



Government of Canada Responses/Comments to final written submissions

IDENTIFICATION	
Date	February 24, 2023
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Preface: The Government of Canada appreciates the opportunity provided by the Nunavut Planning Commission (the Commission) to provide responses to the final submissions, and notes that it continues to review and consider all submissions to the Commission on the 2021 Draft Nunavut Land Use Plan (NLUP). The responses below are provided to the Commission based on the submissions reviewed to date and they focus on a few key issues where the Government of Canada would like to provide additional clarity or further information with respect to its previous comments or recommendations. The Commission should refer back to the Government of Canada's previous submissions on the 2021 Draft NLUP for comments and recommendations on other issues not touched on in this document.

	NPC REGISTRY FILE #	TOPIC	SECTION OF THE SUBMISSION	YOUR RESPONSE/COMMENT
1	Ghotelnene K'odtineh Dene Final Written Submission 21-207E	Consultation	Final Written Submission (pages 4-6)	<p>Importance to the NLUP Process:</p> <p>Address important comments with respect to Consultation and the Crown's duty to consult.</p> <p>Response:</p> <p>The Government of Canada acknowledges that further discussions are still required with respect to the duty to consult as it applies to the Ghotelnene K'odtineh Dene. The Government of Canada will continue to engage the Ghotelnene K'odtineh Dene with respect to Crown consultation to ensure that they are informed on the steps that the Crown intends to take to fulfill its duty to consult on the 2021 Draft NLUP, as well as associated timing.</p>

2	Athabasca Denesūliné Post- Hearing Written Submission 21-177E	Consultation	5. Further Consultation Necessary (page 5)	<p>Importance to the NLUP Process:</p> <p>Address important comments with respect to Consultation and the Crown's duty to consult.</p> <p>Response:</p> <p>The Government of Canada acknowledges the request for further consultation on the NLUP after it is finalized by the Commission and prior to its approval by the Governments of Canada and Nunavut, and Nunavut Tunngavik Incorporated. The Governments of Canada and Nunavut's August 19, 2022 joint letter to Indigenous Governments and Organizations (including Athabasca Denesūliné) outlines a proposed plan for how the Crown will consult once the final Plan is submitted to the approving parties. The Government of Canada welcomes any feedback or questions from Athabasca Denesūliné on the proposed plan for consultation and how best to engage with Athabasca Denesūliné.</p>
3	Joint NTI-RIA Submission 21-189E	Consultation	1.1.2 Further Dialogue on IOLs (page 9)	<p>Importance to the NLUP Process:</p> <p>Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Planning process and credibility; legal compliance. <p>Response:</p> <p>NTI and RIAs have requested in their submission that the Commission holds formal consultations with the DIOs to build consensus on the potential paths forward for addressing IOLs within the final Draft NLUP, prior to the Commission beginning its deliberations on changes to the 2021 Draft NLUP. The Government of Canada supports this recommendation and encourages the Commission to consider this opportunity to engage NTI and the RIAs. These discussions are important to ensure that a final NLUP has taken into account Inuit goals and objectives for IOLs, as required under section 11.8.2 of the Nunavut Agreement.</p>
4	All	Marine Shipping		<p>Importance to the NLUP Process:</p> <p>Address important comments with respect to marine shipping.</p> <p>Response:</p>

				<p>The Government of Canada is continuing to review the submissions and recommendations regarding marine shipping. As noted in some of the submissions, there are many mechanisms and tools that may be appropriate to address some marine shipping concerns outside the planning process. Government of Canada officials are available should the NPC wish to learn more about Government of Canada regulations, policies and initiatives related to marine shipping.</p> <p>The Government of Canada is committed to continued discussions with Inuit to identify measures that address shipping concerns including looking more closely at options for collaborative plan requirements. We are in agreement with the NTI/RIA joint submission that as collaborative tools are developed, it may be appropriate to review and amend the approach to the Conditional Use designation for caribou sea ice crossings. Other modifications may also be appropriate.</p>
5	<p>Friends of Land Use Planning Submission</p> <p>21-167E</p>	Military Facilities	<p>Research Scan Table, Transcript of Pond Inlet Public Hearing, October 24-27, 2022 (page 23)</p>	<p>Importance to the NLUP Process:</p> <p>Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Legal compliance. <p>Response:</p> <p>The Friends of Land Use Planning research scan includes the following quote from Commission staff during the 2022 Cambridge Bay public hearing to which the Government of Canada would like to respond:</p> <p><i>“These Plan requirements are meant to guide how others use your land, so things like mineral exploration or tourism activities, whether that is a lodge or a cruise ship, would need to follow the requirements of this Land Use Plan. Also, things like scientific research that may be going on or different <u>military exercises and training activities</u>, again would need to follow these requirements, but not community members conducting traditional activities.”</i></p> <p>The Government of Canada will uphold the obligations set out in the <i>Nunavut Planning and Project Assessment Act</i>, making specific reference to Section 68 – Implementation, Duty and Section 151 – National Security.</p>

6	Joint NTI-RIA Submission 21-189E	Military Facilities	Section 2.4.4 Military Facilities (pages 22-23)	<p>Importance to the NLUP Process:</p> <p>Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Clarity and certainty. <p>Response:</p> <p>With respect to NTI-RIA's submission under section 2.4.4, the Government of Canada wishes to highlight the following issues that remain respecting the 2021 Draft NLUP's zoning for military facilities:</p> <ul style="list-style-type: none"> - Limited Use Areas assigned to military sites with a "Prohibition on all activities" may be perceived as being too restrictive. Discussions with NTI in 2016 revealed there were concerns in regards to Inuit rights to Nunavut lands. - The Government of Canada's first submission (21-026E-2021-10-08-GoC Comments and Recommendations on the 2021 DNLUP.pdf; pages 14-16) addresses this issue in which it seeks clarity from the Commission on whether the Department of National Defence would be provided the opportunity to be consulted during the project assessment phase and approve those activities occurring on or in close proximity to its sites. - The Government of Canada continues to seek clarity in regards to: i) Government of Nunavut and municipal government activities being exempt on Department of National Defence lands; ii) Clarification of Valued Socio-Economic Component; iii) Future Government of Canada Consultations; and, iv) Overlapping Geography. Clarifications with respect to these issues are required in order to reach a final position with respect to this issue. <p>The Government of Canada remains open to engaging with the Commission as well as NTI-RIAs during the revision period, to help find mutual planning solutions that can achieve an approvable Plan.</p>
7	Joint NTI-RIA Submission 21-189E	Key Migratory Bird Habitat Sites	1.1.1 Path forward – IOLs (page 7)	<p>Importance to the NLUP Process:</p> <p>Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Policy consistency; clarity and certainty. <p>Response:</p>

				<p>Kitikmeot Inuit Association has requested that surface IOLs be placed in a Mixed Use designation, but agrees that Class 2 Key Migratory Bird Habitat Sites and polar bear denning areas can remain Conditional Use, as the proposed terms and conditions are deemed not to interfere with the DIO's property rights and management authority on IOLs.</p> <p>The Government of Canada supports planning requirements that can help mitigate impacts to Migratory Birds and Migratory Bird Habitats, such as the setbacks associated with Class 1 and 2 Key Migratory Bird Habitat Sites in the Draft NLUP. Should the Commission decide to rezone any Limited Use areas for Class 1 Key Migratory Bird Habitat Sites that overlap with IOLs, the Government of Canada recommends that they be changed to Conditional Use instead of Mixed Use. This will ensure that the setbacks are retained for these sensitive bird habitats and help maintain important mitigation measures.</p>
8	<p>Joint NTI-RIA Submission</p> <p>21-189E</p>	Existing Rights	<p>Section 1.3 Existing Rights (pages 10-11);</p> <p>Section 2.6.3 Existing Rights (pages 25-26)</p>	<p>Importance to the NLUP Process:</p> <p>Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Legal compliance; implementation; regulatory efficiency. <p>Response:</p> <p>The Government of Canada would like to highlight the following areas of agreement with the submission made by NTI and RIAs, and add further comment respecting the Government of Canada's position on existing rights and interests:</p> <ul style="list-style-type: none"> - Existing rights and interests (including rights and interests granted under the <i>Nunavut Mining Regulations</i> prior to the approval of a NLUP) <u>must</u> be considered when determining what zoning should apply to an area with such existing rights and interest, as required by section 58 of <i>Nunavut Planning and Project Assessment Act</i>. - With respect to mineral rights and interests issued under the <i>Nunavut Mining Regulations</i> prior to the approval of the NLUP, the Government of Canada's position remains that the NLUP should not prohibit mineral exploration and production activities in a way that prevents the reasonable exercise and development of these rights and interests. - The 2021 Draft NLUP does not provide the necessary certainty and clarity. First, it protects some, but not all existing mineral rights and

				<p>interests. Second, it protects existing mineral rights and interest by creating an exemption that requires applying a subjective test. Additionally, this test unnecessarily relies on <i>Nunavut Planning and Project Assessment Act</i> concepts (exempt when the project undergoes a <u>significant modification</u>, “arising from a <u>project</u>”, “direct connection to a <u>project</u>”). The focus should instead be on clarifying permitted, conditional and prohibited uses. Plan criteria should clarify unambiguously whether mineral exploration and production is a permitted use in a given land use area.</p> <ul style="list-style-type: none"> - Zoning areas with existing rights and interests as Mixed Use is the Government of Canada’s preferred approach to achieve this degree of clarity and certainty. Conditional Use zoning could also be acceptable, to the extent that the conditions imposed are not so limiting that they prevent the reasonable exercise and development of the relevant mineral rights and interest. - For clarity, a mineral claim or lease grants its holder exclusive right to carry out exploration and mining activities. No other mineral exploration or mining activities by another proponent can take place lawfully under the <i>Nunavut Mining Regulations</i> within an owned claim or lease area. Therefore, a prohibition on mineral exploration and production is not necessary to prevent activities not associated with the existing rights and interests, as long as these rights remain active, since such activities are already prohibited by the <i>Nunavut Mining Regulations</i>.
9	<p>GN Final Submission 21-192E</p>	Existing Rights	<p>GN-2023-03: EXISTING RIGHTS & INTERESTS (bpages 8-10)</p>	<p>Importance to the NLUP Process: Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Legal compliance; clarity and certainty; regulatory efficiency. <p>Response:</p> <p>The Government of Canada agrees with the intended outcome expressed in the Government of Nunavut’s submission that “Existing rights should be permitted to proceed through the various stages of development, according to legislation.” The Government of Canada would like to comment on the following recommendation under the approach proposed by the Government of Nunavut:</p>

				<ul style="list-style-type: none"> - With respect to recommendation 4, the Government of Canada agrees that the Draft NLUP could reasonably permit mineral exploration and production activities in an area with existing rights and interests where those rights remain active. It is important to note that the <i>Nunavut Mining Regulations</i> provide an exclusive right to explore or produce over a claimed or leased area while these rights are in existence. Once existing rights and interests expire or are cancelled, any new rights issued for the same area would not be considered “existing rights” and associated land uses could be prohibited.
10	Qikiqtani Inuit Association Submission 21-176E	Tallurutiup Imanga	Section 3.7 Tallurutiup Imanga (pages 20-24)	<p>Importance to the NLUP Process:</p> <p>Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Policy consistency. <p>Response:</p> <p>The Government of Canada maintains the recommendations put forward in the Proposed wording for Plan Requirement 3.1.2-1 within our first submission on the 2021 DNLUP (21-026E-2021-10-08-GoC Comments and Recommendations on the 2021 DNLUP.pdf, page 14).</p> <p>This wording supports the reference to Tallurutiup Imanga National Marine Conservation Area in Annex A of the February 10, 2023 Joint Submission by the Government of Nunavut, Government of Canada, and Nunavut Tunngavik Incorporated (21-194E-2023-02-10-Joint NTI GoC GN Submission on the 2021 DNLUP-ENG.pdf, Annex A; page 11).</p>
11	Qikiqtaaluk Wildlife Board (Harvesting Areas C) Submission 21-174E	Tallurutiup Imanga		<p>Importance to the NLUP Process:</p> <p>Government of Canada priority expectations for a first generation NLUP:</p> <ul style="list-style-type: none"> - Policy consistency. <p>Response:</p> <p>The Qikiqtaaluk Wildlife Board submission is similar to what was shared with the Tallurutiup Imanga National Marine Conservation Area Planning Committee, which includes representatives from the Governments of Canada and Nunavut, and Qikiqtani Inuit Association. The Planning Committee is responsible for the</p>

				development of the interim management plan for Tallurutiup Imanga National Marine Conservation Area and is addressing the concerns raised by the Qikiqtaaluk Wildlife Board through its process, which includes consultation with rights holders, stakeholders and Institutes of Public Governance.
12	Kivalliq Inuit Association Final Submission 21-209E	Inuit Owned Lands	Section 4 Linear Infrastructure (page 15); Section 5 Community Drinking Water (page 17); Section 6 Community Area of Interest (pages 18-20)	Importance to the NLUP Process: Government of Canada priority expectations for a first generation NLUP: <ul style="list-style-type: none"> - Clarity and certainty; policy consistency; regulatory efficiency. Response: A number of the recommendations under sections 4 to 6 of the Kivalliq Inuit Association's submission request the addition of a Plan Requirement whereby <i>"Kivalliq Inuit Association will receive and review any land use applications in this area through its CLARC process and determine whether to grant access to the land with terms and conditions."</i> It is the Government of Canada's understanding that this recommendation made to the Commission regarding the Kivalliq Inuit Association's process would apply only where the zoning overlaps with Kivalliq Inuit Owned Lands.
13	GN Final Submission 21-192E QWB-QIA Joint Caribou Submission (Technical Memorandum) 21-169E	Caribou	<u>GN Final Submission</u> GN-2021-01: Caribou Habitat (pages 5-6) <u>QWB-QIA Joint Caribou Submission (Technical Memorandum)</u> All <u>KivA Final Submission</u> Caribou Protection	Importance to the NLUP Process: Government of Canada priority expectations for a first generation NLUP: <ul style="list-style-type: none"> - Clarity and certainty. Response: As stated in the Government of Canada's third submission on the 2021 DNLUP (21-201E-2023-02-10-Third GoC Comments and Recommendations on the 2021 DNLUP-ENG.pdf ; page 11), in principle, the Government of Canada supports the establishment of caribou habitat management practices in the DNLUP, which might include Limited Use and Conditional Use zoning, or other effective conservation measures for caribou. The Government of Canada recognizes the new position on caribou taken by the Government of Nunavut in their Feb 10, 2023 comments, the additional details provided by Kivalliq Inuit Association regarding seasonal restrictions and mobile caribou conservation measures, as well as the submission by the Qikiqtani Inuit

	Kivalliq Inuit Association Final Submission 21-209E		<p>(pages 8-14, Appendices 3 and 4)</p>	<p>Association and the Qikiqtaaluk Wildlife Board of additional caribou areas for consideration in the Qikiqtani region. The Government of Canada encourages the Commission's full consideration of these new recommendations and additional information.</p> <p>The Government of Canada continues to analyze specific implications of the new areas and recommendations. The Government of Canada maintains that the two principles outlined in the third Government of Canada submission recommendation on caribou habitat regarding Inuit Owned Lands and existing rights (21-201E-2023-02-10-Third GoC Comments and Recommendations on the 2021 DNLUP-ENG.pdf; page 12) should be respected.</p> <p>The Government of Canada encourages continued dialogue on the subject of caribou conservation, in particular in light of these new submissions.</p>
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