities and values of residents include caribou, birds, fish, marine mammals, shellfish, land mammals, drinking water, cultural values, impacts, and existing economic development.
- A portion of the area falls within an identified high potential mineral area.
- Some residents of Kugluktuk<sup>2</sup> indicated in 2019 that Elu Inlet should be extended southwards to cover the entire Bathurst Inlet.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to

<sup>1</sup> (Government of Canada-EC, 2014-04-30. NPC Public Registry File # 12-191E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-258E)

uses that are incompatible with the protection of environmental values should be restricted.

### Kagloryuak River - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contain habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Red Knot)
- **Feature bird group:**
  - Shorebird
- **Site details:**
  - Species at risk: Red Knot spp. *rufa* (Endangered), Polar Bear (Special Concern), Short-eared Owl (Special Concern)
  - Non-binding designations: NWT portion of key habitat site zoned as a community conservation zone
- **Current human activities at site:**
  - None (NU portion of site)
- **Anticipated human activities at site:**
  - None (NU portion of site)
- **Threats to birds from current/future activities at site:**
  - None (NU portion of site)
- **Potential consequences for bird populations:**
  - None (NU portion of site)
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Terrestrial Setbacks (All Migratory Birds)

Additional considerations:

- Priorities and values of residents include caribou; and
- The site has mineral claims and mineral leases.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Lambert Channel - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Hosts more than 10% of a national population of one or more migratory bird species (Pacific Common Eider)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Pacific Common Eider)
- **Feature bird group:**
  - Seaduck
- **Site details:**
  - Critical polynya habitat and critical spring staging, moulting, breeding area for Pacific Common Eider
  - Species at risk: Short-eared Owl (Special Concern)
  - Non-binding designations: None
- **Current human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; contaminated site remediation; marine cable installation; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping; air traffic related to contaminated site remediation - associated activities; human disturbance related to contaminated site remediation - associated activities; alteration of seabed due to dredging
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for bird-aircraft collisions originating from air traffic at low altitude or too close from concentration of birds; disruption of feeding and nesting birds resulting in loss of eggs and/or young; loss of benthic prey for seaducks/waterfowl and seabirds
- **Recommended setbacks:**

- EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks) EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks)

#### Additional considerations:

- The site has Use and Occupancy Mapping activity and is in an *anadromous coregonids* area of abundance;
- Priorities and values of residents include caribou, birds, fish, river or lake of interest, land mammals, cultural values, and existing economic development; and
- The site has North Warning System sites and land remediation areas
- Some residents of Kugluktuk<sup>1</sup> indicated in 2019 that Lambert Channel should be extended SW and SE along the coastlines. Another group, however, indicated that Lambert Channel should be extended in the opposite direction to the west and north.

#### Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

#### The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Nordenskiöld Islands - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Common Eider)
  - Hosts more than 10% of a national population of one or more migratory bird species (Common Eider)
- **Feature bird group:**
  - Seaduck

- **Site details:**
  - Species at risk: None
  - Non-binding designations: None
- **Current human activities at site:**
  - Shipping
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; contaminated site remediation
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping; air traffic related to contaminated site remediation - associated activities; human disturbance related to cruise ship tourism; contaminated site remediation - associated activities
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for bird-aircraft collisions originating from air traffic at low altitude or too close from concentration of birds
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks) EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks)

#### Additional considerations:

- Priorities and values of residents include caribou, polar bear, fish, marine mammals, land mammals, cultural values, impacts, contaminated sites, potential economic development, existing economic development, and no shipping.

#### Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

#### The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)



uses that are incompatible with the protection of environmental values should be restricted.

## Rasmussen Lowlands - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contain habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Red Knot)
  - Hosts more than 10% of a national population of one or more migratory bird species (Buff-breasted Sandpiper, Pectoral Sandpiper)
  - Host more than 5% of a national population of one or more species exhibiting population declines as of 2005 (Buff-breasted Sandpiper, Pectoral Sandpiper)
- **Feature bird group:**
  - Shorebird. Also important at site: Seabird (Sabine's Gull); Waterfowl (Tundra Swan, Greater White-fronted Goose)
- **Site details:**
  - Species at risk: Red Knot ssp. *rufa* (Endangered); Peregrine Falcon (Special Concern)
  - Non-binding designations: Important Bird Area; Ramsar Wetland of International Importance
- **Current human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - None
- **Potential consequences for bird populations:**
  - None
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Marine Setbacks (All Migratory Birds\*); EC-CWS Terrestrial Setbacks (All Migratory Birds).
  - \*the more general migratory birds' mitigations are used here because Sabine's Gulls are not cliff-nesting, colonial seabirds

Additional considerations:

- The site contains some Inuit Owned Lands;
- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, birds, fish, marine mammals, land mammals, wildlife,

cultural values, potential economic development, existing economic development, and protection;

- The site has prospecting permits;
- The site has a North Warning System site and a land remediation site; and
- The site is a RAMSAR site, which is an international agreement on important wetland management.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

Three groups of residents of Kugaaruk<sup>1</sup> in 2020 suggested three different areas near or adjacent to the Rasmussen Lowlands that should be provided the same land use designation as the Rasmussen Lowlands.

## QIKIQTAAALUK REGION

### Abbajalik and Ijutuk Islands - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Hosts more than 10% of a national population of one or more migratory bird species (American Dovekie)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Only known Dovekie breeding colony in Nunavut
  - Species at risk: None

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-254E)

- Non-binding designations: None
- **Current human activities at site:**
  - Shipping
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from ships
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

**Additional considerations:**

- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, polar bear, birds, fish, marine mammals, drinking water, cultural values, existing economic development, and protection; and
- The site has a total area of approximately 17 km<sup>2</sup>.

**Option 1 is recommended:**

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

**The following uses are prohibited:**

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

## Baillarge Bay - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**

- Hosts more than 10% of a national population of one or more migratory bird species (Northern Fulmar)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; 3. harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from ships
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants.
- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

**Additional considerations:**

- The site's terrestrial component is partially located in Sirmilik National Park and the site's marine component is completely within the proposed Taillurutiup Imanga/Lancaster Sound National Marine Conservation Area. The NLUP will not apply to Baillarge Bay Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
- The site has Use and Occupancy Mapping activity and shipping;
- Priorities and values of residents include caribou, polar bear, birds, fish, marine mammals, cultural values, impacts, existing economic development, no oil and gas, no shipping, and protection; and
- The site contains a small portion of Inuit Owned Lands.

**Option 1 is recommended:**

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

**The following uses are prohibited:**

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Belcher Islands Polynyas - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Host more than 10% of a national population of one or more migratory bird species (Common Eider ssp. *sedentaria*)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Common Eider ssp. *sedentaria*)
- **Feature bird group:**
  - Seaduck
- **Site details:**
  - Critical breeding islands and critical wintering polynyas
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - Shipping; mineral claim (iron ore); municipality; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; mineral production and mine construction; marine cable installation; municipality; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from ships; increase in air traffic disturbance related to mining activities; human disturbance from mining activities; alteration of seabed due from dredging for marine cable
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution; disruption of feeding and nesting birds resulting in loss of eggs and/or young; potential for bird-aircraft collisions

originating from air traffic at low altitude or too close from concentration of birds; loss of benthic prey for seaducks/waterfowl and seabirds

- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks),

Additional considerations:

- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals, shellfish, fishing river or lake, land mammals, wildlife, drinking water, cultural values, contaminated sites, existing economic development, transportation and infrastructure, and protection;
- Portions of the area have been identified for high mineral potential; and
- The site's terrestrial component is all Inuit Owned Lands.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Buchan Gulf - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Hosts more than 10% of a national population of one or more migratory bird species (Northern Fulmar)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area; International Biological Programme Site

- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds due to increase of traffic; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

#### Additional considerations:

- The site is completely within the proposed Tallurutiup Imanga/Lancaster Sound National Marine Conservation Area. The NLUP will not apply to Buchan Gulf Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
- The site is a turbot area of abundance;
- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include polar bear, birds, marine mammals, drinking water, cultural values, contaminated sites, existing economic development, and protection; and
- The site contains Inuit Owned Lands.

#### Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

#### The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Northern Fulmar and Thick-billed Murre)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Peregrine Falcon (Special Concern), Polar Bear (Special Concern)
  - Non-binding designations: None
- **Current human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds due to increase of traffic; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

#### Additional considerations:

- The site has activity identified by Use and Occupancy Mapping;
- Priorities and values of residents include caribou, walrus, birds, fish, marine mammals, cultural values, impacts, existing economic development, transportation and infrastructure, and protection;
- The site has a North Warning System site and a land remediation site;
- The site has two National Wildlife Areas; and
- The sites terrestrial component is all Inuit Owned Lands.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Cheyne Islands - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ross's Gull)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Ross's Gull (Threatened)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Marine Setbacks (Sea-level Coastal Nesters) (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

Additional considerations:

- Priorities and values of residents include cultural values, and existing economic development;

- The existing planning policy framework;
- The site's three islands are part of the Bathurst Island proposed National Park.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Creswell Bay - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contain habitat likely to be identified as Critical Habitat for a species listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Peary Caribou)
  - Hosts more than 5% of a national population of one or more species exhibiting population decline as of 2005 (Buff-breasted Sandpiper)
- **Feature bird group:**
  - Shorebird
  - Also important at site: Seabirds (e.g. Northern Fulmar, Black-legged Kittiwake), Inland Seaduck (King Eider, Long-tailed Duck)
- **Site details:**
  - Species at risk: Peary Caribou (Endangered), Red Knot spp. *islandica* (Special Concern), Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area, International Biological Programme site
- **Current human activities at site:**
  - Land-based tourism; shipping; marine cable installation; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**



- Land-based tourism; shipping; cruise ship tourism; marine and terrestrial cable installation; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries

- **Threats to birds from current/future activities at site:**

- Increased human disturbance related to tourism; marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping; alteration of seabed and lakebeds, ponds due from dredging for marine, freshwater, terrestrial cable

- **Potential consequences for bird populations:**

- Disruption of feeding and nesting birds resulting in loss of eggs and/or young; higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution; loss of benthic prey for shorebirds, seabirds, and seaducks

- **Recommended setbacks:**

- EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Migratory Birds)

**Additional considerations:**

- The site is an Arctic char area of abundance;
- The site has Use and Occupancy Mapping activity, burial sites and a possible sacred area;
- Priorities and values of residents include caribou, polar bear, marine mammals, land mammals, wildlife, drinking water, cultural values, impacts, existing economic development, no oil and gas, no shipping, and protection; and
- The site's terrestrial component is Inuit Owned Lands.
- GoC<sup>1</sup> recommends the same restrictions for this site as for Rasmussen.

**Option 1 is recommended:**

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

**The following uses are prohibited:**

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

Canadian Wildlife Service (CWS) noted the following:

- **Category:**

- Highly risk intolerant

- **Qualifying Criterion:**

- Hosts more than 5% of a national population of one or more species exhibiting population declines as of 2005 (Red Knot ssp. *islandica*)
- Contains habitat likely to be identified as Critical Habitat for Peary Caribou which is listed as 'endangered' or 'threatened' under the *Species at Risk Act*

- **Feature bird group:**

- Shorebird

- **Site details:**

- Important habitat for Peary Caribou
- Species at risk: Peary Caribou (Endangered), Red Knot spp. *islandica* (special concern)
- Non-binding designations: none

- **Current human activities at site:**

- Shipping; coal exploration license

- **Anticipated human activities at site:**

- Shipping; coal exploration

- **Threats to birds from current/future activity:**

- Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from ships; human disturbance from mineral prospecting/mining activities anticipated; increase in air traffic disturbance related to mineral prospecting/mining activities anticipated.

- **Potential consequences for bird populations:**

- Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution; higher potential for bird-aircraft collisions originating from air traffic at low altitude or from flying too close to concentration of birds; disruption of feeding and nesting birds resulting in loss of eggs and/or young.

- **Recommended setbacks:**

- None

**Additional considerations:**

- The existing planning policy framework;
- The site contains Inuit Owned Lands;
- The site has possible oil and gas potential;
- The site has the potential for coal related activities;

**Option 1 is recommended:**

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)



- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Eastern Devon Island - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Ivory Gull (Endangered)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - None
- **Threats to birds from current /future activities at site:**
  - None
- **Potential consequences for bird populations:**
  - None
- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Ivory Gull); EC-CWS Terrestrial Setbacks (Ivory Gull); EC-CWS Aerial Setbacks (All Seabirds),

Additional considerations:

- Priorities and values of residents include polar bear, and existing economic development; and
- The existing planning policy framework.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;

- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Eastern Jones Sound - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)
  - Hosts more than 10% of a national population of one or more migratory bird species (Thick-billed Murre, Black-legged Kittiwake)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Thick-billed Murre)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Ivory Gull (Endangered), Polar Bear (Special Concern)
  - Non-binding designation: None
- **Current human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; commercial fishing; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; risk for oil spills and operational releases originating from shipping; potential for direct loss of seabirds from fishing bycatch

- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

Additional considerations:

- The existing planning policy framework;
- Portions of the site are in the proposed Lancaster Sound National Marine Conservation Area (NMCA);
- The site is mainly in the proposed Tallurutiup Imanga/Lancaster Sound National Marine Conservation Area and the remainder outside of the Nunavut Settlement Area. The NLUP will not apply to any of the Eastern Jones Sound Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
- The site has adjacent prospecting permits;
- The site has Use and Occupancy Mapping activities;
- Priorities and values of residents include polar bear, birds, fish, marine mammals, wildlife, cultural values, impacts, contaminated sites, existing economic development, no oil and gas, no shipping, and protection; and
- The site is used for shipping.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

## Eastern Lancaster Sound - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Hosts more than 10% of a national population of one or more migratory bird species (Black-legged Kittiwake, Northern Fulmar, Thick-billed Murre)
  - Supports a percentage of a national species population equal to or greater than the percentage

of 'sustainable loss' that the population can tolerate (Thick-billed Murre)

- Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)

- **Feature bird group:**

- Seabird

- **Site details:**

- Important stopover during migration for many migratory bird species
- Important feeding site – floe edge and polynya
- Important area for many species of marine mammals
- Species at risk: Ivory Gull (Endangered), Polar Bear (Special Concern)
- Non-binding designations: Important Bird Area

- **Current human activities at site:**

- Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries

- **Anticipated human activities at site:**

- Shipping; commercial fishing; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries

- **Threats to birds from current/future activities at site:**

- Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from ships; risk of bycatch from commercial fishing activities anticipated

- **Potential consequences for bird populations:**

- Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch

- **Recommended setbacks:**

- EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

Additional considerations:

- Priorities and values of residents include polar bear, walrus, birds, fish, marine mammals, wildlife, cultural values, impacts, existing economic development, no oil and gas, no shipping, and protection; and
- The site is mainly in the proposed Tallurutiup Imanga/Lancaster Sound National Marine Conservation Area and the remainder outside of the Nunavut Settlement Area. The NLUP will not apply to any of the Eastern Lancaster Sound Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
-

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.

Identified area to be included on Map A

The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Fosheim Peninsula - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Hosts more than 5% of a national population of one or more species exhibiting population declines as of 2005 (Ruddy Turnstone, Red Knot)
  - Contains habitat likely to be identified as Critical Habitat for a species listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Peary Caribou)
- **Feature bird group:**
  - Shorebird
- **Site details:**
  - Species at risk: Peary Caribou (Endangered), Red Knot spp. islandica (Special Concern)
  - Non-binding designations: None
- **Current human activities at site:**
  - Coal exploration license; shipping; weather station/military base
- **Anticipated human activities at site:**
  - Coal exploration; shipping; weather station/military base
- **Threats to birds from current/future activities at site:**
  - Human and terrestrial traffic disturbance related to mining-exploration, military, and weather station activities; air traffic disturbance related to mining exploration, military, and weather station activities; marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from ships
- **Potential consequences for bird populations:**
  - Disruption of feeding and nesting birds resulting in loss of eggs and/or young; potential for bird-aircraft

collisions originating from air traffic at low altitude or too close from concentration of birds

- **Recommended setbacks:**

- None

Additional considerations:

- The existing planning policy framework;
- The site contains Inuit Owned Lands;
- The site has potential for coal related activities;
- The site has possible oil and gas potential;
- The site provides suitable habitat high-arctic habitat for Peary caribou and muskox;
- The site includes Canadian Forces Station (CFS) Eureka, and;
- The Nunavut Impact Review Board (the NIRB) previously recommended that coal exploration in the area, as proposed, was not appropriate.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include terms to guide land use.
- May include direction to regulatory authorities.
- May identify priorities and values that need to be considered in the design, review, and conduct of the activity.

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Foxe Basin Islands - LU

CWS noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contain habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Red Knot, Ross's Gull)
  - Hosts more than 10% of a national population of one or more migratory bird species (Dunlin, Red Phalarope, White-rumped Sandpiper, Ruddy Turnstone, Purple Sandpiper, Long-tailed Jaeger, Sabine's Gull, Atlantic Brant)

- Hosts more than 5% of a national population of one or more species exhibiting population decline as of 2005 (Dunlin, Red Phalarope, Ruddy Turnstone)
- **Feature bird group:**
  - Seabird, Shorebird, Waterfowl
- **Site details:**
  - Species at risk: Red Knot spp. *rufa* (Endangered), Ross's Gull (Endangered), Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - Shipping
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

#### Additional considerations:

- Priorities and values of residents include cultural values, and protection.; and
- The site has possible oil and gas potential;

#### Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

#### The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

#### Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Red Knot)
  - Hosts more than 10% of a national population of one or more migratory bird species (Black-bellied Plover, Dunlin, Red Phalarope, Red Knot, Ruddy Turnstone, White-rumped Sandpiper, Lesser Snow Goose)
  - Hosts more than 5% of a national population of one or more species exhibiting population decline as of 2005 (American Golden-Plover, Black-bellied Plover, Dunlin, Red Phalarope, Red Knot, Ruddy Turnstone)
- **Feature bird group:**
  - Shorebird, Waterfowl. Also important at site: Coastal Waterfowl (Atlantic Brant)
- **Site details:**
  - Species at risk: Red Knot spp. *rufa* (Endangered)
  - Non-binding designations: Ramsar Wetland of International Importance; International Biological Programme Site; Important Bird Area
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

#### Additional considerations:

- The site has an Arctic char area of abundance;
- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, birds, fish, marine mammals, river or lake of interest, wildlife, drinking water, cultural values, contaminated sites, existing economic development, and protection;
- The site is adjacent to a Migratory Bird Sanctuaries on both sides; and

- The site has some Inuit Owned Lands.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Grinnell Peninsula - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contain habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Ivory Gull (Endangered)
  - Non-binding designations: None
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - None
- **Threats to birds from current/future activities at site:**
  - None
- **Potential consequences for bird populations:**
  - None
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

Additional considerations:

- Priorities and values of residents include caribou.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Hobhouse Inlet - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Hosts more than 10% of a national population of one or more migratory bird species (Northern Fulmar)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: International Biological Programme Site; Important Bird Area
- **Current human activities at site:**
  - Shipping
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from ships; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch



- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds).

**Additional considerations:**

- Priorities and values of residents include walrus, fish, marine mammals, land mammals, wildlife, cultural values, impacts, no oil and gas, no shipping, and protection; and
- The site is within the proposed Tallurutiup Imanga/Lancaster Sound National Maine Conservation Area (NMCA). The NLUP will not apply to Hobhouse Inlet Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;

**Option 1 is recommended:**

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

**The following uses are prohibited:**

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

## Inglefield Mountains - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Ivory Gull (Endangered)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - None

- **Threats to birds from current/future activities at site:**
  - None
- **Potential consequences for bird populations:**
  - None
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (Ivory Gull)

**Additional considerations:**

- Priorities and values of residents include polar bear and existing economic development;
- The existing planning policy framework;
- The site is comprised of different areas; and
- One of the areas contains Inuit Owned Lands.

**Option 1 is recommended:**

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

**The following uses are prohibited:**

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Direction:** Regulatory Authorities, where appropriate, must incorporate the setbacks in Table 2 for the bird populations identified above during the issuance of permits, licences and authorizations.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

## Markham Bay - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Common Eider)
- **Feature bird group:**
  - Seaduck
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**



- Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- The site has Use and Occupancy Mapping activity, burial sites and a possible sacred site;
- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals, shellfish, land mammals, drinking water, cultural values, contaminated sites, potential economic development, and protection; and
- The site contains some Inuit Owned Lands.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A.

The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

## Nasaruvaalik Island - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contain habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered'

- or 'threatened' under the *Species at Risk Act* (Ross's Gull)
- Hosts more than 10% of a national population of one or more migratory bird species (Ross's Gull)
- **Feature bird group:**
  - Seabird
  - Also important at site: Seaduck (Common eider)
- **Site details:**
  - Species at risk: Ross's Gull (Threatened)
  - Non-binding designations: None
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds) (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (All Seabirds) (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (All Seabirds) (Coastal Waterfowl and Seaducks)

Additional considerations:

- Priorities and values of residents include cultural values, existing economic development, and protection; and
- The existing planning policy framework.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### North Water Polynya - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)
  - Contains species with population >10% of national population (Black-legged Kittiwake, Thick-billed Murre, Ivory Gull)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' (Thick-billed Murre)
- **Feature bird group:**
  - Seabird, Seaducks (Common Eider)
- **Site details:**
  - Species at risk: Ivory Gull (Endangered); Polar Bear (Special Concern)
  - Non-binding designations: None
- **Current human activities at site:**
  - Shipping; cruise ship tourism
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding birds resulting in compromised energetics; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds).

Additional considerations:

- Priorities and values of residents include polar bear, and existing economic development;
- The existing planning policy framework;
- Within the NSA, the site is comprised of two areas and is considered biologically diverse; and
- The site has oil and gas production potential.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Oil and gas exploration and production; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

### Northwestern Brodeur Peninsula - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)
  - Hosts more than 10% of a national population of a migratory bird species (Ivory Gull)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Ivory Gull (Endangered)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
- **Anticipated human activities at site:**
- **Threats to birds from current/future activities at site:**
  - Air traffic disturbance related to mining exploration activities
- **Potential consequences for bird populations:**
  - Potential for bird-aircraft collisions originating from air traffic at low altitude or from flying too close to concentration of birds; disruption of feeding and nesting birds resulting in loss of eggs and/or young
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (Ivory Gull)

Additional considerations:

- Priorities and values of residents include marine mammals, wildlife, and potential economic development;

- The site is comprised of three areas that are each approximately 1 km<sup>2</sup> in size; and
- The site has active mineral claims.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

## Sleeper Islands - LU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Common Eider)
  - Hosts more than 10% of a national population of one or more migratory bird species (Common Eider)
- **Feature bird group:**
  - Seaduck
- **Site details:**
  - Virtually all of Hudson Bay subspecies of Common Eider overwinter and breed here, and in the Belcher Island polynyas
  - Species at risk: None
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - Shipping
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**

- Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from ships

- **Potential consequences for bird populations:**

- Higher potential for bird-ship collisions originating from all shipping activities direct loss of birds due to contaminants and pollution

- **Recommended setbacks:**

- EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- The site contains mostly Inuit Owned Lands;
- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include polar bear, walrus, birds, fish, marine mammals, land mammals, drinking water, cultural values, existing economic development, and protection; and
- The site is partly in an area of equal use and occupancy.

Option 1 is recommended:

- Restricts access to uses that are incompatible with environmental and cultural values.
- May include conditions to guide land use.
- Identified area to be included on Map A

The following uses are prohibited:

- Mineral exploration and production;
- Oil and gas exploration and production;
- Quarries;
- Hydro-Electrical and Related Infrastructure;
- All weather roads; and
- Related research except Non-exploitive Scientific Research.

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 1 was recommended given that the area is considered to be highly risk intolerant and that access to uses that are incompatible with the protection of environmental values should be restricted.

## B1.2 Red-Listed Key Migratory Bird Habitat Sites Without Recommended Prohibitions or Conditions

### KIVALLIQ REGION

#### Frozen Strait - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying criterion:**
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Common Eider)
- **Feature bird group:**
  - Seaduck
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: none
- **Current human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from ships
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution
- **Recommended restrictions on activities:**
  - None
  - Originally recommended for protection, changed to VEC recommendation by GoC<sup>1</sup> in 2017.
- **Recommended setbacks:**
  - None

Additional considerations:

- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, polar bear, walrus, bird, fish, marine mammals,

shellfish, fishing river or lakes, land mammals, wildlife, drinking water, cultural values, contaminated sites, potential economic development, existing economic development, no oil and gas, and protection; and

- The site contains Limited Inuit Owned Land.
- One breakout group in Naujaat<sup>2</sup> in 2020 requested to double the size of this area. This recommendation was not suggested by the other breakout group or by any other party.

Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

### QIKIQTAAALUK REGION

#### Sabine Peninsula - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Contains habitat likely to be identified as Critical Habitat for a species listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Peary Caribou)
  - Also expected to qualify as 'site containing 5 to 10% of one or more species listed as declining as of 2005', pending field studies in summer 2014.
- **Feature bird group:**
  - Shorebird (e.g. Purple Sandpiper), Waterfowl (e.g. high arctic Brant)
- **Site details:**
  - High quality Arctic wetland – an oasis among dry uplands
  - Species at risk: Peary Caribou (Endangered), Red Knot spp. *islandica* (Special Concern), Buff-breasted Sandpiper (Special Concern)
  - Non-binding designations: None
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**

<sup>1</sup> (Government of Canada, 2017-01-13. NPC Public Registry File # 16-061E)

<sup>2</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-275E)

- Shipping; oil and gas exploration and production
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping; risk of oil spills and operational releases originating from oil and gas exploration
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities direct loss of birds due to contaminants and pollution; increased risk of oil blow outs and/or spills, causing acute oil pollution
- **Recommended restrictions on activities:**
  - None
- **Recommended setbacks:**
  - None

#### Additional considerations:

- The existing planning policy framework;
- The site has the potential for oil and gas related activities and other future economic development.
- It is noted that this location is also habitat for Peary Caribou. The GoC<sup>1</sup> recommends this location be designated LU due to this fact. However, for clarity, NPC will typically create a caribou overlay polygon.

#### Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

Western Cumberland Sound  
Archipelago - VEC

#### Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Host more than 10% of a national population of one or more migratory bird species (Iceland Gull)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Common Eider)

- **Feature bird group:**
  - Seabird, Seaduck
- **Site details:**
  - Largest breeding concentration of Iceland Gulls in Canada
  - Species at risk: Polar Bear (Special Concern), Beluga Whale (Endangered, schedule 2, SE Baffin Island/Cumberland Sound population)
  - Non-binding designations: None
- **Current human activities at site:**
  - Shipping; mineral claim; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; mineral exploration; commercial fishing; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping; risk of bycatch from commercial fishing activities anticipated; air traffic disturbance related to mineral exploration; human and terrestrial traffic disturbance related to mineral exploration; risk of bycatch from commercial fishing activities anticipated.
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch; potential for bird-aircraft collisions originating from air traffic at low altitude or from flying too close to concentration of birds
- **Recommended restrictions on activities:**
  - GoC<sup>2</sup>, in 2016, removed the recommendation to restrict activities in this area. NTI<sup>3</sup> supported in 2016 this area not being specifically protected in the NLUP.
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

#### Additional considerations:

- The site contains Inuit Owned Lands;
- The site has Use and Occupancy Mapping activity, burial sites and possible sacred sites;
- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals,

<sup>1</sup> (Government of Canada, 2015-06-19. NPC Public Registry File # 14-068E)

<sup>2</sup> (Government of Canada, 2016-05-30. NPC Public Registry File # 14-192E)

<sup>3</sup> (Nunavut Tunngavik Inc. & The Regional Inuit Associations, 2016-05-16. NPC Public Registry File # 14-190E)



shellfish, river or lake of interest, wildlife, drinking water, cultural values, impacts, contaminated sites, potential economic development, existing economic development, no shipping, and protection;

- The site has mineral claims and prospecting permits;
- Importance of Clearwater Fiord to the residents of Pangnirtung;
- The site has both an Arctic char and shrimp area of abundance.

Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

## B1.3 Yellow-Listed Key Migratory Bird Habitat Sites With Recommended Conditions

### KIVALLIQ REGION

#### Middle Back River - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying criterion:**
  - Contains 5%-10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Canada Goose, subspecies *maximus*)
- **Feature bird group:**
  - Waterfowl
- **Site details:**
  - Species at risk: Wolverine (Special Concern), Grizzly Bear (Special Concern)
  - Non-binding designations: None
- **Current human activities at site:**
  - harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Mineral exploration; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries

- **Threats to birds from current/future activities at site:**
  - Increased auditory and visual disturbance related to a higher volume of air and ground traffic to support mineral exploration; increased physical, auditory, visual disturbance related to mining exploration activity
- **Potential consequences for bird populations:**
  - Disturbance-related disruption of bird feeding, incubation, brood-rearing, resulting in loss of eggs and/or young
- **Recommended restrictions on activities:**
  - None
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Terrestrial Setbacks (All Migratory Birds)

Additional considerations:

- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, land mammals, wildlife, cultural values, contaminated sites, potential economic development, and protection;
- The site contains some Inuit Owned Land;
- The site has mineral claims; and
- The site is adjacent to the Thelon Wildlife Sanctuary.

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### QIKIQTAAALUK REGION

#### Cape Graham Moore (outside of Bylot Island Migratory Bird Sanctuary - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 5% to 10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Black-legged Kittiwake, Thick-billed Murre)
- **Feature bird group:**



- Seabird
- **Site details:**
  - Species at risk: Polar bear (Special Concern); Peregrine Falcon (Special Concern); Red Knot ssp. *islandica* (Special Concern)
  - Non-binding designations: Important Bird Area
- **Current human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activity:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping; risk of bycatch from potential commercial fishing activities
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setback (All Seabirds)

Additional considerations:

- Priorities and values of residents include polar bear, marine mammals, cultural values, existing economic development, no shipping, and protection;
- The site's marine component is in the proposed Lancaster Sound National Marine Conservation Area and in a Migratory Bird Sanctuaries;
- The site is mainly within the proposed Tallurutiup Imanga/Lancaster Sound National Marine Conservation Area (NMCA) and the remainder outside of the Nunavut Settlement Area. The NLUP will not apply to any of the Eastern Jones Sound Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
- The site contains Inuit Owned Lands, which is on the Migratory Bird Sanctuaries portion and considered below;
- The site has possible oil and gas potential;
- Commercial fishery potential; and
- A small portion of the site is left when the proposed National Marine Conservation Area and Migratory Bird Sanctuaries are removed. Remaining area is in Outer Land Fast Ice Zone.

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### Cape Hay (outside of Bylot Island Migratory Bird Sanctuary) - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 5%-10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Black-legged Kittiwake, Thick-billed Murre)
- **Feature bird group:**
  - Seabirds
- **Site details:**
  - Species at risk: Polar Bear (Special Concern), Peregrine Falcon (Special Concern), Red Knot ssp. *islandica* (Special Concern)
  - Non-binding Designations: Important Bird Area
- **Current human activities at site:**
  - Shipping; cruise ship tourism
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping; risk of bycatch from potential commercial fishing activities
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (All Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds).

Additional considerations:

- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals, wildlife, cultural values, impacts, existing economic development, no oil and gas, no shipping, and protection;
- Most of the site is within the proposed Tallurutiup Imanga/Lancaster Sound National Maine Conservation Area (NMCA). The NLUP will not apply to Cape Hay Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
- The site's terrestrial component is completely within Sirmilik National Park.

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### Cape Liddon - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 5%- 10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Northern Fulmar)
- **Feature bird group:**
  - Seabirds
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding Designations: Important Bird Areas; International Biological Program site
- **Current human activities at site:**
  - Shipping
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping; risk of bycatch from potential commercial fishing activities
- **Potential consequences for bird populations:**

- Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch

- **Recommended setbacks:**

- EC-CWS Marine Setbacks (Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds).

Additional considerations:

- The existing planning policy framework;
- The site is completely within the proposed Tallurutiup Imanga/Lancaster Sound National Maine Conservation Area (NMCA). The NLUP will not apply to Cape Liddon Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
- The area has Use and Occupancy Mapping activity and a possible sacred site;
- Priorities and values of residents include polar bear, fish, marine mammals, impacts, existing economic development, no oil and gas, no shipping, and protection; and

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### Frobisher Bay - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Local knowledge experts indicate the importance of Frobisher Bay for nesting seaducks/waterfowl and seabirds, as well as the importance of the resource-rich polynya and sea-ice floe edge areas for overwintering and migrating seaducks/waterfowl and seabirds.
  - Expert opinion indicates the importance of Frobisher Bay for seaducks/waterfowl and seabirds.
- **Feature bird group:**
  - Seabird (e.g. Thick-billed Murre), Seaduck/Waterfowl (e.g. Common Eider)

- **Site details:**
  - Important polynya for seaducks and seabirds. Loks Land may support Nunavut's largest known colony of Razorbills. Dovekies congregate at the south end of Frobisher Bay in late summer.
  - Species at risk: Polar Bear (Special Concern), Harlequin Duck (Special Concern)
  - Non-binding designations: International Biological Programme Site (Hantzsch Island), Important Bird Area (Hantzsch Island)
- **Current human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; mineral exploration; cruise ship tourism; commercial fishing; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activity:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increase in air traffic disturbance related to mineral exploration activities; human disturbance from mineral exploration activities; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from ships; risk of bycatch from potential commercial fishing activities
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds and seaducks from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Aerial (All Seabirds) (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (All Seabirds) (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (All Seabirds) (Coastal Waterfowl and Seaducks)

#### Additional considerations:

- The site has Use and Occupancy Mapping activity and burial sites;
- Priorities and values of residents include caribou, polar bear, walrus, fish, marine mammals, land mammals, cultural values, impacts, contaminated sites, no oil and gas, no shipping, and protection;
- The site has a North Warning System site;
- The site contains some Inuit Owned Lands; and
- There are prospecting permits on the adjacent shore.

#### Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### Hell Gate and Cardigan Strait - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 5%- 10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Northern Fulmar)
- **Feature bird group:**
  - Seabirds. Also important at site: Seaducks (e.g. Common Eider), Coastal Waterfowl (e.g. Brant)
- **Site details:**
  - Non-binding Designations: Important Bird Areas (Cape Vera, North Kent Is, Calf Island), International Biological Programme site
- **Current human activities at site:**
  - Biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from shipping; human and terrestrial traffic disturbance related to research activities
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution; disruption of feeding and nesting birds resulting in loss of eggs and/or young
- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds) EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks).

#### Additional considerations:

- The existing planning policy framework; and
- The site has Use and Occupancy Mapping activities;

- Priorities and values of residents include caribou, polar bear, walrus, birds, marine mammals, cultural values, impacts, potential economic development, existing economic development, and protection.

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### North Spicer Island - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 1% to 5% of the national populations of one or more migratory birds' species that ARE exhibiting population declines as of 2005 (Atlantic Brant)
- **Feature bird group:**
  - Waterfowl
- **Site details:**
  - Non-binding designations: None
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Shipping; contaminated site remediation
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from shipping; disturbance from aircraft related to contaminated site remediation
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution; potential for bird-aircraft collisions originating from air traffic at low altitude or too close to concentration of birds
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Sea-level Coastal Nesters); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- Priorities and values of residents include polar bear, walrus, fish, cultural values, and protection.

Option 2 is recommended:

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### Prince Leopold Island (outside of the Migratory Bird Sanctuary) - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 5%- 10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Black-legged Kittiwake, Northern Fulmar)
- **Feature bird group:**
  - Seabirds
- **Site details:**
  - Major seabird feeding area and adjacent to large seabird colonies.
  - Species at risk present: Polar Bear (Special Concern)
  - Non-binding Designations: Important Bird Area, International Biological Programme site
  - A large portion of site falls within the proposed Lancaster Sound National Marine Conservation Area.
- **Current human activities at site:**
  - Shipping; cruise ship tourism; biological research
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; biological research
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism and biological research; risk of oil spills and operational releases originating from ships
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution

- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

**Additional considerations:**

- The site is partially in the proposed Tallurutiup Imanga/Lancaster Sound National Marine Conservation Area. The NLUP will not apply to that part of Prince Leopold Island Key Bird Habitat Area when the NMCA it is established under the *Canada National Marine Conservation Areas Act*;
- The site encircles a Migratory Bird Sanctuary;
- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include polar, birds, fish, marine mammals, land mammals, wildlife, cultural values, impacts, existing economic development, no oil and gas, no shipping, and protection; and
- The site is adjacent to Inuit Owned Lands;

**Option 2 is recommended:**

- May include conditions to guide land use.
- Identified area to be included on Map A

**Terms:** The NPC may refer a project proposal falling within Schedule 12-1 to NIRB for screening, where the NPC has concerns respecting the cumulative impact of that project proposal in relation to other development activities in the planning region.

**Direction:** Regulatory Authorities, where appropriate, must incorporate the setbacks in Table 2 for the bird populations identified above during the issuance of permits, licences and authorizations.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### Scott Inlet - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 5%- 10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Northern Fulmar)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk present: Polar bear (Special Concern)
  - Non-binding Designations: Important Bird Area

- Candidate for Territorial Park status
- **Current human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

**Additional considerations:**

- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include birds, drinking water, cultural values, impacts, potential economic development no oil and gas, shipping, and protection; and
- The site contains Inuit Owned Lands.

**Option 2 is recommended:**

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

### Seymour Island (outside of Migratory Bird Sanctuary) - CU

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Feeding area adjacent to nesting colony for migratory bird species listed as Endangered on Schedule 1 of the Species at Risk Act (Ivory Gull) \*



- **Feature bird group:**
  - Seabirds
- **Site details:**
  - Species at risk present: Ivory Gull (endangered)
  - Non-binding Designations: Important Bird Area, International Biological Programme site
  - This site provides feeding habitat for the Ivory Gull.
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (Ivory Gulls).
  - Based on current knowledge of Ivory Gull feeding behaviour, and level of human activity at this site, it is classed in the 'moderately risk intolerant' category. EC recommends this site be re-assessed once additional information on Ivory Gull feeding behaviour is acquired or as new industrial activities are proposed.

**Additional considerations:**

- The existing planning policy framework;
- The site has the potential for oil and gas related activities;

**Option 2 is recommended:**

- May include conditions to guide land use.
- Identified area to be included on Map A

**Condition:** Project Proposals/Projects must comply with the setbacks in Table 2 for the bird populations identified above.

Option 2 was recommended given that the area is considered to be moderately risk intolerant and that setbacks have been developed to manage land use within the vicinity of the area.

## B1.4 Yellow-Listed Key Migratory Bird Habitat Sites Without Recommended Prohibitions or Conditions

### KIVALLIQ REGION

#### Coats Island Lowlands - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying criterion:**
  - Contains 1-5% of the national population of one or more migratory bird species that are exhibiting population declines as of 2005 (Black-bellied Plover, Ruddy Turnstone, Semipalmated Sandpiper)
  - Hosts 5%-10% of a national population of a species NOT exhibiting population declines as of 2005 (Dunlin, Purple Sandpiper)
- **Feature bird group:**
  - Shorebird
- **Site details:**
  - Species at risk: Peregrine Falcon (Special Concern), Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area; International Biological Program Site
- **Current human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping, cruise ship tourism, biological research, harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution
- **Recommended restrictions on activities:**
  - None
- **Recommended setbacks:**
  - None

**Additional considerations:**

- The site has Use and Occupancy Mapping activity;



- Priorities and values of residents include caribou, polar bear, walrus, fish, marine mammals, shellfish, potential economic development, existing economic development, and no oil and gas development; and
- The site contains some Inuit Owned Land.

Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

### Boas River - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying criterion:**
  - Contains 5%-10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Lesser Snow Goose)
- **Feature bird group:**
  - Inland waterfowl (Lesser Snow Goose)
  - Also important at site: coastal waterfowl (Atlantic Brant), marine shorebird (Red Phalarope)
- **Site details:**
  - Non-binding designations: Important Bird Area
  - Species at risk: Red Knot ssp. *rufa* (Endangered); Polar bear (Special Concern)
- **Current human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**

- Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution

- **Recommended restrictions on activities:**

- None

- **Recommended setbacks:**

- None

Additional considerations:

- The site contains a portion of a Migratory Bird Sanctuaries;
- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals, shellfish, drinking water, cultural values, potential economic development, no oil and gas development, and protection; and
- The site contains some Inuit Owned Land.

Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

### McConnell River - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying criterion:**
  - Contains 5% to 10% of the national population of one or more migratory bird species that are NOT exhibiting declines as of 2005 (Ross' Goose)
- **Feature bird group:**
  - Waterfowl (Ross' Goose)
  - Also important at site: Shorebird (e.g. Semipalmated Sandpiper)
- **Site details:**
  - Non-binding designations: Ramsar Wetland of International Importance; Important Bird Area
  - Species at risk: Short-eared Owl (Special Concern); Polar bear (Special Concern)
- **Current human activities at site:**

- Cruise ship tourism; contaminated site remediation; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Cruise ship tourism; mineral exploration; contaminated site remediation; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping; increased physical, auditory, and visual disturbance related to mining exploration activity; increased auditory and visual disturbance related to a higher volume of air traffic to support remediation activities
- **Potential consequences for bird populations:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping; increased physical, auditory, and visual disturbance related to mining exploration activity; increased auditory and visual disturbance related to a higher volume of air traffic to support remediation activities
- **Recommended restrictions on activities:**
  - None
- **Recommended setbacks:**
  - None

#### Additional considerations:

- The site has Use and Occupancy Mapping activity, and a burial site;
- Priorities and values of residents include caribou, polar bear, birds, fish, marine mammals, fishing river or lake, land mammals, drinking water, cultural values, impacts, and protection;
- The site surrounds a Migratory Bird Sanctuaries;
- The site has an Arctic char area of abundance;
- The site is in a community water supply watershed;
- The site contains prospecting permits;
- The site includes a proposed transportation corridor; and
- The site contains some Inuit Owned Land.

#### Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

- Arviat<sup>1</sup> residents indicated in 2020 they support the VEC status for McConnell.

**Information on Valued Components:** Identify the key bird habitat sites as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

## KITIKMEOT REGION

### Adelaide Peninsula - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 1-5% of the national population of one or more migratory bird species that ARE exhibiting population declines as of 2005 (Long-tailed Duck, King Eider)
  - Contains 5%-10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Canada Goose, Lesser Snow Goose)
- **Feature bird group:**
  - Inland Seaduck
  - Waterfowl
- **Site details:**
  - Species at risk: Wolverine (Special Concern), Grizzly Bear (Special Concern)
  - Non-binding designations: none
- **Current human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution
- **Recommended restrictions on activities:**
  - None
- **Recommended setbacks:**

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-267E)

None

Additional considerations:

- The site contains some Inuit Owned Land;
- The site has Use and Occupancy Mapping activity;
- Priorities and values of residents include caribou, polar bear, birds, fish, land mammals, wildlife, drinking water, cultural values, existing economic development, and protection; and
- The site is adjacent to Queen Maud Gulf Bird Sanctuary.
- The area includes core caribou calving areas.

Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

### Melbourne Island - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 1-5% of the national population of one or more migratory bird species that ARE exhibiting population declines as of 2005 (Red Phalarope)
- **Feature bird group:**
  - Shorebird
- **Site details:**
  - Species at risk: Wolverine (Special Concern)
  - Non-binding designations: none
- **Current human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**

- Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution

- **Recommended restrictions on activities:**

- None

- **Recommended setbacks:**

- None

Additional considerations:

- The site is all Inuit Owned Land;
- Priorities and values of residents include caribou, fish, land mammals, cultural values, and existing economic development; and
- The site has Use and Occupancy Mapping activity and there is an adjacent possible caribou sea ice crossing.

Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

### South Eastern Victoria Island - VEC

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Moderately risk intolerant
- **Qualifying Criterion:**
  - Contains 5%-10% of the national population of one or more migratory bird species that are NOT exhibiting population declines as of 2005 (Canada Goose, King Eider) <sup>1</sup>
  - Contains 1-5% of the national population of one or more migratory bird species that ARE exhibiting populations declines as of 2005 (Long-tailed Duck)
- **Feature bird group:**
  - Waterfowl
  - Inland Seaduck
- **Site details:**
  - Species at risk: Red Knot ssp. *rufa* (Endangered); Short-eared Owl (Special Concern); Polar Bear (Special Concern)
  - Non-binding designations: none
- **Current human activities at site:**

- Shipping; municipality; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; municipality; contaminated site remediation; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from shipping; increased auditory and visual disturbance related to a higher volume of air traffic to support municipality and remediation activities; ground traffic related to growth of municipality
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for bird-aircraft collisions originating from air traffic at low altitude or too close from concentration of birds
- **Recommended setbacks:**
  - None

#### Additional considerations:

- The site contains some Inuit Owned Lands;
- The site is in an Arctic char area of abundance and has a commercial fishery;
- The site has North Warning System sites, land remediation areas and a community water supply watershed;
- The site has Use and Occupancy Mapping activity and encompasses a community;
- Priorities and values of residents include caribou, land mammals, and existing economic development; and
- The site is adjacent to a possible caribou sea ice crossing.

#### Option 4 is recommended:

- Identifies areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECS).
- Identified area shown on Map B of the NLUP.

**Information on Valued Components:** Identify the key migratory bird habitat site as an area of a known Valued Ecosystem Component that should be given particular consideration.

Option 4 was recommended given that there are currently no recommended prohibitions or conditions for the area.

Residents of Cambridge Bay<sup>1</sup> in 2020 recommended this area be expanded.

## Appendix B2: Details of Specific Migratory Bird Sanctuaries

### KIVALLIQ REGION

#### East Bay Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Common Eider)
- **Feature bird group:**
  - Seaduck (Common Eider)
  - Also important at site: Waterfowl (Lesser Snow Goose), Seabird (Black Guillemot), shorebird (e.g. Red Phalarope)
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designation: Important Bird Area
- **Current human activities at site:**
  - Biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Research; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Increased human disturbance related to permitted activities; increasing human disturbance related to cruise ship tourism
- **Potential consequences for bird populations:**

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-06. NPC Public Registry File # 16-257E)

- Disruption of feeding and nesting birds resulting in loss of eggs and/or young
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- The site has Use and Occupancy Mapping activity, a possible sacred site, burial sites and possible caribou calving and post-calving areas;
- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals, shellfish, impacts, potential economic development, no oil and gas, and protection; and
- The site surrounds a Migratory Bird Sanctuary;
- The site has prospecting permits; and
- The site contains some Inuit Owned Lands.
- Residents of Coral Harbour<sup>1</sup> indicated in 2020 that the use of this area by birds is changing, and may be overused by birds.

## Harry Gibbons Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Hosts more than 10% of a national population of one or more migratory bird species (Lesser Snow Goose)
- **Feature bird group:**
  - Inland waterfowl (Lesser Snow Goose)
  - Also important at site: Shorebird (e.g. Red Phalarope)
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: International Biological Programme Site; Important Bird Area
- **Current human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - None
- **Potential consequences for bird populations:**

- None

- **Recommended setbacks:**

- EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals, shellfish, cultural values, potential economic development, no oil and gas, and protection.

## McConnell River Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Contains 5 – 10% of the national population of a species NOT exhibiting declines as of 2005 (Ross' Goose)
- **Feature bird group:**
  - Waterfowl
- **Site details:**
  - Species at risk: Polar Bear (Special Concern), Short-eared Owl (Special Concern)
  - Non-binding designations: Ramsar Wetland of International Importance; International Biological Programme Site; Important Bird Area
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping
- **Recommended setbacks:**

<sup>1</sup> (Nunavut Planning Commission (NPC), 2020-02-14. NPC Public Registry File # 16-271E)



- EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- Priorities and values of residents include caribou, polar bear, birds, fish, marine mammals, fishing river or lake, land mammals, drinking water, cultural values, impacts, and protection.

## KITIKMEOT REGION

### Queen Maud Gulf Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Hosts more than 5% of a national population of one or more species exhibiting population declines as of 2005 (American Golden Plover, Dunlin, Semipalmated Sandpiper)
  - Hosts more than 10% of a national population of one or more migratory bird species (Ross's Goose, Snow Goose, American Golden Plover, Dunlin, Pectoral Sandpiper, Semipalmated Sandpiper)
- **Feature bird group:**
  - Shorebird
  - Also important at site: Inland Seaduck (e.g. King Eider), Waterfowl (e.g. Greater White-fronted Goose)
- **Site details:**
  - Most extensive wetland in mid-Arctic
  - Species at risk: Wolverine (Special Concern), Grizzly Bear (Special Concern)
  - Non-binding designations: Ramsar Wetland of International Importance; International Biological Programme Site; Important Bird Area
- **Current human activities at site:**
  - Shipping; biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating

from shipping; human, aerial and terrestrial traffic disturbance related to research activities; air traffic disturbance related to potential research activities

- **Recommended setbacks:**

- EC-CWS Aerial Setbacks (All Migratory Birds) (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (All Migratory Birds) (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

Additional considerations:

- The site has Use and Occupancy Mapping activity;
- The area includes caribou calving areas, post-calving areas, and key access corridors.
- Priorities and values of residents include caribou, birds, fish, land mammals, wildlife, drinking water, cultural values, contaminated sites, existing economic development, and protection;

## QIKIQTAAALUK REGION

### Bylot Island Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Supports a percentage of a national population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Thick-billed Murre)
- **Feature bird group:**
  - Seabird (including Black-legged Kittiwake)
  - Waterfowl (Greater Snow Goose)
  - Shorebird (e.g. Ringed Plover)
- **Site details:**
  - Species at risk: Red Knot spp. *islandica* (Special Concern), Peregrine Falcon (Special Concern), Polar Bear (Special Concern)
  - Part of Migratory Bird Sanctuary is contained within Sirmilik National Park
  - Non-binding designations: International Biological Programme Site, Important Bird Area
- **Current human activities at site:**
  - Land-based tourism; shipping; cruise ship tourism; biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Land-based tourism; shipping; cruise ship tourism; biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries



- **Threats to birds from current/future activities at site:**
  - Human and terrestrial traffic disturbance related to land-based tourism activities; marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; direct loss of birds due to contaminants and pollution
- **Potential consequences for bird populations:**
  - Disruption of feeding and nesting birds resulting in loss of eggs and/or young; higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds);
  - Note that the Nunavut Land Use Plan does not apply within Sirmilik National Park.

Additional considerations:

- Priorities and values of residents include caribou, polar bear, walrus, birds, fish, marine mammals, wildlife, cultural values, impacts, contaminated sites, existing economic development, transportation and infrastructure, no oil and gas, no shipping, and protection.

## Dewey Soper Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Red Knot)
  - Hosts more than 10% of a national population of one or more migratory bird species (Black-bellied Plover, Dunlin, Red Phalarope, Red Knot, Ruddy Turnstone, White-rumped Sandpiper, Lesser Snow Goose)
  - Hosts more than 5% of a national population of one or more species exhibiting population decline as of 2005 (American Golden-Plover, Black-bellied Plover, Dunlin, Red Phalarope, Red Knot, Ruddy Turnstone)
- **Feature bird group:**
  - Shorebird
  - Also important at site: Waterfowl (Lesser Snow Goose, Atlantic Brant)

- **Site details:**
  - Species at risk: Red Knot spp. *rufa* (Endangered)
  - Non-binding designations: Ramsar Wetland of International Importance; International Biological Programme Site; Important Bird Area
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - None
- **Threats to birds from current/future activities at site:**
  - None
- **Potential consequences for bird populations:**
  - None
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

## Prince Leopold Island Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Hosts more than 10% of a national population of one or more migratory bird species (Black-legged Kittiwake, Northern Fulmar).
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area; International Biological Programme Site, UNESCO World Heritage Site
- **Current human activities at site:**
  - Shipping; cruise ship tourism; biological research
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; biological research; commercial fishing
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants;

potential for direct loss of seabirds from fishing bycatch

- **Recommended setbacks:**
  - EC-CWS Marine Setbacks (Seabirds); EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

Additional considerations:

- Priorities and values of residents include polar bear, birds, fish, marine mammals, land mammals, wildlife, impacts, existing economic development, no oil and gas, no shipping, and protection.

## Seymour Island Migratory Bird Sanctuary

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Migratory Birds Convention Act*
  - Contains habitat likely to be identified as Critical Habitat for a migratory bird listed as 'endangered' or 'threatened' under the *Species at Risk Act* (Ivory Gull)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Largest known Ivory Gull colony in Canada
  - Species at risk: Ivory Gull (endangered)
  - Non-binding designations: International Biological Programme Site; Important Bird Area
- **Current human activities at site:**
  - None
- **Anticipated human activities at site:**
  - Shipping
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk of oil spills and operational releases originating from ships
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**

EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (Ivory Gull)

## Appendix B3: Details of Specific National Wildlife Areas

### Akpait National Wildlife Area

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Canada Wildlife Act*
  - Hosts more than 10% of a national population of one or more migratory bird species (Thick-billed Murre, Northern Fulmar)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Thick-billed Murre)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Polar Bear (special concern), Peregrine Falcon (special concern)
  - Non-binding designations: Important Bird Area; International Biological Program Site
- **Current human activities at site:**
  - Shipping; cruise ship tourism
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism
- **Threats to birds from current/future activity:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk of oil spills and operational releases originating from ships
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

Additional considerations:

- Priorities and values of residents include caribou, birds, cultural values, and impacts.

## Ninginganiq National Wildlife Area

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Canada Wildlife Act*
- **Feature bird group:**
  - Seabird (Northern Fulmar, Dovekie)
- **Site details:**
  - National Wildlife Area established to protect Bowhead Whale habitat, largest known concentration of Bowhead Whales
  - Species at risk: Peregrine Falcon (Special Concern), Polar Bear (Special Concern)
  - Non-binding designations: None
- **Current human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to whales and birds from current/future activity:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping
- **Potential consequences for whale and bird populations:**
  - Higher potential for animal-ship collisions originating from all shipping activities; disruption of feeding animals resulting in energetic losses; direct loss of animals due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Migratory Birds); EC-CWS Marine Setbacks (All Migratory Birds); EC-CWS Terrestrial Setbacks (All Migratory Birds).

Additional considerations:

- Priorities and values of residents include polar bear, walrus, bird, fish, marine mammals, drinking water, cultural values, existing economic development, transportation and infrastructure, and protection.

## Nirjutiqavvik National Wildlife Area

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Canada Wildlife Act*
  - Hosts more than 10% of a national population of one or more migratory bird species (Thick-billed Murre, Black-legged Kittiwake)
  - Supports a percentage of a national species population equal to or greater than the percentage of 'sustainable loss' that the population can tolerate (Thick-billed Murre)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Species at risk: Polar Bear (Special Concern)
  - Non-binding designations: Important Bird Area; International Biological Programme Site
- **Current human activities at site:**
  - Shipping; cruise ship tourism.
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from shipping; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (All Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

Additional considerations:

- Priorities and values of residents include polar bear, birds, marine mammals, cultural values, existing economic development, and protection.

## Polar Bear Pass National Wildlife Area

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Canada Wildlife Act*
- **Feature bird group:**
  - Shorebird (e.g. red phalarope, white-rumped sandpiper), Seaduck (e.g. King Eider), Waterfowl (e.g. Greater Snow Goose)
- **Site details:**
  - High arctic wetland of exceptional biological diversity
  - Species at risk: Peary Caribou (Endangered), Red Knot spp. *islandica* (Special Concern)
  - Non-binding designations: Ramsar Wetland of International Importance; International Biological Programme Site
- **Current human activities at site:**
  - Biological research; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Biological research; shipping; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Human disturbance related to biological research; marine traffic/shipping disturbance as the area experiences increasing ship traffic; risk for oil spills and operational releases originating from shipping
- **Potential consequences for bird populations:**
  - Disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Marine Setbacks (Coastal Waterfowl and Seaducks); EC-CWS Terrestrial Setbacks (Coastal Waterfowl and Seaducks)

#### Additional considerations:

- Priorities and values of residents include caribou, walrus, marine mammals, polynyas, cultural values, contaminated sites, existing economic development, and protection.

## Qaqquluit National Wildlife Area

Canadian Wildlife Service (CWS) noted the following:

- **Category:**
  - Highly risk intolerant
- **Qualifying Criterion:**
  - Legislated protected area under the *Canada Wildlife Act*

- Hosts more than 10% of a national population of one or more migratory bird species (Northern Fulmar)
- **Feature bird group:**
  - Seabird
- **Site details:**
  - Largest Northern Fulmar colony in Canada
  - Species at risk: Peregrine Falcon (Special Concern); Polar Bear (Special Concern)
  - Non-binding designations: International Biological Programme Site, Important Bird Area
- **Current human activities at site:**
  - Shipping; cruise ship tourism; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Anticipated human activities at site:**
  - Shipping; cruise ship tourism; commercial fishing; harvesting and ancillary activities by Nunavut Land Claims Agreement beneficiaries
- **Threats to birds from current/future activities at site:**
  - Marine traffic/shipping disturbance as the area experiences increasing ship traffic; increasing human disturbance related to cruise ship tourism; risk for oil spills and operational releases originating from ships; risk of bycatch from commercial fishing activities anticipated
- **Potential consequences for bird populations:**
  - Higher potential for bird-ship collisions originating from all shipping activities; disruption of feeding and nesting birds resulting in loss of eggs and/or young; direct loss of birds due to contaminants and pollution; potential for direct loss of seabirds from fishing bycatch
- **Recommended setbacks:**
  - EC-CWS Aerial Setbacks (All Seabirds); EC-CWS Marine Setbacks (Seabirds); EC-CWS Terrestrial Setbacks (All Seabirds)

#### Additional considerations:

- Priorities and values of residents include birds, cultural values, transportation and infrastructure, and protection.

## Tables 1-6

**Table 1: Migratory Bird Setbacks**

**Note that migratory bird setbacks do not apply to research related to wildlife health, abundance or distribution information.**

Bird Group	Aerial Setbacks <sup>1</sup>	Marine Setbacks <sup>2</sup>	Terrestrial Setbacks
All Migratory Birds	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> All overflying aircraft: <ul style="list-style-type: none"> <li>• maintain minimum vertical setback of 1100 m (3500 feet) in areas where concentrations of birds are present</li> <li>• maintain minimum lateral aerial setback of 1.5 km from concentrations of birds (e.g. bird breeding colonies and moulting areas)</li> </ul>	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> All transiting ships: <ul style="list-style-type: none"> <li>• maintain a setback distance of at least 1.5 km from all nesting colonies of seabirds, coastal waterfowl and sea ducks.</li> </ul>	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> <ul style="list-style-type: none"> <li>• 300 m setback from concentrations of birds (e.g. bird breeding colonies and moulting areas)</li> </ul>
All Seabirds	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> Setbacks for All Migratory Birds above, plus <ul style="list-style-type: none"> <li>• lateral setback of 3 km from the seaward side of seabird colonies</li> </ul>	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> <ul style="list-style-type: none"> <li>• 500 m setback for ships from seabird colonies when birds are present</li> <li>• 100 m setback from seabird colonies for zodiacs, kayaks and other small launch vessels</li> </ul>	See All Migratory Birds above
Ivory Gulls	See All Seabirds above	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> <ul style="list-style-type: none"> <li>• 2 km setback distance from breeding sites</li> </ul>	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> <ul style="list-style-type: none"> <li>• 2 km setback distance from breeding sites</li> </ul>
Coastal Waterfowl and Seaducks	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> All migratory birds above, plus <ul style="list-style-type: none"> <li>• lateral setback of 3 km from flocks of coastal waterfowl and seaducks</li> </ul>	<b>SEASONAL (WHEN BIRDS ARE PRESENT)</b> <ul style="list-style-type: none"> <li>• 500 m setback distance from seaduck colonies, moulting aggregations of seaducks and waterfowl</li> </ul>	See All Migratory Birds above

<sup>1</sup> Except as required for the safe operation of the aircraft and for specified operational purposes such as take offs and landings.

<sup>2</sup> Subject to situations in which the safety of vessel, crew and passengers will need to come first.



<b>Table 2: Caribou Seasonal Restrictions</b>		
Herd Name	Calving-grounds and key access corridors	Post-calving grounds
Ahiak	June 13 to July 12	June 26 – July 12
Bathurst	June 2 to June 28	June 17-28
Beverly	June 6 to July 8	June 20 – July 8
Bluenose East	May 28 to July 3	June 21 – July 3
Bluenose West	May 29 to July 3	June 24 – July 3
Lorillard	May 29 to July 13	June 26 – July 13
Qamanirjuaq	June 9 to July 3	June 23 – July 3
Wager Bay	May 30 July 12	June 26 – July 12

### Table 3: Seasonal Dates

Season	UKIUQ Sea Ice; Returning; Cold	UPINGAKSAAQ Sea Ice; Land Snow; Long Daylight	UPINGAAQ Sea Ice; Free Land; Very Long Days	AUJAQ Open Water	UKIAKSAAQ Lake Ice; Snow on Land; Open Water	UKIAQ Sea Ice; Dark Days
Regions						
North Baffin ᐱᐃᐃᐃᐃᐃᐃ	F1-Mr31	Ap1-My31	Jn1-Jy31	Ag1-S30	O1-N30	D1-Jr31
South Baffin	F1-Mr31	Ap1-My31	Jn1-Jy14	Jy15-S30	O1-N30	D1-Jr31
Sanikiluaq	Jr15-Mr31	Ap1-Jn14	Jn15-Jy14	Jy15-S30	O1-D14	D15-Jr14
North Kivalliq (Incl. Naujaat & Southampton Island)	F15-A14	Ap15-Jn14	Jn15-Jy31	Ag1-S30	O1-N30	D1-F14
South Kivalliq	F1-Mr31	Ap1-My31	Jn1-Jy31	Ag1-S30	O1-N30	D1-Jr31
Aqunniq (East Kitikmeot & Melville Peninsula)	F16-Mr31	A1-My31	Jn1-Ag14	Ag15-S14	S15-O14	O15-F15
West Kitikmeot	F16-Mr31	A1-My31	Jn1-Ag14	Ag15-S14	S15-O14	O15-F15
Jr	→	January	Jy	→	July	
F	→	February	Ag	→	August	
Mr	→	March	S	→	September	
Ap	→	April	O	→	October	
My	→	May	N	→	November	
Jn	→	June	D	→	December	

**Table 4: Community Priorities and Values for Water Management Areas**

	Water Management Area (WMA)	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	BB	CC	DD		
1	Seal Watershed	x	x		x			x					x				x			x					x					x	x	x	
2	Thlewiaza Watershed	x	x			x	x	x					x		x		x		x	x						x	x	x	x	x	x	x	
3	Geillini Watershed	x	x		x	x		x					x				x		x	x		x			x					x	x	x	
4	Tha-anne Watershed	x	x		x	x	x	x					x		x		x		x	x		x						x		x	x	x	
5	Thelon Watershed	x				x	x						x				x	x		x		x			x								
6	Dubawnt Watershed	x				x	x						x				x	x	x	x	x		x			x							
7	Kazan Watershed	x				x	x						x				x	x	x	x	x		x			x	x	x	x	x	x	x	
8	Baker Lake Watershed	x				x	x	x			x		x			x	x	x	x		x		x			x							
9	Quoich Watershed	x				x	x	x			x		x			x				x		x				x							
10	Chesterfield Inlet Watershed	x				x	x	x			x	x	x			x		x	x	x	x		x		x	x							
11	Maguse Watershed	x	x			x	x	x	x				x			x	x	x			x		x	x	x			x		x	x		
12	Ferguson Watershed	x	x			x	x	x					x	x		x	x	x	x	x		x	x	x	x								
13	Wilson Watershed	x	x			x	x	x	x			x	x	x			x	x	x	x	x		x		x								
14	Lorillard Watershed	x	x			x	x	x	x									x	x		x												
15	Wager Bay Watershed	x	x	x			x	x			x			x				x	x	x						x							
16	Hudson Bay Islands Watersheds (All Islands HB+JB)	x	x	x	x	x	x	x	x		x			x		x	x	x	x	x	x	x		x	x								
17	Northern Southampton Island Watershed	x	x	x	x	x	x	x	x		x			x				x	x	x		x	x		x								
18	Repulse Bay Watershed	x	x	x	x	x	x	x			x			x				x	x	x		x				x							
19	Barrow Watershed	x	x	x	x	x	x	x			x			x			x	x	x	x	x					x							
20	Kingora Watershed	x	x	x	x	x	x	x			x	x		x			x	x	x	x	x		x	x	x								
21	Gifford Watershed	x	x	x	x	x	x	x			x	x	x	x			x	x	x	x		x	x			x							
22	MacDonald Watershed	x	x	x	x	x	x	x			x	x	x				x	x	x	x	x		x			x							
23	Prince-Albert Sound Watershed	x				x	x											x															
24	Koukdjuak Watershed	x				x	x	x						x	x			x	x	x	x	x	x			x							
25	Aukpar Watershed	x			x	x	x	x	x					x	x	x		x	x						x								
26	Great Bear Lake	x																x															
26	Great Bear Watershed	x					x	x										x		x													
27	Amundsen Gulf Watershed	x				x	x	x							x			x	x			x	x										
28	Coppermine Watershed	x				x	x	x						x				x	x			x	x										
29	Coronation Gulf Watershed	x				x	x	x	x					x	x			x	x	x	x	x	x	x	x								
30	Queen Maud Gulf Watershed	x	x			x	x	x	x					x				x	x			x	x	x	x								
31	Back Watershed	x				x	x	x						x				x	x														
32	Back-Hayes (NU) Watershed	x	x			x	x	x						x				x	x	x	x												
33	Rasmussen Watershed- Larsen Sound Watershed	x	x			x	x	x	x			x		x	x	x		x	x	x	x			x									
34	Gulf of Boothia Watershed	x	x	x	x	x	x	x			x			x	x	x		x	x	x	x	x		x									
35	Northwestern Victoria Island Watershed																																
36	Hadley Bay Watershed	x																															
37	Eastern Victoria Island Watershed	x	x																x	x													
38	Southern Victoria Island Watershed	x				x	x							x	x					x	x												
39	Prince Charles Island Watershed							x											x														
40	Minto Inlet Watershed	x																															
41	King William Island Watershed	x	x			x	x	x	x			x				x	x	x	x	x	x		x										
42	Western Prince of Wales Island Watershed	x	x				x												x														
43	Eastern Prince of Wales Island Watershed	x	x			x	x	x	x			x							x														
44	Western Somerset Island Watershed	x	x			x	x	x	x			x							x	x	x	x		x									
45	Eastern Somerset Island Watershed	x	x			x	x	x	x			x	x						x	x	x	x		x									
46	Western Brodeur Peninsula Watershed	x	x	x		x	x	x	x			x	x						x	x	x	x		x									
47	Admiralty Inlet Watershed	x	x			x	x	x	x			x	x						x	x	x	x		x									
48	Eclipse Sound Watershed	x	x	x		x	x	x	x			x	x						x	x	x	x		x									
49	Southwestern Baffin Bay Watershed	x	x	x	x	x	x	x			x			x					x	x	x	x		x									
50	Northwestern Davis Strait Watershed	x	x	x		x	x	x	x					x					x	x	x	x		x	x								
51	Northern Cumberland Sound Watershed	x	x	x		x	x	x	x			x							x	x	x	x		x									
52	Southern Cumberland Sound Watershed	x	x	x		x	x	x	x			x							x	x	x	x											
53	Frobisher Bay Watershed	x	x	x		x	x	x			x	x							x	x	x												
54	Melville Island Watershed																																
55	Bathurst and Cornwallis Islands Watershed	x	x	x		x	x	x	x	x				x					x	x													
56	Western Devon Island Watershed	x	x	x			x	x	x	x	x								x	x	x	x		x									
57	Eastern Devon Island Watershed	x	x	x		x	x	x	x			x	x						x	x	x												
58	Sverdrup Islands Watershed	x	x																														
59	Nansen Sound and Eureka Sounds Watershed	x	x	x			x												x	x	x	x											
60	Greely Fiord Watershed	x																															
61	Arctic Ocean and Lincoln Sea Watershed																																
62	Northeastern Ellesmere Island Watershed																																
63	Southeastern Ellesmere Island Watershed	x	x				x												x	x	x	x											
64	Southern Ellesmere Island Watershed	x	x	x		x	x	x	x										x	x	x												
65	Hudson Strait Watershed (North and West) (All Islands - Qc)	x	x	x		x	x	x	x			x	x	x	x				x	x	x	x	x										

**Values Reference List**

<b>A</b>	<b>Caribou</b>	<b>K</b>	<b>Preferred shipping routes</b>	<b>U</b>	<b>Concerned about impacts</b>
<b>B</b>	<b>Polar Bear</b>	<b>L</b>	<b>Drinking water</b>	<b>V</b>	<b>Concerned about transportation infrastructure</b>
<b>C</b>	<b>Walrus</b>	<b>M</b>	<b>Rivers and lakes of interest</b>	<b>W</b>	<b>Support transportation infrastructure</b>
<b>D</b>	<b>Birds</b>	<b>N</b>	<b>Fishing lakes and rivers</b>	<b>X</b>	<b>Wildlife (general)</b>
<b>E</b>	<b>Fish</b>	<b>O</b>	<b>Contaminated Sites</b>	<b>Y</b>	<b>Denesuline Burial or Sacred Site</b>
<b>F</b>	<b>Would like to see protection</b>	<b>P</b>	<b>Areas of cultural value</b>	<b>Z</b>	<b>Denesuline archaeological Site</b>
<b>G</b>	<b>Marine Mammals</b>	<b>Q</b>	<b>Potential economic development</b>	<b>AA</b>	<b>Denesuline Cabin</b>

H Polynyas  
I Concerned about oil and Gas  
J Concerned about shipping

R Existing economic development  
S Land mammals  
T Shellfish

BB Denesuline Camp  
CC Denesuline Hunting  
DD Denesuline Trapping

**Table 5: Community Priorities and Values for Marine Areas**

Community	Polar Bear	Walrus	Birds	Fish	Would Like to See Protection	Marine Mammals	Polynyas	Concerned about oil & gas	Support Oil & Gas	Concerned About Shipping	Preferred Shipping Routes	Land Mammals	Shellfish
Arctic Bay	x	x	x	x	x	x		x		x		x	
Arviat	x		x	x	x	x						x	
Baker Lake			x	x	x							x	
Cambridge Bay													
Cape Dorset		x	x	x	x	x				x	x	x	x
Coral Harbour	x	x	x	x	x	x		x					x
Chesterfield Inlet		x	x	x	x	x				x	x	x	
Clyde River	x	x	x	x	x	x		x	x		x	x	
Grise Fiord	x	x	x	x	x	x							
Gjoa Haven	x		x	x	x	x				x		x	
Hall Beach	x	x	x	x	x	x						x	
Igloolik	x	x	x	x	x	x				x	x	x	
Iqaluit	x	x	x	x	x	x							x
Kugaaruk			x	x	x	x						x	x
Kugluktuk	x		x	x	x	x						x	
Kimmirut	x	x	x	x	x	x		x				x	
Pangnirtung	x	x	x	x	x	x				x			x
Pond Inlet	x	x	x	x	x	x		x		x		x	
Qikiktarjuaq		x	x	x	x	x							x
Resolute	x	x	x	x	x	x	x			x		x	
Rankin Inlet	x		x	x	x	x						x	
Repulse Bay	x	x	x	x	x	x		x				x	
Sanikiluaq	x	x	x	x	x	x						x	x
Taloyoak	x		x	x	x	x						x	
Whale Cove	x		x	x	x	x						x	
Ivujivik	x	x	x	x	x	x							
Salluit	x	x	x	x	x	x						x	x

**Table 6: Community Land Use for Water Management Areas**

Number of recorded points in the NPC's Use and Occupancy Mapping, data, organized by Water Management Area.

	1 – Seal	2 – Thlewiaza	3 - Geillini	4 – Tha-ane	5 - Thelon	6 - Dubawnt	7 - Kazan	8 – Baker Lake	9 - Quoiqh	10 – Chesterfield Inlet	11 - Maguse	12 - Ferguson	13 - Wilson	14 - Lorillard	15 – Wager Ba	16 – Hudson Bay Islands (all)	17 – Northern Southampton Island	18 – Repulse Bay	19 - Barrow	20 - Kingora	21 - Gifford	22 - MacDonald	24 - Koukdjuak	25 - Auqgar	26 – Great Bear Lake	27 – Great Bear	28 – Amundsen Gulf	29 - Coppermine	30 – Coronation Gulf	31 - Back	32 – Back-Hayes	33 – Rasmussen-Larsen Sound	34 – Gulf of Boothia	36 – Hadley Bay	37 – Eastern Victoria Island	38 – Southern Victoria Island	39 – Prince Charles Island	41 – King William Island	43 – Eastern Prince of Wales Island	44 – Western Somerset Island	45 – Eastern Somerset Island	46 – Western Brodeur Peninsula	47 – Admiralty Inlet	48 – Eclipse Sound	49 – Southwestern Baffin Bay	50 – Northwestern Davis Strait	51 – Northern Cumberland Sound	52 – Southern Cumberland Sound	53 – Frobsher Bay	55 – Bathurst & Cornwallis Islands	56 – Western Devon Island	57 – Eastern Devon Island	59 – Nansen & Eureka Sounds	62 – Northeastern Ellesmere Island	63 – Southeastern Ellesmere Island	64 – Southern Ellesmere Island	65 – Hudson Strait Watershed	N/A	Total																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
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