

EXECUTIVE SUMMARY

This is a summary of the Government of Canada's key concerns and recommendations on the Nunavut Planning Commission's (Commission) 2014 Draft Nunavut Land Use Plan (DNLUP). For Canada's full submission see "Government of Canada Comments and Recommendations on the 2014 Draft Nunavut Land Use Plan."

The submission was developed by the Federal Nunavut Land Use Planning Working Group (Working Group) to coordinate the federal technical expertise and provide a 'single voice' on behalf of the Government of Canada to the Commission. The Working Group consists of representation from the following federal departments:

- Aboriginal Affairs and Northern Development Canada,
- Environment Canada,
- Fisheries and Oceans,
- Transport Canada,
- National Defence,
- Parks Canada Agency,
- Natural Resources Canada, and
- Justice Canada.

The Government of Canada recognizes the significant endeavour that developing a land use plan for an area the size of Nunavut entails and acknowledges the efforts by the Commission to address the "Government of Canada's Priority Expectations for a First Generation Nunavut Land Use Plan (April 2013)" and "Technical Priorities and Comments (July 2013)." These efforts have resulted in significant improvements with the current DNLUP over previous versions.

At this time, the Government of Canada would like to highlight a number of outstanding concerns and recommendations. We anticipate the Commission or its staff might have a need for clarification of some of the comments found herein, in which case they can count on federal officials' assistance as required. The Government of Canada will continue to provide comments as the Commission continues advancing and refining the DNLUP.

Summary of Key Concerns with the DNLUP (Annotated Notes from the Government of Canada Comments and Recommendations on the 2014 Draft Nunavut Land Use Plan)

Clarity of Conformity Requirements The DNLUP must have conformity requirements that are (i) explicitly identified as such in the land use plan; (ii) capable of being determined based on criteria that are as objective as possible; and (iii) based on criteria that can be met with the limited information that can reasonably be expected at a very early stage of project development.

Recommendations:

- The DNLUP be reviewed to clarify that community values and priorities do not form part of the conformity requirements and are for the benefit of other decision makers.
- Where possible, “directions to regulators” should be developed into appropriate restrictions upon which conformity would be determined. In all other instances “directions to regulators” should be reframed “Information for decision-makers” and not form part of the land use plan conformity requirement.
- The use of “terms and conditions” is currently not clear and in most cases does not set verifiable conformity determinations. Provisions on setbacks should be rephrased as conditions and current terms regarding cumulative impacts should be revised as information where the Commission considers cumulative impact referrals as being more likely in these areas.

The DNLUP Cannot Apply to Wildlife Harvesting While the DNLUP clearly states that the plan does not apply to subsistence land use and harvesting, it is also important to clarify that the plan cannot establish limitations on other (non-subsistence) wildlife harvesting, including fishing as these are within the exclusive jurisdiction of the Nunavut Wildlife Management Board.

Recommendations:

- The DNLUP should clearly state that it does not apply to those aspects of project proposals that deal purely with wildlife harvesting including fish harvesting activities.
- Setbacks for fishing gear near key bird habitat sites should be removed from the DNLUP.

Marine Shipping Canada supports an approach to land use planning that respects Canada’s international obligations; builds on Canada’s domestic regime; and encourages free and open navigation within a highly regulated environment.

Recommendations:

- The DNLUP should be expressly consistent with Canada’s international legal obligations under international conventions and domestic regulations.

Cumulative Impacts the DNLUP has a “term” that cumulative impact concerns may have referral of Schedule 12-1 projects to the Nunavut Impact Review Board for screening. The Commission’s use of this provision appears selective which could be confusing as it is an existing land claim provision that applies generally to all Schedule

12-1 NLCA project proposals. In its treatment of cumulative impacts, the Commission has not provided criteria or benchmarks on which it would base a referral to the Nunavut Impact Review Board (NIRB).

Recommendations

- It is important to clearly state that the Commission has the authority to refer any Schedule 12-1 project proposal for which it has cumulative impacts concerns to NIRB for screening.
- The DNLUP should include cumulative impact information and criteria so that proponents will have a clear understanding of when their projects applications may be referred to the NIRB for cumulative impact concerns.

Key Migratory Bird Habitat Setbacks The setbacks require further aid on the interpretation of how they are to function. In addition, the setbacks could impede ongoing wildlife research that should be permitted.

Recommendations

- It is recommended that the DNLUP include an exception for aerial or vessel wildlife research activities.
- The aerial and vessel setbacks around migratory bird habitat should be clarified and further explained in the DNLUP (Table 2). It is recommended that an explanation on how Table 2 functions be added to the Draft Plan.

Existing Rights The DNLUP does not explicitly recognize existing rights for the complete life cycle of a development project (i.e., prospecting, exploration, development, closure). The DNLUP restricts development activities in many areas with pre-existing authorizations, limiting new authorizations or approvals that would be required for a project to advance to the next stage of the life-cycle.

Recommendations

- The plan should accommodate the development of all pre-existing tenures, including prospectors' permits and mining claims, as well as significant modifications to existing projects that were approved before the adoption of the plan so as to allow existing rights to advance to the other stages of their life-cycle.

Other Comments and Recommendations Finally, the Government of Canada makes other comments and recommendations in respect of most chapters of the DNLUP, a number of proposed land use designations and defined terms.

The Government of Canada welcomes the opportunity to work with the Commission and other interested parties towards finalizing a Nunavut Land Use Plan that will be ready to be advanced for approval.