



January 13th 2017

**Government of Nunavut's
*2016 Draft Nunavut Land Use Plan Review***

Table of Contents	
Acronyms & Terms:	4
Executive Summary	5
Introduction:	6
Nunavut Land Use Plan Goals and Purpose	8
Balance between Plan Goals	8
Protecting and Sustaining the Environment, Chapter 2 of the 2016 DNLUP	12
Caribou Habitat	12
Polar Bear Denning Areas.....	19
Climate Change.....	20
Encouraging Conservation Planning, Chapter 3 of the 2016 DNLUP	22
Archeological Site Protection	22
Building Healthier Communities, Chapter 4 of the 2016 DNLUP	24
Community Land Use Planning	24
Health and Safety.....	29
Encouraging Sustainable Economic Development, Chapter 5 of the 2016 DNLUP	32
Mineral Potential.....	32
Oil and Gas Potential	34
Terrestrial Transportation	36
Tourism Potential	40
Implementation Strategy, Chapter 6 of the 2016 DNLUP	43
Cumulative Impact Referrals	43
Plan Amendment, Periodic Review, and Minor Variance	45
Existing Rights.....	47
Other Comments.....	49
Acronyms, Definitions, and Editorial.....	49
Previous GN Land Use Recommendations.....	51
Appendix	52
Appendix A: 2016 Draft Nunavut Land Use Plan Schedule A designations by Valued Components	52
Appendix B: GN delineated Calving Grounds [and key access corridors]	53
Appendix C: GN Delineated Calving and Post-Calving Grounds	54
Appendix D: GN Delineated Migration Corridors – Fall Pre-Breeding.....	55

Appendix E: GN Delineated Migration Corridors – Fall Post-Breeding56

Appendix F: GN Delineated Spring Migration Corridors.....57

Appendix G: GN Delineated Rutting Areas58

Appendix H: 2016 DNLUP proposed prohibitions to Mining Industry59

Appendix I: 2016 DNLUP proposed prohibitions to Oil and Gas Industry60

Appendix J: 2016 DNLUP proposed prohibitions to Terrestrial Transportation Infrastructure.61

Appendix K: 2016 DNLUP proposed prohibitions/restrictions relating to Shipping or Tourism62

Acronyms & Terms:

As much as possible this report attempts to use the terms and definitions used in the 2016 Draft Nunavut Land Use Plan (DNLUP). For definitions of terms please refer to the 2016 DNLUP.

DNLUP/NLUP; 'the Plan' – 2016 Draft Nunavut Land Use Plan

DOE – Department of Environment

GN – Government of Nunavut

NLCA – Nunavut Land Claims Agreement

NuPPAA – Nunavut Planning and Project Assessment Act

NSA – Nunavut Settlement Area

O&R – Options & Recommendations document

Executive Summary

Pursuant to Article 11 of the Nunavut Land Claims Agreement (“NLCA”) and sections 49- 51(1) of the Nunavut Project Planning and Assessment Act (NuPPAA), the Nunavut Planning Commission (“NPC”) has the responsibility to develop land use plans that guide and direct resource use and development.

In June of 2016 the NPC produced its 2016 iteration of the DNLUP to be reviewed in a Spring 2017 Public Hearing, subject to federal funding approval. A final deadline to inform this Public Hearing was set by the Commission for January 13th, 2016 – this report represents the GN’s collective recommendations to the NPC for revisions to its DNLUP. These recommendations have been developed by a comprehensive review of the 2016 DNLUP, involving representatives from all interested GN departments, and informed by collaborative discussions with its fellow Planning Partners.

The GN has been an active participant to the NPC review process for the DNLUP; participating in the NPC’s community consultations, contributing to the 2012 Third Party Independent Review of the DNLUP, as well as the GN’s own internal departmental review of several iterations of the DNLUP (and associated documents) by GN departments of:

- Community & Government Services;
- Culture & Heritage;
- Economic Development & Transportation;
- Environment;
- Executive & Intergovernmental Affairs;
- Health;
- Justice;
- Nunavut Research Institute

Documents considered in this review, in whole or in part, include:

- NPC Draft Nunavut Land Use Plan, 2016;
- NPC Draft Nunavut Land Use Plan: Options & Recommendations, 2016;
- NPC Considerations for Potential Refinements to the 2014 Draft Nunavut Land Use Plan, 2016;
- NPC 2014 Draft Nunavut Land Use Plan 1st, 2nd, 3rd, and 4th *Technical Meeting Transcripts*, 2015-2016;
- NPC Draft Nunavut Land Use Plan, 2014;
- NPC Draft Nunavut Land Use Plan: Options & Recommendations, 2014;
- NPC Draft Nunavut Land Use Plan, 2011/2012;
- NPC Draft Nunavut Land Use Plan: Options & Recommendations, 2011/2012;
- NPC Responses to GN Comments. May 28, 2014;
- The Nunavut Land Claims Agreement;
- The Nunavut Planning and Project Assessment Act;
- Various maps, documentation, and records of consultation found on NPC website: www.nunavut.ca.

Introduction:

Respecting NPC's role within the NLCA, and NuPPAA, the following submission outlines the GN's recommendations to improve the DNLUP.

The GN is concerned that the DNLUP may not be reflective of the full range of planning partner or public feedback provided to the Commission, concerning its 2014 DNLUP. Rather than mediating competing interests for certain critical issues, the DNLUP applies blanket precautionary protections, disproportionately impacting certain communities or regions. For this reason the GN asserts that if approved, as-written, the DNLUP may have serious negative impacts to the territory's resource economy, thereby compromising the long-term socio-economic well-being of Nunavummiut.

The GN will continue to be an active participant in the NPC's development of a territory-wide Plan, attending the Plan's expected Spring 2017 Final Hearing. At this public forum the GN intends to present its concerns and recommendations regarding the DNLUP. The successful completion of the Plan is a GN priority, and once approved the GN will remain committed to ensuring the Plan appropriately reflects public priorities for conservation and development.

The GN's approach to the DNLUP is guided by its mandate, jurisdiction, and policies –the latter of which are developed through extensive community consultations. The GN's recommendations to the Commission reflect its attempt to balance the different goals intended for the Plan. This is in keeping with Section 58 of NuPPAA:

"In exercising their powers and performing their duties and functions under sections 49 and 52 and subsections 54(1) to (3), the Commission, the federal Minister, the territorial Minister and the designated Inuit organization must take into account all relevant factors, including the purposes set out in section 47, the requirements set out in section 48 and existing rights and interests".

In its decision to approve the DNLUP, the Minister of Environment will represent the priorities of the entire Government of Nunavut; ultimately the Plan must successfully accomplish the purpose of a land use plan:

"The purpose of a land use plan shall be to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, taking into account the interests of all Canadians, and to protect, and where necessary, to restore the environmental integrity of the Nunavut Settlement Area" (NLCA. s. 11.3.2)

2016 DNLUP Schedule A – Area Summaries and Statistics:

Throughout this report, 2016 DNLUP Schedule A areas have been summarized by region and by the entire Nunavut Settlement Area (NSA), and separated into land base and marine area totals. This work was prepared for the Government of Nunavut by Caslys Consulting Ltd. Area summaries provide a detailed breakdown of total areas of specific subcategories for three separate topics: designation type; caribou habitat type; and prohibited use. For example, designation type summaries break down Schedule A areas into three designation types: Non-Designation (i.e., Mixed Use); Protected Area; or Special Management Area. Each single Schedule A feature may have multiple prohibited uses but only has one designation type.

Overlap exists between various land use designations. For example, a key access corridor may intersect a post-calving area. To avoid double counting these overlaps, areas for each designation type are calculated individually, and overlapping areas that are different designation types are merged. Using the example above, when determining the total area covered by caribou habitat for a 100 km² access corridor that has a 10 km² overlap with a 50 km² post-calving area, the interior boundaries are dissolved to yield a total area of 140 km² thereby removing the overlapping area. The features are considered independently when summarizing the total for an individual land use designation, but merged as described above when summarizing the designation groups. The tables throughout the document reflect this approach.

Additional Notes:

1. The spatial data for Schedule A areas had an extra designation for “Protected Area/Park” that is not mentioned in the DLUP document. The excel sheet containing the summaries shows this extra designation. In the maps, the “Protected Area” and the “Protected Area/Park” were merged to become the one category of “Protected Area”. Note: national parks are not included in NPC data or summary statics as they are outside of the NPC’s jurisdiction.
2. NSA and region boundaries may be represented with slight differences depending on the data source. The version used was “RIA_Regions.shp” supplied by NPC on August 15, 2016.
3. Land base and marine area boundaries may also be represented differently depending on the data scale used. For example, at a coarse scale some small islands will not be mapped and would instead be included as water area. Data used for land and marine boundary summaries were from the National Atlas of Canada at 1:2,000,000 scale.
4. Summaries for prohibited use for marine shipping include areas with any marine shipping restrictions at any point in the year. Most restrictions are seasonal.
5. For some Schedule A features, boundaries for land and marine appear to be at a coarser scale than the land and marine extent used to summarize data as land or marine. It appears that there are multiple scales used to define the boundaries of Schedule A polygons as some features are well aligned to the land and marine boundaries and others are not. Because of this misalignment, a small portion of caribou habitat type ‘caribou sea ice crossing’ has been classified as land area.

For the above reasons, all figures or summary statistics should be interpreted as approximate. Where Schedule A geospatial concerns exist, these should be resolved prior to approval to ensure the DNLUP is implementable.

Nunavut Land Use Plan Goals and Purpose

DNLUP Review Comment # 2017-1	
Organization	Government of Nunavut
Subject/Topic	Balance between Plan Goals
References	<p>NPC, 2016 DNLUP NPC, 2016 O&R Dillon Consulting Limited, 2012, <i>Independent Review Draft Nunavut Land Use Plan</i>, retrieved from NPC's website: http://www.nunavut.ca/files/2012-06-21%20Final%20Report%20Independent%20Review%20DNLUP_0.pdf</p>
SUMMARY OF NPC's CONCLUSIONS	
<p>The DNLUP's accompanying O&R document does not provide sufficiently articulated rationale for NPC's land use decisions. It is particularly difficult to ascertain how the plan balances the competing goals of development and conservation.</p> <p>The 2016 DNLUP states that: "The land use planning and environmental assessment processes in Nunavut have been established to proactively resolve potential conflicts between [development]... parties requiring access to land, and wildlife and community uses" (p. 42).</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>The GN is concerned that several of the NPC's justifications for land use decisions within the DNLUP are inadequately explained within the 2016 O&R document. It is particularly difficult to discern whether and to what extent the NPC's decisions were informed by the results of its consultations. Recognizing NPC must reconcile competing land use recommendations from a range of different Planning Partners, the GN advises a moderate, balanced, and contextualized approach in cases where recommendations are highly polarized. A Plan which is too precautionary and restricts land uses unnecessarily (where conditions or a 'red flag'/proponent disclaimer approach may suffice) does not promote the long-term well-being of Nunavummiut. Moreover, prohibitions imposed by the Plan should have broad support from Nunavummiut, or their representatives, with special consideration to recommendations made by those most impacted by the Plan.</p> <p>NPC describes itself as the 'gatekeeper' of the territory's regulatory process within the second paragraph of Chapter 1 of the 2016 DNLUP: "The NPC is the gatekeeper of the regulatory system in the NSA. Land use plans prepared by the NPC are intended to guide and direct resource use and development". Subsection 48(2) of NUPPAA specifically contemplates and supports this 'gatekeeper' role, or NPC's power to impose land use prohibitions.</p>	

The Plan provides regulatory certainty in its proactive imposition of land use prohibitions and restrictions, but must also promote contextually appropriate Nunavummiut-supported development:

- Plans are to “guide and direct resource use and development” in Nunavut (NLCA, 11.4.1(a), 11.2.2(b));

One important factor which the GN considers in its review of the Plan is its implications to Nunavummiut throughout the territory: has the Plan achieved an appropriate balance between environmental and socio-economic goals? Are certain land valued components, industries, communities, or regions disproportionately impacted by the Plan?

The below tables examine the 2016 DNLUP’s spatial data pertaining to Plan Schedule A land use designations:

	NSA		Kitikmeot		Kivalliq		Qikiqtani	
	Area (km ²)	% of NSA	Area (km ²)	% of Region	Area (km ²)	% of Region	Area (km ²)	% of Region
Non-Designation	2,772,136	81%	591,573	70%	502,122	80.6%	1,678,439	86.5%
Protected Area *	507,671	15%	208,436	25%	120,080	19.3%	179,155	9.2%
Protected Area / Park *	19,689	0.6%	30	0%	29	0.0%	19,629	1.0%
Special Management Area	129,806	4%	53,601	6%	2,086	0.3%	74,119	3.8%
Total Area for Designation Types **	636,293	19%	252,961	30%	121,181	19.4%	262,151	13.5%
Total Area (Land and Marine)	3,408,429	100%	844,534	100%	623,303	100%	1,940,590	100%
	Land Area (km ²)	% of NSA Land base only	Land Area (km ²)	% of Region Land base only	Land Area (km ²)	% of Region Land base only	Land Area (km ²)	% of Region Land base only
Non-Designation	1,703,616	81%	410,540	68%	338,045	74.2%	955,030	91.5%
Protected Area *	364,701	17%	185,610	31%	116,715	25.6%	62,376	6.0%
Protected Area / Park *	19,384	0.9%	30	0%	23	0.0%	19,330	1.9%
Special Management Area	14,585	1%	4,832	1%	1,743	0.4%	8,011	0.8%
Total Area for Designation Types **	396,350	19%	189,454	32%	117,706	25.8%	89,190	8.5%
Total Area	2,099,965	100%	599,994	100%	455,752	100%	1,044,220	100%

* As national parks are currently under full protection, they are not included in the NPC data or summary statistics. See page 7 for more details.

** Overlapping areas are not double-counted for total area. See page 7 for more details.

The following table further examines the 2016 DNLUP’s Schedule A land use designations by highlighting their associated prohibitions’ impacts to the NSA:

Land Component	NSA		Kitikmeot		Kivalliq		Qikiqtani	
	Land Area (km ²)	% of NSA Land	Land Area (km ²)	% of Region Land	Land Area (km ²)	% of Region Land	Land Area (km ²)	% of Region Land
Mineral Exploration and Production	383,472	18.26%	187,099	31.18%	116,777	25.62%	79,597	7.62%
Quarries	379,423	18.07%	185,418	30.90%	115,643	25.37%	78,362	7.50%

Hydro-electrical and related infrastructure	382,747	18.23%	187,099	31.18%	116,738	25.61%	78,910	7.56%
Linear Infrastructure	377,967	18.00%	185,418	30.90%	115,643	25.37%	76,905	7.36%
Related research except Non-exploitive Scientific Research	371,325	17.68%	187,872	31.31%	116,753	25.62%	66,700	6.39%
Permanent tourism-related structures	57,153	2.72%	24,896	4.15%	30,174	6.62%	2,083	0.20%
Obnoxious Land Uses	225,858	10.76%	125,478	20.91%	75,851	16.64%	24,529	2.35%
Marine Component	Marine Area (km ²)	% of NSA Marine	Marine Area (km ²)	% of Region Marine	Marine Area (km ²)	% of Region Marine	Marine Area (km ²)	% of Region Marine
Marine Shipping**	73,178	5.59%	49,158	20.10%	343	0.20%	23,677	2.64%
Disposal at Sea	47,061	3.60%	746	0.31%	962	0.57%	45,354	5.06%
Both Land and Marine Component	Land Area / Marine Area (km ²)	% of NSA Land / Marine	Land Area / Marine Area (km ²)	% of Region Land / Marine	Land Area / Marine Area (km ²)	% of Region Land / Marine	Land Area / Marine Area (km ²)	% of Region Land / Marine
Oil and Gas Exploration and Production	390,251	18.58%	187,894	31.32%	116,777	25.62%	85,581	8.20%
	168,591	12.88%	23,572	9.64%	3,387	2.02%	141,633	15.80%
Seismic Testing	5,543	0.26%	2,625	0.44%	39	0.01%	2,879	0.28%
	43,717	3.34%	746	0.31%	16	0.01%	42,956	4.79%

** Summaries for prohibited use for marine shipping include areas with any marine shipping restrictions at any point in the year. Most restrictions are seasonal.

One can deduct from the above tables that the DNLUP's impact to industry, communities, and Nunavummiut is not proportionate or equitable throughout the NSA. One can see from Appendix A that the DNLUP may disproportionately address certain issues or valued components.

It should also be acknowledged that Nunavut is a remote territory with significant environmental and logistical challenges to development. Regardless of any designation (or non-designation), there will continue to be very real barriers to development in some parts of the NSA that cannot be conveyed through maps and spatial data summaries.

REVIEWER'S RECOMMENDATIONS

The DNLUP should guide and direct resource use and development:

- The DNLUP should highlight relevant land use restrictions within corresponding sections (i.e. refer readers to Table 1 where appropriate);
- NPC should include more information regarding its justifications for land use decisions within its 2016 O&R document, particularly relative to the contents of its online consultation record;
- The Plan should promote contextually appropriate and Nunavummiut-supported development; and

The DNLUP (tone and land use restrictions) should be revised to achieve an improved balance between its underlying goals:

- More balanced phrasing of certain land uses described in Chapter 5, Encouraging

Sustainable Economic Development is necessary;

- Reconsideration of land use designations, where necessary, in order to reflect the values, recommendations, and outstanding concerns of Planning Partners (with special consideration to the recommendations provided by Planning Partners most impacted by a given land use designation/policy);

Specific recommendations to achieve balance between planning goals are detailed in the corresponding comments – recognition of these will be weighed in the GN's decision to approve the DNLUP.

Protecting and Sustaining the Environment, Chapter 2 of the 2016 DNLUP

DNLUP Review Comment # 2017-2	
Organization	Government of Nunavut
Subject/Topic	Caribou Habitat
References	<p>NPC, 2016 DNLUP, Chapter 2: Section 2.2 Caribou, p. 27-28</p> <p>NPC, 2016 O&R, Chapter 2: section 2.2 Caribou Habitat, p. 48-45.</p> <p>Nunavut Tunngavik Incorporated, <i>NPC [Online] Consultation Record: May 2016 NTI-RIA joint submission</i>; retrieved from NPC's website: http://www.nunavut.ca/files/2016-05-16%20NTI-RIA-Joint%20Submission%20-%20DNLUP.pdf</p> <p>Dillon Consulting Limited, 2012, <i>Independent Review Draft Nunavut Land Use Plan</i>, retrieved from NPC's website: http://www.nunavut.ca/files/2012-06-21%20Final%20Report%20Independent%20Review%20DNLUP_0.pdf</p> <p>Caslys, Jan 2016, Barren-ground caribou analysis methods summary report</p> <p>Gunn, A. 2008. Migratory tundra caribou. Pages 200-222 <i>in</i> M. Hummel and J. C. Ray. Caribou and the North: A Shared Future. Dundurn Press, Toronto ON. 288 pp.</p>
SUMMARY OF NPC's CONCLUSIONS	
<p>NPC in its 2016 DNLUP has designated core-calving grounds, key access corridors, post-calving grounds, and freshwater crossings as 'Protected Areas', prohibiting incompatible uses (including mineral exploration and production, regardless of overlaps with 'High Mineral Potential' or Inuit Owned Land) year-round.</p> <p>The 2016 DNLUP assigns 'Caribou Sea Ice Crossings' a Special Management Area designation that includes seasonal restrictions preventing any and all shipping during regionally defined time window specifications, seen in Figure 4 of the Plan.</p> <p>Land uses impacted by caribou habitat designations in the 2016 DNLUP include:</p> <ul style="list-style-type: none"> • mineral exploration and production; • oil and gas exploration and production; • obnoxious land uses; • quarries; • hydro-electrical and related infrastructure; • linear infrastructure; • related research except non exploitive scientific research; • Permanent tourism-related structures; and 	

- Shipping (in the context of seasonal restrictions).

Regarding freshwater crossing Protected Areas 'Permanent tourism-related structures' are described as a prohibition within Table 1 of the 2016 DNLUP, but this prohibition is omitted in the corresponding section of the 2016 O&R (s. 2.2.1.4, p. 43).

REVIEWER'S COMMENTS AND SUPPORTING RATIONALE

The GN has made multiple comments and recommendations to NPC in the past concerning the designation of various seasonal caribou habitats. Caribou are a fundamentally important resource to Nunavummiut and an integral component of Arctic ecosystems. They must be managed effectively to ensure their persistence into the future. Any development within caribou habitat must be done under strict, well-researched, reviewed, published, and proven measures to minimize impacts to wildlife. Land use planning and participation within NPC's development of a DNLUP is one of many ways in which the GN, along with its wildlife co-management partners, is actively managing caribou for the long term well-being of Nunavummiut.

The GN, guided by its *Caribou Strategy*, the *Nunavut Land Claims Agreement* (e.g. Article 5.1.5 b and 5.1.5 c), and the *Wildlife Act*, actively manages caribou populations, in collaboration with its wildlife co-management partners, through many other programs outside of the planning process. Informed by regular monitoring programs and abundance estimates, the GN works with its partners to develop herd-specific management plans meant to continue the sustainable harvest of herds for the cultural and economic benefit of Nunavummiut. The GN also has a legislated avenue to seek critical habitat protection through powers outlined in the *Wildlife Act*, via Section 141.

In the planning context (and particularly within certain areas of overlapping values) regulatory clarity may be best achieved through less prohibitive approaches - particularly where NPC's consultation record shows a lack of necessary Government, DIO, or local public support for prohibitions. The 2012 Dillon Consulting Limited, *Independent Review on the DNLUP* asserted that a 'red flag' (or Special Management Areas designation which act as disclaimers to Proponents) approach may be appropriate and sufficient in deterring harmful disturbances to caribou within critical habitat - particularly given the existence of safeguards for caribou at other stages of the regulatory process, and in other paralleling caribou protection initiatives:

[P]lanning theory and practice provide a range of options, but no specific standard or direction, for role of planning in the regulatory system. In some circumstances, the best role for planning may be the 'red flag' approach of mapping land use values and signaling to potential land users and regulators that competing interests exist and greater scrutiny of proposed land uses is expected and appropriate (Dillon Consulting Ltd, 2012, p 32).

An analysis of the 2016 DNLUP's Schedule A spatial data reveals the Plan's disproportionate land use restrictions to the Kitikmeot, Kivalliq, and Qikiqtani regions, albeit understanding that caribou habitat quality and quantity largely dictates higher expected abundance of caribou within Nunavut's southern and western extents.

The below table (Caslys, 2016) describes the proportions of the NSA and regional land bases impacted by 2016 Plan land use designations for caribou habitats:

2016 DNLUP Caribou Habitat Land Use Designations	NSA			Kitikmeot			Kivalliq			Qikiqtani		
	Marine Area (km ²)	Land Area (km ²)	% of NSA Land base only	Marine Area (km ²)	Land Area (km ²)	% of NSA Land base only	Marine Area (km ²)	Land Area (km ²)	% of NSA Land base only	Marine Area (km ²)	Land Area (km ²)	% of NSA Land base only
Caribou Calving Areas	0	108,962	5.2%	0	72,240	12.0%	0	36,099	7.9%	0	623	0.1%
Caribou Freshwater Crossing	7,218	52,406	2.5%	6,203	22,271	3.7%	1,015	30,136	6.6%	0	0	0.0%
Caribou Key Access Corridor	0	16,318	0.8%	0	9,501	1.6%	0	6,817	1.5%	0	0	0.0%
Caribou Post Calving Area	0	90,714	4.3%	0	50,953	8.5%	0	39,690	8.7%	0	70	0.0%
Caribou Sea Ice Crossing	58,961	1,742	0.1%	48,412	1,492	0.2%	0	0	0.0%	10,549	250	0.0%
Total (includes All Caribou Habitat Types)	63,059	240,666	11.5%	51,495	144,442	24.1%	1,015	95,281	20.9%	10,549	944	0.1%

* Overlapping areas are not double-counted for total area. See page 7 for more details.

It should be noted that much of the DNLUP designated caribou habitat (with the exception of freshwater crossing and sea-ice crossing polygons) - is based on GN-DOE delineations. In 2014 the GN provided IQ and scientifically supported delineations for barren-ground caribou (herds: Ahiak, Bathurst, Beverly, Bluenose East, Bluenose West, Dolphin and Union, Lorillard, Qamanirjuaq, and the Wager Bay) calving grounds, their key access corridors, post-calving grounds, Spring and Fall migration corridors, and rutting areas. The GN is committed to continuously monitoring the accuracy of these delineations and collaborating with its wildlife co-management and planning partners. The GN's delineations of caribou habitat are accurate and the methods used to establish these are described in a 2016 Caslys Consulting Ltd. report. Moreover the ecological importance of these delineated areas has been confirmed by IQ and scientific subject matter experts within the NPC's fourth Technical Meeting in March of 2016.

The NPC's territory-wide or blanket approach regarding the important issue of caribou protection within the Plan is not appropriate, particularly at the scales indicated. There are gaps in the NPC's rationale related to this issue. In particular, the information provided by the NPC does not always provide sufficient evidence of meaningful local community support. This is especially important in light of trade-offs involved in land use prohibitions. Incorporation of localized IQ, harvester feedback, and Inuit title interests in the Plan's approach to caribou habitat protection is critical. The recommendations by each of the three Regional Inuit Associations (described in Nunavut Tunngavik Incorporated's May 16th 2016 submission to the NPC) vary considerably, but are not all adequately reflected within NPC's DNLUP. Clearly more work is required for the Plan to appropriately reflect outstanding concerns regarding caribou habitat protection within the Plan – see 'Reviewers Recommendations'.

Finally, some planning participants have called for the implementation of caribou mobile protection measures within the DNLUP, either in combination with Protected Area designations or as a complete replacement. Based primarily on the Kivalliq Inuit Associations mobile protection measure proposal (aimed at primarily less critical caribou habitat), as well as a review of the tool's use across jurisdictions, preliminary GN Department of Environment research has concluded:

- Implementing MPM in the context of the NLUP without prior research, review, publication, and trials would pose unnecessary and ill-advised risks to herd populations;

-Costs for land user-led caribou surveillance at a single site of development were estimated to be \$460,000 based on a hypothetical scenario in which MPMs were triggered twelve times in a given year. Implementing these untried measures at a territorial or even regional scale, at this time may contribute to regulatory uncertainty and adverse economic impacts to the territory.

The GN will continue to assess whether ‘mobile protection measures’ are a feasible tool in the land use planning context, or otherwise, coordinating with its wildlife co-management authorities. Nonetheless, project seasonal restrictions or phased activity reductions are necessary within certain delineated habitats, when migratory caribou are known to be most vulnerable. Disturbances to caribou cows and calves from industrial land uses, within habitats critical to herd productivity, may have serious long-term repercussions to herd health and population size. Gunn (2008) provides a plain language description of the population-level effects of disturbance to caribou within calving grounds:

During the time on the calving, post-calving and summer ranges, the cows are driven to forage to produce enough milk for their calf's growth and survival, as well as to rebuild their own body reserves to be able to sustain themselves and to conceive. Models have demonstrated that interruptions to forage amounting to 15% can reduce pregnancy rates in a herd, as cows need to have a certain level of body fat to conceive. While on calving grounds, caribou cows are especially vulnerable to disturbance, and all the cows of any one herd are gathered together in one place. Therefore, anything that affects the cows on their calving ground affects the future productivity of the herd. (p. 211)

The significant declines in caribou numbers of the Bluenose-East (123,000 to 38,500 from 2010 to 2015), Bathurst (500,000 to 20,000 from 1986 to 2015) and Baffin Island caribou herd (well over 100,000 in the early 1990s to approximately 5,000 in 2014), as well as the early signs of declines for the Beverly and Qamanirjuaq herds, further reinforces the need for seasonal restrictions (phased activity reductions), as well as development of sound case-by-case mitigation plans within habitats critical to caribou productivity.

REVIEWER'S RECOMMENDATIONS

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

Although the GN remains concerned with the negative impacts associated with the long-term fragmentation of habitats critical to caribou productivity, it is confident that habitat protection may be achieved, as necessary, via Section 141 of the *Wildlife Act*.

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

Respecting NPC's authority to draft the DNLUP, a range of recommendations for its

consideration are provided below:

Sunset Clauses: NPC should consider the applicability of minimum 'sunset clauses' (expiries) for caribou designated areas. Sunset clauses would act as recognition of the need to periodically review the accuracy of these areas. Timing of the sunset clause could begin once the Plan is in effect and restart should the Plan undergo a full periodic review or Plan Amendment for that given area.

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

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

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

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

Sea Ice Crossings: NPC should defer to Government of Canada recommendations regarding the Plan's proposed marine restrictions, applicable to caribou sea-ice crossing Special Management Areas. However the recorded value and sensitivity of these areas, particularly the importance of the sea ice crossing for the Dolphin and Union caribou herd warrants coordination between the NPC, the Nunavut Marine Council, the federal government, and wildlife co-management authorities to manage these areas either within, or outside the DNLUP context.

Notwithstanding the above supplementary recommendations the GN proposes the following immediate interim designation and conditions for caribou habitats within the first generation DNLUP:

The GN recommends a Special Management Area designation for calving grounds, key access corridors, post-calving grounds, and freshwater crossings. Terms for these Special Management Areas may be informed by the following herd-specific seasonal occupancy dates for GN delineated habitats, as well as input from the GN's fellow planning partners:

Calving-grounds and key access corridors (Appendix B):

Ahiak: June 13 to July 12
Bathurst: June 2 to June 28
Beverly: June 6 to July 8
Bluenose East: May 28 to July 3
Bluenose West: May 29 to July 3
Lorillard: May 29 to July 13
Qamanirjuaq: June 9 to July 3
Wager Bay: May 30 July 12

Post-calving grounds (Appendix C):

Ahiak: June 26 – July 12
Bathurst: June 17-28
Beverly: June 20 – July 8
Bluenose East: June 21 – July 3
Bluenose West: June 24 – July 3
Dolphin and Union: June 24 – July 3
Lorillard: June 26 – July 13
Qamanirjuaq: June 23 – July 3
Wager Bay: June 26 – July 12

Moreover Proponents should note the following seasonal windows where caribou are known to be present within other important habitats.

Fall Pre-Breeding (Appendix D)

Ahiak: Sept 22 - Oct 22
Bathurst: Sept 7 – Oct 16
Beverly: Sept 12 – Oct 20
Bluenose East: Sep 7 – Oct 11
Bluenose West: Aug 23 – Oct 12
Dolphin and Union: Aug 23 – Oct 12
Lorillard: Sept 22 – Oct 22
Qamanirjuaq: Sept 17 – Oct 18
Wager Bay: Sept 22 – Oct 22

Fall Post-Breeding (Appendix E)

Ahiak: Nov 9 – Dec 15
Bathurst: Nov 1 – 30
Beverly: Nov 4 – Dec 15
Bluenose East: Nov 5 – Dec 25
Bluenose West Nov 8 – 30
Dolphin and Union: Nov 8 – 30
Lorillard: Nov 9 – Dec 15
Qamanirjuaq: Nov 7 – Dec 15
Wager Bay: Nov 9 – Dec 15

Spring Migration (Appendix F)

Ahiak: Apr 6 – Jun 12
Bathurst: Apr 20 – Jun 1
Beverly: Apr 10 – June 5
Bluenose East: Apr 10 – May 27
Bluenose West: Apr 25 – May 28
Dolphin and Union: Apr 25 – May 28
Lorillard: Apr 5 – May 28
Qamanirjuaq: Apr 15 – Jun 8
Wager Bay: Apr 1 – May 29

Rutting (Appendix G)

Ahiak: Oct 23 – Nov 8
Bathurst: Oct 17 – 31
Beverly: Oct 21 – Nov 3
Bluenose East: Oct 12 – Nov 4
Bluenose West: Oct 13 – Nov 7
Dolphin and Union: Oct 13 – Nov 7
Lorillard: Oct 23 – Nov 8
Qamanirjuaq: Oct 19 – Nov 6
Wager Bay: Oct 23 – Nov 8

DNLUP Review Comment # 2017-3	
Organization	Government of Nunavut
Subject/Topic	Polar Bear Denning Areas
References	Nunavut Planning Commission, 2016 Draft Nunavut Land Use Plan, s. 1.4.1 Incremental Planning, p. 18-19
SUMMARY OF NPC's CONCLUSIONS	
<p>Section 2.3, Polar Bear Denning Areas of the 2016 DNLUP states: "Despite the SARA listing, the information provided to the NPC on polar bear denning areas was not sufficiently precise to allow the NPC to recommend land use designations in specific locations. However, consistent with NPC's commitment to regularly review the Plan, this will be reviewed as new information comes to light....Polar Bear denning areas are assigned a Mixed Use Designation, and are presented as areas of a known VEC".</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>DOE would like to see the terms it developed which were included in the GN's May 2016 submission applicable to development within polar bear denning areas; denning areas should be designated Special Management Areas with appropriate conditions annexed to NPC's conformity determinations.</p> <p>At a minimum, the Plan should make Proponents aware of relevant territorial legislation which restricts the purposeful and unlawful destruction of these areas.</p>	
REVIEWER'S RECOMMENDATIONS	
<p>Recognizing NPC's concerns regarding the large size and sparse use of polar bear denning areas, these should still be designated Special Management Areas with appropriate Wildlife co-management partner developed terms annexed to NPC conformity determinations.</p> <p>NPC should include the following in their second paragraph of Section 2.3: "Proponents are advised that Section 73(1b) of the <i>Nunavut Wildlife Act</i> prohibits the unlawful destruction of carnivore dens".</p>	

DNLUP Review Comment # 2017-4	
Organization	Government of Nunavut
Subject	Climate Change
References	<p>NPC, DNLUP, : Chapter 2- Sub-section 2.8.<i>Climate Change</i>, p. 30.</p> <p>NPC, 2016 O&R. . Chapter 2.<i>Climate Change</i>, p. 49.</p>
SUMMARY OF NPC's CONCLUSIONS	
<p>The 2016 DNLUP notes the following in Section 2.8, Climate Change: "The NPC recommends that in implementing the NLUP, federal or territorial ministers, departments and agencies; municipalities; the National Energy Board; Institutions of Public Government; federal environmental assessment panels; and other Regulatory Authorities ensure Proponents give reasonable consideration to minimizing their contribution to climate change, plan for, and where necessary or desirable, take reasonable steps to mitigate anticipated effects of climate change".</p> <p>Climate Change is also discussed in various sections of the Plan including Section 1.4.2 Consultation; the introduction of Chapter 2, Protecting and Sustaining the Environment; within Section 2.3 Polar Bears; and within Section 2.6.2 Polynyas, etc.</p> <p>NPC also notes the following in its 2016 O&R document: "As there are currently no agreed upon terms that would be appropriate to implement through a land use plan, it is recommended that no specific terms be included at this time. Climate change will continue to be considered by the NPC when developing and updating the NLUP in the future" (p.49).</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>Climate change is happening globally, and the effects in Nunavut are more noticeable than in other places around the world. Some of the effects of climate change in Nunavut include: permafrost thaw, sea-ice and lake-ice thinning, coastal erosion from wave action, changes in ocean currents, changes in weather and precipitation, and shifting ranges of plant and animal species. These changes are already significantly affecting many aspects of Nunavummiut daily life, including the way we travel, eat, and construct our communities.</p> <p>Like many nations across the globe, Nunavut is working to reduce greenhouse gas emissions in response to climate change. In Nunavut, main focus is to adapt our lifestyles to minimize effects from these new conditions that have come with climate change.</p> <p>In the short term, neither mitigation nor adaptation actions alone can stop negative climate change effects. However, taking adaptive action will minimize harm to Nunavummiut, our communities, and our natural environment. Climate change adaptation can and should be an integrated consideration for all forms of development or land use within Nunavut. It may be appropriate to phrase climate change not only as a challenge but also as an adaptation</p>	

opportunity.

REVIEWER'S RECOMMENDATIONS

Add a comprehensive list of non-obligatory climate change research priorities to the Plan; based on feedback gathered from the following authoritative bodies: Nunavut General Monitoring Plan, POLAR, and the Nunavut Climate Change Centre.

Note climate change adaptation opportunities and restraints to land-uses throughout the Plan. Emphasis the importance of climate change adaptation within the section of the DNLUP dedicated to climate change.

Include the Nunavut Climate Change Centre ("NC³") as a resource for applicants of the NLUP. The NC³ act as a central repository for climate change information in Nunavut. Encourage proponents to share climate change information with the NC³.

Encouraging Conservation Planning, Chapter 3 of the 2016 DNLUP

DNLUP Review Comment # 2017-5	
Organization	Government of Nunavut
Subject/Topic	Archeological Site Protection
References	Nunavut Archaeological and Palaeontology Sites Regulations
SUMMARY OF NPC's CONCLUSIONS	
Currently the 2016 DNLUP does not make reference to the Government of Nunavut's Archaeological and Palaeontology Sites Regulations, pursuant to the Nunavut Act (Section 51(1)).	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>Since 1999, and pursuant to the Nunavut Land Claim Agreement, the Department of Culture and Heritage is the Regulatory Authority which oversees the protection and management of all heritage resources (archaeological and palaeontological) in Nunavut, in partnership with Land Claim Authorities, Regulatory Agencies, and the Federal Government. All these relevant regulatory bodies and entities must coordinate efforts for the effective protection and management of heritage resources.</p> <p>The <i>Nunavut Archaeological and Palaeontology Sites Regulations</i> under to the <i>Nunavut Act</i> (Section 51(1)), apply throughout Nunavut. It is illegal to alter or disturb any palaeontological or archaeological site and/or search for such sites without a Class 1 or Class 2 permit. The Minister of Culture and Heritage may issue Class 1 and Class 2 permits with respect to archaeological sites, and may impose terms and conditions on permits.</p> <p>Proponents may be required to obtain a permit prior to carrying out land use activities—whether research, exploration, resources development activities, or tourism—at (or near) archaeological/palaeontological sites.</p> <p>Permits are granted by the Heritage Division of the Department of Culture and Heritage. Individuals who contravene the Regulations are guilty of an offense punishable on summary conviction. Proponents should be directed to the Heritage Division in order to obtain terms and conditions, which will be tailored to their land use activity.</p> <p>It is essential that, as the Nunavut Land Use Plan will act as Proponents 'first window' into the Nunavut regulatory process that they are made aware of these legal restrictions to development, regardless of any additional restrictions imposed by the Plan.</p>	
REVIEWER'S RECOMMENDATIONS	
Add a Section in the Plan dedicated to Archaeological and Palaeontological Sites,	

ideally after Section 3.4.2:

The Nunavut Government, Department of Culture and Heritage is the Regulatory Authority which oversees the protection and management of heritage resources in Nunavut, in partnership with land claim authorities, regulatory agencies, and the federal government. Regardless of any additional restrictions included in this Plan, it is illegal to alter or disturb any site of archaeological, ethnographical or historical importance, interest or significance within the Nunavut Settlement unless permission is first granted through all the territory's regulatory agencies via permitting processes. Nunavut Archaeological and Palaeontology Sites Regulations Permits may be required for development activities, research and touristic site visitation. Proponents with Territorial Land Use Regulations Land Use Permits must also respect Archaeological and Palaeontological Resources Terms and Conditions imposed by the Department of Culture and Heritage. These terms and conditions are dependent on and commensurate with the Proponent's proposed activity, and may include the need for a professional archaeologist/palaeontologist to perform an overview assessment and field survey before proceeding with any activity involving ground disturbance such as trenching, stripping, drilling, blasting, rock bulk sampling, runways, camp establishments of a certain size, geotechnical studies or any other extractive or land disturbance activities.

The GN hopes to further discussions on the above recommended wording with its Planning Partners, specifically its fellow Regulatory Authorities, prior to the DNLUP's expected Final Public Hearing.

Building Healthier Communities, Chapter 4 of the 2016 DNLUP

DNLUP Review Comment # 2017-6	
Organization	Government of Nunavut
Subject/Topic	Community Land Use Planning
References	<p>NPC, <i>DNLUP, 2014</i>: Chapter 4, Section 4.1-4.2, p. 36-38; Table 3 NPC, <i>O&R, 2014</i>. Chapter 4. Section 4.1-4.2, p. 63-68. Kugluktuk Hunters and Trappers Organization, <i>NPC [Online] Consultation Record: Kugluktuk HTO regarding caribou calving grounds</i>; retrieved from NPC's website: http://www.nunavut.ca/files/2016-02-19%20Email%20from%20Kugluktuk%20HTO%20re%20calving%20grounds.pdf</p>
SUMMARY OF NPC's CONCLUSIONS	
<p>The 2016 DNLUP does not make mention of Article 14 of the NLCA.</p> <p>The Plan's applicability within municipal boundaries: "the NLUP applies to Projects/Project Proposals that: a) Have ecosystemic impacts outside the municipality; or b) Involve the deposit of waste by a municipality, the bulk storage of fuel, the production of nuclear or hydroelectric power or any industrial activities" (2016 DNLUP).</p> <p>The Plan designates and protects valued community areas including community supply watersheds outside of municipal boundaries, unincorporated communities, and community identified areas of interest.</p> <p>Chapter 4 of the 2016 DNLUP may not be reflective of the full range of community land use planning priorities, and values present in Nunavut.</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>The introduction of Chapter 4, Building Healthier Communities, could be revised to better clarify the connection between Articles 11 and 14 of the NLCA. It is important that readers and Proponents are aware that the NPC operates jointly with the Commissioner and/or Municipal Corporations in achieving the goal of building healthier communities; the broader and regional scope of the Commission's purview is meant to compliment and support paralleling local planning activities, as described in Article 14.</p> <p>In either the Chapters' introduction, or Section 4.1.2 Community Priorities and Values, an additional sentence should be added noting the presence of community priorities and values not directly captured within Schedule A or B, but that are inextricably linked to a community's support for development within their region, likely including a desire for:</p> <ul style="list-style-type: none"> • diversified local employment opportunities; • local skills training and competitive education opportunities; 	

- accessible and affordable transportation;
- support for Inuit and Nunavummiut owned businesses;
- retention of economic benefits associated with non-Inuit or Nunavummiut owned businesses operating within the territory;
- development which respects the underlying goals inherent in the Nunavut Land Claims Agreement.

Where community values and recommendations remain unclear for specific designations at this late stage of drafting, a less prescriptive planning approach in the first generation plan is preferred in order to avoid the risk of imposing restrictions unsupported by communities and Inuit.

There are other specific instances where NPC may not be appropriately considering a range of differing community priorities and values. Table 3, Community Priorities and Values for Watersheds Management Areas of the Plan, identifies ‘support [for] transportation infrastructure’ with nine of sixty-five watersheds. Table 3 indicates community ‘concern about transportation infrastructure’ in seven of sixty-five watersheds. Yet the 2016 Plan phrases transportation infrastructure development as largely a risk to Nunavummiut, rather than a benefit (see comment 2016-11-11 herein). Land use management of transportation infrastructure which once was included in the Chapter ‘Building Healthier Communities’ is now described in ‘Encouraging Sustainable Economic Development’. No adequate rationale for NPC’s new approach to terrestrial transportation can be found in O&R.

Certain communities are disproportionately impacted by the 2016 DNLUP land use designations, and yet in these cases local Planning Partner recommendations may not have been considered by the NPC. Kugluktuk in the Kitikmeot region, for example, is largely surrounded by Plan proposed Protected Areas primarily for the protection of caribou habitat. Yet a Feb. 19th, 2016 email on NPC’s online consultation record indicates that the Kugluktuk Hunters and Trappers Organization – one of the GN’s wildlife co-management partners- does not support these Protected Areas, with year-round prohibitions to different land uses. Another example is Nunavut Tunngavik Incorporated and Regional Inuit Association outstanding concerns regarding whether the NPC’s designation of Key Bird Habitat Protected Areas are aligned with the Commission’s community consultations.

The Plan should be reflective of a range of localized approaches and solution to issues, and not unnecessarily conflict with any community’s long-term vision for its growth. Section 4.1.3 of the Plan should respect Article 14 Municipal and Commissioner administration and control of “Municipal Lands”, which is defined in Part 1 of Article 14 of the NLCA. Article 14.4.1 of the NLCA states: “...all Municipal Lands, the fee simple estate to which has not been conveyed to the Municipal Corporation, shall be administered and controlled by the Commissioner for the use and benefit of the municipality.” Article 14.4.2 states: “The [GN] Commissioner shall not create or dispose of any interest or estates in Municipal Lands without prior written permission of the Municipal Corporation, conditional or otherwise.” It’s important that the Plan note the applicability of municipal land use plans within municipal boundaries, and not unnecessarily impede Municipal Corporation and GN Commissioner control of Municipal Lands.

The existing note in Section 4.1.3 of the Plan regarding historic subsistence use is appropriate, but this Section should also mention present-day formalized community land use planning (guided by Article 14 of the Plan).. Note s. 72 of NuPPAA: “The Commission and municipalities

must cooperate for the purpose of ensuring compatibility between municipal land use plans and any land use plan established under this Part.”

Further it is uncertain how the prohibitions and conditions included in the designations for the Moffatt Inlet & Foxe Basin community areas of interest can and will be enforced. Before the Plan is finalized the NPC should consult with federal authorities in order to confirm the legality of these prohibitions and the process for their monitoring and enforcement.

The Coral Harbour, Arviat, and Kugaaruk water supply watersheds Protected Areas (and associated prohibitions to ‘hydroelectric and related infrastructure’ may unnecessarily impede potential energy infrastructure projects; specifically transmission lines that may come from Manitoba through to Kivalliq communities may be impacted

REVIEWER’S RECOMMENDATIONS

Chapter 4 should note the Plan’s respect for Article 14 of the NLCA and reflect section 72 of NuPPAA.

The Plan likely should expand on its explanation of ‘Community Priorities and Values’.

Clarify in Section 5.5.2.2 if the same approach for implementing marine setbacks (notice to mariners) will/can be used for community marine areas of interest in Moffat Inlet and Foxe Basin.

Remove 'hydro-electrical and related infrastructure' from the prohibited uses list for Coral Harbour, Arviat, and Kugaaruk. ‘Community Water Source Watershed’ Protected Areas

Where community values and recommendations remain unclear at this late stage of drafting for designations, a less prescriptive planning approach in the first generation plan is preferred in order to avoid the risk of imposing restrictions unsupported by communities and Inuit.

As an example the NPC is encouraged to account for Nunavut Tunngavik Incorporated and Regional Inuit association outstanding concerns and recommendations regarding the DNLUP’s Key Bird Habitat Protected Areas, relative to the Commission’s community consultations.

DNLUP Review Comment # 2017-7	
Organization	Government of Nunavut
Subject/Topic	Areas of Equal Use and Occupancy
References	<p>NPC, 2016 DNLUP, Chapter 4, Section 4.1.4, p.37 NPC, 2016 O&R, Chapter 4, Section 4.1.4, p. 67-68 Makivik, NPC [Online] Consultation Record: Makivik May 10, 2016 letter, retrieved from NPC's website: http://www.nunavut.ca/files/2016-05-10%20Makivik%20Submission%20re%20DNLUP.PDF</p>
SUMMARY OF NPC's CONCLUSIONS	
<p>Section 4.1.4, Areas of Equal Use and Occupancy of the DNLUP states Areas of Equal Use and Occupancy are assigned a Protected Area Land Use Designation. Table 1 of the DNLUP identifies the following prohibitions for Areas of Equal Use and Occupancy:</p> <ul style="list-style-type: none"> • Mineral Exploration and Production; • Oil and Gas Exploration and Production; • Quarries; • Hydro-electrical and related infrastructure; • Linear Infrastructure; and • Related research except Non-exploitive Scientific Research." <p>In the 2016 its O&R NPC noted its consideration of NTI and Makivik's recommendation "that additional consultations occur before a designation for the areas can be included in the NLUP", but asserts a Protected Area designation with a range of prohibitions was chosen "given the importance of the area to residents" (2016 O&R p. 67-68).</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>The GN notes Makivik states in its May 10, 2016, letter:</p> <p>"We trust that the NPC will understand our significant concerns and be amenable to a delay in designation of any protected area status for the Areas of Equal Use and Occupancy alone. If such a delay is not possible, we would ask that the areas of Equal Use and Occupancy be designated as a Special Management Area which will provide flexibility until such time where the relevant and concerned communities can be adequately consulted to determine what future uses will be permitted";</p> <p>And: "It is ...our opinion that the community consultations conducted in 2013 were insufficient, did not meet the consultative requirements of the NPC with regards to Nunavik Inuit and the</p>	

level of community engagement was too low”.

REVIEWER'S RECOMMENDATIONS

The GN recommends that NPC coordinate with Makivik as well as the Nunavik and Eeyou Marine Region Planning Commissions, respecting their recommendations for land use decisions impacting areas of Equal Use and Occupancy.

DNLUP Review Comment # 2017-8	
Organization	Government of Nunavut
Subject/Topic	Health and Safety
References	NPC, 2016 <i>DNLUP</i> , Chapter 4, Section 4.4, p. 38-39 NPC, 2016 <i>O&R</i> , Chapter 4, Section 4.4, p. 69-73
SUMMARY OF NPC's CONCLUSIONS	
<p><u>Water Supply Watersheds</u></p> <p>Section 1.4.1, Incremental Planning, of the DNLUP provides: "The intention at the time of writing is that eventually the NLUP will be focused on land use planning at the watershed scale" (DNLUP p.19).</p> <p>Section 1.5 Watershed Planning of the Plan states:</p> <p>"The Minister of INAC, along with the Government of Nunavut and the Nunavut Water Board (NWB), established under Article 13 of the NLCA, have mandated responsibilities for the management, conservation and use of freshwater in Nunavut. The federal government and the NWB have shared responsibilities for the management of freshwater resources in Nunavut while the Government of Nunavut has responsibilities for community drinking water and waste management systems. The Nunavut Waters Regulations (SOR/2013-69) established 65 water management areas within Nunavut (see Schedule B). Land use management within these water management areas is expected to be an important component of future generations of the NLUP because of the inter-connectivity between land and water throughout the NSA" (DNLUP, p. 20).</p> <p>The DNLUP identifies several community water source watersheds as Protected Areas, shown as green polygons (labeled 162-170) on Schedule A with the following land use prohibitions detailed in Table 1:</p> <ul style="list-style-type: none"> • Mineral Exploration and Production; • Oil and Gas Exploration and Production; • Hydro-electrical and related infrastructure; and • Related research except Non-exploitive Scientific Research. <p><u>Contaminated Sites</u></p> <p>Under Article 11 of the Nunavut Land Claims Agreement, the Commission is tasked with the identification and prioritization of the requirement to clean-up waste sites in the territory.</p> <p>The 2016 DNLUP define Contaminated Sites as "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</p>	

contaminated".

Section 4.4.3 of the DNLUP, Waste Sites, states: "The NPC recommends that the Government of Nunavut consider formalizing their existing Environmental Guideline for Contaminated Site Remediation into regulations."

Section 4.4.3 further states:

"The NPC recommends that where it is possible to identify the person, company or agency responsible for creating an abandoned or inactive Waste Site, Regulatory Authorities apply, to the extent of their authority, the "polluter pay" principle to make the person, company or agency absolutely and retroactively liable for the remediation. If identification of the polluter is not possible the NPC recommends the Regulatory Authorities that had responsibility for the site at the time it was active shall be responsible for remediation of the Waste Site."

Section 4,4,3 further states:

"[Known, federal] Contaminated Sites are assigned a Special Management Area Land Use Designation that prohibits incompatible uses".

Contaminated Sites are shown as brown polygons on Schedule A of the Plan, labeled with site #s '85-98'. Table 1 of the Plan outlines the following prohibited uses for these areas: "All uses are prohibited except remediation and monitoring of the sites until cleanup operations are completed. Following remediation, no drilling, camps, or large landing pads will be permitted on landfills".

REVIEWER'S COMMENTS AND SUPPORTING RATIONALE

Water Supply Watersheds

Community water standards are a regulated matter under the Public Health Act. The GN is concerned about the nature, extent and quality of the boundary extents defined by each municipality for their existing and future water supply, as per NPC's direction to municipalities in Section 4.4.1.2. To complete a project to identify the boundaries for the existing and future watersheds for all the municipalities within five years will be difficult as there are already significant pressures on the Capital Infrastructure Budget.

The Coral Harbour, Arviat, and Kugaaruk water supply watersheds Protected Areas (and associated prohibitions to 'hydroelectric and related infrastructure') may impede potential energy infrastructure projects. In particular, transmission lines that may come from Manitoba to Kivalliq communities may be impacted.

Contaminated Sites

A GN Contaminated Sites Liabilities Working Group has been established with participants from DOE, the Quilliq Energy Corporation, and the Departments of Community and Government Services, Finance, and Justice. This group has made recommendations as to what sites the GN should assume as responsibilities. Preliminary assessments have now been completed for all identified contaminated sites, and high level cost estimates have been prepared for their remediation. The GN has developed a policy to assign priority to

contaminated sites and is working towards developing an implementation plan to monitor and assess priority sites. This implementation plan will address sites that are GN liabilities as well as develop a policy to move forward regarding to sites that are the responsibility of others.

The inventorying and development of a contaminated sites database and policy in the Nunavut Settlement Area is a priority for the GN. The GN looks forward to collaborating closely with the Commission on this important work as this database project progresses.

Air Quality

Air shed management is not included in Section 4.4 of the DNLUP. Land use activities have a direct effect on the air shed which transports contaminants to the land, plants, animals and human receptors. Air quality, particularly in the context of dust contamination from major projects, is a common concern raised in environmental assessments.

REVIEWER'S RECOMMENDATIONS

Rephrase the direction to municipalities to identify boundaries for their current and future water supplies as a recommendation.

Regarding drinking supply watersheds, consider the possibility of including triggers in the DNLUP to identify development close to a community. For example NPC may require the following as conditions for Project conformity with water supply watersheds for certain types of industrial Projects.

- The location of the community drinking water source in relation to the Project/Project Proposal;
- Any potential impacts of Project/Project Proposal activity on that water source; and
- Mitigation measures to avoid impacts to the community drinking water source.

Remove 'hydro-electrical and related infrastructure' from the prohibited uses list for Coral Harbour, Arviat, and Kugaaruk 'Community Water Source Watershed' Protected Areas. Additional prohibitions should be consistent with individual community priorities.

Annex D: Waste Site Clean-up List Prioritization, should mirror GN and federal guidelines. Recognizing the first generation NLUP does not include all of the territory's contaminated sites, the NPC should be clear in all definitions and policy that the Plan's treatment of contaminated sites may be re-scoped and redefined once new liabilities are added.

Within its research priorities the DNLUP should encourage research into existing water quality and air quality baseline data.

Encouraging Sustainable Economic Development, Chapter 5 of the 2016 DNLUP

DNLUP Review Comment # 2017-9	
Organization	Government of Nunavut
Subject/Topic	Mineral Potential
References	NPC, 2016 DNLUP, Chapter 5, Section 5.2, p. 42; Table 3 NPC, 2016 O&R, Chapter 5, Section 5.2, p. 75-76 Parnautit, the Government of Nunavut Mineral Exploration and Mining Strategy
SUMMARY OF NPC's CONCLUSIONS	
<p>Unique from the 2014 Plan, the 2016 DNLUP Protected Areas apply regardless of overlap with Indigenous and Northern Affairs Canada delineated 'Areas of High Mineral Potential'.</p> <p>Section 5.2 High Mineral Potential of the Plan states that: "The land use planning and environmental assessment processes in Nunavut have been established to proactively resolve potential conflicts between mineral exploration parties requiring access to land, and wildlife and community uses";</p> <p>Also: "Areas of known mineral potential are described in Schedule B. Proposals for tourism facilities or conservation should be considered against the economic development potential in these areas".</p> <p>The Plan also states: "The NPC recommends Government provide additional funding to the NPC and NIRB to co-lead strategic environmental assessments in areas considered to have high mineral potential".</p> <p>Section 5.2, Mineral Potential, of the 2016 DNLUP does not describe that the use 'Mineral Exploration and Production' is a listed prohibition for many Schedule A designated areas, as described in Table 1.</p> <p>In its O&R document NPC notes "Mineral exploration and production is one of the most attractive and viable economic activities in the NSA. The Commission recognizes the importance of this industry to Nunavut's economy" and that 'high mineral potential areas' have been identified in Schedule B Valued Components of the Plan "to reflect that these areas may be important for non-renewable development in the future, and if possible activities that would reduce their future economic value should be avoided" (p. 75-76).</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>The Plan should be written and organized so that readers/Proponents may quickly grasp the Plan's restrictions to any applicable land use. Section 5.2, Mineral Potential, should include a final sentence which states: "The 2016 DNLUP prohibits mineral exploration and production</p>	

within areas where this use has been deemed incompatible – refer to Table 1 and Schedule A”

The extent of the prohibitions to mineral exploration and production in the 2016 DNLUP may not appropriately support the long-term socio-economic wellbeing of Nunavummiut; in certain cases these proposed prohibitions may not reflect the most impacted Planning Partners’ recommendations to-date. For example Table 3 of the Plan notes that out of sixty-five Nunavut watersheds thirty-nine of these had communities identify ‘potential economic development’ within these, where only twenty-six watersheds did not have this community priority or value listed. Is community support for economic development supported by the extent of NPC’s prohibitions to the territory’s largest private sector industry?

Appendix H shows the extent of Plan proposed mineral exploration and production prohibitions in the Plan. The below table describes the 2016 Plan’s prohibitions relating to mineral exploration and production, and the impacts of these prohibitions across the NSA land base:

	NSA		Kitikmeot		Kivalliq		Qikiqtani	
	Area (km2)	% of NSA Land Base	Area (km2)	% of Region Land Base	Area (km2)	% of Region Land Base	Area (km2)	% of Region Land Base
Prohibited								
Mineral Exploration and Production	383,472.4	18.3%	187,099	31.2%	116,777	25.6%	79,597	7.6%

Further, NPC’s proposal to lead (or co-lead) strategic environmental assessments for areas in Nunavut with high known mineral potential is outside the scope of its core responsibilities and not aligned with the current federal governments emphasis on offshore oil and gas, for which funds have been earmarked.

REVIEWER’S RECOMMENDATIONS

Section 5.2 of the Plan should add the following: “The 2016 DNLUP prohibits mineral exploration and production uses within areas where this use has been deemed incompatible – refer to Table 1.”

Section 5.2 should also explain that any current delineations of ‘mineral potential’ are based off of the best available information and should not be interpreted to mean anything outside of their borders does not necessarily have mineral potential. Practically, where any specific area is being referred to in the Plan with respect to its mineral potential, it should be qualified as ‘known’ mineral potential.

Reconsider the Plan’s extensive prohibitions to mineral exploration and production, where appropriate, and supported by impacted communities or Planning Partners.

Withdraw the current 2016 DNLUP NPC recommendation to Government to provide funding to IPG’s to co-lead SEA’s in areas of high mineral potential.

DNLUP Review Comment # 2017-10	
Organization	Government of Nunavut
Subject/Topic	Oil and Gas Potential
References	NPC, 2016 DNLUP, Chapter 5, Section 5.3, p. 42-43; Table 3 NPC, 2016 O&R, Chapter 5, Section 5.3, p. 76
SUMMARY OF NPC's CONCLUSIONS	
<p>Section 5.3 of the Plan discusses the oil and gas industry within Nunavut to-date, and refers readers to Schedule B of the Plan where 'areas of oil and gas potential' are shown for informational purposes.</p> <p>The Plan also prohibits 'oil and gas exploration and production' in multiple land use designations within Schedule A, but there is no mention of these Plan restrictions within Section 5.3, Oil and Gas Potential.</p> <p>In its O&R document NPC notes that Oil and Gas potential areas have been identified on Schedule B Valued Components in order to "reflect that these areas have been prioritized for oil and gas exploration and production" (p. 76).</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>Section 5.3, Oil and Gas Potential, of the Plan should be revised to more clearly describe the Plan's proposed implications to not just Schedule B, but the industry as a whole. Omitting details about Plan imposed restrictions to a use (i.e. Table 1 prohibitions on 'oil and gas exploration and production') in the section of the Plan dedicated to that same use makes the Plan less user-friendly; especially considering Proponents (and aspiring Proponents) may be the primary audience for the Plan once approved.</p> <p>Within Section 5.3 of the Plan it states that "at this time, only significant discovery licenses have been issued in Nunavut" (p.43). However exploratory permits were issued under former regulation in the Hudson Bay/Strait area. Similarly, NPC's online interactive map does not show all the petroleum titles existing within the NSA.</p> <p>Strategic Environmental Assessments, if included in Section 5.2 for Mineral Potential, should also be included in the Oil and Gas Potential section as a step of the regulatory process.</p> <p>Additionally the sentence: "The NPC has identified that there are presently no oil spill containment and clean-up technologies specifically designed for ice-laden waters" - should be rephrased in recognition that research into these technologies should be a Plan priority, in order to promote the industry within Nunavut.</p>	

The extent of the prohibitions to oil and gas exploration and production proposed by the DNLUP may not appropriately support the long-term socio-economic wellbeing of Nunavummiut; in certain cases these proposed prohibitions may not reflect the most impacted Planning Partners' recommendations to-date. Further some of the plans prohibitions to oil and gas activity apply in areas where petroleum potential exists. For example, near Pangnirtung where potential exists in the Cumberland Basin, etc. For example Table 3 of the Plan notes that out of sixty-five Nunavut watersheds thirty-nine of these had communities identify 'potential economic development' within these, where only twenty-six watersheds did not have this community priority or value listed. Is community support for economic development supported by the extent of NPC's prohibitions to the promising sector of oil and gas production?

Appendix I illustrated the extent of the proposed Plan prohibitions to the oil and gas industry within Nunavut. The below table describes the 2016 Plan's prohibitions relating to oil and gas exploration and production, and the impacts of these prohibitions across the NSA:

Oil and Gas Exploration and Production Prohibited	NSA		Kitikmeot		Kivalliq		Qikiqtani	
	Area (km2)	% of NSA	Area (km2)	% of Region	Area (km2)	% of Region	Area (km2)	% of Region
Land Base and Marine	558,842	14.3%	211,465	23.7%	120,163	19.3%	227,214	11.7%
Land Base	390,251	18.6%	187,894	31.3%	116,777	25.6%	85,581	8.2%

REVIEWER'S RECOMMENDATIONS

The GN recommends the following revisions to Section 5.3 of the Plan pertaining to Oil and Gas Potential:

- This section should add the following: "The 2016 DNLUP prohibits oil and gas exploration and production uses within areas where such uses have been deemed incompatible with other values – refer to Table 1";
- The final sentence of Section 5.3 regarding 'oil spill containment and clean-up technologies' should be rephrased to promote this research in order to improve the long-term feasibility of this industry within Nunavut.
- Section 5.3 of the Plan and Schedule B of the Plan should represent that there are 19 Significant Discovery Licenses in the Sverdrup Basin, and one Significant Discovery License in the Saglek Basin in Davis Strait 76 km SE of the mouth of Frobisher Bay.
- Update Section 5.2.1/5.3 to include the present federal emphasis on SEA's for offshore oil and gas activity in the following three regions of the Arctic: the Beaufort Sea; Baffin Bay and Davis Strait, and the Kivalliq, Kitikmeot and other Arctic Islands of Nunavut.
- Update Section 5.2.1/5.3 with the appropriate role of the NPC in "contributing to the development and review of Arctic marine policy" and a commitment to participate in any forthcoming SEA's to the extent provided for in the NLCA and NuPPAA.
- Consider an additional statement on the status and role of the Nunavut Marine Council.

Reconsider the extensive prohibitions to oil and gas exploration and production, where appropriate, and supported by impacted communities or Planning Partners.

DNLUP Review Comment # 2017-11	
Organization	Government of Nunavut
Subject/Topic	Terrestrial Transportation
References	NPC, 2016 DNLUP, Chapter 5, Section 5.5, p. 42-43; Table 3 NPC, 2016 O&R, Chapter 5, Section 5.5, p. 43-45 Ingirrasiliqta, the Government of Nunavut Transportation Strategy
SUMMARY OF NPC's CONCLUSIONS	
<p>Unlike the 2014 iteration, the Draft 2016 Plan does not include proposed terrestrial corridors in its main Schedule A of land use designations, rather these are shown in Schedule B Valued Ecosystem and Socio-Economic Components.</p> <p>The Plan also prohibits 'Linear Infrastructure' within multiple designated areas shown on Schedule A: "Linear Infrastructure means any form of constructed infrastructure that is linear in nature. These may include: a) Communication and/or Telephone Lines; b) Highways; c) Marine Undersea Utility Corridor; d) Mine Bulk Hauling Roads; e) Mine Servicing Roads; f) Public Roads; g) Pipelines; h) Power lines; i) Private Roads; and/or j) Railways".</p> <p>Figure 8 of the Plan indicates that any 'Winter Road', 'Winter Skid Track', or linear infrastructure Projects previously approved and then abandoned by the original Proponent, all conform to the Plan.</p> <p>The 2016 DNLUP also notes: "Proponents are required, for any all-season linear infrastructure [LICs], to present a robust alternatives assessment (which may also be thought of as a process of elimination) [criteria for which can be found in Annex A1 and A2 of the Plan], demonstrating that the optimal route(s) and mode(s) of linear infrastructure have been proposed".</p> <p>Figure 8 of the 2016 DNLUP, outlines NPC's assessment process for terrestrial LICs. Figure 8 would suggest that proposed routes such as the Kivalliq to Manitoba and Grays Bay would require a Plan Amendment to conform to the Plan.</p> <p>Even more problematic is the Plan's new definition of its Mixed Use Zone and the following excerpt in Chapter 5:</p> <p style="padding-left: 40px;">"Applications for corridors that are wholly on appropriate Land Use Designations will undergo a conformity determination. The exceptions are that all applications for highways and railways will require a plan amendment, due to a high potential for significant socio-economic effects from connecting communities." (p44, 2016 DNLUP)</p> <p>No supporting rational for this NSA-wide prohibition of community linkage highways and</p>	

railways is provided, either in the Plan, or its Options and Recommendations document.

REVIEWER'S COMMENTS AND SUPPORTING RATIONALE

Nunavut has a severe deficiency in ground-based infrastructure that extends to transportation, energy transmission, and communications systems. No two communities are physically connected and no link exists between Nunavut and another jurisdiction. Recognizing roads may have some of the most damaging impacts to wildlife due to fragmentation and predation access, the DNLUP approach to terrestrial transportation corridors is still contrary to past iterations of the Plan, and in opposition to recent GN (and other Planning Partner) recommendations.

NPC's justification for its blanket prohibition of highways, defined as any publically accessible road for general use between communities, and railways, defined as any fixed track transportation infrastructure where metal-wheeled vehicles may be operated, is unexplained in both the Plan and O&R. This form of NSA-wide prohibition to any one particular land use is an inappropriate expression of the NPC's NuPPAA, subsection 48(2) powers. Community linkage highways have the potential to promote economic development in the territory, providing a range of positive opportunities and benefits for Nunavummiut.

Table 3 of the Plan, Community Priorities and Values for Watersheds Management Areas of the Plan, identifies 'support [for] transportation infrastructure' within nine of sixty-five watersheds. Table 3 indicates community 'concern about transportation infrastructure in seven of sixty-five watersheds. Is community support for transportation infrastructure supported by the extent of NPC's prohibitions to community linkage highways, railways, and a range of all-season linear infrastructure?

Appendix J illustrates the extent of the Plan's proposed prohibitions to terrestrial transportation in Nunavut. The below table describes the 2016 Plan's prohibitions relating to linear infrastructure, and the impacts of these prohibitions across the NSA land base:

Transportation Infrastructure Prohibited	NSA		Kitikmeot		Kivalliq		Qikiqtani	
	Area (km ²)	% of NSA Land Base	Area (km ²)	% of Region Land Base	Area (km ²)	% of Region Land Base	Area (km ²)	% of Region Land Base
Linear Infrastructure	377,967	18.3%	185,418	30.9%	115,643	25.4%	76,905	7.4%
Highways	2,099,965	100%	599,994	100%	455,752	100%	1,044,220	100%
Railways	2,099,965	100%	599,994	100%	455,752	100%	1,044,220	100%
Winter Roads	0	0%	0	0%	0	0%	0	0%
Winter Skid Tracks	0	0%	0	0%	0	0%	0	0%

The Plan's restrictions to linear infrastructure should be as clear and balanced as possible, recognizing that major infrastructure corridors such as the Grays Bay or Kivalliq to Manitoba represent priority Government Projects, which will benefit the long-term well-being of Nunavummiut.

It should also be noted that the above only covers direct prohibitions and does not consider the

indirect impacts their placement may have. Consider for example a Protected Area that prohibits linear infrastructure that occurs between a proposed project and the coast line, as the bird flies. It's possible that in this case the location of the Protected Area can actually prohibit development outside of its borders by creating significant design and financial impediments for projects that are otherwise acceptable. In effect, the impacts of linear infrastructure prohibitions impact across industries and can be exponential.

While the marine transportation restrictions proposed in the DNLUP do not present any immediate concerns for existing projects, the possible future development of the Gray's Bay Port and Road (GBPR) Project in the Northwest Passage between Victoria Island and the Mainland may require future Plan amendments. If the GBPR is built its primary purpose will be to support base metal extraction operations in the Slave Geologic Province.

Unlike gold projects, which comprise the bulk of currently approved projects in Nunavut, base metal projects possess significant shipping components to get their product to refiners and the open market. In certain circumstances the economics of a project may only work at a scale where annual ore volumes require year round shipping and ice breaking. In the event this is a requirement of any of the projects supported by the GBPR, the prohibitions in this designation will require an application for Plan amendment or a Ministerial exemption.

The agreement between the GN and the Kitikmeot Inuit Association with respect to the Grays Bay Port and Road project includes terms that would limit any ice breaking activities. From a logistics standpoint Bathurst Inlet provides strategic access into the mainland of the Kitikmeot, and makes many potential projects feasible that otherwise would not be. We do however note that impacts to caribou, and thus subsistence harvesting rights and values, require in-depth assessment through the Nunavut Impact Review Board process prior to moving forward. The freshwater caribou crossing designation in and around (20km buffer) Bathurst Inlet could impact many future prospects for industrial development that could otherwise be carried out in a responsible manner.

Sabina Gold and Silver on its own, and through a partnership with Glencore Xstrata has proposed two projects with critical infrastructure along the Bathurst Inlet shoreline; the Marine Laydown Area component of the Back River Gold Project and the deep-water port portion of the Bathurst Inlet Port and Road Project (BIPR). While both of these projects at present would be protected by the Nunavut Planning and Project Assessments (NuPPAA) transitional provisions, any significant modification could compromise the future of the projects.

REVIEWER'S RECOMMENDATIONS

Return the definition of Mixed Use to what was in NPC's 2014 DNLUP. Remove the NSA-wide 2016 DNLUP prohibition to highways and railways, as defined therein. Remove the requirement for all highway and railway applications to undergo a Plan amendment. In terms of management, treat all form of linear infrastructure uniformly.

If the Nunavut Planning Commission feels there are significant public concerns regarding an individual linear infrastructure project, they shall notify the Nunavut Impact Review Board in their conformity determination correspondence.

Add stipulation to any Protected Area Designation that includes 'Linear Infrastructure' that the

prohibition may be waived through the submission of a robust alternatives assessment, much like the process already provided for in Figure 8.

DNLUP Review Comment # 2017-12	
Organization	Government of Nunavut
Subject/Topic	Tourism Potential
References	NPC, 2016 DNLUP, Chapter 2, Section 2.2.1.4 NPC, 2016 O&R, Chapter 2, Section 2.2.1.4 Tunngasaiji, the Government of Nunavut's Tourism Strategy
SUMMARY OF NPC's CONCLUSIONS	
<p>The DNLUP treats tourism ambiguously, and potentially exposes tourism operations to being screened in a largely arbitrary and discretionary manner by NPC/ NIRB. Although the 2016 DNLUP poses multiple restrictions to tourism, and in Chapter 1 lists tourism as one of four sectors contributing to the territory's growing economy, the Plan has no dedicated section describing tourism restrictions, or areas of high tourism potential.</p> <p>The Plan prohibits 'permanent tourism-related structures' within Freshwater Caribou Crossings Protected Areas (labelled 159 in schedule A of the Plan). The Plan also restricts cruise ship tourism uses within certain Community Area of Interest Protected Areas: Foxe Basin and Moffett Inlet (labelled 73, 74 respectively on Schedule A; these areas prohibit 'marine shipping' though no definition for 'marine shipping' is included in the Plan).</p> <p>The Plan also poses restrictions to marine based tourism uses through its imposition of conditions relating to Special Management Areas. The Plan requires migratory bird nest (terrestrial, aerial, and marine) setbacks described in Table 2, adding: "Regulatory Authorities, where appropriate, must incorporate the setbacks in Table 2 for all seabirds during the issuance of permits, licenses, and authorizations".</p> <p>Similarly the Plan restricts marine shipping (including cruise ships and likely associated on-ship launch vessels) through caribou sea ice crossings (labelled 152, 153, 154), beluga calving grounds (labelled 161), and polynyas (labelled 157, and 158) during regionally defined seasonal time periods.</p> <p>In its O&R document NPC notes tourism land uses as a threat to multiple proposed designated areas, but there is no section dedicated to describing the Commission's rationale in how the Plan treats this land use.</p> <p>The prohibitions for 'freshwater caribou crossings' in O&R contradict the Plan's Table 1 prohibitions: 'permanent tourism related structures' is included as a prohibition in the Plan, but omitted in O&R. It's unclear whether this is a typographical error, or whether it is not the NPC's intent to prohibit permanent tourism related structures within freshwater caribou crossings.</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
The GN does not support unnecessary tourism restrictions in the NLUP because potential	

restrictions on high-use tourism areas could have a significant negative impact on the industry. However, the GN recognizes that there are legitimate reasons to restrict tourism activities at certain times in certain areas.

When the NLUP considers tourism restrictions it is hoped that Part 5 of the plan, the sustainable economic well-being of communities, plays a prominent role in mitigating proposed restrictions. Specifically, there needs to be a clearer recognition of the role tourism can play in communities by providing them with a sustainable, renewable resource (i.e. tourists) and that the industry has relatively minimal impact on the environment compared to other types of development.

As part of the updates to the *Tourism Act*, new Restricted Tourism Areas may be drafted, which will allow a community, in consultation with EDT, to restrict any or all kinds of tourism in a particular area, for a specific amount of time. Restrictions on these areas will be finite and would co-exist with NLUP designations – if there is a need for more permanent restrictions, these can be amended into the NLUP as such restrictions reflect the direct will of communities.

Appendix K illustrates the extent of the Plan's proposed prohibitions to tourism, and related marine transportation restrictions. The below table describes the 2016 Plan's prohibitions relating to tourism:

Prohibited	NSA		Kitikmeot		Kivalliq		Qikiqtani	
	Area (km ²)	% of NSA	Area (km ²)	% of Region	Area (km ²)	% of Region	Area (km ²)	% of Region
Permanent tourism related structures	66,455	1.9%	31,844	3.8%	31,205	5.0%	3,406	0.2%
Shipping (incl. cruise ships)	80,148	2.4%	53,275	6.3%	395	0.1%	26,478	1.4%

The 2016 DNLUP's omission of a dedicated section regarding tourism uses is contrary to previous GN written recommendations to NPC made in 2014, 2015, and reaffirmed in May of 2016. GN departments are permitting authorities for tourism activities, and currently impose the following approvals:

- The Government of Nunavut requires that tourism operators delivering visits to historical, archaeological/palaeontological sites must obtain authorization to do so from the Department of Culture and Heritage. This is done through application for a Class 1 permit.
- The Government of Nunavut requires that tourism operators delivering wildlife viewing opportunities must obtain authorization to do so from the Department of Environment. This is done through this issuance of Wildlife Observation Licenses which may include mandatory setbacks or other restrictions, beyond what is required within the Plan.

REVIEWER'S RECOMMENDATIONS

The GN does not support unnecessary tourism restrictions in the NLUP because potential restrictions on high-use tourism areas could have a significant negative impact on the industry.

Pertaining to marine-based tourism land use decisions in the 2016 Plan, the GN recommends

that NPC adopt Government of Canada recommendations.

Clarify the current discrepancy within the 2016 Plan and O&R, determining whether 'permanent tourism related infrastructure' is intended to be a Table 1 listed prohibited use for freshwater caribou crossings Protected Areas.

Add a section to Chapter 5 of the 2016 DNLUP, "Tourism Potential", which describes the Plan's restrictions and benefits to the territory's tourism industry. Draft text for NPC's consideration seen below:

Tourism is a growing industry within Nunavut. The Plan goal 'encouraging conservation planning' has direct positive implications to the long-term success of Nunavut's tourism industry. Areas designated under this Chapter could be seen as high tourism potential areas – though the potential negative impacts of the industry to conservation areas must continue to be mitigated / avoided. The 2016 DNLUP prohibits or applies conditions to tourism Projects within areas where this use has been deemed incompatible or requiring special management – refer to Tables 1, 2, and Schedule A.

Implementation Strategy, Chapter 6 of the 2016 DNLUP

DNLUP Review Comment # 2017-13	
Organization	Government of Nunavut
Subject/Topic	Cumulative Impact Referrals
References	<p>NPC, 2016 DNLUP, Chapter 6, Section 6.3.2, p. 50</p> <p>NPC, <i>Nunavut Planning Commission Internal Procedures</i>, Plan Amendment and Periodic Review, retrieved from NPC's website: http://www.nunavut.ca/en/about-commission</p> <p>Nunami Jacques Whitford Limited, EDI Environmental Dynamics, <i>Cumulative Effects Criteria Report for the Nunavut Planning Commission</i>, retrieved from NPC's website: http://www.nunavut.ca/files/Cumulative%20Effects%20Referral%20Criteria%20May%202009.pdf</p>
SUMMARY OF NPC's CONCLUSIONS	
<p>Cumulative Impacts are defined in the DNLUP as: "any ecosystemic and/or socioeconomic impacts that could result from the impacts of a Project/Project Proposal combined with those of any other Project/Project Proposal or development activities that has been carried out, is being carried out or is likely to be carried out inside the Nunavut Settlement Area (NSA) or Outer Land Fast Ice Zone, or wholly or partly outside the NSA or Fast Ice Zone".</p> <p>Further in its definition of 'Priorities and Values' the DNLUP states: "Priorities and Values are not used directly in conformity determinations, but may be used indirectly in cumulative effects-based referrals to the [NIRB]".</p> <p>In section 1.7.4 Land Use Regulatory Concepts, the DNLUP states: "Information on VECs and VSECs: identify priorities and values that help inform NPC on cumulative effects-based referrals to NIRB, and that Regulatory Authorities, where appropriate, need to address when implementing the NLUP during the regulatory review of Projects/Project Proposals".</p> <p>S 6.3.2 of the DNLUP, Consideration of Cumulative Impacts, states: "The NPC may develop policies and procedures including a list of factors to be considered to determine the likelihood and severity of Cumulative Impacts for the purpose of determining whether a Project/Project Proposal should be screened by the NIRB, notwithstanding an exemption". Therefore at this time the DNLUP doesn't outline criteria for cumulative impacts, such as the criteria proposed by GOC.</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
The NPC's referral power is outlined in the NuPPAA, and is independent of any existing or	

future land use plans. In comments submitted on the 2014 DNLUP, the GN requested clarification on the NPC's role in Cumulative Impacts referrals. In the spring of 2016, NPC referred prospecting project Project/Project Proposals to the Nunavut Impact Review Board (NIRB) for screening under subsection 80(1) of the NuPPAA.

Prospecting and staking activities have traditionally been exempt from NIRB screening pursuant to Schedule 12-1 of the NLCA. The NPC identified potential cumulative effects and the "potential to induce additional projects" as the basis for their referrals of prospecting and staking projects to the NIRB in 2016. The Government of Nunavut Department of Economic Development and Transportation ("GN-EDT") submitted a comment to the NIRB outlining concerns regarding the: necessity of screening-level assessments for prospecting activities; impacts of an increased regulatory burden on Nunavut's mineral exploration sector; and importance of confidentiality in the staking and prospecting process.

Claim-staking and prospecting activities are typically low-impact, small-scale operations with impacts that are well-understood and mitigatable. Unnecessarily increasing the regulatory requirements at the earliest stages of the mineral development process may negatively impact Nunavut's attractiveness for future mineral exploration and development.

REVIEWER'S RECOMMENDATIONS

The GN recommends that the NPC collaborate with NIRB, Nunavut Tunngavik Incorporated, and Government to clarify appropriate thresholds for cumulative effects referrals under the NuPPAA.

DNLUP Review Comment # 2017-14	
Organization	Government of Nunavut
Subject/Topic	Plan Amendment, Periodic Review, and Minor Variance
References	<p>NPC, 2016 DNLUP, Chapter 2, Section 2.2.1.4</p> <p>NPC, 2016 O&R, Chapter 2, Section 2.2.1.4</p> <p>NPC, Internal Procedures, Plan Amendment and Periodic Review; retrieved from NPC's website : http://www.nunavut.ca/en/about-commission</p>
SUMMARY OF NPC's CONCLUSIONS	
<p>The two internal NPC legislated planning tools to ensure the Nunavut Land Use Plan is adaptable and continues to contribute to Nunavummiut well-being are 'Plan Amendments' and 'Minor Variances'.</p> <p>In the 2016 Plan, 'Plan Amendment' is defined as "the process of considering changes to the Plan's content" (p.10).</p> <p>In Chapter 1 the 2016 Plan states: "The Commissioners of the NPC will consider undertaking a full review of the plan every five (5) years minimum, according to the NPC's Plan Amendment Internal Procedure as it may be amended from time to time. Input by stakeholders will play a significant role in future decisions on the timing and direction of future plan amendments".</p> <p>Specifically pertaining to transportation the 2016 Plan states, on page 24, that all highway and railways linear infrastructure, or any unlisted modes of transportation excluded from the Plan will require a Plan Amendment.</p> <p>Section 6.3.4 Plan Amendment of the 2016 DNLUP explains the process in more detail: "Plan Amendments will be considered for major changes to the NLUP such as, but not limited to: (a) Formal updates to the NLUP content; (b) Changes to uses considered to conform or are listed as prohibited under Land Use Designations, or; (c) Changes to the application of Conditions and Information on VECs and VSECs. In accordance with the NUPPAA and NLCA, an Amendment to the NLUP may be proposed at any time."</p> <p>NPC further clarifies, to an extent, its approach to Plan Amendment in its Internal Procedures.</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>Both the NPC's Plan Amendment and Minor Variance planning tools may be inadequately scoped in the DNLUP.</p> <p>NPC should consider better defining its Plan Amendment process for the following reasons:</p> <ul style="list-style-type: none"> • <u>Regulatory Fairness</u>: Without a clear and scoped Plan Amendment process, conflicts 	

regarding any approved NLUP may ultimately be mediated via less inclusive processes such as Ministerial Exemptions;

- Economic Certainty: Clear and scoped parameters associated with NPC's Plan Amendment process will result in Nunavut being seen as a more secure and favourable environment for investment. The DNLUP is not intended to be a static regulatory document, nor can amendments be seen as a panacea for conflict resolution in the first generation Plan; and
- Incremental Approach: In the 2016 DNLUP NPC describes its incremental approach to Planning in Chapter 1. This approach is appropriate given the scope of the first generation Plan, but, consequentially, NPC's processes pertaining to Plan Amendment and Periodic Review must support this approach; ensuring the DNLUP is adaptive and flexible to new information, IQ, community feedback, and other Planning Partner concerns.

The Commission should go beyond what is outlined in their Internal Procedures document, proactively foreseeing types of Amendments that will occur and cater processes for each type.

The Nunavut Planning Commission may want to expand on its scoping of 'Minor Variances' to allow for a more flexible implementation of conformity determinations, and where appropriate, exceptions to Plan restrictions. This is in keeping with the Nunavut Planning and Project Assessment Act: "48(3) A land use plan may authorize the Commission to grant minor variances and may set out the conditions subject to which they may be considered and granted."

Currently NPC's minor variance power wouldn't allow for exceptions/exemptions to a prohibited use: "A request for a minor variance will only be considered in respect of Conditions that include setbacks or seasonal restrictions" (2016 DNLUP, p. 50).

A variance granted for a Project demonstrating positive-socio economic, regulatory fairness, or community support reasons may still be minor, even if a prohibition is waived. A broadening of the NPC's minor variance power may limit the regulatory burden on Plan Amendment or Ministerial Exemption avenues. There are cases (e.g. priority Government and Regional Inuit Association supported infrastructure projects) where exceptions/minor variances to Plan restrictions may be appropriate without having to undergo a full Plan Amendment.

Ultimately how NPC scopes and defines its Plan Amendment and Minor Variance processes is secondary as long as this process achieves regulatory fairness and economic certainty, while supporting the NPC's intended 'incremental approach' to planning.

REVIEWER'S RECOMMENDATIONS

NPC should consider better scoping and defining its Plan Amendment process so that the Plan may achieve continued regulatory fairness and economic certainty, while supporting the NPC's intended 'incremental approach' to planning.

NPC may want to reach out to Planning Partners to identify Plan Amendment priorities for the 2016 DNLUP. NPC should consider broadening its conditions for granting minor variances to Plan restrictions.

DNLUP Review Comment # 2017-15	
Organization	Government of Nunavut
Subject/Topic	Existing Rights
References	<p>NPC, 2016 DNLUP, Chapter 6, Section 6.5, p. 52</p> <p>NPC, [Online] Consultation Record: Government of Canada provided additional clarification regarding exiting rights and the Draft Nunavut Land Use Plan – retracted in May 30th 2016 Submission to NPC; retrieved from NPC’s website: http://www.nunavut.ca/files/2015-12-10%20GOC_EXISTING_RIGHTS_FOR_NUNAVUT_LAND_USE_PLAN.pdf</p>
SUMMARY OF NPC’s CONCLUSIONS	
<p>The 2016 DNLUP refers readers to NuPPAA for guidance on whether the NLUP applies in specific circumstances. NPC in Section 6.5.1 Existing Rights – Minerals of its 2016 DNLUP states:</p> <p><i>“A Project/Project Proposal, as it was approved or accepted as a completed submission, prior to approval of the NLUP, may be considered grandfathered under the NUPPAA for the purposes of Conformity Determination. However, the transition from one stage of Mineral Exploration and Development to another may require a new Conformity Determination”.</i></p>	
REVIEWER’S COMMENTS AND SUPPORTING RATIONALE	
<p>The GN supports regulatory fairness in terms of applying a legally sound existing rights policy within the 2016 DNLUP, and asserts that this issue, as described by the Government of Canada’s Department of Indigenous Affairs and Northern Development Canada, should be resolved prior to the approval of the DNLUP.</p> <p>In its May 16th submission to NPC the GN recommended the following:</p> <p><i>The GN supports Nunavut Tunngavik Incorporated’s March 22nd 2016 (letter) request to NPC, recommending the Commission should obtain a third-party legal review of any limitations to its statutory authority to grant ‘existing rights’ in the NLUP.</i></p> <p><i>The GN may also be supportive of further collaborative discussions between NPC, GN, GOC, and NTI to better decipher any NuPPAA mandated direction on the matter of existing rights.</i></p>	

No results of a third-party legal review were shared with the GN. Additionally the GN has not been made aware of any additional NPC directed discussions regarding existing rights. The DNLUP's treatment of existing rights may create uncertainty for developers that have acquired mineral rights in the Nunavut Mining District under a free entry system and developed projects while exercising those rights, which may now be prohibited. Without intervention these developers will lose the value of their investments in their entirety, investments that are in part obligatory requirements to have kept their mineral tenure in good standing.

REVIEWER'S RECOMMENDATIONS

Plan signatories are still in discussions regarding how best the Nunavut Land Use Plan may safeguard existing rights.

Other Comments

DNLUP Review Comment # 2017-16	
Organization	Government of Nunavut
Subject/Topic	Acronyms, Definitions, and Editorial
References	NPC, 2016 DNLUP NPC, 2016 O&R
SUMMARY OF NPC's CONCLUSIONS	
The DNLUP has sections describing acronyms as well as definitions used in the 2016 DNLUP.	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>The GN has many editorial and drafting concerns regarding the 2016 DNLUP; select examples include:</p> <p><u>Acronyms:</u> The 'GN' is not listed as an acronym within the 2016 DNLUP. Additionally relevant GN departments which act as permitting or licensing authorities to components of certain Projects within the territory are also omitted.</p> <p><u>Definitions:</u> Some definitions included in the DNLUP may complicate the Plan instead of provide clarity. Definitions should always:</p> <ul style="list-style-type: none"> • Support readers understanding of the Plan's restrictions or management of land use; • Where relevant, be consistent with any applicable paralleling legislation; • Be appropriately specific, concise, and non-repetitive; <ul style="list-style-type: none"> • 'Advanced Exploration'/ 'Exploration'/ 'Mineral Exploration and Production'/ 'Mining': the inclusion of all of these definitions may be redundant as the DNLUP does not detail varying approaches to the uniquely defined forms of 'Mineral Exploration and Production'. One may anticipate that these definitions may have some relevance in the context of DNLUP's grandfathering or existing rights section – but this section primarily refers readers to NuPPAA; • 'Obnoxious Land Uses': This definition may be too broad and likely needs to be scoped through checkable thresholds detailed in an Annex (thresholds could be informed through those developed within Nunavut Impact Review Board environmental assessments); and • 'Regulatory Authority': For proponent clarity it would be helpful if this definition was linked to a Plan Annex that had a list of licensing or permitting authorities operating within the Nunavut Settlement Area. <p><u>Other/Editorial:</u></p> <ul style="list-style-type: none"> • The DNLUP could be more 'user friendly' if its online digital copy on NPC's website hyperlinked all defined words within the body of the DNLUP to their definitions; 	

- The introductions of each Chapter associated with a Plan goal should be revised to be more concise and clear. For example ‘benefits’ (i) to (o) listed on p. 41 seem misplaced grammatically, and should likely be included in another subgroup or deleted;
- The DNLUP could include maps illustrating ‘prohibited uses’ throughout the NSA in relevant sections and/or as an Annex. This could also be an optional layer in NPC’s online mapping tool;
- The Nunavut Planning and Project Assessment Act isn’t given a short form abbreviation (NuPPAA or NUPPAA) in the DNLUP, but then is referred to as ‘NUPPAA’ almost immediately throughout the DNLUP;
- Statistics summarizing the DNLUP’s impact to Nunavut or individual uses should be provided within the Plan, either as an Annex, within relevant sections, or in the Plan’s first Chapter – at a minimum NPC should develop this information to present at its Final Public Hearing;
- Definitions are not always used consistently throughout the DNLUP (i.e. “setback” is used often rather than “Setback”.
- Reconsider the value provided by Tables 3 and 4 within the DNLUP. Do these tables inform land use decisions or would a more accurate reflection of NPC’s rationale be provided to readers by directing them to O&R – which also requires extensive revisions;
- Discrepancies between land use descriptions in the DNLUP and the O&R should be clarified. For example ‘permanent tourism related infrastructure’ is listed as a prohibited use for caribou freshwater crossings in the DNLUP’s Table 1, but not in O&R, s. 2.2.1.4, p. 43;
- The use of the term ‘all uses’ in the text box statement on page 27 should be reconciled with the list of prohibited uses in the associated designation (159); and
- The seasons listed in Section 5.5.2.3 and the associated land use designation should be made consistent.

REVIEWER’S RECOMMENDATIONS

Extensive revisions to the DNLUP and O&R document are necessary in order for the DNLUP to contribute to regulatory certainty within the territory.

- Instances of ambiguous language, variations between prescribed restrictions in the two documents, and potential conflicts with existing legislation are of concern to the GN given these documents, once approved, will be enforceable by law.

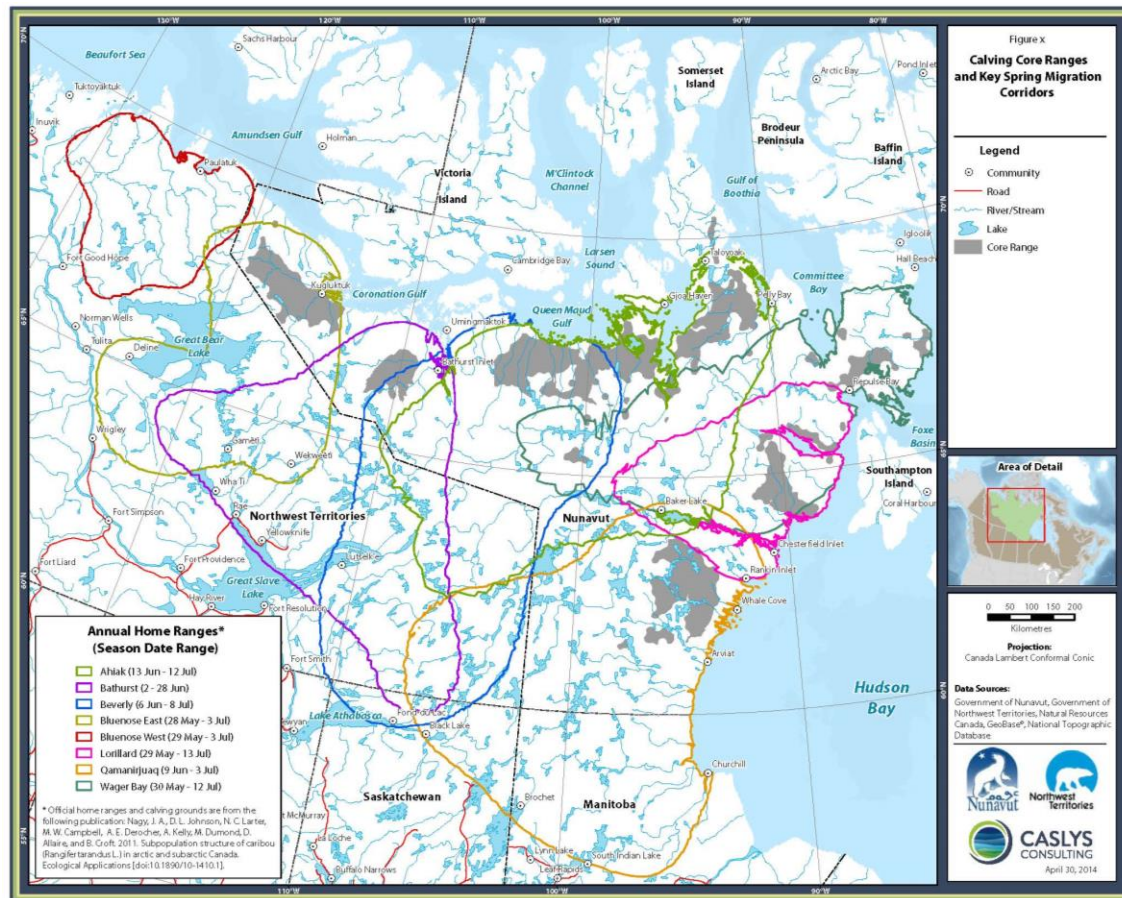
An additional legal and policy review of the post-Final Public Hearing DNLUP and O&R documents will likely be required.

DNLUP Review Comment # 2017-17	
Organization	Government of Nunavut
Subject	Previous GN Land Use Recommendations
SUMMARY OF NPC's CONCLUSIONS	
<p>In its <i>Considerations for Potential Refinements to the 2014 DNLUP</i> document NPC outlines 22 outstanding issues for planning parties to consider. Omitted in this document are many of the issues discussed by the GN and other planning parties within their prior 2014 and 2015 submissions.</p>	
REVIEWER'S COMMENTS AND SUPPORTING RATIONALE	
<p>At the Third Technical Meeting for the 2014 DNLUP, GN representatives verbally requested written confirmation concerning NPC's deliberation on previous, omitted recommendations included in prior submissions. No such written analyses of previous recommendations, outside of the <i>Considerations for Potential Refinements to the 2014 DNLUP</i> document, have been provided by NPC to-date.</p> <p>The GN is concerned the O&R may not adequately reflect the recommendations of planning partners for every land use planning issue – it is critical that Plan approval authorities understand NPC's rationale for its decisions reflected in the 2016 DNLUP.</p> <p>Note that all of the GN's previous recommendations made in prior submissions still apply. However where recommendations differ the suggestions included herein prevail.</p>	
REVIEWER'S RECOMMENDATIONS	
<p>Note that all of the GN's previous recommendations made in prior submissions still apply. However where recommendations differ/contradict the suggestions included herein prevail.</p> <p>NPC should indicate how it has considered Planning Partner recommendations on the DNLUP.</p>	

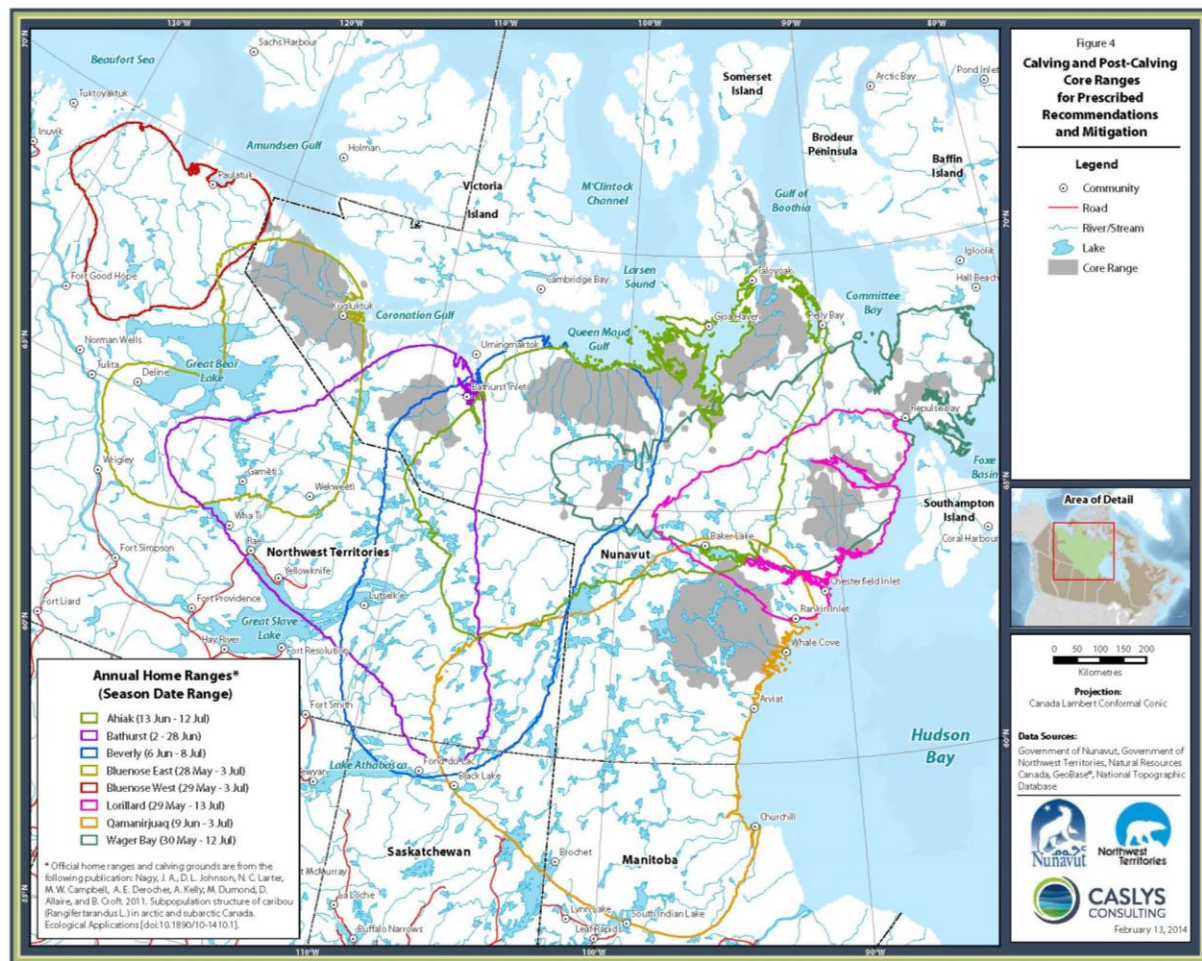
Appendix A: 2016 Draft Nunavut Land Use Plan Schedule A designations by Valued Components



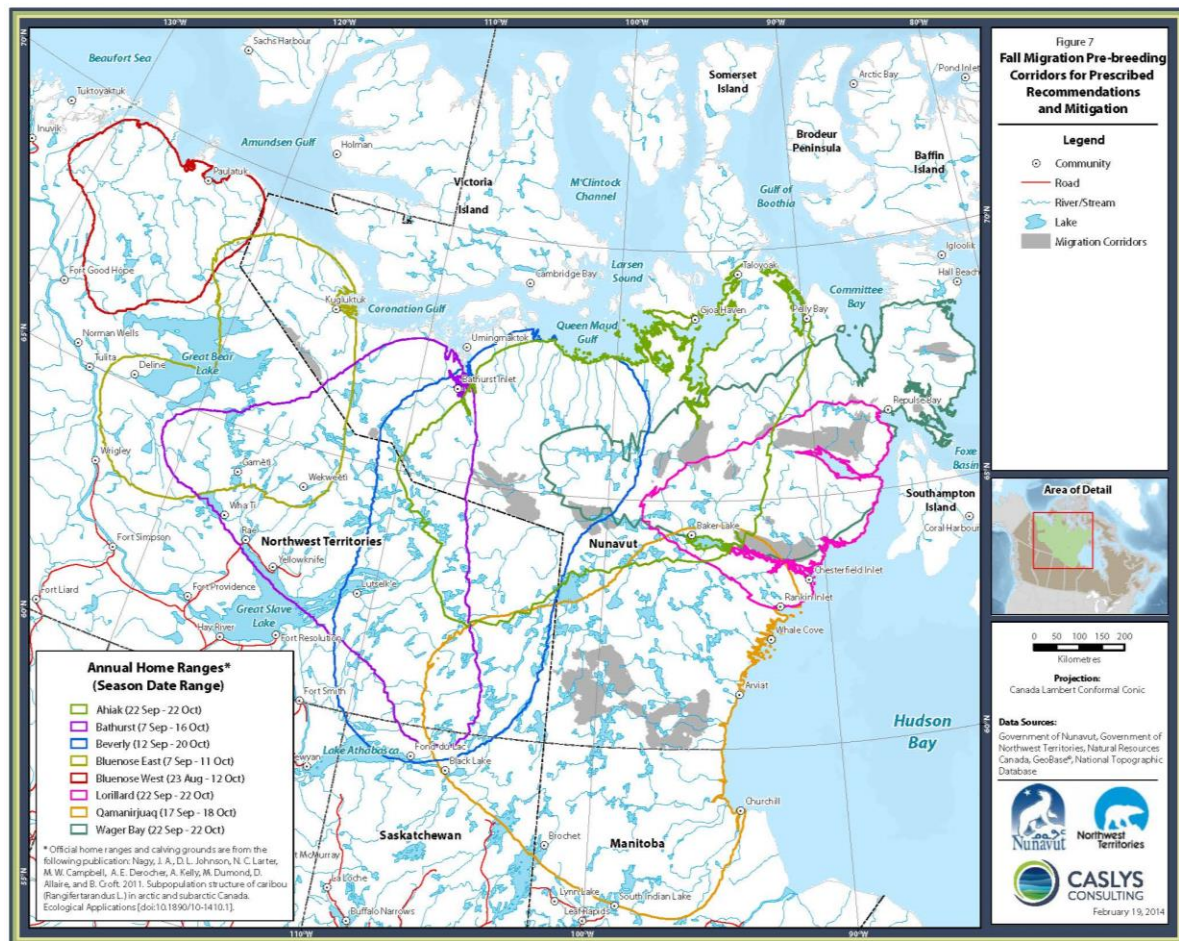
Appendix B: GN delineated Calving Grounds [and key access corridors]



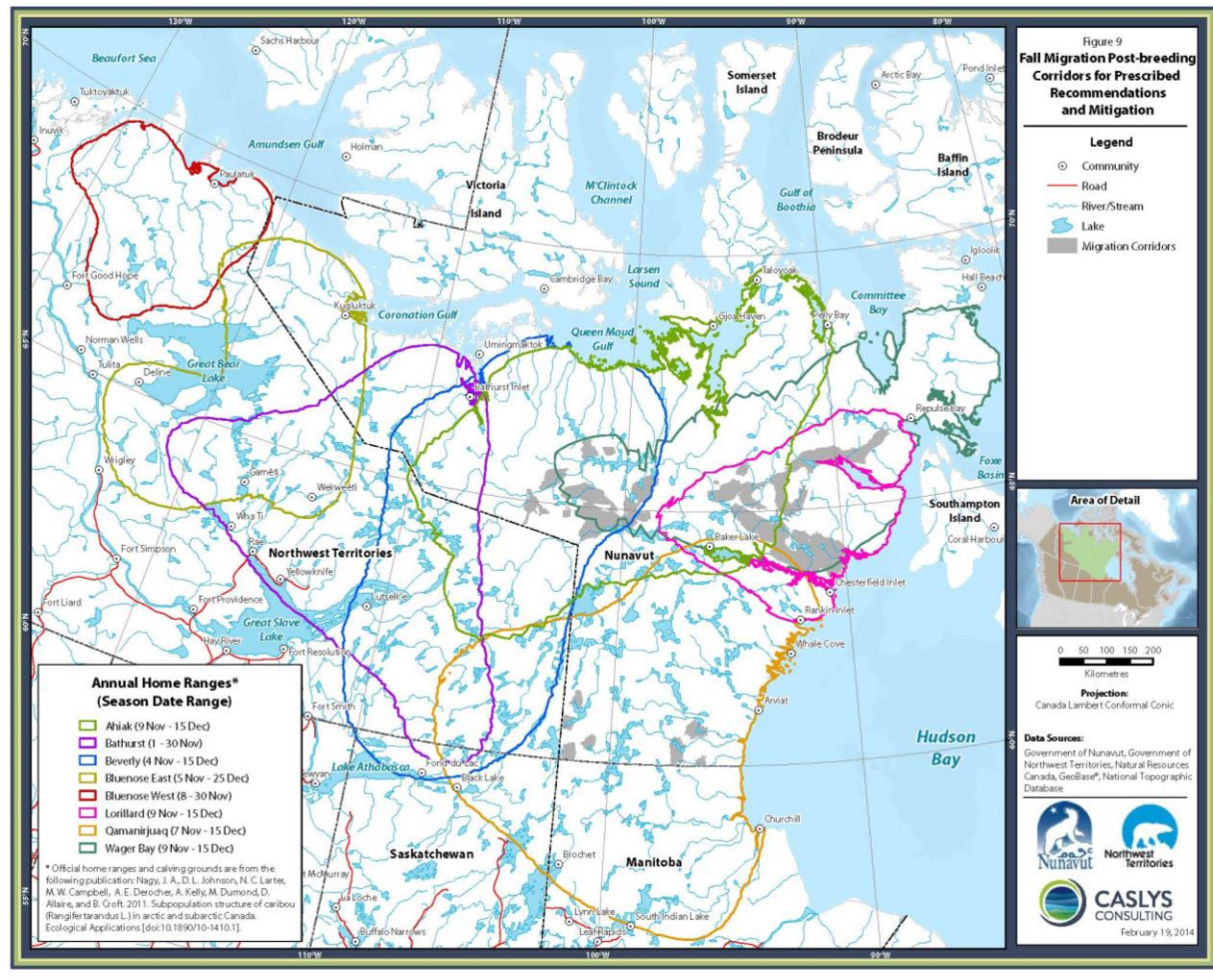
Appendix C: GN Delineated Calving and Post-Calving Grounds



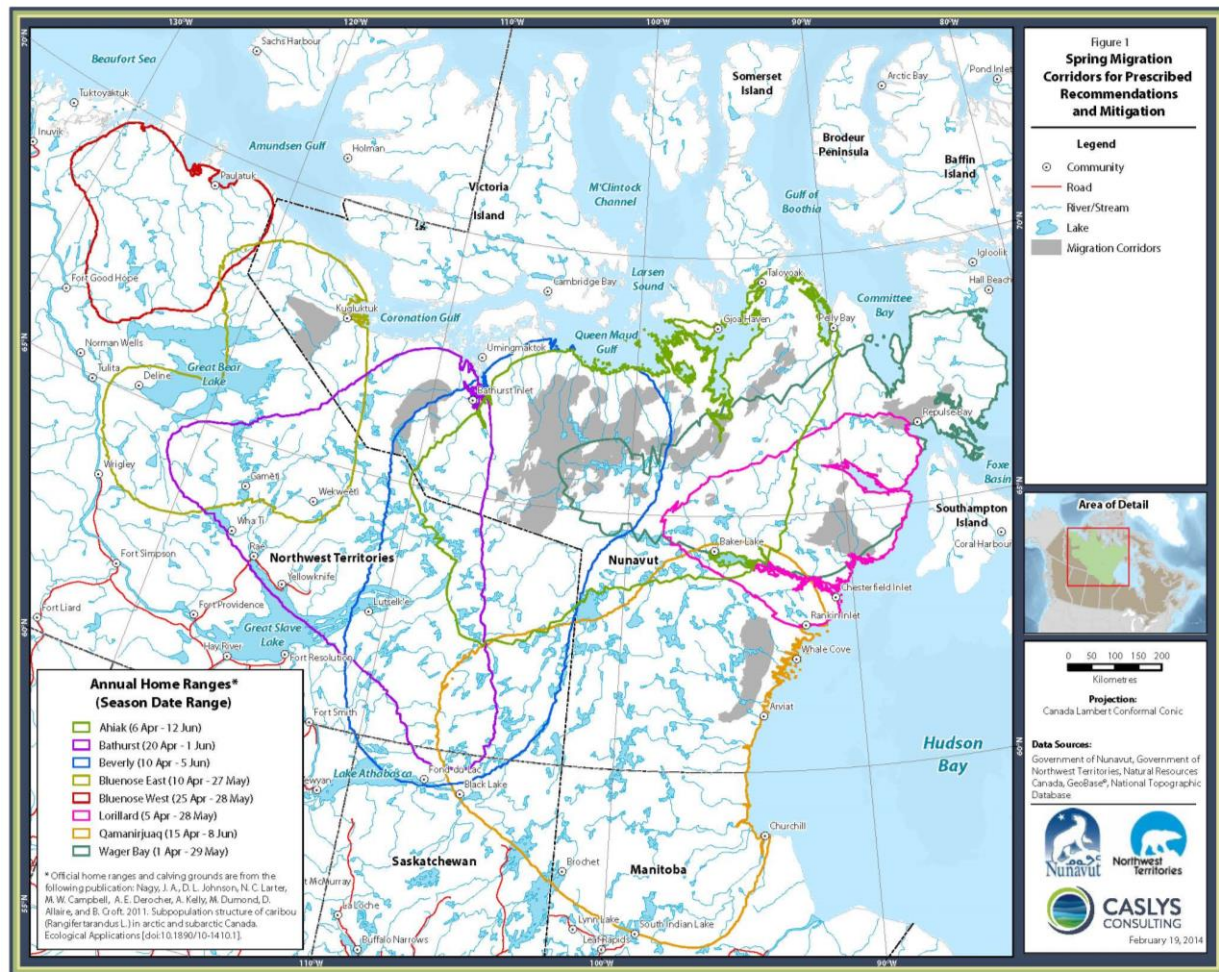
Appendix D: GN Delineated Migration Corridors – Fall Pre-Breeding



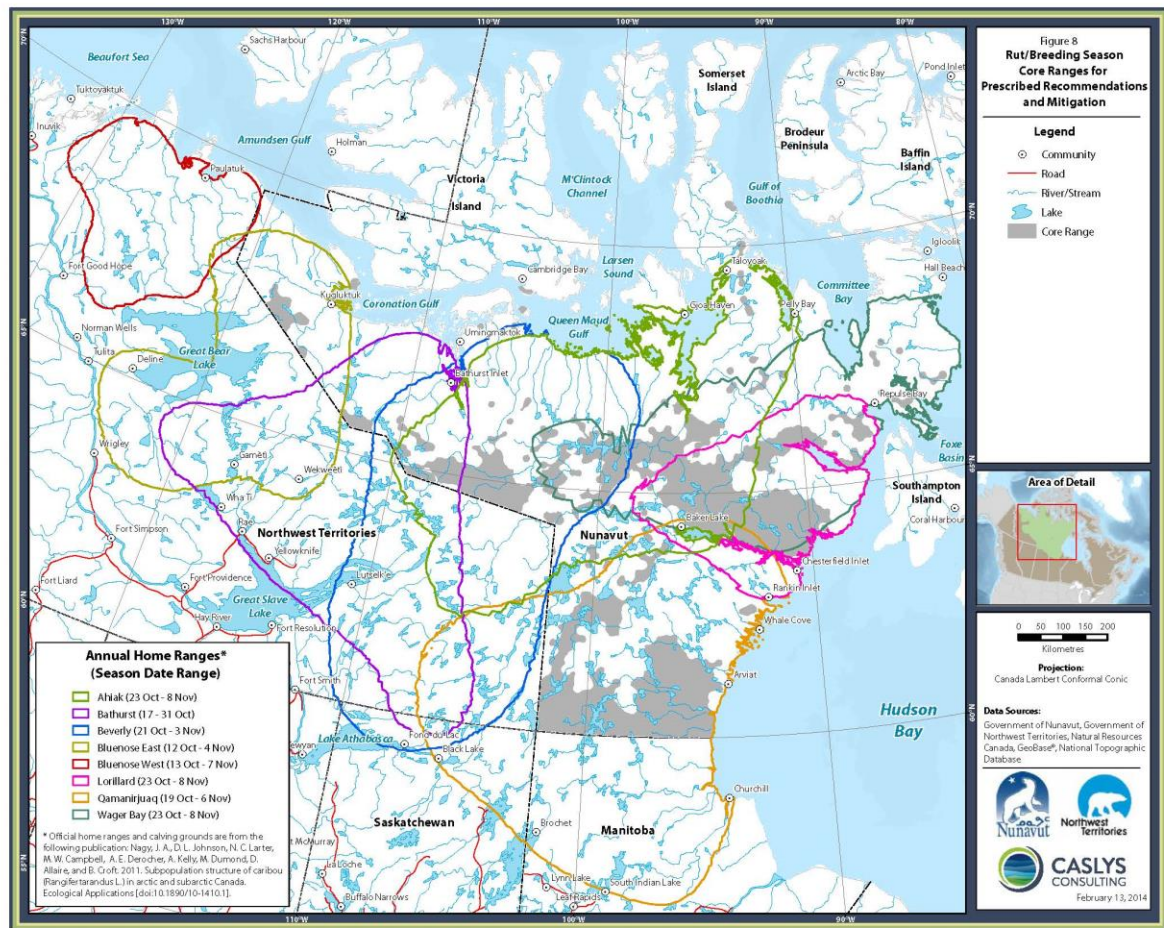
Appendix E: GN Delineated Migration Corridors – Fall Post-Breeding



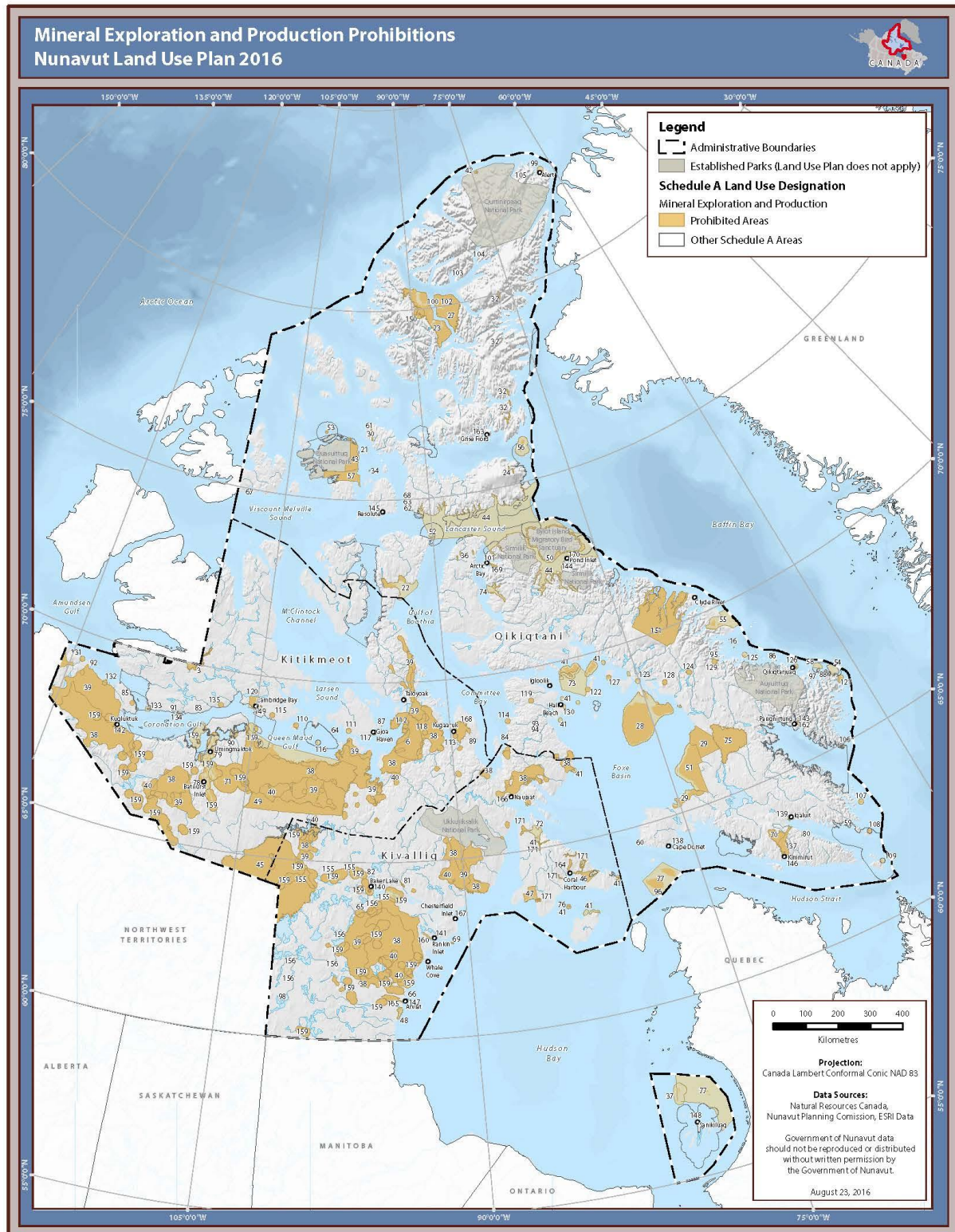
Appendix F: GN Delineated Spring Migration Corridors



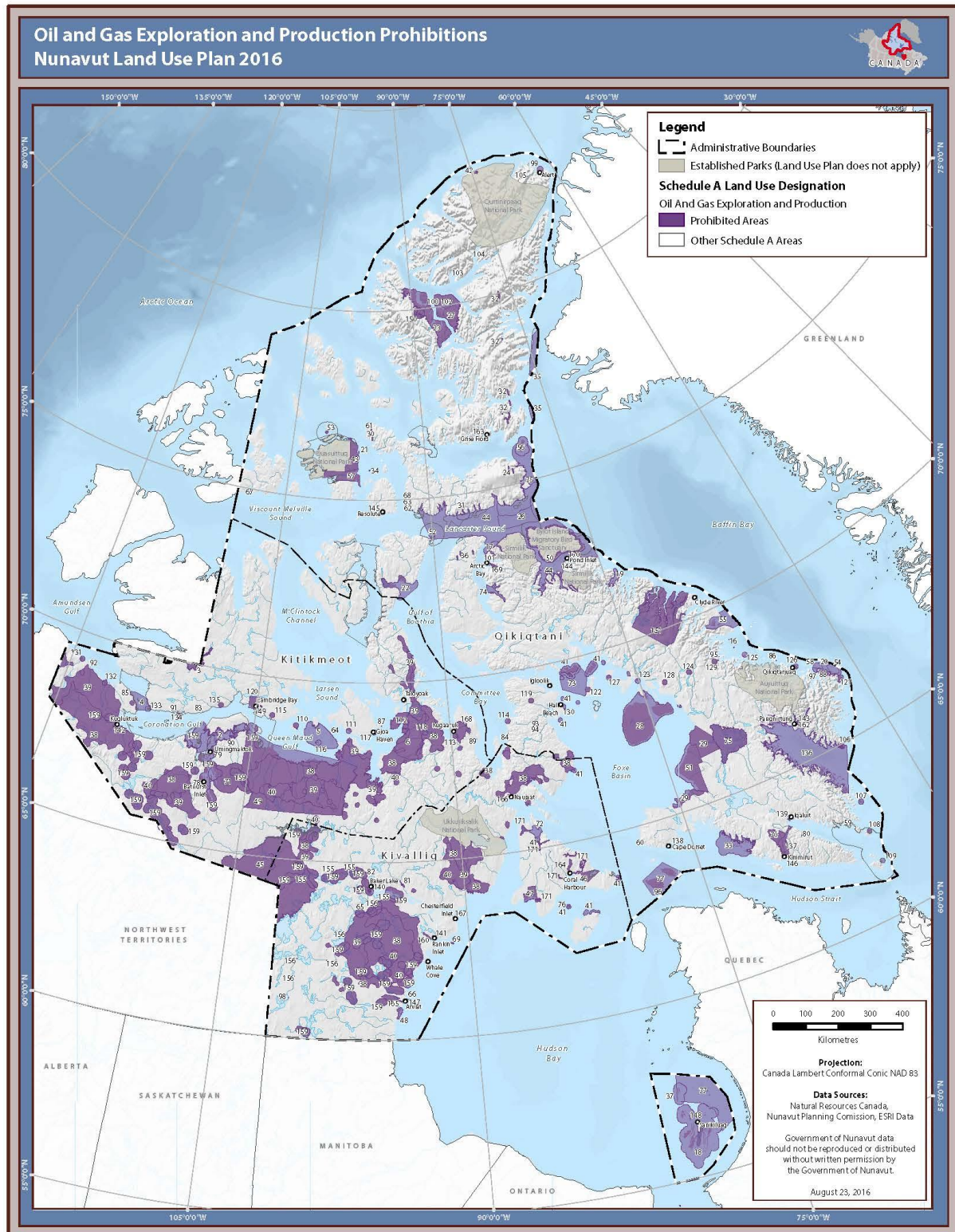
Appendix G: GN Delineated Rutting Areas



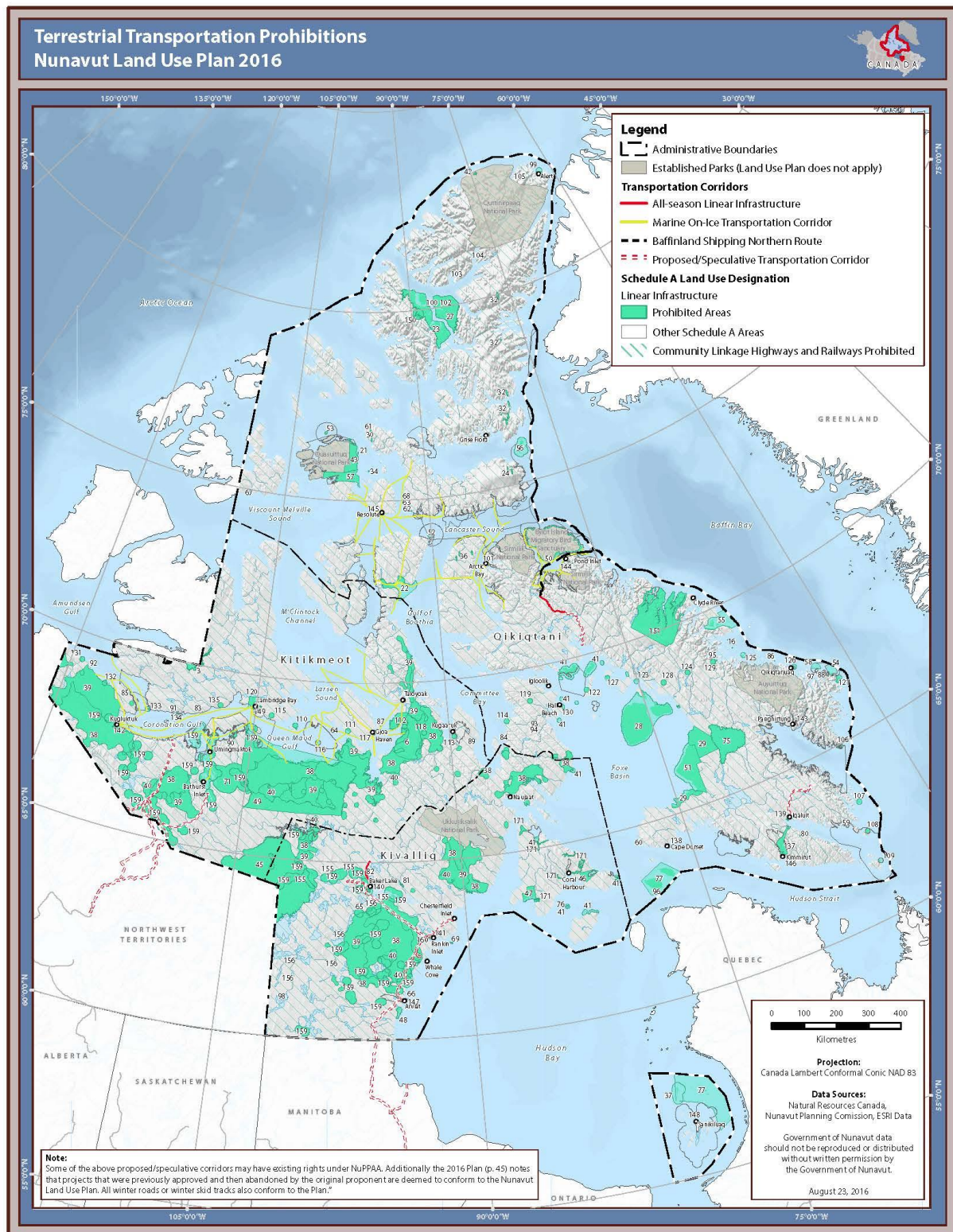
Appendix H: 2016 DNLUP proposed prohibitions to Mining Industry



Appendix I: 2016 DNLUP proposed prohibitions to Oil and Gas Industry



Appendix J: 2016 DNLUP proposed prohibitions to Terrestrial Transportation Infrastructure



Appendix K: 2016 DNLUP proposed prohibitions/restrictions relating to Shipping or Tourism

