

NUNAVUT PLANNING COMMISSION  
PUBLIC HEARING ON THE 2016 DRAFT NUNAVUT LAND USE PLAN

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Ghotelnene K'odtineh Dene

PRE-HEARING WRITTEN SUBMISSIONS

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1/132017

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Submission for the Public Hearing on the 2016 Draft Nunavut Land Use Plan

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## **1 Background and Objectives**

Ghotelnene K'odtineh Dene or GKD, through the GKD North of 60 Chief Negotiators represent Northlands and Sayisi Dene First Nations for the purposes of negotiating the Samuel/Thorassie land claim. The Samuel/Thorassie land claim negotiations have been ongoing since 1999 and are at the stage where Northlands and Sayisi Dene First Nation will soon be ratifying a final land claim agreement.

Since April 2009, Ghotelnene K'odtineh Dene have been working with the NPC to incorporate the area within Nunavut that is subject to ongoing land claims negotiations into the land use planning process in a way that meets the objectives of both NPC and GKD.

The objective of this submission is to make the Commission and the Public Hearing Participants aware of recent corrections to the 2016 Draft Nunavut Land Use Plan (2016 DNLUP) that should be included in the Nunavut Land Use Plan (NLUP) put forward for approval to ensure that the process of completing and approving the NLUP does not interfere with conclusion of the Samuel/Thorassie land claim.

## **2 General Comments and Recommendations**

This submission is in support of the correction to the 2016 DNLUP regarding the Denesuline Area of Asserted Title Claim (4.1.5, 2.2.1; Schedule A), included in the list identifying errors and omissions to the 2016 DNLUP distributed by NPC on December 14, 2014 (3.1.5 – Doc Ref #10)

The submission will provide the background to and rationale for the correction to assist the Commissioners and other participants in understanding why correction should be included as part of the DNLUP put forward by NPC for approval.

## **3 Specific Comments and Recommendations**

### **3.1 Protected Area Designation for some locations within the Denesuline Areas of Asserted Title Claim**

#### **3.1.1 Reference in DNLUP**

Section 4.1.5 (pg. 37) of the 2016 DNLUP Designates the Denesuline Areas of Asserted Title Claim as Mixed Use. Section 2.2.1 (pg. 27) and Schedule A assigns a Protected Area Designation to some locations within the Denesuline Areas of Asserted Title Claim designated as Mixed Use in Section 4.1.5.

### 3.1.2 Comment

The Protected Area Designation for some locations within the Denesuline Areas of Asserted Title Claim is contrary to a commitment made on February 5, 2015 by the former Chairperson of the NPC (3.1.5 – Doc Ref #1). On December 14, 2016, the NPC acknowledged the Protected Area Designation as an error and changed the Protected Area Designation for those locations to Mixed Use, as per the February 5, 2015 commitment (3.1.5 – Doc Ref #10).

### 3.1.3 Recommendation

The NLUP submitted for approval by NPC should maintain the Mixed Use Designation as corrected on December 14, 2016 (3.1.5 – Doc Ref #10).

### 3.1.4 Background and Rationale

To assist the Samuel/Thorassie land claims negotiations, the Cabinet of the federal government withdrew a number of pieces of land owned by the Crown in southern Nunavut, through an executive direction called an Order-in-Council (PC-2013 -0625).

When NPC staff prepared the June 2014 Draft Nunavut Land Use Plan, a Protected Area designation was proposed for the lands withdrawn under Order in Council #PC 2013-0625. Between September 2014 and February 2015, NPC staff engaged in discussions with GKD leading to an understanding that including the withdrawn lands as a proposed Protected Area in the DNLUP would hinder the conclusion of the land claims negotiation process. The withdrawn lands were selected by GKD for social, economic and cultural purposes. They are intended to make a significant contribution to the future self-sufficiency of the Denesuline. Designating some or all of the withdrawn lands as Protected Areas before the land claims negotiations are completed will unnecessarily complicate the very unique constitutional process in which GKD are engaged. As a result, on February 5, 2015, the former chairperson of the NPC made a commitment that the lands withdrawn by the Order in Council would be presented at the public hearing as a Mixed Use designation (3.1.5 – Doc Ref #1).

On June 22 2015, Nunavut Tunngavik Incorporated (NTI) and the Regional Inuit Associations (RIAs), which include the Kivalliq Inuit Association (KivIA), Kitikmeot Inuit Association (KitIA) and the Qikiqtani Inuit Association (QIA), provided NPC with a joint set of initial comments with respect to the Draft Nunavut Land Use Plan 2014 (DNLUP 2014) (3.1.5 – Doc Ref #2). The following comment was provided regarding the Mixed Use Designation commitment made on February 5, 2015;

*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.*

The 2016 DNLUP erroneously assigned a Protected Area Designation for some locations within the withdrawal area. GKD advised NPC of the error on October 7, 2016 via e-mail and provided a written submission to NPC concerning the error on October 21, 2016 (3.1.5 – Doc Ref #3). The NPC acknowledged the error by advising all participants at the Pre-Hearing conferences as follows (3.1.5 – Doc Ref #4 - #9):

*Denesuline living in northern Manitoba and northern Saskatchewan have a vested interest in the southern Kivalliq region because they traditionally used, and continue to use, these lands. There are two areas of asserted title claim currently under negotiation.*

*The NPC received information on Denesuline land use in these areas, which has been included in the Draft Plan as Values that are summarized in Table 3.*

*To assist the Denesuline Land Claims Negotiations, the Cabinet of the Federal Government withdrew a number of pieces of land owned by the Crown in southern Nunavut, through an executive direction called an Order-in-Council. This Order-in-Council does not affect any Inuit Owned Lands. The Denesuline First Nations have recommended that these areas be designated Mixed Use in the Draft Plan in order to facilitate ongoing land claims negotiations. This designation was recommended to apply regardless of caribou or other potential values, due to the sensitivity of the Denesuline Land Claim Negotiations. This designation was supported by NTI in their June 2015 submission to NPC.*

*A commitment made by the former Chairperson of the NPC on February 5, 2015 advised that the lands withdrawn by the Order-in-Council would be presented at the Public Hearing as a Mixed Use designation. NPC staff intended the Draft Plan to be consistent with this commitment. In the 2016 Draft Plan, while the withdrawn lands are presented as having a Mixed Use designation, there are some locations within these areas that have been assigned a Protected Area designation for caribou.*

*The Denesuline are involved in the unique process of negotiating and ratifying a land claim, and the Protected Area designation may complicate that process.*

*NPC staff will follow the Notation set out in the February 5, 2015 letter, and treat the entire area withdrawn by the Order-in-Council as exclusively “Mixed Use”, without any overlapping Protected Areas or other land use designations. This will ensure the present wording of the Draft Plan does not interfere with ongoing negotiations.*

On December 14, 2016 NPC further acknowledged the error and posted the following on the NPC’s consultation record (3.1.5 – Doc Ref #10);

*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 (including the areas illustrated on Map #1).*

The NPC and Ghotelnene K’odtineh Dene have been working cooperatively since April 2009 to see that the Nunavut land use planning process does not unnecessarily complicate the very unique constitutional process in which GKD are engaged. In February 2015, the former chairperson of the NPC made a commitment that the lands withdrawn by the Order in Council would be presented at the public hearing as a Mixed Use designation. NTI and KIA, who have a direct interest in the Samuel/Thorassie land claims negotiations, are supportive of the Mixed Use Designation. That commitment was met when NPC advised all participants at the pre-conference hearings of an error in the 2016 DNLUP and that the 2016 DNLUP would treat the entire area withdrawn by the Order-in-Council as exclusively Mixed Use without any overlapping Protected Areas or other land use designations. On December 14, 2016, the same correction to the 2016 DNLUP was posted on the NPC consultation record. Therefore, it is in the best interests, of all Indigenous groups affected by the Samuel/Thorassie negotiations that the NLUP submitted for approval by NPC should maintain the Mixed Use Designation as corrected on December 14, 2016.

### 3.1.5 Supporting Material

The supporting materials referenced in this submission are included in the NPC Consultation Record and are cited as follows:

Doc Ref #	Date	Title
1	Feb. 5, 2015	2015-02-05 NPC letter to GKD re DNLUP.pdf
2	June 22, 2015	2015-06-22 NTI RIA Comments.pdf
3	Oct. 21, 2016	2016-10-21 GKD letter to NPC re GKD positions.pdf
4	Oct. 19, 2016	Transcript of Cambridge Bay Regional PHC-October 19 2016.pdf
5	Oct. 21, 2016	Transcript of Thompson Regional PHC-Oct 21 2016.pdf
6	Oct. 24, 2016	Transcript of Rankin Inlet Regional PHC-October 24, 2016.pdf
7	Nov. 2, 2016	Transcript of Kuujuaq PHC-November 2, 2016.pdf
8	Nov. 4, 2016	Transcript of the Pond Inlet Regional PHC-Nov 4, 2016.pdf
9	Nov. 7, 2016	Transcript of Iqaluit Regional PHC-November 7 2016.pdf
10	Dec. 14, 2016	2016 DNLUP Errors and Omissions.pdf 2016 DNLUP Errors and Omissions_INUK.pdf 2016 DNLUP Errors and Omissions_French.pdf 2016 DNLUP Errors and Omissions Maps.pdf