




Ministère de l'Environnement

1 (867) 975-7700  
 2  (867) 975-7740  
 3 [www.gov.nu.ca](http://www.gov.nu.ca)



Ministère de l'Environnement

## Appendix A: Responses to Qikiqtani Hearing Questions

#	From:	To:	Topic:	Question:	Response
3	Hall Beach	All participants	Archaeology	There are a lot of archaeological sites, although we want to develop inside the municipality. All these things that are inside the municipality we cannot touch, because they are archaeological artifacts. Can they perhaps be recorded? We have been trying to do this, but nothing ever seems to be done about it. We run into obstacles.	<p>The GN is committed to working in partnership with municipalities to ensure that archaeological resources are appropriately managed and protected from municipal land use and development activities. The Department of Culture and Heritage routinely reviews Community Plans and Zoning and provides recommendations for any areas proposed for future development.</p> <p>Community Government Services (CGS) ensures that archaeological inventories are conducted in Nunavut municipalities and the results are included and updated in Community Plans.</p> <p>The Department of Culture and Heritage Nunavut Municipal Archaeological Site Inventory indicates that there are currently twenty-three (23) archaeological sites recorded within municipal boundaries; development is restricted in those areas.</p>
6	NPC	All participants	Caribou	Is there any evidence of a connection between development on caribou habitat, whether industrial, infrastructure or otherwise, and declining caribou herds?	<p>Studies of woodland caribou have shown that the overall productivity (growth rate) of populations is negatively correlated with the amount of habitat disturbed by development (Weir, Mahoney &amp; McLaren, 2007). The types of development that have been associated with this impact include roads, oil and gas development, mining, and forestry. A small number of animals may become habituated and locate themselves at sites of development due to factors such as availability of food and reduced predation risk. However, the bulk of a caribou population will not show the same habituation.</p> <p>Results from modelling suggest that, in theory, development could lead to negative demographic impacts on barren-ground caribou, similar to woodland caribou; albeit dependent on the intensity of development (e.g. BCRP, 2018). At the present time, there is empirical evidence suggesting that development has negatively affected the distribution, movements, habitat use, nutritional condition, reproduction, and survival of barren-ground caribou (e.g. Cameron et al., 2005; Boulanger et al., 2012; Johnson and Russell, 2015; Kite et al., 2018; Plante et</p>

					<p>al., 2016; 2018; Wilson et al., 2016; Wolfe et al., 2000). Each of these effects has potential consequences for herd productivity. However, a direct association between development and the observed declines in the size of herds has not been demonstrated (for additional information see Parlee et al., 2018). The lack of a direct linkage to population decline does not imply there are presently no demographic impacts from development. Instead this may reflect limitations on the ability or level of effort used to detect such impacts given resources and methodologies available for research in barren-ground caribou habitat and the complexities of caribou-environment-development interactions.</p> <p>Inuit Qaujimajatuqangit (IQ) and research from other circumpolar regions support the hypothesis that disturbing regular caribou movement and behavioural patterns will likely affect abundance and distribution (Nunavut Wildlife Management Board, 2016). These negative effects will likely cause declines in population over the long term and will affect Inuit harvesting rights.</p> <p>Shifts in barren-ground caribou habitat use and disturbance of regular and historic behavioural patterns have occurred (Taillon, Festa-Bianchet &amp; Cote, 2012). The Baffin Island, Bluenose East, Dolphin &amp; Union, Bathurst, Beverly, and Qamanirjuaq herds are all currently declining in Nunavut. While the extent to which development activities have contributed to the declines in specific caribou herds is unknown, it is important that actions that could inhibit the recovery of caribou herds are minimized (Boulanger et al., 2012).</p> <p>The GN recommended Special Management Areas with seasonal restrictions informed by herd-specific occupancy dates in Comment # 2017-2 in its January 2017 submission. Please also see our response to question 42.</p>
10	NPC	Government of Canada; Government	Caribou	Recognizing the signatories will be asked to approve or reject the DNLUP, what	Beyond the Plan's legislated requirements, there are currently no GN criteria for approving a Protected Area in the DNLUP.

		of Nunavut; Nunavut Tunngavik Inc.		criteria, if any, would the signatories accept as supporting Protected Area designations where any development is prohibited, or Special Management Areas with seasonal prohibitions on development activity, for habitat such as caribou core calving and post-calving areas, key access corridors, and freshwater crossings?	The GN made recommendations regarding Special Management Area designations in Comment # 2017-2 of the January 2017 submission.
11	NPC	Government of Canada; All participants	Caribou	Canada's written submission cited Anne Gunn, Kim G. Poole, Jack Wierzbowski and Mitch Campbell, March 2007, Assessment of Caribou Protection Measures, that said it found "conditions on land use intended to avoid disturbance to caribou have been partially effective and could be more effective if adapted with updated monitoring and analytical techniques". Has Canada or any other participant updated that research or conducted further research or monitoring to determine if the quality or quantity caribou habitat is affecting herds?	<p>This paper was designed to look at protection measures for mobile, seasonal, short-term exploratory development and not long-term static development such as roads, infrastructure and mining developments. The protection measures outlined in this paper were not designed for the context of long term development. They were specifically designed for mobile temporary development which can be removed in the off season.</p> <p>With respect to Nunavut, this article can be misleading. Although it suggests success of the measures, it is important to note that the article considered only the Qamanirjuaq herd. No development has been undertaken on the Qamanirjuaq calving grounds. This makes the article too factually different from the Nunavut context to directly apply the conclusions.</p> <p>Research into the effects of development on barren-ground caribou herds is on-going. Several recent studies have found that changes in habitat quality and/or quantity resulting from activities such as development of roads, mineral exploration, and mine development have affected caribou movements and distribution, see: Kite et al. (2018), Plante et al. (2018), and Wilson et al. (2016). These studies show that herd-level impacts occur at the rate of development currently occurring or conceivable in the near future in Nunavut.</p>

12	NPC	Government of Canada; Government of Nunavut; Nunavut Tunngavik Inc.	Caribou	Would Canada, the Government of Nunavut, and NTI support temporary restrictions on development in some caribou core calving, post-calving, key access corridors, and freshwater crossings, to study whether there is a measureable benefit to caribou herds?	<p>Assuming NPC is referring to 'temporary restrictions' similar to DNLUP embedded sunset clauses, the GN recommended that the NPC consider sunset clauses for caribou designated areas in its January 2017 submission in comment # 2017-2. Sunset clauses allow for the periodic review of the accuracy of the designated caribou areas.</p> <p>We recommend that the NPC consult Nunavummiut regarding the inclusion of sunset clauses in the DNLUP.</p>
13	NPC	All participants	Caribou	Is there any evidence that mobile caribou protection measures can be effectively implemented, and if so, who would be responsible for monitoring and enforcing such measures?	<p>Mobile caribou protection measures are unverified methodology in Nunavut. Where proponents are relying on these measures, the majority of compliance monitoring is currently completed by the proponent and reported at the Annual Report stage.</p> <p>The GN has conducted some early-stage research into the feasibility of applying mobile protection measures. These are still theoretical approaches that may not be realistically implemented in the short-term, largely due to monitoring capacity issues.</p> <p>The GN will continue to assess whether 'mobile protection measures' are a feasible tool in the land use planning context, or otherwise, coordinating with our wildlife co-management partners.</p>
14	NPC	Government of Canada; Government of Nunavut	Caribou	Are there any statutes or regulations, whether federal or territorial, that are in operational conflict with the Draft Nunavut Land Use Plan and if so, to what extent is there a conflict?	<p>The GN has reviewed territorial legislation for conflict with the DNLUP. The most relevant pieces of territorial legislation are the <i>Wildlife Act</i> and the <i>Tourism Act</i>.</p> <p>In this legislation, the responsible ministers are empowered to create certain designations. The DNLUP does not directly conflict with these powers.</p> <p>However, the DNLUP does create substantively the same restrictions/designations as enabled by this legislation. This</p>

					<p>begets the question of which of these tools is the best mechanism for achieving certain precautionary environmental goals.</p> <p>The legislation provides for consultation, appeal rights and enforcement mechanisms. It is possible that these tools may make the legislation a more appropriate mechanism to regulate these specific uses.</p> <p>The Commission should consider whether the best available mechanism is via the Nunavut Land Use Plan or via legislative mechanisms.</p>
15	NPC	All participants	Caribou	Acknowledging the submissions of some participants that caribou data used to generate the DNLUP may have inaccuracies, is there a database or other repository of data on caribou and other wildlife that participants agree should be used in the Land Use Plan instead of existing data?	<p>Caribou calving grounds, and other seasonal habitats of barren ground herds, have been scientifically delineated using collaring data. The GN is confident that its delineations are accurate, and is committed to continuously monitoring the accuracy of these areas.</p> <p>Our methods and biological rationale was provided during the Nunavut Planning Commission's March 2016 Caribou Technical Meeting (NPC 4<sup>th</sup> Technical Meeting, 2016).</p>
17	NPC	All participants	Caribou	Is there evidence that existing caribou protection measures are effective?	Assuming the question is referring to existing "DIAND Caribou Protection Measures", refer to the response to question 11.
18	NPC	All participants	Caribou	Have existing caribou protection measures been significantly adapted to slow or reverse shrinking herd sizes?	<p>Assuming the question is referring to "DIAND Caribou Protection Measures" implemented by Crown-Indigenous Relations and Northern Affairs Canada, they have not been adapted to our knowledge.</p> <p>Also refer to the response to question 6 and 11.</p>
22	NPC	All participants	Caribou	Can participants identify specific caribou wintering	Some areas within Nunavut have ongoing collaring programs and may be able to identify specific caribou habitat

				habitat where caribou are particularly sensitive to disturbance, and should be given additional protection under the Plan?	designations. Not all of Nunavut has had the appropriate level of research required to identify habitat use. Baffin Island, specifically, does not have an ongoing collaring program and has had limited research completed to identify areas of critical caribou habitat. See Campbell et al. (2015) for the most recent summary of work completed on Baffin Island.
23	NPC	All participants	Caribou	Can participants provide any additional information regarding important caribou habitat, distribution, numbers and movements on Baffin Island that the NPC may not already have in its databases?	<p>The most up-to-date and complete summary of information for Baffin Island Caribou is:</p> <p><i>Campbell, M., Goorts, J., Lee, D.S., Boulanger, J. and Pretzlaw, T. 2015. Aerial Abundance Estimates, Seasonal Range Use, and Demographic affiliations of the Barren-Ground Caribou (Rangifer tarandus groenlandicus) on Baffin Island – March 2014. Government of Nunavut Department of Environment Technical Report Series – No: 01-2015. Government of Nunavut, Department of Environment, Iqaluit, NU. 196pp.</i></p> <p>GN composition surveys have been conducted on Baffin Island from 2015-2018 in an effort to:</p> <ol style="list-style-type: none"> <li>1) Determine the vigor of the population based on demographic composition (i.e. what proportion of the population are young bulls, old bulls, cows, yearlings and calves).</li> <li>2) Determine the trajectory of productivity of the population based on the demographic composition; and with spring composition results, determine if the population is increasing or decreasing based on calf recruitment.</li> <li>3) Build a database with which to estimate the current population trend through demographic modeling, utilizing all demographic composition data to project a trend from the 2014 population estimate.</li> <li>4) Inform on management discussions regarding current Total Allowable Harvest levels.</li> </ol> <p>Summary reports for compositions surveys can be found on the GN Department of Environment website.</p>



27	NSMA	Government of Nunavut	Caribou	<p>How does the GN explain the basis for their March 2016 reversal of position on protection of caribou calving and post-calving areas? How was technical input from their staff and input from community consultations used to develop this new position?</p>	<p>The GN issued a media release on March 9, 2016 with respect to its position regarding caribou habitat protection and development (Government of Nunavut, 2016). The GN supports the review of development on a case by case basis, given that there are thorough mitigation plans. The GN also supports seasonal restrictions on all activities in calving and post-calving grounds.</p> <p>This position gave due consideration to stakeholder feedback which indicated that, in some cases, the previous position did not allow for potential economic development opportunities for communities across Nunavut.</p> <p>These opportunities would require extensive review and monitoring efforts by stakeholders, regulators and operators to ensure the wellbeing of caribou across Nunavut. For further context refer to Comment # 2017-1 and 2017-2 of the GN's January 2017 submission.</p>
30	BQCMB	Government of Nunavut	Caribou	<p>Can you explain the basis for GN's March 2016 reversal of position on protection of caribou calving and post-calving areas? How was input from GN-DOE and other staff and input from communities used to develop this new position? Were there consultation meetings held with the HTOs and regional wildlife boards who had previously made public statements and/or submitted their recommendations to Nunavut environmental assessment and land use planning processes in</p>	<p>See response to question #27 and #43.</p>

				favour of protection of calving and/or post-calving areas?	
31	BQCMB	Government of Nunavut	Caribou	If protected areas are not established through the land use plan for protecting the most important caribou habitats, such as core caribou calving grounds, will the GN recommend to the NIRB that no mineral exploration and mining activities be approved in these areas? If not, will the GN commit to investing substantial resources in developing a comprehensive system of mobile protection measures for exploration and mining projects across Nunavut?	<p>The Nunavut Land Use Plan is an important first step in the territory's project assessment framework, where conflicts may be proactively resolved prior to environmental assessments. As this is our 'first generation land use plan' the DNLUP should be appropriately scoped. The GN recommends that important caribou habitats be protected in the DNLUP through a Special Management Area designation, where development would be subject to seasonal restrictions or shut-downs when caribou are present. This recommendation is further articulated in the GN's Comment # 2017-2 in its January 2017 submission.</p> <p>The GN is a full participant in Nunavut Impact Review Board (NIRB) review processes, and through its intervenor role within environmental assessments, determines its support for projects on a case-by-case basis. There are no immediate plans for the GN to invest in developing a Nunavut-wide comprehensive system of mobile caribou protection measures. However the GN advocates for caribou protection measures on a case-by-case basis within NIRB processes.</p>
32	BQCMB	Government of Nunavut	Caribou	If some form of mobile caribou protection measures are adopted as part of the land use plan or outside of the plan, will GN actively participate in further development of the measures, including testing their effectiveness? Does GN anticipate that it will have sufficient resources, both human and financial, to develop the caribou monitoring programs that would be required to	If protection measures are developed the GN must be involved in design, application and testing effectiveness of protection measures.

				establish effective mobile caribou protection measures across Nunavut?	
42	World Wildlife Fund	Government of Nunavut	Caribou	What specific terms and conditions would be included in the Special Management Area designations you propose for caribou habitat? What previous studies or IQ do you have to support that these measures would be effective in safeguarding caribou?	<p>In its 2017 written submission the GN proposed that caribou habitat Special Management Areas require seasonal restrictions, based on occupation periods. For example, the GN recommended that DNLUP's current Protected Area 38 west of Whale Cove, be designated a Special Management Area and impose restrictions to development between June 9 and July 3, during the Qamanirjuaq caribou calving period. These dates vary by caribou population and habitat type. The GN's full caribou habitat Special Management Area recommendation can be referenced in the GN's 2017 submission, in Comment # 2017-2.</p> <p>In response to the question relating to supporting studies and IQ, please see the GN's response to question 6.</p>
43	World Wildlife Fund	Government of Nunavut	Caribou	You have indicated that a case by case basis is appropriate for caribou protection. The following is an excerpt from the NIRB submission in January 2017 "While impact assessment is designed to address potential impacts on a project-specific basis, land use planning is intended to address broader issues of conservation and development for various project types on a regional scale; parties <b>will not</b> be well-served if a NLUP avoids addressing required protection for caribou habitat and any associated	The NPC is responsible for drafting land use plans pursuant to NuPPAA s. 46. It is the NPC's responsibility to reconcile competing technical recommendations regarding planning issues.

				restrictions on development in favour of continued deference to project-specific impact assessments by the NIRB.” How can the Government of Nunavut reconcile this with their current position that NIRB handle development proposals on a case by case basis when the regulatory authority has indicated this is not an appropriate way forward?	
46	Jacobie Akavak, Kimmirut	All participants	Cruise Ships	Most communities have concerns about cruise ships and their tourists. They are informed about the regulations they have to follow but they do not follow them. They sneak into inlets and get too close to wildlife. Where do we take these concerns, or to who?	<p>In 2017, Transport Canada released a publication called the “Operational Guidelines for Cruise Ships in the Canadian Arctic.” This document explains in exhaustive detail all of the (up to 33) permit requirements that cruise operators must follow. Cruise operators are held accountable when voyaging in the Arctic. If a community does not want a cruise ship to go into a certain area, such as Pond Inlet requesting that cruise operators don’t go into some of the inlets that they hunt in, the GN will communicate this request to cruise ships. If a community does not want cruise ships to go into a certain area, they should contact <a href="mailto:CruiseNunavut@gov.nu.ca">CruiseNunavut@gov.nu.ca</a> and the GN will address their concerns directly and work with the community and cruise operators.</p> <p>The Government of Nunavut requires that tourism operators delivering wildlife viewing opportunities must obtain authorization from the Department of Environment. This is done through this issuance of Wildlife Observation Licenses which may include mandatory setbacks or other restrictions. The Department of Environment may be contacted with any concerns regarding License compliance.</p>
51	NPC	Government of Canada;	Impact Benefit Agreements	The Nunavut Agreement provides for both impact	The GN is reviewing this question and cannot comment at this time.

		Government of Nunavut; Nunavut Tunngavik Inc.; Hamlets; All participants		benefit agreements and land use planning by the Commission. One or more participants have raised the concern that the Land Use Plan would affect Inuit impact benefit agreements or make them unnecessary (see e.g. Qikiqtani hearing transcript p. 33, speaker: D. Kunuk). Under what circumstances if any could a Land Use Plan affect or interfere with impact benefit agreements? If there is little or no effect on impact benefit agreements, would that affect any participant's position on any land use designations in the Draft Land Use Plan?	
52	NPC	Government of Canada; Government of Nunavut; Nunavut Wildlife Management Board; Nunavut Tunngavik Inc. & RIAs; All participants	Inuit Access Rights	The expert report by Professor Mullan filed by the NWMB says the Nunavut Agreement in s. 5.7.18(d) makes access rights subject to projects approved by the Commission. Article 7.3.2 also refers to access rights in Article 5. How do participants suggest the Land Use Plan balance Inuit rights of access including the right to set up outpost camps with development that infringes on those rights?	<p>The Nunavut Agreement drafters agreed that Inuit rights of access could be reasonably limited under certain circumstances. Those circumstances are set out in the Agreement.</p> <p>Pursuant to Article 11.8.1, the 5.7.18 limitations are not an unlawful limitation of any Inuit right of access because they are precisely what the drafters agreed upon and intended.</p> <p>With respect to development, this question would be dealt on a case-by-case basis between the developer and the relevant Regional Inuit Association.</p>

57	NPC	Government of Canada; Government of Nunavut; Nunavut Tunngavik Inc.; All participants	Marine Areas	Would the signatories and participants support additional protections for marine wildlife and marine habitat, including sea ice caribou and community ice crossings, if Inuit hunting, community resupply, emergency response and national defense were permitted uses of all marine environments?	Issues relating to marine policy would require additional consultation between the NPC, Nunavut Marine Council, Government of Canada, GN, Nunavut Tunngavik Incorporated, Regional Inuit Organizations and wildlife co-management authorities to manage these areas either within, or outside the DNLUP context on a case-by-case basis.
61	Abraham Kublu	All participants	Marine Shipping	Participants are invited to answer the following question from Abraham Kublu (Qikiqtani Hearing Transcript p. 63): "...My question is about the Northwest Passage since it is starting to be used more. There are more interested groups that would like to pass through this area. My question is on restriction. Can we provide a restriction so that they do not go through certain areas?"	See response to question #57.
62	NPC	All participants	Marine Shipping	Can participants suggest mechanisms by which the Land Use Plan can avoid conflicts between uses of the ice-covered marine environment with caribou migration, community uses and formal international	See response to question #57.

				agreements? For example, are there specific times, areas and corridors where temporary restrictions could be applied? More broadly, can participants suggest mechanisms that would ensure vessels respect the buffer and exclusion zones established by the Plan?	
63	NPC	All participants	Marine Shipping	Cruise ships and associated activities, including real and potential disturbance to important wildlife habitats, are of increasing concern to many residents. Can participants suggest mitigation mechanisms that would ensure that such disturbances do not occur?	There are several mitigation mechanisms being developed now that will minimize the disturbance to wildlife areas. The GN is currently working with the Government of Canada to develop a Marine Awareness Information System and Proactive Vessel Management program. The end-goal of these programs is to effectively have 'geo-fencing' enabled around certain protected or vulnerable areas in order to better track and direct the activity of cruise ships in real time.
68	NPC	NWT & NU Chamber of Mines; All participants	Mineral Exploration & Development	Recognizing the signatories will be asked to approve or reject the DNLUP and that the Land Use Plan cannot exempt a project from itself, do participants support recognizing existing uses as conforming uses in all land use designations subject to further conformity determinations if significant modifications are made, and if so, how should the Land Use Plan address projects that are developed in stages (or phases)?	<p>A project approved prior to the Nunavut Land Use Plan has grandfathered rights as discussed in Comment # 2017-15 in the GN's January 2017 final written submission.</p> <p>Mineral tenure is an interest in land. These rights are not absolute, of course, but mineral rights cannot be entirely destroyed without compensating mineral rights holders. While there is no Constitutional right to property in Canada, it is an accepted principle of statutory interpretation that a statute may not take or expropriate an owner's land without compensation unless specifically provided for in the enabling statute. Mineral rights cannot be rendered useless without explicit legislative authority.</p> <p>NuPPAA sets out the framework for existing mineral rights projects. As far as we are aware, all types of mineral rights constitute "projects". There are three categories of rights:</p>

					<ol style="list-style-type: none"> <li>1. Where a project was commenced before NuPPAA came into force, the project is not subject to NuPPAA unless it is significantly modified. If it is significantly modified, it constitutes a new project and is subject to an assessment, including conformity determination, under NuPPAA Part 3. See NuPPAA s. 235.</li> <li>2. If a project proposal has been submitted under Part 3 before a land use plan has been approved, the project is predominantly assessed without recourse to the land use plan. Most importantly, there would not be a conformity determination. See NuPPAA s. 207.</li> <li>3. If a project was approved but then stopped or shut down for less than five years, it is not subject to an assessment under NuPPAA Part 3. If a project was approved but then stopped or shut down for more than five years, the project may be reassessed under Part 3, but the proposal is deemed to be in conformity with any applicable land use plan. See NuPPAA s. 208.</li> </ol> <p>It is not open to the NPC to deviate from the model the legislature has established. It is important to consider that projects may change over time when zoning for existing uses.</p>
73	NPC	All participants	Polar Bear Denning Areas	<p>Polar bear dens are dispersed over large areas, occur in low densities and change locations over time. Do participants support the use of Special Management Areas for polar bear denning, and if so what specific conditions for those areas are proposed?</p>	<p>The GN has put forward a Special Management Area recommendation for Polar Bear denning Areas within its May 2016 written submission, in Comment # 2016-1. Conditions associated with this Special Management Area recommendation were provided at that time.</p> <p>At that time the GN recommended that polar bear denning areas present in the 2014 DNLUP continue to be designated Special Management Areas, where development would have specific restrictions apply. For example:</p> <ul style="list-style-type: none"> <li>• Active or suspected active dens must be located (either through forward-looking infrared (FLIR) or specialized scent dogs), and documented prior to any development activities.</li> <li>• A 1km radius exclusion zone must be observed around</li> </ul>



					<p>every known, recorded polar bear den between September 15 and April 15;</p> <ul style="list-style-type: none"> <li>• If activities are carried out during denning season (September 15 and April 15) then proponents must have a trained polar bear monitor present.</li> <li>• Earth moving (blasting, grading, piling gravel and other debris) in potential denning areas shall be carried out so as to avoid unnecessary influences on snow drifts (direction, thickness, etc.) which may affect suitable denning habitat.</li> </ul>
74	NPC	Government of Canada; Government of Nunavut; Nunavut Tunngavik Inc.; All participants	Precautionary Principle	<p>Many participants have provided further information to the Commission, and where information gaps remain, they have urged the Commission to apply the precautionary principle. How do participants propose the Nunavut Land Use Plan define and implement the precautionary principle, recognizing the weight the Commission gives to traditional knowledge and IQ?</p>	<p>Based on our review of the case law regarding the precautionary principle, the GN states that this principle likely does not apply to the Commission's land use planning decision-making. Should the Commission choose to apply the precautionary principle, as that principle is understood at law and as enunciated in <i>114957 Canada Ltée (Spraytech, Société d'arrosage) v. Hudson (Town)</i>, the Commission should ensure that decisions based on the precautionary principle are clearly set out. The Commission should ensure that the Nunavut Agreement/NuPPAA drafters had some intention for the precautionary principle to apply.</p>
75	NPC	Government of Canada; Government of Nunavut; Nunavut Tunngavik Inc.; All participants	Precautionary Principle	<p>Participants including the NIRB and NWMB recommend using the precautionary principle in the Land Use Plan and the NWMB's submissions ask the NPC to use protected areas to protect caribou. Under what circumstances would the signatories say this application of the</p>	<p>See response to question #74.</p>

				precautionary principle is appropriate?	
76	NPC	All participants	Process	A number of organizations have recommended that NPC be more explicit with regard to the periodic Plan review, given that this would be a “first-generation land use plan”. Can participants suggest mechanisms which would address the need for clarity and certainty when it comes to the periodic review?	NPC notes the relevance of their 5-year periodic review of the 2016 DNLUP as a means of achieving its ‘incremental planning’ approach. However, more clarity is needed in emphasizing the intended long-term flexibility of land use designations. Further scoping of DNLUP minor variance, plan amendment, and ministerial exemption avenues would contribute to the DNLUP flexible implementation and periodic review. A clear amendment process laid out by NPC would be one step towards certainty in approving this first generation land use plan.
79	NPC	Government of Canada; Government of Nunavut; Nunavut Tunngavik Inc.; All participants	Purpose of Plan	Under what circumstances if any do participants suggest the Land Use Plan require the NPC to issue a negative conformity determination rejecting a project rather than a positive conformity determination for further consideration by the NIRB and other regulators?	<p>The GN has noted in the past that we are opposed to the extent of prohibitions throughout the Nunavut Settlement Area.</p> <p>The NPC may want to expand on its scoping of ‘Minor Variances’ to allow for more flexible implementation of conformity determinations.</p> <p>A variance granted for a project demonstrating positive-socio economic reasons may be justifiably minor. A broadening of the NPC’s minor variance power may limit the regulatory burden on Plan Amendment or Ministerial Exemption avenues.</p>
80	NPC	Government of Canada; Government of Nunavut; Nunavut Tunngavik Inc.; All participants	Purpose of Plan	If any participants take the position the Land Use Plan should not allow the NPC to issue negative conformity determinations, please identify what laws are already in place that have the same purpose and effect as the proposed land use designations and how those laws conflict with the	See response to question #14.

				operation of the Land Use Plan.	
84	Joshua Kango, Iqaluit HTO	All participants	Waste Sites	Participants are invited to answer the following question from Joshua Kango, Iqaluit HTO (Qikiqtani Hearing Transcript p. 56): "The garbage that has been buried from the past, we think these buried contaminants are dangerous, even as far as Resolute Bay. There are a lot of old vehicles that are just abandoned and buried over. Who will be responsible for this cleanups identified?"	<p>The polluter (or last known polluter) is responsible for site remediation. All known contaminated sites are assessed individually against the GN's responsibilities outlined in section PS 3260 of the Public Sector Accounting Standard. PS 3260 outlines the circumstances under which a governing body must account for its environmental liabilities.</p> <p>Please contact the GN Department of Environment to report any potentially unknown contaminated site.</p>

### References

- Bathurst Caribou Range Plan, Supporting Report: Caribou Technical Information and Range Assessment. Yellowknife, NT. January 2018.
- Boulanger et al. (2012). Estimating the zone of influence of industrial developments on wildlife: a migratory caribou *Rangifer tarandus groenlandicus* and diamond mine case study. *Wildlife Biology*, 18(2), 164–179.
- Cameron et al. (2005). Central Arctic Caribou and Petroleum Development: Distributional, Nutritional, and Reproductive Implications. *Arctic* 58: 1-9.
- Campbell, M., Goorts, J., Lee, D.S., Boulanger, J. & Pretzlaw, T. (2015). Aerial Abundance Estimates, Seasonal Range Use, and Demographic affiliations of the Barren-Ground Caribou (*Rangifer tarandus groenlandicus*) on Baffin Island – March 2014. Government of Nunavut Department of Environment Technical Report Series – No: 01-2015. Government of Nunavut, Department of Environment, Iqaluit, NU. 196pp.
- Government of Nunavut. (2016). *Caribou habitat protection and development* [Media Release]. Retrieved from [https://www.gov.nu.ca/sites/default/files/2016-03\\_pos\\_st\\_env\\_caribou\\_habitat\\_protection\\_and\\_development-eng.pdf](https://www.gov.nu.ca/sites/default/files/2016-03_pos_st_env_caribou_habitat_protection_and_development-eng.pdf)

- Johnson, C. J. and D. E. Russell. (2015). Long-term distribution responses of a migratory caribou herd to human disturbance. *Biological Conservation* 177: 52-63.
- Kite et al. (2018). Seasonal caribou distributions and movement patterns in relation to a road in the Kivalliq region of Nunavut. Report prepared for the Government of Nunavut, Department of Environment.
- NPC 4<sup>th</sup> Technical Meeting [Transcript]. (2016, March 7-10). *Nunavut Planning Commission*. Retrieved from <http://www.nunavut.ca/files/Transcript%20-%20DNLUP%204th%20Technical%20Meeting%20-%20Caribou.pdf>
- Nunavut Wildlife Management Board (2016). NWMB Workshop Report: Protecting Caribou and their Habitat. Iqaluit, NU.
- Parlee et al. (2018). Undermining subsistence: Barren-ground caribou in a “tragedy of open access” *Sci. Adv.* 2018;4: e1701611
- Plante et al. (2018). Human disturbance effects and cumulative habitat loss in endangered migratory caribou. *Biological Conservation*, 224(1), 129-123.
- Plante et al. (2016). Landscape attributes explain migratory caribou vulnerability to sport hunting. *Journal of Wildlife Management* 81: 238-247.
- Taillon, J., Festa-Bianchet, M. & Cote, S. (2012). Shifting targets in the tundra: Protection of migratory caribou calving grounds must account for spatial changes over time. *Biological Conservation*, 147(1), 163-173.
- Weir, J., Mahoney, S. & McLaren, B. (2007). Effects of mine development on woodland caribou *Rangifer tarandus* distribution. *Wildlife Biology*, 13(1) 66-74.
- Wilson et al. (2016). Effects of roads on individual caribou movements during migration. *Biological Conservation*, 195(1) 2–8.
- Wolfe et al. (2000). Response of reindeer and caribou to human activities. *Polar Research* 19: 63–73.

## Appendix B: Altered Comment from January 2017 Submission

DNLUP Review Comment # 2017-6	
<b>Organization</b>	Government of Nunavut
<b>Subject/Topic</b>	Community Land Use Planning
<b>References</b>	<p>NPC, <i>DNLUP, 2014</i>: Chapter 4, Section 4.1-4.2, p. 36-38; Table 3</p> <p>NPC, <i>O&amp;R, 2014</i>. Chapter 4. Section 4.1-4.2, p. 63-68.</p> <p>Kugluktuk Hunters and Trappers Organization, <i>NPC [Online] Consultation Record: Kugluktuk HTO regarding caribou calving grounds</i>; retrieved from NPC's website: <a href="http://www.nunavut.ca/files/2016-02-19%20Email%20from%20Kugluktuk%20HTO%20re%20calving%20grounds.pdf">http://www.nunavut.ca/files/2016-02-19%20Email%20from%20Kugluktuk%20HTO%20re%20calving%20grounds.pdf</a></p>
SUMMARY OF NPC's CONCLUSIONS	
<p>The 2016 DNLUP does not make mention of Articles 11 &amp; 14 of the NLCA. The draft plan <b>does not explicitly acknowledge Municipal Lands or acknowledge that municipal plans administer and control Municipal Lands</b>.</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"> <li>diversified local employment opportunities;</li> </ul>	

- 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. **Article 11.7.2 states that: "development of municipal plans shall be the responsibility of the municipalities as provided for in territorial legislation."** The GN interprets that referenced municipal plans include the municipal General Plan and Zoning By-laws. The GN further interprets article 11.7.2 as referring to the *Planning Act* because this statute empowers municipalities to put these by-laws into force. Therefore, the Plan must respect municipal plans including the General Plan and Zoning By-laws. Moreover, Article 11.7.3 states that "NPC shall give great weight to the views and wishes of the municipalities". Article 11.7.4 states that regional and municipal plans must be compatible." 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.