

Government of Canada
Comments and Recommendations on the 2016
Draft Nunavut Land Use Plan

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1 Introduction

The Government of Canada is providing information and guidance to the Nunavut Planning Commission (NPC or “the Commission”) to assist in the development of the Nunavut Land Use Plan. This submission presents the Government of Canada’s comments and recommendations on the current 2016 Draft Nunavut Land Use Plan (“the draft Plan”).

The Government of Canada’s review of the draft Plan is guided by its Priority Expectations for a First Generation Nunavut Land Use Plan, which was shared with the Commission in March 2013 and is summarized in the table below:

Government of Canada Priority Expectations for a First Generation Nunavut Land Use Plan
<p>Legal Compliance</p> <ul style="list-style-type: none"> • <i>The planning process and resulting Nunavut Land Use Plan (Plan) shall be compliant with the Nunavut Land Claims Agreement (NLCA) and the Nunavut Planning and Project Assessment Act.</i>
<p>Policy Consistency</p> <ul style="list-style-type: none"> • <i>The Plan must be consistent with federal department and agency mandates, authorities, commitments and policies, including international conventions and agreements which Canada is a party to.</i>
<p>Planning Process Credibility</p> <ul style="list-style-type: none"> • <i>The development of the Plan must be supported by a meaningful, inclusive and transparent public and stakeholder consultation process.</i> • <i>A public registry that organizes and consolidates a complete record of evidence and public and stakeholder participation must be established and accessible throughout the planning process.</i> • <i>The Plan must be based on a transparent process for making decisions among competing land uses based on the consideration of both facts and values.</i>
<p>Clarity and Certainty</p> <ul style="list-style-type: none"> • <i>The Plan must be clear and understandable to users.</i> • <i>The Plan must provide improved certainty for users.</i>
<p>Implementation</p> <ul style="list-style-type: none"> • <i>The Plan must be practical and implementable.</i> • <i>Conformity requirements must be clear and objectively verifiable.</i>
<p>Regulatory Efficiency</p> <ul style="list-style-type: none"> • <i>The Plan should contribute positively to Nunavut’s integrated regulatory system.</i>

The Government of Canada acknowledges the efforts and commitment of the Commission to develop a “first-generation” territory-wide land use plan, especially given the magnitude and complexity of such an undertaking, and encourages the Commission to continue its substantial, collaborative efforts to finalize the draft Plan.

At the Pre-Hearing Conference held Sept 27–29, 2016, in Iqaluit, Nunavut, the Government of Canada highlighted a number of significant concerns with the draft Plan and outlined some process steps that could help address these concerns. Given those concerns, as well as the recommendations outlined in this document and those expected from other parties, the Government of Canada envisions that the Commission will be making significant revisions to the draft Plan following the public hearing in March

2017. We request the Commission work collaboratively with the planning parties to develop a post-hearing process for refining the draft Plan to address issues raised in this submission and at the public hearing. This post-hearing process needs to include mechanisms for public participation and review.

The planning process would be enhanced by clearer descriptions of what the Commission has heard on a topic, information about the options under consideration (e.g., pros and cons of each) and a discussion of the rationale behind the proposed recommendation. While the Options and Recommendations report accompanying the plan identifies evidence considered for some decisions, it does not consistently explain the rationale for selecting a particular option. A major challenge for Government of Canada staff reviewing the draft Plan has been a lack of understanding of how the Commission weighed information and what evidence or opinions were considered in the proposed recommendations about particular land designations. The Options and Recommendations report identifies the evidence considered for some decisions, but does not address how important decisions were made and does not consistently identify the rationale for the options selected.

The Government of Canada offers any assistance the Commission might require before, during or after the public hearing. However, we ask that all inquiries be channeled through the Nunavut Regional Office of Indigenous and Northern Affairs Canada (INAC).

2 General Comments and Recommendations

2.1 Scope

The Nunavut Land Use Plan must provide clear guidance within the existing legislative and regulatory framework, and it must work effectively as an integral part of the “systematic and integrated” regulatory system laid out in the Nunavut Agreement and other important regulatory, governance and decision-making systems.

The Nunavut Land Use Plan is one component of the overall regulatory framework. Not all issues, nor all potential land use conflicts, can be resolved with a land use plan. Some issues currently lack sufficient information to make firm planning decisions. Others might be better managed through other processes. Finding the appropriate scope and reach in the Nunavut Land Use Plan will help to avoid duplication with other parts of the regulatory system, and can also allow non-land use planning solutions to evolve.

The task of developing a territory-wide land use plan for Nunavut is challenging. The geographic expanse and regional diversity of the territory provide many competing interests. In some areas, the Commission has managed to assemble extensive information to guide its decision making; in other areas, the planning process has exposed information gaps. It is important that the Commission identify and understand what is possible based on the current information available. As this is a first-generation land use plan, efforts should be focused on identifying what is achievable, acknowledging that information gaps exist and that some items are better deferred to subsequent iterations of the Plan. This approach will establish a strong foundation on which the success of future generation plans can be built.

Recommendation: It is important to ensure that the draft Plan approach each issue in the context of the broader regulatory framework. In addition, further consideration must be given to determining whether some of the issues are beyond the scope of a first-generation Land Use Plan as more work and time is required to address them.

2.2 Unintended Consequences

The Nunavut Land Use Plan must achieve an appropriate and flexible balance between broad social, cultural, environmental and economic goals. Recognizing the interdependence of these goals, it can be difficult to objectively determine the best balance among competing goals. Defining what is “reasonable” will depend on the current conditions, but should also look to the future, as some choices on land use will have long-term effects.

Land use planning attempts to achieve its objectives through zoning for permitted land uses and by prescribing conditions that allow potentially competing land uses to co-exist. In practice, accomplishing this can be difficult and often means identifying areas where a single goal should be the priority—for example, establishing a protected area to support a conservation goal, or identifying an area rich in mineral potential for more intensive resource development. Land use decisions often require difficult trade-offs.

In the absence of a rationale for the Commission's proposed recommendations within the draft Plan, it is difficult to ascertain why certain recommendations are proposed. Further, it is difficult to distinguish what information was considered, how community values were incorporated and how information was weighed. For example, it is not clear how information was weighted in determining the natural resource base and mineral potential when recommending a land use designation. The plan should show existing mineral projects or deposits, and the Commission should better describe the analysis undertaken when these choices were made.

The Government of Canada has identified areas where it believes the draft Plan goes beyond what is required to achieve a given objective. In some cases, the planning approach presents unintended consequences that should be more fully examined:

- Marine transportation restrictions would present a significant barrier to re-supplying communities effectively, and would create significant hindrances on the movement of natural resources to markets.
- Linear transportation restrictions would exacerbate the existing infrastructure gap in Nunavut and unduly impede infrastructure development.
- Caribou protection prohibitions over wide areas would significantly impair economic opportunities. Recognizing the importance of caribou to the well-being of the people of Nunavut and its neighbours, it is critical that the caribou be protected. However, we believe that this protection can be achieved using seasonal and other region-specific restrictions; these can be effective while not unduly impeding economic opportunities.

Recommendation: The Government of Canada recommends that the Commission clarify its rationale for decision making. Users of the plan should, as much as possible, be able to understand the trade-offs made in the planning decisions and their consequences. This approach will allow for refining the planning rules to avoid or better anticipate the potential negative outcomes associated with decisions.

2.3 Use of Planning Tools

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. 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.

2.4 Process

At the pre-hearing conference, the Government of Canada requested that the Commission consider adjustments to the planning process in order to work through some significant concerns. Recognizing that the process amendments will not be accommodated before the March public hearing, we would like to re-iterate how important it is that the Commission convey during the March public hearing that the draft is still evolving and will require substantial revision.

Given the expected significant changes needed to the draft Plan, the comments within this submission are focused on the draft Plan itself, and not on the Options and Recommendations report, whose intent was not clear to the government’s reviewers. We do note that, since the draft Plan indicates that the Options and Recommendations document should be consulted on an ongoing basis to support decision making, consistency between it and the Nunavut Land Use Plan is critical.

Recommendation: The Government of Canada recommends a post-hearing process to ensure outstanding issues are resolved and proposes the following guiding principles for a post-hearing process:

- There is transparent public consultation that provides due regard to Inuit oral communication and satisfies consultation requirements under both the Nunavut Agreement and the Constitution.
- There is opportunity to complete a line-by-line policy, legal and editorial review.
- The Commission works with the three approving parties to find acceptable approaches to any outstanding large issues of concern.
- The scope of the draft Plan is appropriate for a first-generation land use plan.

The Government of Canada requests to be involved in planning this process.

3 Specific Comments and Recommendations

3.1 Marine Shipping

The Government of Canada recognizes the role and responsibilities conferred on the Commission under the Nunavut Agreement, including the development of a land use plan for the Nunavut Settlement Area that includes conservation, economic development and the building of healthy communities. We also support an approach to land use planning that builds on Canada's domestic marine transportation regime, encourages free and open navigation within a highly regulated environment and respects Canada's international agreements and standing.

The proposals relating to marine shipping outlined in the current draft Plan give rise to a number of serious concerns; it is essential that changes be made in these areas before the plan is finalized.

The draft Plan notes that the Commission is taking an incremental approach to the development of the Nunavut Land Use Plan and acknowledges that it is not feasible to develop a completely comprehensive land use plan for such a vast and dynamic area in a reasonable timeframe. The Government of Canada agrees with this viewpoint and recommends that concerns related to marine transportation and the proposed solutions be removed from this first-generation plan.

The Government of Canada has identified concerns with the proposed marine transportation restrictions within the draft Plan and has previously noted these concerns during technical workshops, written submissions and most recently at the pre-hearing conference held in Iqaluit. The restrictions proposed in the draft Plan would impede search and rescue and other forms of emergency and environmental response, national defence, national security and other essential government and non-government operations and services such as community resupply; they could also impact future economic development. Further, the proposed restrictions that would impede navigation through the various waterways that make up the Northwest Passage would likely provoke a negative reaction from certain other states.

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.

A land use plan needs to be clear and understandable for both users and regulatory authorities, as well as implementable. In the current draft Plan, the discussion of marine shipping is unclear in several places. Terms such as "marine shipping," "commercial shipping," and "marine transportation" are used without clear definitions, and sometimes appear to be used interchangeably. This lack of clarity makes it difficult to support the implementation of the Nunavut Land Use Plan.

Further, the restrictions outlined in the draft Plan do not appear to be limited to marine vessels associated with a project. This raises two distinct issues. First, not all vessel movements are projects. A vessel movement that is not itself a project and that is not related to a project is not subject to

assessment under the *Nunavut Planning and Project Assessment Act* (NuPPAA) at all. Second, while a vessel movement, even if not related to a project, may be a project in its own right, such vessel movements cannot be screened by the Nunavut Impact Review Board (NIRB) because of section 153 of the Act. This is an issue that needs to be addressed in the plan, because presently, the draft Plan envisions referral to NIRB in contexts where it would be impossible. For these reasons, the Government of Canada's comments on this matter should be read as applying only to vessel movements that are, or are part of, a "project" as defined under the NuPPAA.

The rest of this section provides further details on some of these concerns and presents alternate recommendations.

3.1.1 Canadian sovereignty of the Northwest Passage and Registration of Ecological and Cultural Sites with the International Maritime Organization as Special Areas

Reference in Draft Plan: Section 5.5.2 Marine Shipping, page 46; Section 2.2.1.5 Caribou Sea Ice Crossings, page 26

Comment: The draft Plan states, "Many countries do not recognize Canadian sovereignty of the Northwest Passage." But in fact, Canada's sovereignty over its lands and waters in the Arctic is long-standing and well established. The statement in the draft Plan is probably based on a common misunderstanding of a different issue. The waters of the Arctic Archipelago, including the waterways known as the "Northwest Passage," are internal waters of Canada by virtue of historic title and straight baselines established around the Arctic Archipelago in 1986. This firm Canadian claim, however, has been questioned, especially by the United States. The US has argued that the waterways that make up the Northwest Passage represent an international strait, which allows the right of transit passage.

The draft Plan also says, "to protect these sea-ice crossings from foreign vessels, it is necessary to register them with international bodies." However, that is not the case, because these are the internal waters of Canada. As a general matter, it would not be advisable to use an international organization to designate those waters as special areas, and doing so could suggest to other states that Canada no longer views those waters as internal.

The draft Plan further states, "The NPC recommends that the Government of Canada consider registering Caribou Sea Ice-Crossing as Special Area, Particularly Sensitive Sea-Ice Area, or area to be avoided or a combination of these to ensure international vessels respect this closure." It also includes a recommendation to government that responsible authorities work to support the goals of the marine setbacks by registering the ecological and cultural heritage sites in question with the International Maritime Organization (IMO) as Special Areas, Particularly Sensitive Sea Areas (PSSAs), or Areas to Be Avoided.

The Government of Canada understands the first designation to be a "Special Area" under the International Convention for the Prevention of Pollution from Ships (MARPOL) and "PSSA" as a designation in accordance with the IMO's resolution A.982 (24), "Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas (PSSAs)." Designating the crossing as a "Special Area" or "PSSA" would not achieve the stated goal that international vessels respect a closure, as both are intended primarily to prevent pollution, not to prevent passage altogether. A designation of a Special Area under MARPOL, for example, means the adoption of special mandatory methods for the prevention of sea pollution is required.

Recommendation: The Government of Canada recommends that the Commission remove the references that question Canadian sovereignty over the waters within the Northwest Passage as well as the recommendations to register sites of caribou sea ice crossings with the IMO.

3.1.2 Key Migratory Bird Habitat Sites and Walrus Haul-Outs

Reference in Draft Plan: Table 2, Migratory Bird Setbacks; Table 1, Site 41, Walrus Haul-Outs

Comment: Table 2 includes proposed marine transportation setbacks for the protection of key migratory bird habitats. It indicates that the marine setbacks are “subject to situations in which the safety of vessel, crew and passengers will need to come first.” This wording is subject to misinterpretations that could lead to confusion when implementating the exception.

Table 1, Site 41 identifies a Protected Area for walrus haul-outs. The site restrictions include the following condition: “No vessel may approach within five (5) km seaward of a walrus haul-out, any time during the year.”

Recommendations: The Government of Canada recommends that the exception language in Table 2 be changed to the following: “Marine setback areas will not be entered 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.”

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.”

3.1.3 Seasonal Restrictions

Reference in Draft Plan: Section 1.7.6 Seasonal Restrictions, page 23

Comment: The draft Plan states, “Wherever possible, these seasonal restrictions are based on Inuit seasonal cycles and systems.” It further explains that the start and end dates of the Inuit seasons vary by region in Nunavut, and can vary from year to year. The variability of start and end dates may present a difficulty. The draft Plan proposes that the Northwest Passage between Victoria Island and the Mainland, among other proposed seasonal restricted areas, be closed to all ship traffic, subject to safe navigation, during Ukiaq and Upingakaaq (Ukiuq is excluded), and directs that any project in Nunavut that involves shipping that would violate these conditions is prohibited. While the Commission may be able to use flexible date markers in its conformity determinations, it is unclear how this will affect a project’s proponents, particularly in multi-year projects. No mechanism is described for vessel operators to determine when a restriction is in effect.

Recommendation: The Government of Canada recommends that the start and end dates for seasonal restrictions be further clarified.

3.1.4 Robust Ice-Bridging Plans

Reference in Draft Plan: Section 5.5.2.3 Marine On-Ice Transportation Corridors, page 47; Section 7.3 Annex B: Factors to Determine if an Ice-Bridging Plan, Applicable When an Icebreaker Is Proposed to Cross a Recognized On-Ice Transportation Route, Is Robust, page 59

Comment: The draft Plan states that “no marine vessel may cross any marine on-ice transportation corridor presented on Schedule A during the seasons of Ukiaq, Ukiuq, Upingaksaq, and Upingaaq, without first presenting a robust ice bridging plan.” It is of chief concern to the Government of Canada that marine safety is abided by and the environment and cultural practices are protected. This requirement as currently outlined could have unintended negative consequences. It does not, for example, address the issue of icebreaking in the event of responding to an emergency. It could also negatively affect community resupply operations. 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.

A collaborative approach to vessel traffic management will help protect ice bridges while facilitating the movement of people and goods through the Nunavut Settlement Area and allowing the Government of Canada and the Coast Guard to respond effectively to marine emergencies and protect the environment.

3.1.5 Restrictions in Moffatt Inlet, Portions of Foxe Basin and the Northwest Passage

Reference in Draft Plan: Section 5.5.2 Marine Shipping, pages 46–48; Section 2.2.1.5 Caribou Sea Ice Crossings, pages 27–28; Schedule A and Table 1, sites 152–154

Comment: The draft Plan states that “no project/project proposal be permitted in Nunavut that would include or involve any shipping during any time of the year in Moffatt Inlet or Foxe Basin....” It indicates that communities consider Moffatt Inlet and Foxe Basin to be essential for a variety of ecological purposes and asked that these locations be closed off to all non-Inuit vessels. However, the underlying concern behind these restrictions is not clearly explained in the plan. There is also no definition of a “non-Inuit vessel,” or indication of how one would be identified.

Both year-round and seasonal restrictions on marine transportation in these areas could have the following significant and potentially negative impacts:

a. Department of National Defence Operations

Restricting the access of Royal Canadian Navy (RCN) ships and of commercial ships that resupply North Warning Systems (NWS) will have a major impact on National Defence and Canadian Armed Forces (CAF) operations. NWS is part of Canada’s North American Aerospace Defense Command (NORAD) agreement with the US; Canada must meet its NORAD obligations.

Not having access to Moffatt Inlet will prevent the RCN from conducting surveillance and enforcement operations to protect this environmentally sensitive area.

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. Lastly, marine transportation for the purpose of resupplying NWS, on behalf of DND, also needs to have access to NWS FOX-1 (Rowley Island). This site needs to be operational year long and can only be resupplied by sea.

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.

b. Emergency Response Activities

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.

Below is a non-exhaustive list of vessel traffic restrictions in the draft Plan that do not mention exceptions for emergency response operations. These provisions, if implemented, would impair the Government of Canada's ability to protect the marine environment and respond effectively to marine incidents.

- Section 2.2.1.5, page 27, Caribou Crossing
- Section 5.5.2.3, page 47, Marine On-Ice Transportation Corridors
- Table 1, page 75, Site 73, Community Area of Interest — Foxe Basin
- Table 1, page 74, Site 74, Community Area of Interest — Moffatt Inlet
- Table 1, page 78, Site 152, Northwest Passage between Victoria Island and the Mainland
- Table 1, page 78, Site 153, Peel Sound and Franklin Strait
- Table 1, page 78, Site 154, Narrow Seaways between Bathurst Island and the Small Islands North of Bathurst Island
- Table 1, page 79, Site 157, Lancaster Sound Polynya
- Table 1, page 79, Site 158, North Water Polynya

c. Availability of alternate routes

Proposed marine transportation restrictions may require vessels to use alternate routes; however, in many circumstances, alternate routes are not charted and it is unknown whether safe alternate routes exist. Section 5.5.2.1 of the draft Plan refers to the Northern Marine Transportation Corridors Initiative. The Northern Marine Transportation Corridors Initiative was established to help prioritize assets and programs for improving nautical charting and services to mariners; however, this work has not advanced to a degree where the Government can determine if alternate routes exist. The initiative will take significant time to complete, given the size of the area that needs to be surveyed.

Furthermore, during emergency response operations, vessels will be required to take the shortest route to arrive on scene as quickly as possible to protect lives and the environment.

Historical Marine Transportation

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. 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.

Furthermore, in 2023 the Canadian Coast Guard will be launching a polar class icebreaker, which will be capable of remaining in the Arctic for nine months of the year. These restrictions could affect its ability to navigate and render assistance in the event of an emergency at Site 73 or Site 157.

The historical marine transportation patterns demonstrate that vessels transit the areas of proposed marine restrictions. It is not known whether the transit of these areas is required to ensure the safety of the vessel or if another reason exists. Combining the effects of marine transportation restrictions, the presence of ice and limited charting could effectively close the navigable passages into the Gulf of Boothia through the Fury and Hecla Strait and, conversely, into Foxe Basin from said strait as well as the Lancaster Sound channel.

d. Community Resupply

Year-round and seasonal vessel traffic prohibitions could negatively impact community resupply operations. The draft Plan notes that seasonal vessel traffic restrictions have a two-week variance for the beginning and end of seasonal restrictions. This variance could potentially shorten the shipping season by four weeks in many areas of the Nunavut Settlement Area (e.g., but not limited to, sites 152, 153, 154, 157 and 158). It is expected that the variability of the seasonal restrictions will also have an unintended negative impact on community resupply across the Nunavut Settlement Area. The annual schedules for resupply operations are planned and executed under very tight timelines, so any delays in resupply ships' access to transit to Nunavut communities could result in some communities not receiving their annual sealift resupply.

Further, to meet current and future demands, the Government of Canada will be extending the operating season for Coast Guard vessels operating across the Arctic. This extension addresses growing demands for services across longer periods given increasing traffic and longer ice-free periods in Arctic waters.

e. International Relations

The Government of Canada's rules and regulations for marine transportation in Canada's Arctic waters are designed to minimize the threat of accidents and pollution, and they have on the whole proved effective. The Government of 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 IMO and the International Labour Organization (ILO). A blanket prohibition on vessel traffic through any part of the various waterways commonly referred to as the "Northwest Passage" could be challenged by other states in relation to the status of those waters under international law. Further, the Government of Canada and the US concluded a legally binding treaty in 1988, the Arctic Cooperation Agreement, in which Canada and the US agreed to facilitate navigation by their icebreakers in their respective Arctic waters. Blanket prohibitions on the movement of vessels, including icebreakers, in Canadian Arctic waters risk being perceived as violating the terms of that agreement.

Recommendation(s): The Commission has identified that data gaps exist and that conditions in the Arctic ice are changing due to climate change, and that it will therefore need to review the Nunavut Land Use Plan in the future as conditions evolve and more information becomes available.

The Government of Canada recommends using the existing regulatory regime, in combination with existing forums and initiatives, to develop collaborative, dynamic solutions that would address the concerns related to marine transportation. These forums are flexible in nature and have mechanisms in place that allow solutions to be monitored and amended as new information becomes available without the need to revise the Nunavut Land Use Plan. This collaborative approach to vessel traffic management will lead to greater marine safety and improved stewardship of the Arctic environment.

Marine transportation in the North is a highly regulated activity. The Government of Canada has provided the Commission, through written submissions and participation at technical workshops and the pre-hearing conference, with information on the legal regime that governs marine transportation in the Arctic. The Commission has stated as its objective “to identify and provide protection for the natural environment, areas of biological importance, traditional land use activities and cultural landforms through the establishment of land use zones and terms outside of formal legislative processes....” The rationale for establishing these terms outside of the existing formal legislative process is not clearly understood. The land use planning process is in itself a formal legislative process, similar in many ways to other forms of delegated legislation, and should work effectively as an integral part of the “systematic and integrated” regulatory system.

The Government of Canada’s robust domestic regime for Arctic marine transportation attempts to balance the need for a safe and environmentally responsible marine transportation system with the need to have viable, effective and economical marine transportation that facilitates a balance between commerce and the well-being of Canadians. Listed below are a number of initiatives and legislative processes that are currently ongoing or under development. The Government of Canada would like to better understand the rationale of the Commission in including marine transportation restrictions in the draft Plan, and be made aware of any gaps the Commission believes exist. Should gaps be identified that cannot be addressed by a single process or a combination of processes below, we propose that a work plan be developed within the framework of the NMC, so the Commission, the Government of Canada and other partners can jointly develop meaningful and effective solutions.

Domestic Regulatory Regime

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 Act¹ 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.

Nunavut Marine Council (NMC)

¹ **41 (1)** As the Minister responsible for coast guard services, the powers, duties and functions of the Minister extend to and include all matters over which Parliament has jurisdiction, not assigned by law to any other department, board or agency of the Government of Canada, relating to

- **(a)** services for the safe, economical and efficient movement of ships in Canadian waters through the provision of
 - **(i)** aids to navigation systems and services,
 - **(ii)** marine communications and traffic management services,
 - **(iii)** ice breaking and ice management services, and
 - **(iv)** channel maintenance;
- **(b)** the marine component of the federal search and rescue program;
- **(c)** [Repealed, 2005, c. 29, s. 36]
- **(d)** marine pollution response; and
- **(e)** the support of departments, boards and agencies of the Government of Canada through the provision of ships, aircraft and other marine services.

(2) The Minister shall ensure that the services referred to in subparagraphs (1)(a)(i) to (iv) are provided in a cost effective manner.

The Government of Canada recommends that the Commission use its power under Section 15.4.1 of the Nunavut Agreement to help start a process to address the complex marine transportation issues the Commission has begun to consider. The NMC provides a specific forum to deal with complex issues in a consultative, inclusive and dynamic manner; aspects not fully captured within the current regulatory regime could be discussed within this forum. As noted earlier, the Commission, as part of the NMC, can advise and make recommendations to the Government of Canada regarding marine areas of importance. The Nunavut Agreement requires the Government of Canada to consider such advice and recommendations. The Government of Canada supports the use of this venue to collaboratively develop solutions with the Commission, community groups and industry stakeholders throughout the planning and management of the Arctic shipping season and during the development of initiatives such as the Oceans Protection Plan, which is a Plan to improve marine safety and responsible shipping and to protect Canada's marine environment. This approach would help minimize activities that affect sensitive marine areas as well allowing for ongoing discussions on marine transportation concerns and resolutions. The Government of Canada proposes that this collaborative and solutions-oriented approach would address our significant concerns with the maritime components of the draft Plan and would help finalize this first-generation Plan while allowing for ongoing discussions on marine transportation concerns.

Advisory Forums

In addition to the NMC, other forums 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.

The Prairie and Northern Regional Canadian Marine Advisory Council (CMAC) includes representatives of individuals and parties that have a recognized interest in boating and shipping concerning safety, recreational matters, navigation, marine pollution and response and marine security. The CMAC is a forum used to discuss the development and acceptance of international conventions, regulations, codes, standards and recommendations; the development and implementation of national statutes, regulations, codes, standards, recommendations and procedures; operations and services; and any other matters related to marine safety, marine services, marine pollution prevention and response and marine security.

The National Marine Advisory Board and its six regional counterparts, including the Arctic Marine Advisory Board (AMAB), provides a forum for discussion of shared priorities and objectives, as well as for feedback on service delivery that the Canadian Coast Guard requires as a service provider. Members of AMAB include the Government of Canada, industry and other stakeholders.

Oceans Protection Plan

Many of the concerns of the Commission over the effects of marine transportation on culturally and environmentally sensitive areas could also be addressed under the recently announced Government of Canada Oceans Protection Plan (OPP). This \$1.5 billion national plan improves marine safety and responsible shipping, protects Canada's marine environment, and creates stronger partnerships with Indigenous and coastal communities.

The Government of Canada will work with partners and engage Indigenous and coastal communities to develop, update and modernize regulations and other tools to better respond to community issues related to marine traffic and incidents. Mariners, Indigenous groups and coastal communities will have access to real-time information on marine transportation activities and tools, making navigation safer in their local waters. As well, the Government of Canada will invest in Northern communities, including within Nunavut, to improve environmental protection and achieve safer, more efficient resupply operations. A Canadian Coast Guard Auxiliary for the Arctic will also be created, bolstering capacity to respond to emergencies and pollution incidents, with up to eight new community-response boats being available. A seasonal inshore rescue-boat station will also be created, enhancing northern search-and-rescue capacity. The Canadian Coast Guard is also committed to extending its operational season in the Arctic to address increasing demands for emergency services in the Arctic.

Moreover, the OPP will offer an opportunity for renewed and coordinated collaboration with Indigenous groups, including the Inuit, for the Northern Marine Transportation Corridors (the Corridors) and the Arctic marine transportation regime. The Corridors framework is premised on the establishment of a system of low-impact shipping routes, which will enhance marine navigation safety in the North, provide greater predictability of services for communities and mariners, support economic development and minimize impact on the environment. The framework will guide federal investment in Canada's North, including navigational services (e.g., hydrography and charting, icebreaking, and aids to navigation); marine communication and traffic services; and marine infrastructure investment.

The OPP will include the development of a governance model for both the Corridors and Arctic shipping regime that will facilitate participation of Indigenous groups and will account for the various modern treaties in the North. Participation of local populations will ensure culturally and environmentally sensitive areas are considered into planning and decision making to minimize the impact of marine shipping in Canada's North.

More information on the OPP can be found at <http://www.tc.gc.ca/eng/oceans-protection-plan.html>

Concluding Remarks on Marine Transportation

The Government of Canada, notably the Canadian Coast Guard, Transport Canada and the Canadian Armed Forces are key enablers of safe, low-impact shipping for the resupply of communities and other shipping; they have responsibility for maintaining marine safety and Canada's sovereignty; and they are responsible stewards of the marine environment.

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 transportation regime and respecting Canada's international agreements and relationships.

3.2 Linear Terrestrial Infrastructure

Reference in Draft Plan: Definitions: General, pages 8–12; Definitions: Transportation and Communications, pages 13–14; Section 1.7.5.3 Mixed Use, page 22; Section 5.5.1 Terrestrial Linear Infrastructure, pages 43–45; Annex A, pages 57–58.

Comment: The draft Plan prohibits linear infrastructure in all Protected Area designations (draft Plan section 5.5.1.2 and Table 1) and some special management zones (draft Plan Table 1). The definition of linear infrastructure includes communication and/or telephone lines, highways, marine undersea utility corridors, mine bulk hauling roads, mine servicing roads, public roads, pipelines, powerlines, private roads and/or railways. The Mixed Use land use designation permits most linear infrastructure including communication and/or telephone lines, mine bulk hauling roads, mine servicing roads, public roads, pipelines, power lines, and private roads, but prohibits highways and railways (draft Plan s. 1.7.5.3, p 10). For a clear understanding of the specific inclusions and exclusions of each of these terms, one must refer to the Transportation and Communications Definitions defined on pages 13-14 of the draft Plan.

Additionally, 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 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.

Rationale: The existing infrastructure gap in Nunavut has clearly been recognized as a challenge and limitation that needs to be considered when addressing the social and economic disadvantages of the communities of Nunavut. The Government of Canada does not agree that a Mixed Use land use designation that prohibits inter-community roadways and railways adequately reflects the shared interest of developing linear infrastructure for the Territory. Section 1.7.5.3 of the draft Plan, Mixed Use, indicates the intent of the Mixed Use land use designation is to support a variety of land uses which includes industrial, traditional, conservation, tourism, shipping, research, local economic development, and transportation and infrastructure. We can find no evidence in the draft Plan, or in the Options and Recommendations report, that justifies prohibiting inter-community roadways and railways in the Mixed Use land use designation. Every other component outlined in the definition of linear infrastructure has been permitted in this designation. 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.

3.3 Caribou Protection

Reference in Draft Plan: Section 2.2 Caribou, pages 27–28; Table 1, pages 70 and 79; Schedule A sites 38, 39, 40 and 159.

Comment: The draft Plan would prohibit most forms of natural resource exploration and development within core caribou calving areas, post-calving areas, freshwater caribou crossings, and key access corridors by designating these as protected areas with prohibitions that apply year round. Such a designation would prevent most forms of future non-renewable exploration and development projects.

We recognize the regional and national importance of caribou, particularly to the well-being of the people of Nunavut and its neighbours. The marked decline in most barren-ground populations is worrying to all Northerners, and indeed to all Canadians. Though it is not clear to what extent development has contributed to this decline, the Government of Canada supports the need to take a precautionary approach and provide meaningful protection for caribou through the land use plan.

At the same time, any restrictions on land use should be designed so as to have the least possible impact on economic opportunities for Nunavummiut while still protecting caribou. In our view, establishing protected areas for caribou habitat that prohibits exploration and development activities year round, as the draft Plan proposes, would unreasonably impact economic opportunities. Mineral exploration, in particular, is a significant contributor to economic activity in the areas the draft Plan currently designates as protected for caribou habitats.

(Note: The Government of Canada's understanding is that the Caribou protection section in the draft Plan only applies to mainland herds as described in the Caribou-specific land use designations.)

Recommendation: 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.

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 the 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.

Rationale: The draft Plan would zone 16% of the Nunavut Settlement Area as Protected Areas. The plan would prohibit mineral exploration and development year round in most of these areas. Much of Nunavut's wage-based economy is based on mining and quarrying activity. Over the last five years, the sector has contributed an average of 16% to the gross domestic product of Nunavut; only the public administration sector contributes more².

The need for an abundant source of country food and the desire for economic opportunities are both essential values for Nunavummiut. A resounding message from the Commission's community engagement was that food security is of the utmost importance, and that access to country foods such as caribou, fish, and sea mammals is critical. Another key message that the Commission heard from Nunavummiut is that "residents would like to see the development of a stronger economy that would provide more business and employment opportunities, particularly for youth. At the same time residents want to maintain the traditional lifestyle of Inuit" (draft Plan s. 1.4.2.1, p. 19).

The prohibitions proposed in the draft Plan not only prevent future natural resource development activities but also affect current exploration activities and existing mineral rights. Many of these protected areas overlap with areas where significant mineral exploration and investment has already occurred. Since these projects would be subject to the prohibitions and therefore not be able to transition to mine development, their proponents would not likely continue to invest in exploration.

The draft Plan, on page 27, discusses the risk of disturbance to caribou from activities in certain caribou habitat designations. We agree there are risks to caribou from disturbance, especially during vulnerable parts of their life cycle. However, there is no evidence yet that habitat is significantly lacking in quality or quantity and that other forms of protection are not effective in mitigating disturbance. Therefore, current efforts should focus on protecting caribou from disturbance while continuing to research causes of, and ways to reverse, declines. A report commissioned by INAC in 2007³ to assess the effectiveness of

² Nunavut Bureau of Statistics, "Nunavut Real Gross Domestic Product by Industry, 2011 to 2015," <http://www.stats.gov.nu.ca/en/Economic%20GDP.aspx>

³ Anne Gunn, Kim G. Poole, Jack Wierzchowski and Mitch Campbell, March 2007. Assessment of Caribou Protection Measures.

caribou protection measures found that conditions on land use intended to avoid disturbance to caribou have been partially effective and could be more effective if adapted with updated monitoring and analytical techniques.

It is clear there is a justified concern amongst residents of Nunavut and its neighbours, as well as governments, about the well-being of many of the caribou populations in the Nunavut Settlement Area. 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.

3.4 Mineral Potential

Reference in Draft Plan: Section 5.2 Mineral Potential, page 42

Comment: 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.

As previously mentioned, Government of Canada staff found it difficult, when reviewing the draft Plan, to determine what types and sources of information were used to determine the geographic extents of land use planning zones. It is generally understandable how some decisions were made relating to the focal value of an area, but it is unclear what information and decision methods were used. It is difficult to determine if the other possible uses of the same piece of land were fully considered. For example, it is easy to understand how the boundaries were set for protected zones for barren-ground caribou-calving habitat, and why that area was proposed to be "set aside" for the land use of caribou conservation. However, it is not obvious to what extent the Commission considered the opportunity cost of excluding other land uses from the area, or how it weighed alternate uses.

While special management areas and protected areas may require restrictions on activities related to mineral exploration and development, the restrictions proposed in the draft Plan appear to go beyond what is necessary. The early stages of mineral exploration require access to large tracts of land and generally have minor environmental impacts. As exploration intensifies, the geographic footprint narrows and potential impacts increase, as do efforts to mitigate them. Before a mine project can enter production, it goes through a regulatory process to rigorously assess its economic, environmental and social feasibility.

The Government of Canada previously provided a data set, titled “Mineral Exploration Leading to Mining Activity,” that highlights select areas of known mineral potential. It was, however, only a partial list not intended to fully illustrate the full extent of locations where evidence of mineral potential has been demonstrated. Geoscience knowledge for the territory is still evolving; it is impossible to predict where mineral exploration, evaluation and development will occur. There are likely areas with economic concentrations of valuable minerals outside of those highlighted areas. Therefore, we include with this submission a new map that better shows the areas where there is evidence for mineral potential—recognizing that, as new geoscience is collected, this map will change (Annex B, with methodology Annex C).

Recommendation(s): The Government of Canada recommends that the Commission adopt a transparent and explicit methodology for decision analysis to use when choosing among competing uses for an area that has both high environmental or cultural values and high value from existing or potential mining activity.

The Plan should ensure the geographical extent of prohibitions on activities be kept to the minimum required to protect the value that is the focus of a given site.

The Plan should incorporate the GIS layers as illustrated in the new map, provided in Annex B, showing areas with “evidence for mineral potential.”

3.4.1 Mineral Assessments

Reference in Draft Plan: Section 5.2 Mineral Potential, page 42

“For clarity, in the event of a conflict between areas of mineral potential and PAs [Protected Areas], the prohibitions in PAs apply regardless of mineral potential.”

Comment: This statement creates a negative bias against mining activity in areas of high mineral potential, without examining the relationship between resource potential and other aspects of specific protected areas. The statement also does not take into consideration existing regulatory bodies that can determine the relation between resource development and ecosystem sensitivities.

The Government of Canada’s Minerals and Metals Policy calls for the government to “fully take into account the mineral potential of the area in question before taking decisions to create protected areas on federal lands.” This policy identifies normal practices for permanent protections, such as national parks and conservation areas, that are established under legislation specifically for that purpose. The aim is to ensure that the economic and strategic significance of mineral and energy resource potential is duly considered. Because the draft Plan proposes land use designations that are less permanent and subject to periodic review, it is reasonable that a less rigorous assessment be undertaken.

Recommendation: The Government of Canada recommends that the Commission consider all available information, including ecological, socio-cultural and economic information, when determining land use planning zones.

3.5 Existing Mineral, Oil and Gas Rights and Projects

Reference in Draft Plan: Sections 2.1, 2.2 and 2.4, pages 26–28; Sections 6.5.1, page 52; Table 1, pages 64–80; Schedule A

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 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 ⁴.

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
Total		\$655 million	

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

⁴ Nunavut Bureau of Statistics, "Nunavut Real Gross Domestic Product by Industry, 2011 to 2015," <http://www.stats.gov.nu.ca/en/Economic%20GDP.aspx>

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
Total	29,422	3530	\$3,088,035	\$128.4 million	

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***

3.6 Drafting

Reference in Draft Plan: Document-wide

Comment: The approved Nunavut land use plan will have the force of law. Therefore, clarity and predictability are shared key objectives. Some language in the draft Plan is ambiguous or otherwise unclear, and some statements appear to contradict one another. These concerns make careful review of the plan challenging and its potential implications difficult to anticipate. The drafting concerns present issues for the interpretation and, by extension, the implementation of the Plan. Understanding that the draft Plan is a draft with a number of substantive issues to address as the priority, it is important to

ensure that the language of the final Nunavut Land Use Plan is clear and consistent, so it can be correctly interpreted and to allow for acceptance, approval and successful implementation.

Recommendation(s): The Government of Canada recommends that the Commission work with us to refine the language in the draft Plan from a legal, policy and editorial perspective to ensure clarity and internal consistency.

Rationale: The draft Plan contains some ambiguous language as to the extent of activities to which it applies. The plan also contains contradictory statements about its scope of application (e.g., s. 1.7.3 vs numerous provisions that purport to apply to non-projects). This issue may be linked to a belief on the part of the Commission that there is a conflict between the Nunavut Agreement definition of “project proposal” and the *Nunavut Planning and Project Assessment Act*’s definition of “project” (see s. 6.3.1). The Government of Canada does not believe there is a conflict; we are of the view that the planning regime only applies to those things that fall within the definition of “project” in the *Nunavut Planning and Project Assessment Act*.⁵

The terminology and definitions in the draft Plan are in need of a careful review to ensure that terms are used consistently with a single intended meaning. In a legal instrument, a change in a definition is a change in the substance of the rule, so this is a matter of importance.

The format of the plan makes it unclear at times where to find the operative rule—the applicable prohibition, term, or condition. Some sections appear to have inconsistencies between the main text, the designation summary at the end of the section, and Table 1. These contradictions should not be left to interpretation and should be revised prior to approval.

The draft Plan does not always distinguish clearly between prohibitions and terms and conditions on a permitted use: sometimes the draft Plan indicates a term and condition, but labels it as a prohibition, and sometimes the converse. This is a very important detail because the transition provisions rely on this distinction.

Examples: In section 1.7.3, the draft Plan states it applies to “all Projects/Project Proposals.” It is unclear if this is intended to mean the draft Plan only applies to projects (the Act’s term) and project proposals (the Nunavut Agreement’s term), or whether the Commission believes that an approved plan also applies to things below the threshold of project (or project proposal).

As an illustration of the above issue, in Table 1 sites 73 and 74 list a condition that “no vessel may enter” without mention of a project, while section 5.5.2.2 of the draft Plan, which also discusses these sites, states, “No project/project proposal is permitted... that would include or involve any shipping,” making it unclear whether it is all vessels or only vessels associated with projects that are not permitted in these areas. These passages should be revised in a way consistent with the principle that the plan can only apply to projects.

The phrase “subject to safe navigation” as used in the draft Plan is not clear. It could mean that passage is permitted only if safety requires it, or it could mean that any operator that can pass through safely may do so.

In section 2.2.1.4, “Freshwater Caribou Crossings,” the draft Plan states that the crossings include 20-kilometre buffers and that their status as Protected Areas “is not intended to affect shipping between

⁵ Justice Canada’s expert report on the use of the terms “project” and “project proposal” in the draft Plan.

Baker Lake and Chesterfield Inlet during open water seasons.” Further clarity is needed as to what “open water” refers to. Does it only, for example, refer to the season of Aujaq? Or, if it is to be understood more broadly, what water and ice conditions constitute “open water”?

In several cases, the language in the draft Plan does not make sufficiently clear that only specifically identified sites are zoned a certain way. For example, not all walrus haul-outs would be designated as Protected Area land use zones—only the ones identified as such in Schedule A.

3.7 Compendium of NPC Recommendations (Annex C)

Reference in Draft Plan: Section 7.4 Annex C: Compendium of NPC’s Recommendations in the Nunavut Land Use Plan, pages 60–61.

Comment: In a number of places in the draft Plan, the Commission follows a discussion on a particular topic with a recommendation that government departments or agencies take, or consider taking, particular actions; these recommendations are compiled in Annex C (section 7.4). Since these are described as recommendations, the Government of Canada is of the view that the Commission does not intend them to be part of the government’s general duty to implement the land use plan and carry out its activities in conformity with it. This distinction is not made explicit in the Plan, however.

In general, the descriptions of the issues that precede these recommendations are clear. However, we would like to better understand how these recommendations were developed. Without insight into the underlying issues and discussion on what options and solutions are available, the Government of Canada is hesitant to assume that these recommendations are in all cases the optimal response to the underlying issues.

Recommendation(s): If the Government of Canada’s understanding is correct that the Commission intends these recommendations to be advice only, we suggest the Commission revise section 7.4 to state clearly that these recommendations to Government are not intended by the Commission to be subject to the implementation duty that arises from section 68 of NuPPAA and 11.5.9 of the Nunavut Agreement.

(For specific comments regarding some of these recommendations, see section 4 of this submission, “Editorial Recommendations and Considerations.”)

Rationale: Clarifying the wording as recommended would help delineate these recommendations from the provisions of the Plan that the Government of Canada has the duty to implement.

3.8 Overlapping Designations / GIS

Reference in Draft Plan: Schedule A

Comment: In many instances, the draft Plan applies multiple overlapping land use designations to the same parcel of land. These overlaps are not easy to see in Schedule A because of the way the GIS layers are displayed. The small size of the printed images further compounds this issue. It is difficult to understand the extent of the conflict between some land use designations.

Currently, all designations are presented in a single shapefile. Because it is difficult to manipulate the representation of individual records in the database (that is, those showing individual features), using the database to show only Protected Areas, for example, or only Special Management Areas, is difficult.

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.

Below are two examples of where overlapping designations that are problematic:

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.
2. The Cape Dorset 2 (Nottingham Island) contaminated site (Special Management Area 96) lies within an Area of Equal Use and Occupancy (Protected Area 77) that prohibits quarries and linear infrastructure. However, site remediation activities are allowed in this Special Management Area. In cases where remediation activities require the use of quarries and roads, it is unclear whether these activities would conform to the draft Plan.

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.

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.

3.9 Contaminated Sites

Reference in Draft Plan: Section 4.4.3.2 Objectives, page 39; Section 7.5 Annex D: Example of Waste Site Clean-Up List Prioritization, pages 62–63

Comment: Annex D of the draft Plan outlines a process for prioritizing contaminated sites for cleanup. This process should be in tandem with the Government of Canada’s existing program —the Federal Contaminated Sites Action Plan (FCSAP) — and also line up with the Canadian Council of Ministers of the Environment: National Classification System for Contaminated Sites (NCSCS). The current text does make reference to the NCSCS, but states that it is used solely by DND and that is for hazardous waste sites. In fact, this classification system was developed to address all types of contaminated sites and is used by all federal departments. It is the basis for prioritizing sites in FCSAP.

The prioritization process is also in need of further development to resolve some incongruities. As currently described, a site that is located near a community but has very little to no risk for the environment and human health could have the same priority as a high-risk site that is far from any community but could have impacts on the environment.

Finally, the draft Plan currently does not outline how future contaminated sites will be identified and added to the Nunavut Land Use Plan.

Recommendation(s): The Commission should

- work with the Government of Canada to incorporate the Federal Contaminated Sites Action Plan (FCSAP) and the Canadian Council of Ministers of the Environment: National Classification System for Contaminated Sites (NCSCS) into the design of the waste site cleanup prioritization outlined in Annex D,
- consider reviewing the process in Annex D in consideration of the incongruities noted above relating to low-risk sites near communities, and
- add to the plan a process for adding new contaminated sites for all custodians.

Note: In addition, the information on contaminated sites provided in the plan should not be considered an exhaustive list of all sites within Nunavut. While the majority of the sites are under the jurisdiction of INAC and DND, the Nunavut Land Use Plan should recognize there are other custodians within the territory.

3.10 Additional Research and Studies

Reference in Draft Plan: Section 6.8 Recommendations for Additional Research and Studies, page 53.

Comment: The draft Plan outlines includes a list of “research priorities” that covers a wide variety of important issues and ends with the suggestion that other topics could be added. The specific research topics under each priority vary in detail and specificity.

The purpose of this list is not clear — is it an acknowledgment of gaps in existing research? Is it intended to assist future generations in improving the Land Use Plan? It is not understood how the list was developed or how the topics on it are to be implemented.

In addition, the items on the list are not all related to research. For example, the wording on revising geological information under 6.8.12 directs an update of information.

It is our understanding that the Commission intends these research priorities to be advice only.

Recommendation(s): If our understanding is correct, we suggest the Commission revise the wording in section 6.8 to clarify the purpose of this list, in particular indicating that these priorities are not intended by the Commission to be subject to the implementation duty that arises from section 68 of NuPPAA and 11.5.9 of the Nunavut Agreement.

3.11 Allowable research in Protected Areas and Special Management Areas

Reference in Draft Plan: Definitions: General, pages 10–11; Section 6.4 Generally Permitted Uses, page 52; Table 1: Land Use Designations, pages 64–80; Table 2: Walrus Haul-Outs, page 70, and Migratory Bird Setbacks, pages 81–82.

Comment: In locations it designates as Protected Areas, the draft Plan prohibits research that is related to the prohibited land uses, except for “non-exploitive scientific research.” After some consideration, the Government of Canada has concluded that this approach, when applied using the definition of non-exploitive research given in the draft Plan, may result in an unintended consequence of prohibiting research activities that are not harmful to the values on which the Protected Area land use designation is based. The Government of Canada, therefore, is of the view that research should not be a prohibited activity.

Recommendation(s): In Table 1, remove from all Protected Zone sites the phrase “related research except non-exploitive scientific research.” In the Definitions section, remove the phrases “related research” and “non-exploitive scientific research.”

Comment: Some Special Management Areas in the draft Plan, such as migratory bird sanctuaries and walrus haul-outs, require vessel setbacks. Specifically:

- On page 81, Table 2: Migratory Bird Setbacks, “How to Use This Table,” the draft Plan states, “Note that setbacks do not apply to scientific research vessels, scientific research, or traditional hunting or fishing activities.”
- Note 1 to Table 2 also states, “Aircraft shall endeavour to maintain, subject to pilot discretion regarding aircraft and human safety, and except for specified operational purposes such as take offs and landings, etc., the proposed vertical and lateral aerial setbacks.”

- On page 70, Table 1, Site 41, Walrus Haul-outs, one condition states, “No vessels may approach within five (5) km seaward of a walrus haul-out, any time during the year. Any project in Nunavut that involves shipping that would violate these conditions is prohibited.”

The Government of Canada wishes to ensure that any vessel and aerial setbacks for Special Management Areas in the draft Plan continue to permit wildlife-related scientific research, such as periodic marine mammal surveys.

Recommendations:

- Remove the note that currently appears at the end of “How to Use This Table” in Table 2 and instead incorporate the text of the note as footnote 6 to revised Table 2, Migratory Birds Setbacks (as presented on page 66 of this submission). This will clarify that, for example, marine mammal research conducted by aircraft near protected areas such as Migratory Bird Sanctuaries and walrus haulouts is permitted.
- Amend footnote 8 in the revised Table 2, Migratory Birds Setbacks (as presented on page 66 of this submission) to include this phrasing: “...and except for aircraft engaged in scientific research on wildlife abundance, distribution and health.”
- 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.”

3.12 DND presence in Nunavut / Sovereignty

Reference in Draft Plan: Section 4.5 Sovereignty, page 39

Comment: 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.

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.

Annual sovereignty operations: The Canadian Armed Forces have operated in the North for more than a century and maintain a year-round presence in Canada’s northern region through a host of joint

exercises and annual sovereignty operations (e.g., Op NUNALIVUT, Op NUNAKPUT, Op NANOOK, and Op NEVUS) in order to

- exercise Canada's sovereignty in the region;
- advance CAF capabilities for Arctic operations; and
- improve interdepartmental coordination and interoperability in response to Northern safety and security issues.

Training: Separate from sovereignty operations, the CAF is training regularly in the North. Thus, CAF requirement for training in the North should be mentioned and considered in this document. The land use plan should explicitly acknowledge CAF requirement for training in the North even if formal land use requests need to follow later.

Rangers: The Canadian Rangers are a sub-component of the CAF Reserve, serving as the military's eyes and ears in sparsely settled areas to demonstrate a year-round visible CAF presence in Canada's Arctic. In every community of the region, Inuit participate in the Canadian Ranger Program, which trains them as a local surveillance force. In turn, the Rangers act as guides for and train members of the Canadian Forces in Arctic survival. They conduct sovereignty and surveillance patrols, collect local data of military significance, provide local knowledge and expertise to operations, participate in search-and-rescue operations and provide assistance to federal, provincial/territorial or municipal authorities. Ranger patrols regularly traverse significant corridors and should be recognized in the Nunavut Land Use Plan as a Defence use of the land.

CAF Arctic Training Centre: The sovereignty section mentions Alert, Eureka and Nanisivik but not the CAF Arctic Training Centre (and other minor infrastructure) at Resolute Bay. Even though the Arctic Training Centre is co-located with an NRCan facility, it should be specifically mentioned so that it is acknowledged as a defence establishment and considered as such in the Nunavut land use plan. Resolute Bay is especially important as there is a local, seasonally-used training area requirement to the establishment.

Royal Canadian Navy (RCN): The RCN plays a key role in exercising Canada's sovereignty along all three coastlines through regular participation in operations and patrols in Canada's northern waters. The RCN also assists other government departments in enforcing national and international law.

Royal Canadian Air Force (RCAF): The RCAF conducts aerial, sovereignty, reconnaissance and surveillance patrols to defend Canadian and United States airspace, including the North. The RCAF also provides assistance to northern sovereignty and search-and-rescue operations. CFS Alert maintains a geolocation capability (the process of identifying the geographical location of a person or object), and provides support to search-and-rescue operations, Environment Canada, Arctic researchers and other operations. The RCAF, in conjunction with NORAD, maintains forward operating locations (FOLs) in Iqaluit and Rankin Inlet. They provide the necessary infrastructure and supplies to support the deployment of CF-188 Hornet fighter aircraft to remote locations.

Recommendation(s): DND recommends adding a mention of the presence of the DND/CAF and the existence of sovereignty operations to the Nunavut Land Use Plan, so that the Plan's users are aware of their existence, general scope and regularity.

DND requests that the Commission consider specifying in the Plan what general areas are commonly used during the operations, so that the Plan openly acknowledges the requirement and doesn't close the door on or limit availability of certain operational hubs that those operations regularly rely upon.

3.12.1 Prohibited uses

Reference in Draft Plan: Table 1: Land Use Designations, pages 64–80

Comment: Under the draft Plan’s current definition of “Prohibited Use,” a number of land use designations in Table 1, such as those disallowing any quarrying activity, will negatively impact DND real property, especially for sites 38, 39, 40, 43, 49 and 151. Indeed, DND has an ongoing operational requirement to quarry material in order to maintain its infrastructure, conduct remedial activities, employ its health and safety programs and stabilize its aerodromes, to name a few.

Recommendation(s): We recommend that prohibited uses not apply to DND to ensure that the department can continue to operate.

3.13 Coal Exploration and Development – East Axel Heiberg Island and Fosheim Peninsula

Reference in Draft Plan: Table 1: Land Use Designations, sites 23 and 27, page 67

Comment: Coal exploration and development is a prime potential land use in these two key bird habitat sites, both of which are considered to be highly risk intolerant by Environment and Climate Change Canada (ECCC). In the draft Plan, the sites are zoned as Protected Areas in which a number of activities, including mining exploration and development, are prohibited. However, coal does not fall under the definition of “mineral,” so exploration for coal and subsequent development would be permitted in these areas.

Recommendation(s): The Government of Canada recommends adding coal exploration and development to the list of prohibited activities for these sites.

Rationale: These activities would be counter to the intended effect of the “protected area” designation.

4 Editorial Recommendations and Considerations

The table below addresses some specific editorial concerns of the Government of Canada with the draft Plan.

To improve clarity and consistency, the Government of Canada makes the following general recommendations about the use of definitions in the draft Plan:

- 1) Delete definitions of terms that are not used.
- 2) Review each definition as to whether it is needed or whether the ordinary meaning of the term is sufficient for the use of the term.
- 3) Where a broad definition of a term is sufficient for its use in the draft Plan, avoid a very precise definition.
- 4) If a term has an authoritative definition, refer directly to that authoritative source. If quoting such a definition in the draft Plan, make clear that it is quoted material (rather than a definition drafted specifically for the Plan), and clearly identify the source.
- 5) Avoid the use of acronyms in definitions.
- 6) Avoid creating substantive rules through definitions.

Page #	Description	Recommendation	Rationale
8	<p>Definitions: General "Advanced Exploration is the phase after Exploration and prior to Mining where intensive work is done to a staked area. This includes but not limited to: bulk sampling; stripping and trenching land; removing shallow overburden; use of explosives; and drilling."</p>	<p>Suggested new definition: "Advanced Exploration is a range of activities to identify the characteristics of a mineral deposit and to assess the economic and technical feasibility of developing the mineral deposit into a producing mine."</p>	<p>The current definition mischaracterizes the role of advanced exploration.</p>
8	<p>Definitions: Conservation Area as defined in the draft Plan.</p>	<p>Suggested new definition: "Conservation area has the meaning given to that term in the <i>Nunavut Planning and Project Assessment Act</i>."</p>	<p>The draft Plan should use the term "conservation area" with the same meaning given to that term in the <i>Nunavut Planning and Project Assessment Act</i>." The most accurate way to do this is to define it here by referring to the legal definition.</p>

8	<p>Definition: "Contaminated Sites means an area of land which a regulatory authority has determined under applicable laws relating to the regulation of substances or products, including hazardous waste or dangerous goods, and the protection of the environment, is contaminated."</p>	<p>Suggested new definition: "A contaminated site is one at which substances occur at concentrations (1) above background (normally occurring) levels and pose or are likely to pose an immediate or long term hazard to human health or the environment, or (2) exceeding levels specified in policies and regulations."</p>	<p>This definition is used in federal policy and programs concerning contaminated sites.</p>
8	<p>Definition: "Distant Early Warning Line is a system of radar sites."</p>	<p>Consider removing this term from the list of definitions and, instead, include an explanation in the text where these sites are first discussed.</p> <p>Suggested wording: "Distant Early Warning (DEW) Line Stations were used in the 1950s and 1960s to communicate messages across the North and overseas. With new technology they were rendered obsolete, and some were decommissioned in the 1960s. Indigenous and Northern Affairs Canada and the Department of National Defence are responsible for remediating these sites."</p>	<p>Since this term occurs in only one section of the Plan, users will benefit from a contextual explanation in the relevant section more than from a definition in a list.</p>
9	<p>Definitions: "Exploration refers means a search for minerals by Prospecting, by geological, geophysical or geochemical surveys, by trenching, stripping, excavating or drilling or by any other</p>	<p>Suggested new definition: "Exploration refers to a range of activities used to search for deposits of useful, economically valuable minerals or oil and gas."</p>	

	method.”		
9	<p>Definitions: “Mining means the extraction of minerals, precious metals, or mineral specimens for a period of time, including any of the following undertakings that are performed in respect of a recorded claim:</p> <ul style="list-style-type: none"> a) Examination of outcrops and surficial deposits; b) Excavation; c) Sampling; d) Geochemical study or analysis; e) Drilling; and/or f) Geophysical study and analysis” 	<p>Suggested new definition:</p> <p>“Mining refers to the extraction and concentration of minerals of economic value from a mineral deposit.”</p>	
10	<p>Definitions: Non-exploitive Scientific Research refers to research whose objective is not the development or extraction of renewable or non-renewable resources, and uses scientific methods of data collection whose procedures and outcomes adhere to recognized ethical parameters of non-exploitation.</p>	<p>Consider deleting this definition from the list.</p>	<p>See Recommendation 3.11, “Allowable research in Protected Areas and Special Management Areas.” If this recommendation is accepted, this definition will no longer be required.</p>
10	<p>The acronym NCSP is used within the document but is not defined.</p>	<p>Spell out this acronym for AANDC’s Northern Contaminated Sites Program, either in the Definitions list or where it is used in the text (section 4.4.3).</p>	<p>The acronym is only used once in the draft Plan.</p>
10	<p>Definitions: “Monitoring refers to the process of periodic checks to the area that has been impacted by a former mine,</p>	<p>Suggested new definition:</p> <p>“Monitoring is the systematic approach to observing, studying and reporting</p>	<p>This change expands the definition beyond mining to include monitoring in other realms, such as socio-economic.</p>

	in order to ensure that Closure and Remediation programs are successful.”	ecosystemic and socio-economic conditions.”	
11	Definitions: “ Prospecting is the physical search for minerals, precious metals, or mineral specimens in their natural state.”	Suggested new definition: “ Prospecting refers to the search for outcrops or surface exposure of mineral occurrences or deposits with economic potential.”	
11	Definitions: “ Protected Area is a Land Use Designation that prohibits specified land uses that are incompatible with environmental and cultural values and may include Conditions to guide land use. Valued Components may also be identified in these areas.”	Suggested new definition: “ Protected Area refers to a land use designation that prohibits specified land uses.” Additional recommendations: <ul style="list-style-type: none"> • Throughout the plan, change the label “Protected Areas” zones to “Conservation Zones.” • Place legislated protected areas in their own “Protected Areas” zone of the Land Use Plan. 	The label “Protected Areas” has caused confusion over the legislative and long term status of sites within the draft Plan. The term “Protected Area” has a strong resonance of areas established under dedicated legislation for the long-term protection of one or more ecological values — for example, the term is often associated with national or provincial/territorial parks, National Wildlife Areas and bird sanctuaries. As an example of this approach, the Sahtu Land Use Plan has separate designations for Protected Zones and Conservation Zones. The term “Protected zone” is reserved for sites that are specifically protected under dedicated long-term protection instruments. The term “Conservation Zone” is used for sites where conservation of ecological and/or socio-cultural

			values is the priority use of the site.
12	<p>Definitions: “Waste Site means an area of land which is no longer used for any licenced, permitted or otherwise authorized activity, including but not limited to Contaminated Sites, hazardous waste sites, inactive mining sites, abandoned Distant Early Warning Lines sites, and non-hazardous sites near communities, where substances including Waste, Contaminants, and other substances regulated by applicable laws relating to the regulation of substances or products including hazardous waste or dangerous goods, and the protection of the environment: a) Pose an adverse effect to human or ecosystem health; b) Are of unsightly appearance; or c) Exceed levels specified in applicable policies and regulations whether or not a regulatory authority has determined the area of land to be a Contaminated Site.”</p>	<p>Suggested new definition: Waste Site “means an area of land which is no longer used for any licenced, permitted or otherwise authorized activity where substances including waste, contaminants and other regulated substances: a) Pose an adverse effect to human or ecosystem health; b) Are of unsightly appearance; and/or c) Exceed levels specified in applicable policies and regulations”</p>	The definition currently in the Plan does not accord with actual legal regimes or regulatory practice.
12	<p>Definitions: “Remediation is the process of restoring an area of land as nearly as possible to the same condition as it was prior to the commencement of the land use in a manner that can support and sustain wildlife and wildlife habitat.”</p>	<p>Suggested new definition: “Remediation is the removal, reduction or neutralization of substances, wastes or hazardous material from a site to prevent or minimize any adverse effects on the environment or public safety.”</p>	

13	<p>Definitions: Access Roads are unmaintained, informal, all-season community-based pathways, trails, and routes with no gravel bed, minimally engineered, and suitable for personal backroad vehicles. Access roads are not surveyed, and are used for traditional or community activities, not industrial activities.</p>	Consider removing this definition from the list.	The term does not appear in the text of the draft Plan, so no definition is needed.
17	<p>Figure 1 – E Comment: The map does not show the Lancaster Sound National Marine Conservation Area (NMCA) or the approximate locations of Wrecks of HMS Erebus and HMS Terror National Historic Site.</p>	Add these areas to the map.	Other areas administered by Parks Canada are present on the map.
27	<p>Section 2.1 Key Migratory Bird Sites</p> <p><i>Text Box:</i></p> <p>“Key Migratory Bird Habitat Sites not considered to be highly risk intolerant or moderately risk intolerant are known as VECs.”</p>	<p>Suggested new wording:</p> <p>“Key Migratory Bird Habitat Sites that are highly or moderately risk intolerant, but for which setbacks are not appropriate at this time, are considered to be VECs.”</p>	This or similar correction is needed for the statement to be accurate.
27	<p>Section 2.2.1.4 Freshwater Caribou Crossings</p> <p>“The freshwater caribou crossings include 20 km buffers. For clarity, this Protected Area status is not intended to affect shipping between Baker Lake and Chesterfield Inlet during open water seasons.”</p>	<ul style="list-style-type: none"> • Further clarity is needed as to what “open water” seasons refer to. Moreover, circumscribing the rule by reference to its intended effect is not optimal. It would be better to say something like “... does not apply to 	<p>“Open water season” could be seen only to refer to the season of Aujaq, or it could be understood more broadly. If it is to be understood more broadly, the specific water conditions need to be clarified.</p>

		shipping between Baker Lake and Chesterfield Inlet during..."	
29	<p>Section 2.6.2 Ecologically and Biologically Significant Areas</p> <p>Comment: The EBSAs as currently shown in Schedule B3 of the draft Plan need to be updated. Currently, the EBSAs are not clipped to the land, so they appear to cover both the marine and terrestrial environment.</p>	Update Schedule B3 using the revised eastern arctic bioregion EBSAs mapping information files that were provided to the Commission on August 12, 2016.	The new shapefiles, which are clipped to the land, depict the revised EBSAs for the eastern arctic bioregion and should be used to update Schedule B3 to show accurate EBSA boundaries.
30	<p>Section 2.7 Transboundary Considerations</p> <p>Atlantic Cod Lakes</p>	Suggest removing the reference to the Atlantic Cod Lakes from this section.	<p>These lakes were presumably included in this section in error.</p> <p>While some of the Char Areas of Abundance may have transboundary considerations, it is not clear what transboundary considerations might apply to the Atlantic Cod Lakes.</p>
32	<p>Section 3.1.1 "National Parks provide a country-wide system of representative protected areas. At the time of writing there is one Park awaiting full establishment under the <i>Canada National Parks Act</i> in Nunavut."</p> <p><i>Text Box:</i> "National Parks Awaiting Full Establishment (Ward Hunt Island) are assigned a Protected Area Land Use Designation that prohibits incompatible uses. [See Schedule A and Table 1 – Site # 42]"</p>	<p>Suggested new wording:</p> <p>"National Parks provide a country-wide system of representative protected areas. At the time of writing, there are no National Parks awaiting full establishment under the <i>Canada National Parks Act</i> in Nunavut. However, there are two areas recommended for addition to National Parks."</p> <p><i>Text Box:</i> "Recommended park additions (Ward Hunt Island and Sila Lodge) are assigned a Protected Area Land Use Designation that</p>	<p>In other land use planning exercises, areas such as these have been referred to as "Recommended park additions." This term more accurately identifies why the land may have the designation that it currently has (e.g., Protected Area designation).</p> <p>The two areas mentioned in the plan, Ward Hunt Island and Sila Lodge, are part of boundary modification projects that are under way or being considered. At the end of</p>

		<p>prohibits incompatible uses. [See Schedule A and Table 1 – Site # 42 and XX (the number to be assigned to Sila Lodge)]”</p>	<p>the separate processes, these areas would become part of Quttinirpaaq National Park and Ukkusiksalik National Park respectively. Calling these “national parks awaiting full establishment” suggests that these could be new parks or that existing parks are not fully established. This is not the case. Both Quttinirpaaq and Ukkusiksalik national parks are “fully established” under the Canada National Parks Act.</p> <ul style="list-style-type: none"> • In other land use planning exercises, areas such as these have been referred to as “Recommended Park Addition(s)”. This more accurately identifies why the land may have the designation that it currently has (e.g. Protected Area designation). <p>Sila Lodge is referred to in the Options and Recommendations report, but not in the draft Plan itself. We recommend including both in both places for consistency. (Note: Prohibitions listed for the two areas should also be the same.)</p>
32	<p>Section 3.1.2 Proposed National Parks</p> <p>“3.1.2 There are no proposed</p>	<p>Suggested new wording (deleting the entire paragraph beneath the green box):</p>	<p>The second paragraph of this section and the callout box are fine. However, the explanation</p>

	<p>National Parks in Nunavut. Two natural regions, Southampton Plain and Ungava Tundra Plateau, are not represented in the National Park system plan. The area adjacent to, and east of, Qausuittuq National Park has been identified as important for the survival of the Peary caribou on Bathurst Island, which are listed as endangered under SARA. A Protected Area is established adjacent to this Park to support the ecosystemic functions of the Park.”</p> <p><i>“Text Box:</i> The area adjacent to the Qausuittuq National Park on northeastern Bathurst Island is assigned a Protected Area Land Use Designation that prohibits incompatible uses. [See Schedule A and Table 1 – Site # 59]”</p> <p>“A land withdrawal (no staking, exploration, or development is allowed to occur, and no new permits, licences, or leases can be issued) was in place for a proposed new National Park adjacent to the existing Tuktu Nogait National Park, however the withdrawal has lapsed. Interim management measures are not considered</p>	<p>“There are currently no proposed national parks in Nunavut. Two natural regions identified by the National Park System Plan, Southampton Plain and Ungava Tundra Plateau, are not represented in an established national park at the moment. The area adjacent to, and east of, Qausuittuq National Park has been identified as important for the survival of the Peary caribou under SARA. In association with the boundary decision for Qausuittuq National Park, the federal and territorial governments agreed that this area be protected for Peary caribou through measures that could be lifted should the population recover.”</p> <p>“A Protected Area zone is therefore established adjacent to this Park to support the ecosystemic functions of the Park and to support the legal obligation in the Inuit Impact and Benefit Agreement for Qausuittuq National Park, which requires special management for Peary caribou.”</p> <p><i>“Text Box:</i> “The area adjacent to the Qausuittuq National Park on northeastern Bathurst Island is assigned a Protected Area Land Use</p>	<p>needs more detail to better explain why that parcel has been designated as a protected area, including the legal obligation in the Inuit Impact and Benefit Agreement (IIBA) for Qausuittuq National Park (Sections 2.1.5, 4.2.5 and Annex 3 of the IIBA refer specifically to the area designated in the DLUP as Protected Area.)</p> <ul style="list-style-type: none"> • In Schedule A, this polygon currently overlaps a parcel of Inuit Owned Lands, input from communities and the Qikiqtani Inuit Association should determine if the Inuit Owned Lands are included in the polygon protecting caribou or not. In the map attached to the Qausuittuq IIBA, the Inuit Owned Land parcel is not included in that protection, although the present sub-surface land withdrawal does include the area underlying the IOL. The paragraph following the green box is unnecessary and potentially confusing.
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	<p>necessary by any planning partner.”</p>	<p>Designation that prohibits incompatible uses. [See Schedule A and Table 1 – Site #43.]”</p> <p>Additional Recommendations:</p> <ul style="list-style-type: none"> • Confirm and correct the site number. The text box refers to #59, but both Schedule A and Table 1 refer to Site 43. • Consider moving this discussion to be closer to other information concerning the management of caribou, to keep all the discussion of this topic together. <p>However, it must be clear that this area is unique in that there are existing legal commitments to it being a protected area designation and that it should be treated independently of any blanket solutions for other caribou protection areas.</p>	<p>Since the area previously covered by the land withdrawal won't be present on the map, no one reading the plan will know what area the paragraph refers to.</p> <p>Although documenting the decision-making process around removing the land use designation for the area previously withdrawn for the expansion of Tuktut Nogait National Park is important, including this paragraph in the document will only confuse the reader.</p> <p>Note: The Options and Recommendations report should also reflect this change. We recommend editing section 3.1.3 to say only “There are currently no proposed national parks in the NSA.” The additional information is not required.</p>
33	<p>Section 3.2 “None of these regions are represented through an established National Marine Conservation Area (NMCA). Lancaster Sound is acknowledged as one of the most important marine areas in the Arctic. An effort is underway to establish Lancaster Sound as a NMCA.</p>	<p>Suggested new wording: “None of these regions are represented through an established National Marine Conservation Area (NMCA). A proposal to protect Lancaster Sound, an area widely acknowledged as being significant for its marine biodiversity and of importance</p>	<p>The proposed wording more accurately reflects the current status of the proposed Lancaster Sound NMCA. As soon as an approved boundary can be shared, Parks Canada will provide it to the Commission.</p>

	<p>Until Lancaster Sound is established and a boundary is agreed upon, the area requires interim management. The proposal to develop Lancaster Sound as a National Marine Conservation Area is in the advanced stage.”</p>	<p>to the Inuit, is in the advanced stages led by a steering committee consisting of Parks Canada, the Government of Nunavut and the Qikiqtani Inuit Association. Until its establishment as an NMCA, the area requires interim protection. The final boundary for the proposed Lancaster Sound NMCA will likely be determined before the Nunavut Land Use Plan is approved.”</p>	
33	<p>3.2 “No shipping restrictions are recommended in relation to the proposed Marine Conservation Area, however shipping restrictions exist for the Lancaster Sound Polynya and existing on-ice transportation routes (see Chapters 2 and 5).”</p>	<p>Suggested new wording: “National Marine Conservation areas do not normally restrict shipping. Shipping restrictions currently exist for the Lancaster Sound Polynya and existing on-ice transportation routes in the area (see Chapters 2 and 5).”</p>	<p>The proposed wording more accurately reflects the existing restrictions.</p>
34	<p>3.4.1 “There are 12 National Historic Sites in the NSA, none of which are administered by Parks Canada.”</p>	<p>Suggested new wording: “There are 12 national historic sites in the NSA. One, the Wrecks of HMS Erebus and HMS Terror, is administered by Parks Canada.”</p>	<p>The proposed wording fixes an error.</p>
38	<p>Section 4.4.3.1 Overview of Current Situation “The Treasury Board Secretariat of Canada</p>	<p>Suggested new wording: “The Treasury Board Secretariat of Canada</p>	<p>New wording corrects name of project</p>

	maintains the Federal Waste Sites Inventory....”	maintains the Federal Contaminated Sites Inventory....”	
38	<p>Section 4.4.2 Land Remediation</p> <p>“Distant Early Warning Line”</p> <p>“long range radar sites” / “short range radar sites”</p>	<p>Consider adding a mention alongside the Distant Early Warning (DEW) Line of some other kinds of remediated sites, e.g.,</p> <ul style="list-style-type: none"> • abandoned mine sites • abandoned exploration sites • historic weather stations • historic lodges <p>Clarify the reason for the reference to long- and short-range radar sites.</p>	<p>There are several sites that are being remediated or have been remediated that are not DEW Line sites.</p> <p>These sites are not undergoing remediation; some are operational.</p>
46	<p>Section 5.5.2.1 Identifying Locations of Highest Risks for Marine Safety</p> <p>“the entirety of the Northwest Passage, lies within Nunavut”</p>	<p>Consider removing this statement, or reword it to reflect that a portion of the Northwest Passage extends both within the NSA and outside it.</p>	<p>Original wording is misleading.</p>
46	<p>Section 5.5.2.1 Identifying Locations of Highest Risks for Marine Safety</p> <p>“Results from Initiative indicated six (6) locations along the primary shipping corridors that should be prioritized for improved charting and Marine Infrastructure as they are the most dangerous for being too narrow, shallow, and constrained geographically.”</p>	<ul style="list-style-type: none"> • Specify the six locations. • Clarify whether these locations are encompassed by the recommendations that follow this observation. 	
46	<p>Section 5.5.2.1 Identifying Locations of Highest Risks</p>	<p>Revise wording to clarify if necessary.</p>	

	<p>for Marine Safety</p> <p>"It is notable that routes to most of the communities of Nunavut, or any of the harbours, have not been appropriately charted."</p>	<p>The context suggests that this comment is intended to refer to the degree to which some areas of concern have been surveyed and whether they have adequate hydrography.</p> <p>The phrasing "appropriately charted", however, typically refers more to the presentation scale on the official nautical publications.</p>	
46, 61	<p>Section 5.5.2.1 Identifying Locations of Highest Risks for Marine Safety (Recommendations to Government)</p> <p><i>p. 46, Third text box:</i> "It is recommended that CCG consider the needs of communities in the Nunavut Settlement Area when prioritizing and funding of work related to hydrographic surveys and associated charting, new or upgraded navigational aids, and emergency and/or spill response infrastructure."</p>	<p>Revise wording as recommended in 3.7 of this submission. With respect to prioritizing and funding hydrographic survey work, replace "CCG" with "DFO Canadian Hydrographic Services (CHS)."</p>	<p>The CCG does not conduct hydrographic surveys. DFO's Canadian Hydrographic Services (CHS) conducts these surveys, often with CCG vessel support.</p>
46, 61	<p><i>p. 46, Fourth text box:</i> "It is recommended that DFO prioritize nautical charting on those marine shipping corridors marked as Priority 1, 2, or 3 by the Northern Marine Transportation Corridors Initiative that are 50 metres deep or less. NPC recommends that Responsible Authorities work collaboratively in developing: alternative routes for ships around islands or through straits accounting for a variety of ice and weather conditions; a better</p>	<p>Revise wording as recommended in 3.7 of this submission. Provide clarification as to clarify which shipping corridors are being recommended for prioritization for nautical charting and explain the basis for the recommendation of 50 metres deep or less.</p>	<p>It is unclear what are the priorities 1, 2, or 3 marine shipping corridors that are referenced, or why 50 metres deep or less has been selected.</p>

	<p>understanding of the impacts of ships travelling in convoys; and standardized best procedures for spill containment in loose ice conditions.”</p>		
47, 80	<p>p. 47, <i>Second Text Box</i>: “On-Ice Transportation Corridors are assigned a Special Management Area which requires, subject to safe navigation, that no shipping may occur that crosses any On-Ice Transportation Corridor presented in Schedule A during the seasons of Ukiaq, Ukiuq, Upingaksaq, and Upingaaq, without first presenting a robust ice bridging plan.”</p> <p>p. 80: “On-Ice Marine Transportation Routes Conditions — Closed to all ship traffic, subject to safe navigation, during Upingaksaq and Upingaaq. 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 (see Annex B).”</p>	<p>Revise to clear up the inconsistencies between these two passages.</p>	<p>Particularly notable is an apparent conflict in seasons.</p>
52	<p>6.4 “The following Project/Project Proposals are generally considered to conform to the NLUP and typically may occur in any Land Use Designation:</p> <ol style="list-style-type: none"> 1. Remediation and Reclamation. 2. Non-exploitive scientific research. 3. Establishment of National Historic Sites 	<p>Suggested new wording:</p> <p>“The following are permitted in any zone:</p> <ol style="list-style-type: none"> 1. Remediation and reclamation <i>[but see other comments on defined terms]</i>. 2. Research [See 3.11]. 3. Establishment of national parks, national marine conservation areas, and national historic sites administered by Parks Canada. 	<p>Parks Canada would like to see the list include the establishment of national parks and national marine conservation areas as well as national historic sites.</p> <p>Land remediation should be permitted in all zones, unless there is an area-specific reason to prohibit it. The specifics of any given remediation project</p>

	administered by Parks Canada. 4. Commemoration of National Historic Sites.”	4. Commemoration of national historic sites.”	would be subject to impact assessment. The more direct phrasing of “are permitted” (or perhaps “conform”) is clearer than “are generally considered to conform” and reduces the chances of misinterpretation.
70	Table 1 – Site 43 Title – Peary Caribou Habitat Adjacent to Quasuittuq National Park	Correct typo; should be: Peary Caribou Habitat Adjacent to Qausuittuq National Park	Rationale – Qausuittuq National Park is currently misspelled.
74	Table 1 – Site 64 <i>Title</i> “National Historic Sites of Canada — Erebus and Terror”	Remove: “National Historic Sites of Canada — (Wrecks of) HMS Erebus and HMS Terror”	“Wrecks of” is part of the official name of the site.. As this is a national historic site administered by Parks Canada, it is not subject to the land use plan and therefore should be removed from the Table.
74	Table 1 – sites 59–66	Only 8 of the 12 sites in Nunavut are listed in the table. Add the following sites to both Table 1 of the Nunavut Land Use Plan and Schedule A: <ul style="list-style-type: none"> • Kekerten Island Whaling Station Nat’l Hist. Site (near Pangnirtung) • Blacklead Island Whaling Station Nat’l Hist. Site (s. Cumberland Sound) • Igloodik Island Archaeological Sites Nat’l Hist. Site (near Igloodik) • Bloody Falls Nati’l Hist. Site (near Kugluktuk) 	All the sites, except the Wrecks of HMS Erebus and HMS Terror, should be listed in the table, as all are acknowledged in the text.

87	Table 6: Data Sources for Nunavut Land Use Plan – Draft 2016	<ul style="list-style-type: none"> • Include data regarding established national park boundaries (this information was provided). • Change “national parks awaiting full establishment” to “recommended park addition” (per comment regarding p. 32, s. 3.1.1, above). • Add the boundary for Wrecks of HMS Erebus and HMS Terror NHS. 	
88	Table 6: Data Sources for Nunavut Land Use Plan – Draft 2016 “Commercial Fisheries Potential for Char and Turbot”	<p>Revise to clarify that</p> <ul style="list-style-type: none"> • information associated with char and turbot areas of abundance is from the Arctic Marine Workshop report rather than from the DFO • the report was published in 2010 (and not 1991) as a manuscript report (it was not peer-reviewed). 	
Figure s and tables		It is suggested the term “figure” be used for maps and other non-text items and the term “table” for charts with rows and columns .	It is helpful to the reader to distinguish between figures and tables,
Maps and Spatial Data		Update the interactive map files to include established national parks.	<p>Although these parks are not subject to the land use plan they still represent a significant part of the total protected land area in Nunavut.</p> <p>Note: The maps and</p>

			<p>spatial data should be updated for each iteration of the Plan to include all land use designations.</p> <p>The GIS information and data should be available for all users.</p>
Sched A	Omission: The Wrecks of HMS Erebus and HMS Terror NHS is not represented on Schedule A.	Add representation of this site based on information and coordinates provided.	<p>This area should appear in the same way that established national parks do (since this area would not be subject to the land use plan as, as it is under Parks Canada's administration).</p> <p>It should appear on all maps associated with the Plan.</p>
Sched A	Error: The the parcel within Ukkusiksalik National Park (Wager Bay) labelled as an Inuit-Owned Land parcel (IOL) is no longer an IOL.	Revise to reflect the exchange of IOL in the Ukkusiksalik National Park (Wager Bay).	This parcel (RE-32) was exchanged for two new parcels outside the park (RE-RE32 & RE-EX32) in 2012.

5 ANNEX A — INAC Contaminated Sites Status 2016

Reference in DRAFT PLAN: Schedule A, Table 1, sites #85-98, page 76

The following table lists the INAC Contaminated Sites, including locations of landfills. This list should replace the list currently in Table 1 in the draft Plan; Schedule A should also be updated to match this list.

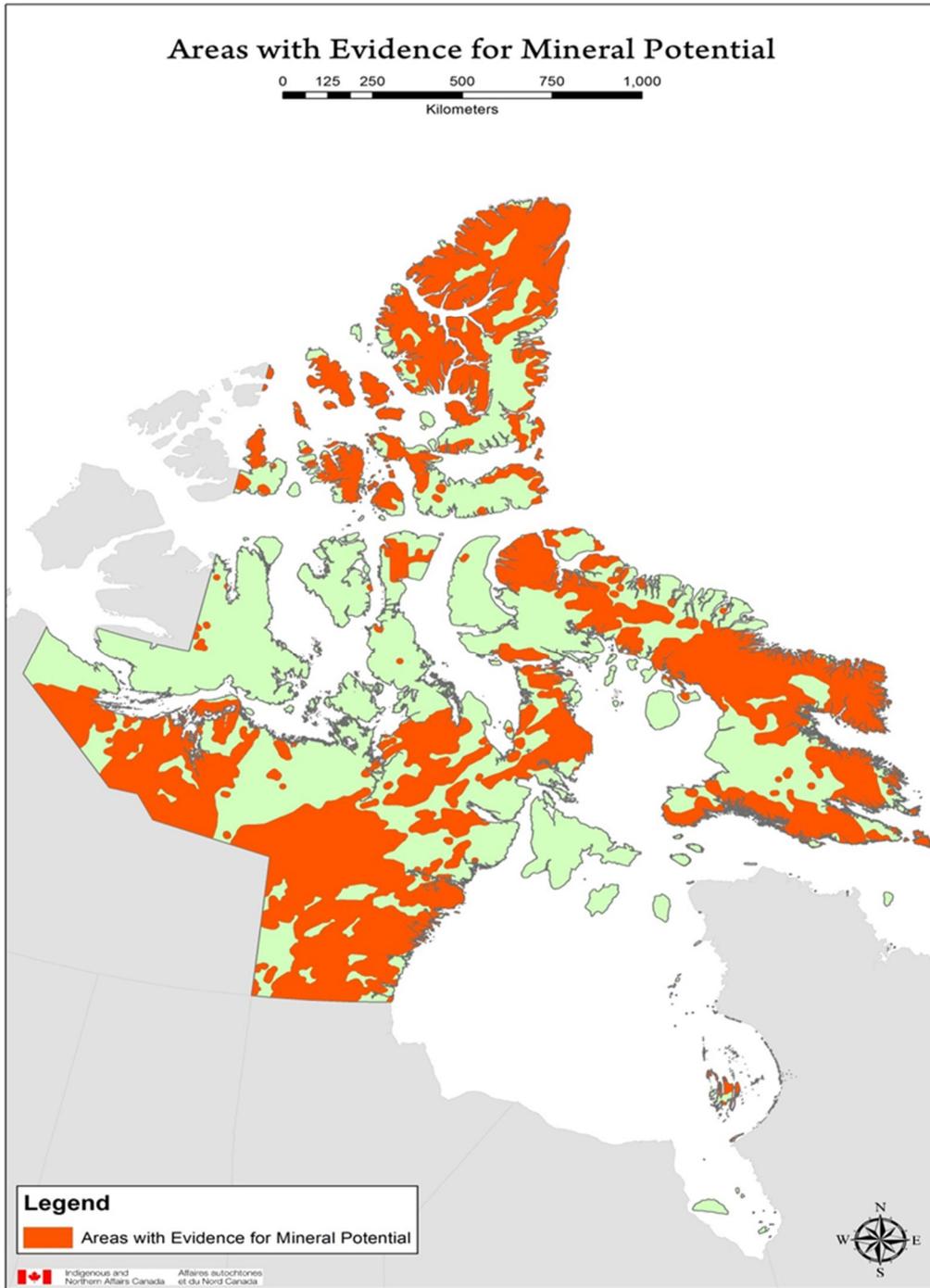
Site	Region	Location	Landfill Coordinates	Legend	year completed (including forecasts)
CAM-E Keith Bay	Kitikmeot	68 16'15.54" N 88 7' 16.87" W		remediation in progress	2020
FOX-D Kivitoo	Qikiqtani	67 56'0" N 64 51'60" W		remediation in progress	2019

FOX-E Durban Island	Qikiqtani	67°05'22"N - 62°9'21"W		remediation in progress	2016
Nottingham Island	Qikiqtani	63 06' 43" N and 77 56' 19" W		remediation in progress	2016
Padloping Island	Qikiqtani	67°02'18"N - 62°42'5"W		remediation in progress	2016
Bear Island	Qikiqtani	54°20' 42" N, 81°05' 50"W		remediated — walkaway	Fall 2010/summer 2011
CAM-A Sturt Point	Kitikmeot	68°47'39"N - 103°20'41"W		remediated — walkaway	Summer 2014
Contwoyto Island	Kitikmeot	65° 29' 5.3160" N, 110° 22' 33.3480" W		remediated — walkaway	Spring 2015
Hope Lake	Kitikmeot	67°26'7.08"N - 116°26'2.76"W		remediated — walkaway	Summer 2014
PIN-E Cape Peel	Kitikmeot	69°03'13"N - 107°18'39"W		remediated — walkaway	Fall 2012
Radio Island	Qikiqtani	61°18' 42"N, 64°52' 19"W		remediated — walkaway	summer 2007
Chantry Inlet	Kivalliq	66°57'25"N - 95°45'46"W		remediated/transferring	ongoing
Resolution Island	Qikiqtani	61 35'45.46" N 64 38'22.75" W		remediated — ongoing work	2007 and ongoing
CAM-D Simpson Lake	Kitikmeot	68°34' 52" N, 91°59' 40" W	68° 35' 36"N 91° 58' 52"W	remediated — LTM	Summer 2012
Cape Christian	Qikiqtani	70°31'7.24"N, 68°17'38" W	70° 31' 33"N 68° 18' 14"W	remediated — LTM	Summer 2011
Ennadai	Kivalliq	61° 07' 51" N, 100° 53' 15" W		remediated — LTM	Spring 2015

FOX-C Ekalugad Fjord	Qikiqtani	68° 43' 45" N, 68°39' 7" W	68° 43' 48"N 68° 39' 12"W	remediated — LTM	Fall 2008
Iqaluit Upper Base	Qikiqtani	63°46'45" N 68°32'39" W		remediated — LTM	1996
North Rankin Inlet Nickel Mine	Kivalliq	62°48'48"N - 92°04' 40"W		remediated — LTM	1994 and 2011
PIN-B Clifton Point	Kitikmeot	69°12'49"N, 118°38'41"W	69° 12' 18"N 118° 37' 58"W	remediated — LTM	Fall 2010
PIN-D Ross Point	Kitikmeot	68°35'44"N - 111°07'32"W	68° 35' 42"N 111° 06' 45"W	remediated — LTM	Fall 2012
Roberts and Ida Bay	Kitikmeot	68 10'45" N 106 33'29" W	68° 10' 49"N 106° 33' 31"W	remediated — LTM	Fall 2010
CAM—F Sarcpa Lake	Kitikmeot	68 32'60" N 83 19'00" W	68° 33' 07"N 83° 18' 46"W	remediated — LTM	Spring 2008
Young Inlet	Qikiqtani High Arctic	76 20'18"N 98 41'40"W		not remediated	
Bent Horn	Qikiqtani High Arctic	76 19'31.32"N 104 4'59.45"W		not remediated	
CAM-C Matheson Point	Kitikmeot	68 48'60" N 95 16'25" W		not remediated	
Drake Point (Melville Island)	Qikiqtani High Arctic	76 24'46.21"N 108 29'8.74"W		not remediated	
Ile Vanier	Qikiqtani High Arctic	78 9'43.76"N 104 4'19.06" W		not remediated	
Dale Payne	Qikiqtani High Arctic	77 26'12.12"N 105 26'41.56" W		not remediated	
Thor Island	Qikiqtani High Arctic	78 7'25.24" N 103 10'37.69"W		not remediated	
Rea Point	Qikiqtani High	75 21'39.56"N 105 43'38.75W		not remediated	

	Arctic				
Romulus Lake	Qikiqtani High Arctic	79 51'9"N 84 22'34"W		not remediated	
Stokes Range	Qikiqtani High Arctic	76 20' 40" N 101 35'8" W		not remediated	
N-12	Qikiqtani High Arctic	75 33' 31" N 98 43' 0" W		not remediated	
Lougheed Island (L1)	Qikiqtani High Arctic	77 20' 57" N 105 19' 30" W		not remediated	
Jericho	Kitikmeot	65 59' 53.85" N 111 28' 56.05" W		not remediated	
PIN-C Bernard Harbour	Kitikmeot	68 46'52.17" N 114 49'25.03" W		not remediated	
CAM-B Hat Island	Kitikmeot	68 18'60" N 100 4' 0" W		not remediated / co-shared	
FOX-A Bray Island	Qikiqtani	69 14'35.87"N 77 16'10.3"W		not remediated / co-shared	
FOX-1 Rowley Island	Qikiqtani	69 03' 55" N 79 04' 05" W		not remediated / co-shared	
FOX-B Nadluardjuk Lake	Qikiqtani	68 37' 11 N 73 13' 0 'W		not remediated / co-shared	
Akpatok Island	Qikiqtani	60 25'35" N 68 20' 2" W		not remediated	

6 Annex B — Map of Revised Mineral Potential Layer



7 ANNEX C — Methodology for Revised Mineral Potential Layer

Background

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 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.

Process

1. Data Selection

a. Showing Picks

The mineral showings are by definition “prospective,” so a 10-kilometre polygon buffer was created around the point location of each showing.

b. Prospective Geology

Data sets from GSC Map 2159a were examined and prospective geological units were selected based on lithologic descriptions, age and geological and structural settings for known mineral deposit types found in Nunavut. Specific lithological units that were selected include supracrustal rocks (such as greenstone belts), Proterozoic sedimentary basins, iron formations, ultramafic rocks and coal. A 10-kilometre polygon buffer was created around the selected geological units.

c. Mineral Tenure Picks

The two buffers created above were displayed on the map and overlaid by the tenure data and derived data sets. Areas where significant mineral exploration had occurred but were not covered by the buffers were identified and a 10-kilometre polygon buffer was created around those identified areas. These generally included areas where the deposit types were not associated with a geological mapped unit or were associated with a sub-unit within a mapped unit.

2. Data Set Creation

- a. The three 10-kilometre-buffer data sets were merged into one data set.
- b. The polygons within the new data set were merged into a single polygon to remove overlaps.
- c. The merged polygon was split into individual spatially distinct polygons
- d. The data set was clipped to an INAC-generated 1:50,000 scale Nunavut outline to constrain the data set to the Nunavut landmass.
- e. The data set was “cleaned up” by smoothing polygon boundaries and removing “donut holes” (small areas within polygons that were not selected by the GIS operations).

8 Annex D — Draft GIS Database Structure

The table below demonstrates how the GIS database could be organized to avoid overlapping polygons. The designation layers could be merged into a single layer, where the layer attributes describe the full set of conditions for any polygon, with “1” representing that a particular use is prohibited, and “0” indicating that the use is not prohibited.

Area ID	Minerals	Oil and Gas	Linear Infrastructure	Hydro-Electric	Tourism	Seasonal Restrictions?
1 (PA)	1	1	1	0	0	0
2 (PA)	1	1	1	1	1	Shipping
3 (SMA)	0	0	0	0	0	Shipping

1. Designations

a. Protected Areas

- i. Caribou Calving Areas
- ii. Caribou Freshwater Crossing
- iii. Caribou Key Access Corridor
- iv. Caribou Post Calving Areas
- v. Migratory Bird Sanctuaries
- vi. Key Bird Habitat Sites
- vii. National Wildlife Areas
- viii. Areas of Equal Use and Occupancy
- ix. Walrus Haul-outs
- x. Heritage Rivers
- xi. Historic Sites
- xii. Community Water Source Watersheds
- xiii. Community Areas of Interest
- xiv. Lancaster Sound National MCA

a. Special Management Areas

- i. Contaminated Sites
- ii. DND Warning System Sites
- iii. Communications Sites
- iv. Key Bird Habitat Sites
- v. Beluga Calving Grounds
- vi. Alternative Energy Sources
- vii. Caribou Sea Ice Crossing
- viii. Polynyas
- ix. Turbot Area

2. Valued Components

a. Key Bird Habitat Sites

- i. Key Bird Habitat Sites

b. Caribou

- i. Late Summer Range

- ii. Migration Corridor
 - iii. Rutting Area
 - iv. Summer Range
- c. Commercial Fishery Areas of Abundance
 - i. Char Areas of Abundance
 - ii. Turbot Areas of Abundance
- d. Cod Lakes
 - i. Cod Lakes
- e. Community Areas of Interest
 - i. Corbett
- f. Community Water Source Watersheds
 - i. Baker Lake Watershed
 - ii. Kugluktuk Watershed
- g. EBSAs
 - i. EBSAs
- h. Heritage Rivers
 - i. Thelon Heritage River
 - ii. Kazan Heritage River
- i. Areas of Possible Economic Development
 - i. High Mineral Potential
 - ii. Oil and Gas Licenses
- j. Polar Bear
 - i. Polar Bear Denning Areas
- k. Polynyas
 - i. Polynyas
- l. Transboundary Watersheds
 - i. Great Bear Lake Watershed

9 Annex E — Key Bird Habitat Sites: Land Use Designations and Revisions to Setbacks Table

Reference in Draft Plan: Table 1: Land Use Designations, Table 2: Migratory Bird Setbacks, pages 64-82

Comment: In May 2016, ECCC provided the Commission with a revised document titled “Key Habitat Sites for Migratory Birds in the Nunavut Settlement Area.” This document contained updated advice regarding appropriate land use designations and Terms for a number of key habitat sites. The revisions reflected conversations with Nunavut Tunngavik Inc. and regional Inuit associations regarding the key habitat sites, and further consideration of appropriate conservation measures for some sites by ECCC staff. Most of these changes were incorporated into the June 2016 Draft Nunavut Land Use Plan.

Since production of this document, ECCC has

- updated some geospatial information, to allow more accurate communication of setback requirements; and
- simplified the Migratory Birds Setback table to make it more user-friendly.

Recommendation(s): Consider updating Tables 1 and 2 of the draft Plan to reflect these further revisions. The relevant changes are detailed below.

Key Bird Habitat Site	Current zoning in draft Plan	Recommended Change in Zoning	Rationale for Change
Frozen Strait	protected zone	mixed use, VEC (NPC to identify bird surveys in this area as a priority for research before first land use plan review)	Exact colony locations are unknown, so proposed setbacks are unreasonably large. Monitoring of conformity not possible if colony locations are not known.
Middle Back River	special management	special management (slight revision to boundary)	Boundary was adjusted at request of NTI to avoid inclusion of IOL subsurface parcel.
East Axel Heiberg Island	protected zone	protected zone, but with no setbacks for non-prohibited activities	Special management setbacks are not relevant to the focal species at this site.
Eastern Devon Island	protected zone	protected zone (more accurate shapefiles for setbacks)	Shapefiles were in the wrong projection; ECCC has now provided accurate shapefiles.

Key Bird Habitat Site	Current zoning in draft Plan	Recommended Change in Zoning	Rationale for Change
Fosheim Peninsula	protected zone	protected zone, but with no setbacks for non-prohibited activities. (modified shapefile excluding Eureka from key habitat site)	Special management setbacks are not relevant to the focal species at this site. The area around Eureka was excluded as current human use make it poor habitat.
Grinnell Peninsula	protected zone	protected zone (more accurate shapefiles for setbacks)	Shapefiles were in the wrong projection; ECCC has now provided accurate shapefiles.
Inglefield Mountains	protected zone	protected zone (more accurate shapefiles for setbacks)	Shapefiles were in the wrong projection; ECCC has now provided accurate shapefiles.
Markham Bay	protected zone	protected zone (slight revision to boundary)	Boundary was adjusted at the request of NTI to exclude IOL parcel CD-46.
Northwestern Brodeur Peninsula	protected zone	protected zone (more accurate shapefiles for setbacks)	Shapefiles were in the wrong projection; ECCC has now provided accurate shapefiles.

Proposed setbacks referenced in Environment Canada’s updated input May, 2016 to the NPC regarding Key Habitat Sites for Migratory Birds in the Nunavut Settlement Area.^{6, 7}

Bird Group ⁸	In all instances, proponents must consult Environment and Climate Change Canada—Canadian Wildlife Service to obtain information on location and timing of bird activity in the area and discuss ship routing through marine key habitat sites.		
	Aerial setbacks ⁹	Marine setbacks ¹⁰	Terrestrial setbacks
All migratory birds	<p>SEASONAL (WHEN BIRDS ARE PRESENT) overflying aircraft</p> <ul style="list-style-type: none"> maintain minimum vertical setback of 1100m (3500 feet) in areas where concentration of birds¹¹ are present maintain minimum lateral aerial setback of 1.5 km from concentrations of birds 	<p>SEASONAL (WHEN BIRDS ARE PRESENT) none</p>	<p>SEASONAL (WHEN BIRDS ARE PRESENT)</p> <ul style="list-style-type: none"> 300 m setback from concentrations of birds
Seabirds	<p>SEASONAL (WHEN BIRDS ARE PRESENT) setbacks for “All migratory Birds” (above), plus</p> <ul style="list-style-type: none"> lateral setback of 3km from the seaward side of bird colonies 	<p>SEASONAL (WHEN BIRDS ARE PRESENT)</p> <ul style="list-style-type: none"> 500 m setback from seabird colonies for all vessels except launch vessels 100 m setback from seabird colonies for zodiacs, kayaks and other small launch vessels 	<p>SEASONAL (WHEN BIRDS ARE PRESENT)</p> <ul style="list-style-type: none"> setbacks for “All migratory Birds (above)”
Ivory Gulls	<p>SEASONAL (WHEN BIRDS ARE PRESENT) setbacks for “Seabirds” (above)</p>	<p>SEASONAL (WHEN BIRDS ARE PRESENT)</p> <ul style="list-style-type: none"> 2 km setback distance from breeding colonies 	<p>SEASONAL (WHEN BIRDS ARE PRESENT)</p> <ul style="list-style-type: none"> 2 km setback distance from breeding colonies
Coastal Waterfowl and Seaducks	<p>SEASONAL (WHEN BIRDS ARE PRESENT) setbacks for “All migratory Birds” (above), plus</p> <ul style="list-style-type: none"> lateral setback of 3 km from concentrations of coastal waterfowl and seaducks 	<p>SEASONAL (WHEN BIRDS ARE PRESENT)</p> <ul style="list-style-type: none"> 500 m setback distance from colonies, concentrations of birds 	<p>SEASONAL (WHEN BIRDS ARE PRESENT)</p> <ul style="list-style-type: none"> setbacks for “All migratory Birds” (above)

⁶ Setbacks do not apply to the Inuit right to unrestricted access for the purposes of harvesting pursuant to section 5.7.16 of the Nunavut Agreement.

⁷ Setbacks do not apply to wildlife research activities regarding wildlife health, abundance or distribution

⁸ Setback applies only to focal species in a particular area. For example, if the focal species group for an area is “coastal waterfowl and seaducks—common eiders,” then setbacks apply only to seaduck species that are present in the key habitat site.

⁹ Subject to pilot discretion regarding aircraft and human safety, and except for specified operational purposes such as take-offs and landings, and except for aircraft engaged in scientific research on wildlife abundance, distribution and health.

¹⁰ Subject to safe navigation considerations and emergency response by vessels.

¹¹ Concentrations of birds include nesting colonies of seabirds, seaducks, and geese; flocks of flightless (moulting) waterfowl; and spring and fall aquatic/shoreline staging concentrations of waterfowl, seaducks, shorebirds and seabirds.