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Nunavunmi Parnaiyiit  
Nunavut Planning Commission  
Commission d'Aménagement du Nunavut

## NUNAVUT PLANNING COMMISSION

### **Response to Additional Written Questions on the 2021 DNLUP in Advance of the Upcoming Regional Public Hearings**

Date: August 31, 2022

As previously circulated, the Nunavut Planning Commission (NPC or Commission) acknowledges the written questions received with respect to the 2021 Draft Nunavut Land Use Plan (DNLUP). The table below is intended to provide responses to the outstanding questions and comments directed at the Commission as of August 23, 2022. Should you have any additional questions regarding the Commission responses or the upcoming regional public hearings, please do not hesitate to contact the NPC.

Government of Canada

Question #	Topic	Questions	NPC Response
1	Ice Breaking	When undertaking conformity determinations, how will the Commission apply the provisions of the Plan, including Plan Requirement 2.2.5-1, in a way that respects the Government of Canada's international rights and obligations, and gives due consideration to foreign policy, as specified in 1.4.2.	Not clear as drafted in 2021 DNLUP. As discussed with GoC staff, a possible solution may be to provide specific exemptions for foreign transits that are consistent with Canada's international obligations. The Commission welcomes feedback on this issue.
2	Ice Breaking	Could the Commission please clarify whether a minor variance is applicable to seasonal restrictions of icebreaking activities in Plan requirement 2.2.5-1?	Yes, it is.
3	Ice Breaking	Could the Commission clarify what is meant by the term 'icebreaking'?	The Commission acknowledges the lack of clarity for the term 'icebreaking' in the Draft Plan. Given the uncertainty in the use of the term, one solution that has been discussed would be to remove the term 'icebreaking' and have seasonal restrictions on shipping generally during the identified dates. The NPC welcome suggestions from participants to clarify the definition to be included in the plan or to reword section 2.2.5-1 and other related sections for clarity.
4	Mineral Development and Existing Rights	Are mineral exploration and production activities on surface and subsurface Inuit Owned Land excluded from the definition of 'mineral exploration and production'?	No.
5	Mineral Development and Existing Rights	What was the rationale to exclude projects from Appendix A (e.g. was it to protect caribou habitat, or was it based on the NuPPAA definition of projects, etc.)? Was the	See previous Q&A question #5 from NPC File # 21-058: Projects with existing rights in Appendix A were selected by:

		intent to limit the footprint of existing mines/advanced exploration projects in order to protect caribou habitat within areas where the two overlap?	<ul style="list-style-type: none"> <li>a) Downloading mineral rights data from the Government of Canada and NTI (data from spring 2021)</li> <li>b) Selecting only active projects</li> <li>c) Selecting rights that overlap with proposed Limited Use designations in the 2021 DNLUP that would prohibit mineral exploration and development</li> <li>d) Selecting projects that have been previously reviewed and approved by the Nunavut regulatory system by searching for related activities in NPC, NIRB, NWB public registries.</li> </ul>
6	Mineral Development and Existing Rights	Could the Commission consider expanding the list of projects included under Appendix A while still protecting caribou habitat?	The Commission welcomes all feedback, which will be considered after the record closes on January 10, 2023.
7	Mineral Development and Existing Rights	Will projects that are in Limited Use zones and listed under Appendix A be allowed to operate as though they were in a mixed use zone (i.e. be exempt from all prohibitions)?	They would be exempt from prohibitions but may be subject to other plan requirements such as setbacks and seasonal restrictions.
8	Mineral Development and Existing Rights	How will the spatial extent of existing rights be determined?	Using spatial data on mineral rights instruments and/or authorizations from GoC and NTI.
9	Mineral Development and Existing Rights	As they progress through stages of development, how will the changing nature of activities be handled (e.g. moving from exploration to development)?	Projects in Appendix A would be exempt from prohibitions when they undergo significant modifications but would still need to conform to other plan requirements.
10	Mineral Development and Existing Rights	In addition, will existing operations be permitted to expand? If so, how will the expanded footprint be designated under the Plan - as a Limited or Mixed Use zone? For example, if a project with existing rights and	As drafted, projects in Appendix A would be exempt from the prohibitions (including quarries and linear infrastructure) when they want to expand within the footprint of their existing rights. However, a plan amendment

		interests needs to build linear infrastructure or a quarry associated with mineral exploration or development <i>within the project's footprint</i> , and that use is in turn prohibited under the plan requirements, will that prohibition apply?	would be required to expand the footprint of an existing project into a Limited Use area outside their existing rights where the activity is prohibited.
11	Mineral Development and Existing Rights	How will the Plan impact projects that are not listed in Appendix A?	All Plan requirements would apply.
12	Overlapping Land Use Designations	How will the proponents and regulators apply plan requirements that are inconsistent or in conflict where there are overlapping land use designations? For example, Map A2 shows that sometimes zones 91 Priority Contaminated Sites and 92 Military Facilities and Infrastructure overlap. Plan Requirement 4.6-1 prohibits using sites other than for remediation or monitoring until clean-up is completed and has been reported to the Commission, whereas Plan Requirement 4.7-1 prohibits all uses, except uses by Canada, the Government of Nunavut or municipal governments. Operation of these military facilities would be prohibited where the zoning shows they overlap with contaminated sites.	Plan requirements that are inconsistent will need to be addressed. A potential solution to change contaminated sites that overlap with active military sites to VCs, may be considered by the Commission after the record closes. The Commission welcomes any recommendations from participants.
13	Caribou Seasonal Restrictions	Table 2 of the draft Plan only identifies 8 herds. Do the seasonal restrictions in Plan Requirements under sections 2.2.1, 2.2.2 and 2.2.3 only apply to the herds listed in Table 2? If this is correct, what is the Commission's rationale for only including seasonal restriction dates for certain herd? What about	When preparing the 2021 DNLUP, the Commission only had seasonal dates for the herds listed in Table 2 and welcomes input on seasonal dates for other herds.

		the other herds and populations within the Nunavut Settlement Area?	
14	Caribou Seasonal Restrictions	What is meant by “island caribou” under section 2.2.6 of the draft Plan?	The term “island caribou” was used to refer to caribou herds on islands in Nunavut as opposed to those on the mainland. The Commission welcomes suggestions on more clear terminology that could be used.
15	Caribou Sea Ice Crossings	As part of the Proactive Vessel Management Initiative, the Victoria Island Waterway Safety Committee has identified three priorities: 1) increasing communication with the Canadian Coast Guard regarding icebreaking activities; 2) mitigating the potential negative impacts of icebreaking 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. A collaborative Plan Requirement for caribou sea ice crossings, particularly in the Northwest Passage/Coronation Gulf between Victoria Island and the Mainland, could support these priorities. How might Government of Canada collaborate with Commission to develop a plan that addresses the need for protection of caribou sea ice crossings, while offering the flexibility to respect the Government of Canada’s international rights and obligation	The Commission welcomes all feedback and recommendations and will consider them after the record closes on January 10, 2023.

16	Linear Infrastructure Corridors	<p>Can the Commission provide reasoning for the differences in width for various linear infrastructure corridors in the draft Plan? These include:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Manitoba-Kivalliq Linear Infrastructure Corridor (Limited Use)</li> <li><input type="checkbox"/> Mary River-Milne Inlet Linear Infrastructure (Limited Use)</li> <li><input type="checkbox"/> Existing and Potential Linear Infrastructure (Valued Socio-economic Component)</li> </ul>	<p>The Commission relied on existing datasets for these corridors, and the varying widths reflect the level of certainty with which they have been defined in the available datasets.</p>
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17	Caribou Sea-ice Crossings	Section 2.2.5 Caribou Sea Ice Crossings – Box 2.2.5-1, page 19, Sites #103, Map A3 – Only three specific areas have associated seasonal icebreaking prohibitions with specific proposed dates – all other areas identified as Site #103 have not. This has been identified in the Government of Canada’s October 8, 2021 submission, and mentioned in the Errors and Omissions section of the Commission’s Q&A document (April 2022). However, no information was provided on how or when this would be addressed. Will seasonal prohibitions be applied to all Caribou Sea Ice Crossing Sites #103, including, but not limited to, Peary Caribou Sea Ice Crossings in Norwegian Bay? Note that the Norwegian Bay sea ice crossings are within the identified critical habitat for Peary Caribou.	The Commission welcomes all feedback and recommendations and will consider them further after the record closes on January 10, 2023.
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Government of Nunavut

	Topic	Questions/Comments	NPC Responses
1	Determining Limited Use Designations	<p>The Commission presents rationale for recommending Option 1 Limited Use for several issues to include that these areas were “identified by multiple participants as areas requiring protection”. Can the Commission clarify:</p> <ol style="list-style-type: none"> <li>1. How competing views within the same community were weighted and/or how community consensus</li> </ol>	<p>The 2021 O&amp;R document presents the information considered by Commissioners during the drafting of the 2021 DNLUP. There was no numerical ‘weighting’ of views beyond what is presented in the document.</p> <p>The process is framed by considering options and trade-offs, and final decision-making applying a combination of qualitative</p>

		<p>(where presented) was determined?</p> <p>2. How competing views among different communities were weighted, particularly if communities are close to Limited Use areas (e.g., discussion on post-calving areas in the O&amp;R, section 2.2.9.6)?</p>	<p>and quantitative information and data, different values, as well as experience and professional judgment.</p>
2	Limited Use Designations – Unknown Information	<p>Can the Commission clarify:</p> <p>1. How was unknown resource potential considered in the determination of land use designations and how it was given value?</p> <p>2. How were current and future socio-economic impacts of land restrictions and land access assessed and incorporated in the Commissions' determination of land use designations, specifically Limited Use areas?</p> <p>3. How were current and future economic opportunities valued and how were they weighed against ecosystemic priorities in the development of land use designations, specifically Limited Use areas?</p>	<p>The Commission relied on existing datasets submitted to the NPC by various participants. The 2021 O&amp;R document presents the information considered by Commissioners during the drafting of the 2021 DNLUP, including sub-sections for each issue on 'Potential for Non-Renewable Resources, Transportation and Linear Infrastructure'.</p>
3	Existing Rights	<p>Can the NPC clarify:</p> <p>1. How Appendix A applies to existing activities that are not considered projects and are otherwise prohibited by a Limited Use designation were considered?</p> <p>2. How projects were determined eligible for inclusion in Appendix A?</p> <p>3. How Rights for projects (or activity/work) allowed through existing licences, claims and leases or Significant</p>	<p>1. The Commission only reviews 'projects'. Any projects not listed in Appendix A would be subject to all of the requirements of the plan if they undergo a significant modification.</p> <p>2. See GoC question 5 above.</p> <p>3. Any projects not listed in Appendix A would be subject to all of the requirements of the plan if they undergo a significant modification.</p>



		<p>Discovery Licenses not listed on Appendix A be impacted by Limited Use designations in the DNLUP?</p> <p>4. What the thresholds are for a 'direct connection' (DNLUP pg. 48) to a project and when modifications would be considered a 'new project' and subject to Limited Use prohibitions – and provide examples.</p> <p>5. How the Existing Rights listed in Appendix A will be affected by conditions that will apply in Limited Use Areas such as increased reporting, or any limitations or conditions that may apply to a project in that zone?</p> <p>6. How it assessed the implications to existing rights becoming stranded by surrounding limited use?</p> <p>7. At what time Appendix A will be finalized and no more projects or activities could be added?</p>	<p>4. If the proponent is the same as the previous project and the footprint is the same, the 'direct connection' would be evident, through the project description, and the past file numbers (i.e., NPC, NIRB, and NWB). If the project has changed hands, proof of sale or transfer may be required.</p> <p>5. All plan requirements, other than prohibitions, would apply.</p> <p>6. Considered that winter roads (authorized use in all designations) would be permitted to access existing rights and plan amendments could be applied for all-weather linear infrastructure.</p> <p>7. Commissioners will consider this issue further after the close of the record on January 10, 2023.</p>
4	Plan Amendment	<p>Can the Commission:</p> <p>1. Offer criteria on what is to be included in plan amendment applications, or, more specifically, criteria for certain types of plan amendment applications?</p> <p>2. Describe the criteria that exist to trigger a public review for a plan amendment?</p> <p>3. Clarify how information on resource potential can be gathered where the Limited Use designation prohibits resource exploration?</p>	<p>1. See section 6.1.5 of the 2021 DNLUP.</p> <p>2. The Commission does not currently have formal criteria to trigger a public review for a Plan amendment. See the NPC's Internal procedure, Amendments to Land Use Plans, March 2015, for further information. <a href="https://www.nunavut.ca/proponent-information/internal-procedures">https://www.nunavut.ca/proponent-information/internal-procedures</a></p> <p>3. Many Limited Use designations prohibit</p>

			<p>'mineral exploration and production', but it is not clear in the drafted definition if that would include geological research. The Commission welcomes all feedback and recommendations on where and how geological research where no mineral rights are granted can be authorized and will give further consideration to them after the record closes on January 10, 2023.</p>
SABINA GOLD & SILVER			
Question #	Topic	Questions	NPC Response
1	Listing Sabina Gold & Silver Assets within Appendix A (Existing Rights)	Why are Sabina Gold & Silver Corp.'s (Sabina) Back River Project (NIRB File No.: 12MN036: NWB File No.: 2AM-BRP; AANDC File No.: N2012T0025) and the Sabina owned Bathurst Inlet Port and Road (BIPR) (NIRB File No.: NIRB 03UN113) not listed in Appendix A of the 2021 Draft Nunavut Land Use Plan (DNLUP)?	Appendix A only identifies projects with existing rights within proposed Limited Use designations that would prohibit mineral exploration and production. The Back River Project is in a proposed Mixed Use designation that would permit all uses including mineral exploration and production and was therefore not included in Appendix A. Appendix A did not include any associated linear infrastructure, including BIPR.

GLENCORE			
Question #	Topic	Questions	NPC Response
1	Land access corridors	Is the NPC aware that mines need land access to transport infrastructure and materials to the mine site and mine products and wastes out of the mine site?	Yes.
2	Cessation of all activity for periods of time	Is the NPC aware that many mine and exploration projects cannot completely cease operations and vacate site for periods of time, particularly during freshet (June), and that there are significant negative impacts to doing so?	Yes. The Commission will consider clarifying the scope of seasonal closures when revising the DNLUP.
3	Prohibiting Project Development	Is the NPC aware that the current DNLUP will result in the direct loss of all investments in, future prospects for, and the substantial socio-economic benefits of mineral exploration projects, including Hackett River? Has the full socio-economic impact of this DNLUP been fully and accurately and reviewed?	The Commission considered projects with existing rights within proposed Limited Use designations that would prohibit mineral exploration and production, including Hackett River, by providing exemptions from prohibitions for these projects in the draft plan, and has noted the concerns that have been raised regarding associated linear infrastructure.
Qikiqtani Inuit Association			
Question #	Topic	Recommendations	NPC Response
1	Inuit Participation & Consultation	QIA requests that the NPC explain how	All information that has been received by the Commission when the record closes on

		written submissions from Inuit that may stem from discussions or concerns raised during the Community Information Sessions will be integrated into the final draft of the NLUP.	January 10, 2023 will be given full consideration and incorporated into a revised Options and Recommendations document as appropriate and directed by the Commissioners.
Agnico Eagle			
Question #	Topic	Questions	NPC Response
1	Underground mining	Can the Nunavut Planning Commission confirm if underground mining activities are allowed in limited use areas in situations where there is no existing mineral rights (i.e., grandparenting is not applicable) and if seasonal restrictions would apply to underground mining activities. For clarity, this question applies to a scenario where all facilities within the limited use area are located in the sub surface areas only. We want to confirm that the Nunavut Land Use Plan will apply to activities on the surface only.	The 2021 DNLUP as drafted does not differentiate between surface and sub-surface activities. The Commission welcomes all feedback and recommendations and will reconsider them after the record closes on January 10, 2023.
2		Can the Nunavut Planning Commission provide further practical guidance on how seasonal restrictions would apply to underground mining activities generally?	The 2021 DNLUP as drafted does not differentiate between surface and sub-surface activities. The Commission welcomes all feedback and recommendations and will consider them further after the record closes on January 10, 2023.
3	Plan amendments	Can the Nunavut Planning Commission provide further specific details on what the process and timeline for plan amendments would be? How does this approach differ from the current policy in place? Will the	Section 6.2.14 of the 2021 O&R document outlines the information considered by the Commission and notes that formal Rules may be created for plan amendments in the future. In the meantime, the Commission's

		Nunavut Planning Commission be updating its <b>2015-03-23 PLAN AMENDMENT INTERNAL PROCEDURE</b> to reflect the updated process and timelines prior to the hearings and/or prior to submittal of the final plan to the Minister?	2015 internal procedure for plan amendments continues to apply and would generally be consistent with the NLUP when approved.
4	Existing rights	Even with full grandparenting applicable to the mineral claims themselves, without access grandparented mineral claims would effectively be removed from development potential. Can the Nunavut Planning Commission confirm that grandparenting to mineral claims will extend to linear development to tie into existing roads, existing powerlines, and marine access for shipping? The amendment process is subject to great uncertainty and does not address the concern. How does the Nunavut Planning Commission propose to address the availability of access to mineral claims via land and sea?	The 2021 DNLUP as drafted would require a plan amendment for associated infrastructure in Limited Use areas. The Commission has heard the concerns expressed by some participants and welcomes all feedback and recommendations and will reconsider them after the record closes on January 10, 2023.
5	Minor Variance	Can the Nunavut Planning Commission provide further specific detail on what the process and timeline for variances would be? How does this approach differ from the current policy in place? Will the Nunavut Planning Commission be updating its <b>2015-03- 23 MINOR VARIANCE INTERNAL PROCEDURE</b> prior to the hearings and/or prior to submittal of the final plan to the Minister?	Section 6.2.13 of the O&R outlines the information considered by the Commission including the timelines set out in NuPPAA. The Commission does not have plans to update the minor variance internal procedure at this time.
6	Minor Variance	Can the Nunavut Planning Commission confirm that minor variances will be applicable to all restrictions, including	Minor variances are intended to provide relief from plan requirements such as setbacks and seasonal restrictions. Caribou

		wildlife restrictions applicable to caribou? The draft Nunavut Land Use Plan states, “6.1.4-2 A minor variance is not to be issued for relief from a prohibition.” Are caribou restrictions considered “prohibitions”?	related LU designations have “prohibited uses” for which minor variances are not applicable ( would not consider a minor variance to allow a listed prohibited use), but for caribou designations that have seasonal restrictions, a minor variance could be considered to vary the dates.
7	Minor Variance	The draft Nunavut Land Use Plan states that minor variances of up to two weeks may be granted on seasonal dates described in the plan, to take into account variations between years. How did the Nunavut Planning Commission determine this?	The Commission previously considered providing guidance on thresholds for what degree of variance could be considered ‘minor’. On reflection, this may be arbitrary and unnecessary as each proposed variance could be considered on its own merits. The Commission welcomes feedback on this issue.
8		The draft Nunavut Land Use Plan states, “6.1.4-1 In determining whether to grant a minor variance, the Commission must consider 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 this Plan; (d) is appropriate in the context of surrounding land uses and land use designations; and (e) will set an undesirable precedent.”. With respect to (b), has the Nunavut Planning Commission considered removing this as a criteria, given that this	The Commission will consider all feedback and suggestions when revising the DNLUP after the record closes on January 10, 2023.

		<p>is the very question that Nunavut Impact Review Board will use its expertise to determine following the referral of any application to Nunavut Impact Review Board? As an alternative, would the Nunavut Planning Commission consider simply referring all projects that are granted a “minor variance” by the Nunavut Planning Commission to the Nunavut Impact Review Board to ensure this concern is addressed in the subsequent regulatory process?</p> <p>Will the Nunavut Impact Review Board carry out environmental assessments even when they duplicate the work done by the Nunavut Planning Commission?</p> <p>Can the Nunavut Impact Review Board and the Nunavut Planning Commission both confirm how the draft Nunavut Land Use Plan and determinations made by the Nunavut Planning Commission, including items such a minor variances, could work to help streamline the Nunavut Impact Review Board process?</p> <p>With respect to (e), will the Nunavut Planning Commission consider removing this criteria given that the Nunavut Planning Commission is not bound by precedent in any event?</p>	
9		<p>Is the Nunavut Planning Commission of the view that the Nunavut Land Use Plan supersedes other federal and territorial regulations? Put another way, if an activity is otherwise permitted by federal and/or territorial regulations, would it not be</p>	<p>See Section 6.3 of the O&amp;R document and NuPPAA section 68 and 69:</p> <p>“68 Each federal or territorial minister, each department or agency and each municipality must, to the extent of their authority to do so, implement any land use plan that is in effect and carry out their activities in conformity with it.</p>

		permitted in the event the Nunavut Land Use Plan otherwise restricts the activity.	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)....”
10		The Nunavut Planning Commission has included restrictions on ice breaking in the draft Nunavut Land Use Plan in designated caribou access routes in the Kitikmeot Region. Rather than this approach, why hasn't the Nunavut Planning Commission referenced the applicable shipping laws administered by Transport Canada?	See section 2.2.12.5 of the O&R document
11		Agnico Eagle remains of the view that the Nunavut Planning Commission has not presented sufficient detail regarding the underlying science behind polygons. To provide informed submissions on the polygons, participants need the information to understand how they are developed. Based on the available science and IQ, polygons have changed and will change. These data are updated annually and inform annual work plans. Including detailed polygons in the Nunavut Land Use Plan with a commitment to update every five years will mean that the polygons are perpetually out of date. Updating polygons is also not a simple task, and would involve consideration of variances, recent data, historical data, and rolling averages. Is the Nunavut Planning Commission prepared to share the required detailed information on which the polygons are based? How does the	The O&R document includes 'Defining Geographic Boundaries' sections for each topic and more detailed information can often be found in the referenced data source and documents. The Commission staff would be pleased to discuss specific topics where additional detail is required or assist in locating the information in the record.



		Nunavut Planning Commission intend to systematically approach the issue about updates?	
12		Ultimately the federal government, Nunavut and Nunavut Tunngavik Inc. will sign off on the Nunavut Land Use Plan. Will they give direction to participants in the Nunavut Impact Review Board process to proceed in a manner that is consistent with conformity determinations? For example, would submissions to Nunavut Impact Review Board and any issued government and/or Inuit approvals or agreements be consistent with any caribou restrictions included in the plan, and limit need for additional consideration during the Nunavut Impact Review Board and subsequent regulatory processes?	As noted above, under NuPPAA section 69, other regulatory authorities are required to implement the requirements of the land use plan but still have their own obligations. In addition, under NuPPAA section 69(5) note that: “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 [in an applicable land use plan]”
13		How will the Nunavut Planning Commission confirm certainty on the topic of grandparenting before the Nunavut Land Use Plan is presented for approval? In Agnico Eagle’s view, improved certainty on this topic is required before the plan should move forward.	When revising the plan, the Commission will consider all information received by the close of the record on January 10, 2023.
14		How is the Nunavut Planning Commission applying monitoring data collected of mining activities on caribou? This information is available through the Nunavut Impact Review Board’s public registry.	The Commission has not considered information that has not been submitted through the DNLUP planning process and filed in the Public Registry. All information received by the Commission through the DNLUP planning process is available on the NPC public registry.