

LAND USE PLANNING REFERENCE GUIDE



**RESOURCE MANAGEMENT
INFORMATION FOR THE NWT**

NWT BOARD FORUM 2021

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Introduction

About the NWT Board Forum

The purpose of the NWT Board Forum is to give organizations involved in land use planning, environmental assessment, land and water regulation and resources management an opportunity to learn from one another and to coordinate activities. The Forum is intended to improve and maintain effective lines of communication between its members, resolve common issues and share expertise. It also provides industry, government and other organizations with a structured forum to engage and interact with the Northwest Territories' co-management boards (NWT Board Forum, n.d.).

The NWT Board Forum is made up of the Chairs of NWT resource management boards and committees set up by NWT Aboriginal rights agreements to co-manage lands and resources in the geographic areas covered by those agreements. Crown Indigenous Relations and Northern Affairs Canada (CIRNAC), the Government of the NWT (GNWT), the Office of the Regulator of Oil and Gas Operations (OROGO) and the Canada Energy Regulator (CER) also participate in the Forum as they share regulatory responsibilities in the NWT with the boards and committees.

The NWT Board Forum, in cooperation with the CIRNAC Governance and Partnerships Branch, has used its collective interests to enhance the functioning of NWT boards and committees by developing training programs, including this Guide and associated training course, for board members and staff.

For more information: <http://www.nwtboardforum.com/>



Training for the NWT Board Forum

The responsibilities of board members, particularly new board members, are challenging. Many of the skills, tools and demands on board members are similar between boards, allowing for a number of shared learning opportunities. Many other skills, tools and demands, however, are unique to a region, or even a specific board itself. This requires additional board member training pertaining to specific land claims, pieces of legislation, and individual board rules, procedures, and guidelines.

It is important that all board members understand the full NWT regulatory system and have a good understanding of the spirit and intent of all land claim and self-government agreements. It is also important to have board members engaged in and motivated about their responsibilities, as well as their role in an important integrated resource management system in the NWT.

The NWT Board Forum provides other training materials and courses on key topics for board members and staff throughout the year.

Visit the NWT Board Forum website to access additional training courses such as:



- Orientation for Board Members
- Administrative Law
- Renewable Resource Management

Land Use Planning Training Course

Purpose

To increase the awareness of NWT Board members and staff with respect to land use planning in the territory.

Learning objectives

After taking this course, you will be able to:

- ✓ Describe the history and purpose of land use planning (Mackenzie Valley) and conservation planning (Inuvialuit Settlement Region) in the NWT
- ✓ Identify the key steps in the land use and conservation planning processes and how they interact with other aspects of the integrated resource management system
- ✓ Provide an overview of the general structure and components of existing plans
- ✓ Draw comparisons between plans in each region
- ✓ Position your learnings within the context of the evolution and future of land use planning in the NWT

Who is this for?

Board members, board staff, government representatives, those involved in land and resource management.

Why is land use planning important?

Land use planning ensures that the land is managed in a manner that protects and promotes the social, cultural and economic well-being of residents and communities in a planning area, while considering other external interests. Residents and communities are most affected by decisions regarding land use, so their interests must be given priority in planning.

About this Reference Guide

This Reference Guide provides an overview of land use planning and the role it plays in the NWT's integrated resource management system. It describes what land use planning is and how it looks in the Mackenzie Valley and the Inuvialuit Settlement Region (ISR), the key steps in the land use planning process, the typical structure of existing plans, key elements in land use plans, the future of land use planning in the NWT, as well as the specifics of existing regional plans (Mackenzie Valley) and community conservation plans (Inuvialuit Settlement Region).

The Guide can be used on its own and as a reference tool for the associated training course. The Guide does not need to be read sequentially.

Contents of the Land Use Planning Reference Guide

Chapter	Description
Preface	Introduction
PART 1: BASICS OF LAND USE PLANNING IN THE NWT	
1	Introduction to Regional Land Use Planning in the NWT
2	Description of the Planning Processes
3	The Structure and Key Elements of Land Use Plans
4	The Future of Land Use Planning in the NWT
PART 2: LAND USE PLANNING BY NWT REGION	
5	Gwich'in Land Use Plan, Nành' Geenjít Gwitr'it T'igwaa'in – Working for the Land
6	Sahtú Land Use Plan
7	Interim Draft Dehcho Land Use Plan
8	Tłjichq Land Use Plan
9	Inuvialuit Community Conservation Plans

Guide Legend

As this Guide provides only an overview, links to supporting materials and resources are provided throughout the document. The NWT Board Forum also provides additional information on certain topics on its website (www.nwtboardforum.com) and upon request. Additional resources and training on specific topics within this Guide may be developed in the future by the NWT Board Forum.



Key term – Where you see a book, you will find a definition of a key term or important terms pertaining to the section you are reading.



More information – Where you see a magnifying glass, you will find links to supporting materials and resources.

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Acronyms

Acronym	Name
ADFN	Akaiicho Dene First Nations
ADR	Alternative Dispute Resolution
CC	Community Corporations
CCPs	Community Conservation Plans
CER	Canada Energy Regulator
CIRNAC	Crown-Indigenous Relations and Northern Affairs Canada
CR	Conformity Requirements
CZ	Conservation Zones
DFN	Dehcho First Nations
DFO	Fisheries and Oceans Canada
DLUPC	Dehcho Land Use Planning Committee
EIRB	Environmental Impact Review Board
EISC	Environmental Impact Screening Committee
EPA	Established Protected Areas
FJMC	Fisheries Joint Management Committee
G2G	Government-to-Government
GCLCA	Gwich'in Comprehensive Land Claim Agreement
GIS	Geographic Information System
GLUP	Gwich'in Land Use Plan
GLUPB	Gwich'in Land Use Planning Board
GLWB	Gwich'in Land and Water Board
GNWT	Government of the Northwest Territories
GoC	Government of Canada
GSA	Gwich'in Settlement Area
GTC	Gwich'in Tribal Council
GUZ	General Use Zones
HTC	Hunters and Trappers Committee
IDLUP	Interim Dehcho Land Use Plan
IFA	Inuvialuit Final Agreement
IGC	Inuvialuit Game Council
ILA	Inuvialuit Land Administration
IMA	Interim Measures Agreement
IPGs	Institutions of Public Government
IRC	Inuvialuit Regional Corporation
ISR	Inuvialuit Settlement Region
JS	Joint Secretariat
LPD(s)	Land Protection Directive(s)

Acronym	Name
LUPWG	Land Use Planning Working Group
MGP	Mackenzie Gas Project
MVLWB	Mackenzie Valley Land and Water Board
MVRMA	Mackenzie Valley Resource Management Act
NNPR	Nááts'jch'oh National Park Reserve
NS	North Slope
NWT	Northwest Territories
NWTMN	Northwest Territory Métis Nation
OROGO	Office of the Regulator of Oil and Gas Operations
PCI	Proposed Conservation Initiatives
SDMCLCA	Sahtú Dene and Métis Comprehensive Land Claim Agreement
SE NWT	Southeastern NWT
SLUP	Sahtú Land Use Plan
SLUPB	Sahtú Land Use Planning Board
SLWB	Sahtú Land and Water Board
SMART	Sustainable Model for Arctic Regional Tourism
SMZ	Special Management Zones
SSA	Sahtú Settlement Area
SSI	Sahtú Secretariat Incorporated
TA	Tłı̨ch̨ Agreement
TG	Tłı̨ch̨ Government
TK	Traditional Knowledge
WG(s)	Working Group(s)
WLWB	Wek'èezhì Land and Water Board
WMA	Wek'èezhì Management Area
WMAC	Wildlife Management Advisory Council
WRRB	Wek'èezhì Renewable Resources Board



Part 1:

Basics of Land Use Planning in the NWT

Chapter 1: Introduction to Regional Land Use Planning in the NWT

What are land use plans and why are they important? This section describes how land use planning came to be a practice in the NWT and how it is distinctly managed in the Mackenzie Valley and the Inuvialuit Settlement Region (ISR).

CHAPTER OBJECTIVES

By reading this chapter, you will be able to:

- ✓ Define land use planning
- ✓ Describe the purpose of a land use plan
- ✓ Explain the history of land use planning in the NWT and how planning has changed over time
- ✓ Indicate the status and provide an overview of planning in the Mackenzie Valley and the ISR

Chapter Breakdown:

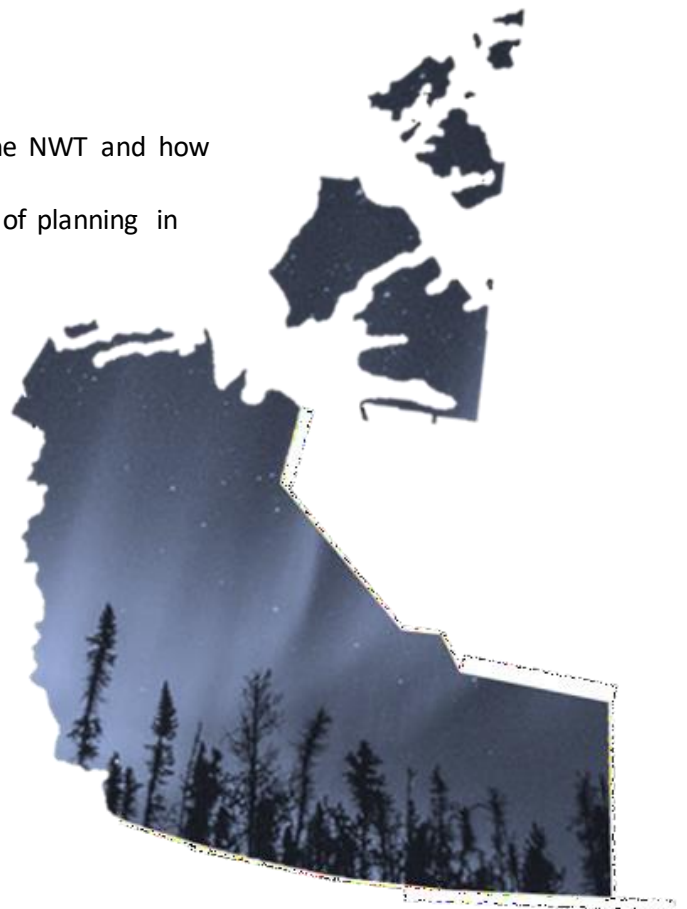
Section 1.1 What is Land Use Planning?

Section 1.2 What Does a Land Use Plan Do?

Section 1.3 The History and Evolution of Land Use Planning

Section 1.4 Status and Overview of Planning in the Mackenzie Valley

Section 1.5 Status and Overview of Planning in the ISR



1.1 What is Land Use Planning?

Land use planning is the process of making informed decisions about the future use of land, waters and resources to achieve a defined vision and goals for the planning area. Regional land use plans are legal requirements in some settlement areas of the Northwest Territories (NWT) flowing from land claim agreements. Once approved, these plans are legally binding. Plans are reviewed periodically so they stay up to date and relevant. In areas without final agreements, land use plans may be advisory in nature, or implemented through other mechanisms like legislation or policy direction.

1.2 What Does a Land Use Plan Do?

A land use plan is a document consisting of maps and policy direction that identifies what land uses are allowed, where and under what conditions. They set out rules for the conservation, development and use of land, water and resources. Land uses may include, but are not limited to, oil and gas, mining, quarrying, tourism, recreation, forestry, hydro, waste management, transportation and infrastructure. Plans attempt to manage these land uses in a manner that protects and preserves traditional and cultural uses and protects important ecological and cultural areas (e.g., key wildlife habitat, important lakes and waterways, significant traditional use and cultural sites) and manages overall land use (e.g., cumulative effects).

Land uses may include, but are not limited to, oil and gas, mining, quarrying, tourism, recreation, forestry, hydro, waste management, transportation and infrastructure.

The heart of every regional land use plan is a zoning map. This is what identifies which land uses are allowed and where. The maps are often accompanied by land use conditions, some applicable throughout a planning region, while others apply only to specific zones or land uses. Conditions are referred to differently in the different planning regions; terms used include “Land Protection Directives” (Tłı̄chǫ), “Conformity Requirements” (Dehcho - draft and Sahtú) and “Conditions” (Gwich’in).

KEY TERMS

- Land Use Plan – A land use plan is a document consisting of maps and policy direction that identifies what land uses are allowed, where and under what conditions. They set out rules for the conservation, development and use of land, water and resources.
- Zoning Map – A zoning map is a map that shows the use of land within a planning region. It can be consulted to determine if a proposed use of land, waters or resources is allowed in a given area.



1.3 The History and Evolution of Land Use Planning in the NWT

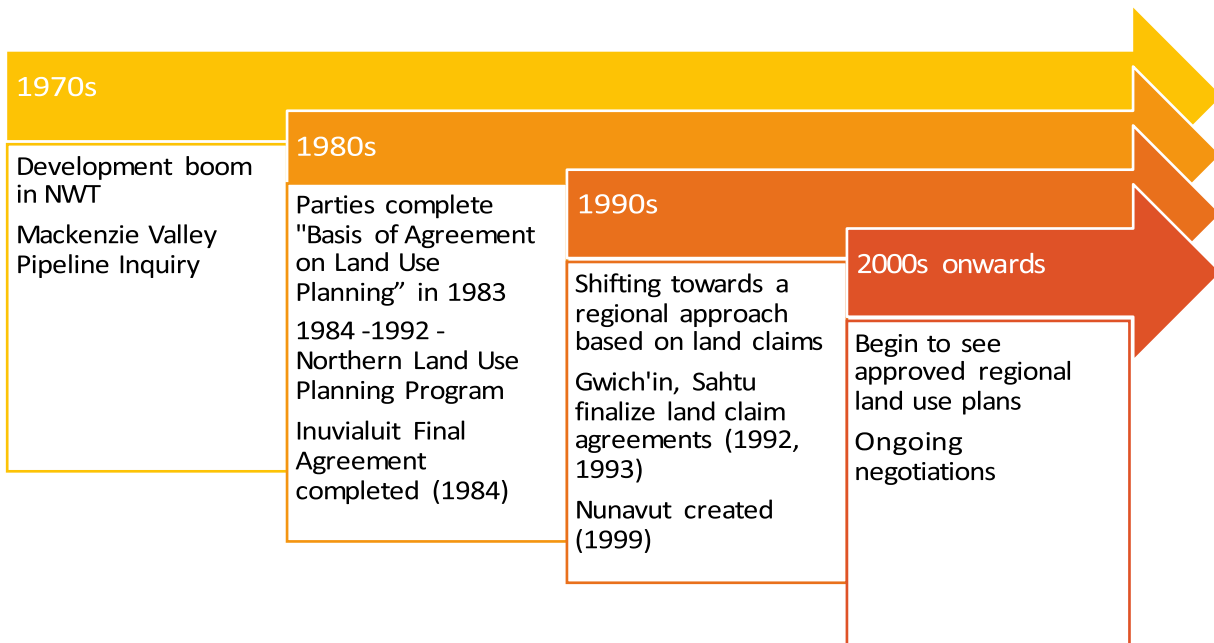


Figure 1: Evolution of Land Use Planning in the NWT

The need for land use planning arose in the northern development boom of the 1970s and early 1980s. Many large-scale oil and gas and mineral exploration projects were proposed and referred to federal environmental assessment, including projects in the Beaufort Sea, Lancaster Sound and the Norman Wells Oilfield. The panels set up to review these projects each noted the difficulties of completing the assessments in the absence of a larger policy framework to provide context for individual land use decisions.¹ The most famous call for land use planning came from the Berger Enquiry on the Mackenzie Valley Pipeline, which recommended a ten-year moratorium on the pipeline to allow the completion of land claim agreements, land use planning and protection of critical conservation areas.²

¹ Government of Canada. 1981. "Report of Task Force on Beaufort Sea Development", excerpt reproduced in Richardson, N. 1982. *Land Use Planning, Regional Planning, and Environmental Assessment: A Preliminary Review of Issues*, Prepared for the Beaufort Sea Environmental Assessment Panel; Bayly, J. 1987. "Large-Scale Oil and Gas Extraction from the Beaufort-Mackenzie Delta Region: Can Land-Use Planning Help the Native Residents?" pp. 113-138 in Fenge, T., and W. Rees. *Hinterland or Homeland? Land-Use Planning in Northern Canada*, Canadian Arctic Resources Committee, Ottawa.

² Berger, T. 1987. *Northern Frontier, Northern Homeland, the Report of the Mackenzie Valley Pipeline Enquiry*, Douglas & McIntyre, Vancouver.

What was the 'Berger Inquiry'?



The Mackenzie Valley Pipeline Inquiry, also known as the Berger Inquiry, was commissioned by the Government of Canada on March 21, 1974, and led by Justice Thomas Berger. The inquiry investigated the social, environmental, and economic impact of a proposed gas pipeline (the Mackenzie Valley Pipeline) that would run through the Yukon and the Mackenzie River Valley of NWT. The inquiry was notable for the voice that it gave to the Indigenous people whose traditional territory the pipeline would traverse. It was also the first time that environmental and Indigenous organizations received funding to present their own expert witnesses at the formal hearings held in Yellowknife.

In November 1980, the Government of Canada (GoC or 'Canada') began laying out its vision for a northern land use planning program. It took three years of negotiations between the (then) federal Department of Indian Affairs and Northern Development, the Government of the Northwest Territories (GNWT) and the Indigenous organizations of the day (the Dene Nation, the Métis Association of the Northwest Territories and the Tunngavik Federation of Nunavut) to negotiate the historic "Basis of Agreement on Land Use Planning", completed on July 28, 1983.

This agreement identified the roles and responsibilities of the proposed institutions, and outlined the principles put forth by the Indigenous groups, upon which land use planning would be based.³

The general principles identified in the Basis of Agreement on Land Use Planning:

- 1.1. Man is a functional part of a dynamic biophysical environment and land use cannot be planned and managed without reference to the human community. Accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation.
- 1.2. The primary purpose of land use planning in the NWT must be to protect and promote the existing and future well-being of the permanent residents and communities of the NWT, taking into account the interests of all Canadians. Special attention shall be devoted to protecting and promoting the existing and future well-being of the aboriginal peoples and their land interests as they define them.
- 1.3. The planning process must ensure that land use plans reflect the priorities and values of the residents of the planning regions.
- 1.4. The plans will provide for the conservation, development and utilization of land, resources, inland waters and the offshore.
- 1.5. To be effective, the public planning process must provide an opportunity for the active and informed participation and support of the residents affected by the plan. Such participation will be promoted through means including: ready access to all

³ Fenge, T. 1987. "Land-Use Planning in Canada's North: A Wind of Change or a Bag of Wind." in Fenge, T., and W. Rees. *Hinterland or Homeland? Land-Use Planning in Northern Canada*, Canadian Arctic Resources Committee, Ottawa.

relevant information, widespread dissemination of relevant materials, appropriate and realistic time schedules, and recruitment and training of local residents to participate in comprehensive land use planning.

- 1.6. The planning process must be systematic and must be integrated with all other planning processes and operations.
- 1.7. It is acknowledged that an effective land use planning process requires the active participation of the GoC, the GNWT, and regional and territorial organizations representing aboriginal people.
- 1.8. It is recognized that the funding and other resources shall be made available for the system and be provided equitably to allow each of the major participants referred to in paragraph 1.7 to participate effectively.⁴

Guided by the Basis of Agreement, a Land Use Planning Commission was established to “carry out the major responsibility for developing land use plans in the NWT.” Other Commissions were envisioned in the future in response to possible changes brought about by ongoing land claims negotiations.

The Northern Land Use Planning Program operated from 1984 to 1992 and accomplished the following:

- The Lancaster Sound (now known as the North Baffin region in Nunavut) and Mackenzie Delta-Beaufort Sea Regional Commissions were established in 1986 and 1987, followed by Denendeh (southern Mackenzie Valley), and the Nunavut Planning Commission to begin planning for the Keewatin region (now Kivalliq).
- The Lancaster Sound Plan was completed in January 1989 and approved in December 1990.
- The Keewatin Plan was finished in the fall of 1991 and approved in 1994/95.
- The Mackenzie Delta-Beaufort Sea Plan was finished in 1991 but never approved or implemented.
- Planning in Denendeh was phased out with the Northern Land Use Planning Program in recognition of impending land claim settlements for the Gwich'in and Sahtú regions, which included land use planning programs as integral parts of their settlements.⁵

Since then, land use planning has followed a regional approach with the authority and framework for planning flowing from land claims agreements (or in some cases, interim agreements). The principles enshrined in the 1983 Basis of Agreement on Land Use Planning have been included in each land claim agreement since then, and in the *Mackenzie Valley Resource Management Act* (MVRMA). Those principles continue to guide northern land use planning to this day.

Land use planning in NWT now follows a regional approach with the authority and framework for planning flowing from land claims agreements.

⁴ 1983 Basis of Agreement on Land Use Planning. Signed in a letter of Agreement on June 18, 1984 by Nellie Cournoyea, Minister of Renewable Resources, Government of the Northwest Territories, and John C. Munro, Minister of Indian Affairs and Northern Development, Government of Canada.

⁵ Wiebe, H. 2007. *The Integration of Land Use Planning and Resource Management in the Dehcho Territory*. Master's Thesis, University of Calgary.

1.4 Status and Overview of Planning in the Mackenzie Valley

1.4.1 How does Land Use Planning Fit within the Integrated Resource Management Regime of the Mackenzie Valley?

Land use plans provide an important function to translate and integrate legislation and policy, which may be national or territorial in scope or issue-specific, into clear direction for land use that aligns and advances a regional vision and goals.

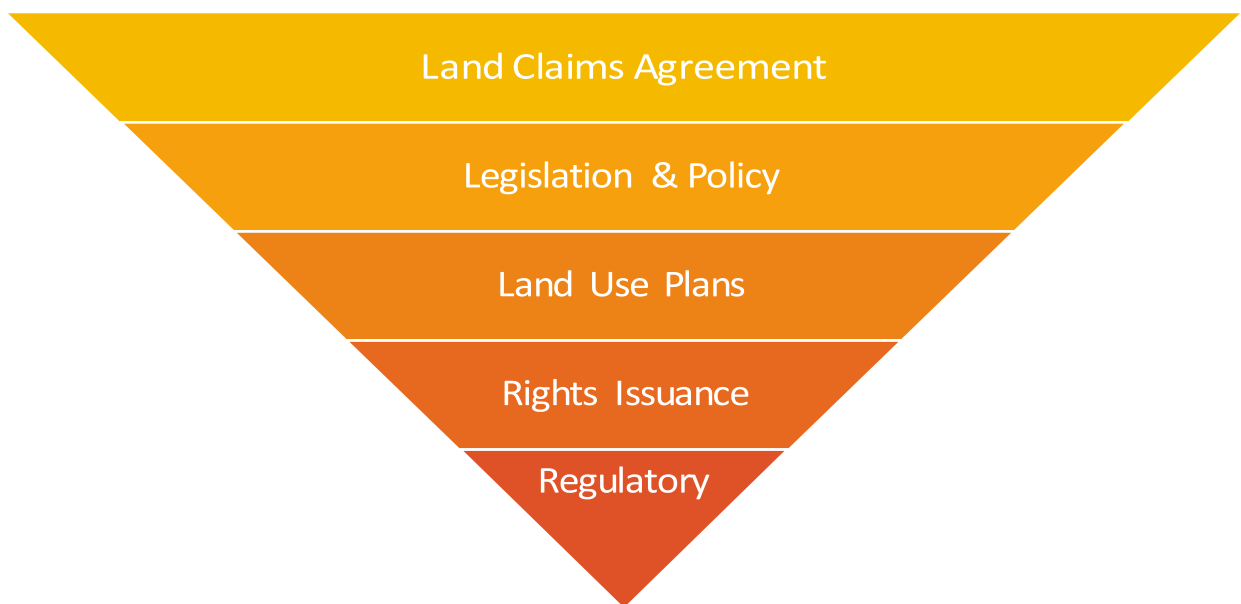


Figure 2: Land Use Plans Within the Integrated Resource Management Regime of the Mackenzie Valley

In the Mackenzie Valley, land use plans provide guidance to landowners/managers and regulatory authorities on what activities can or cannot take place in different areas. Under the MVRMA, the land and water boards cannot issue licences, permits or authorizations that are not consistent with an approved land use plan. Figure 3 shows the connections between the other processes of the NWT integrated resource management system, namely ownership and access, environmental assessment, land and water permitting and regulation and renewable resources management.

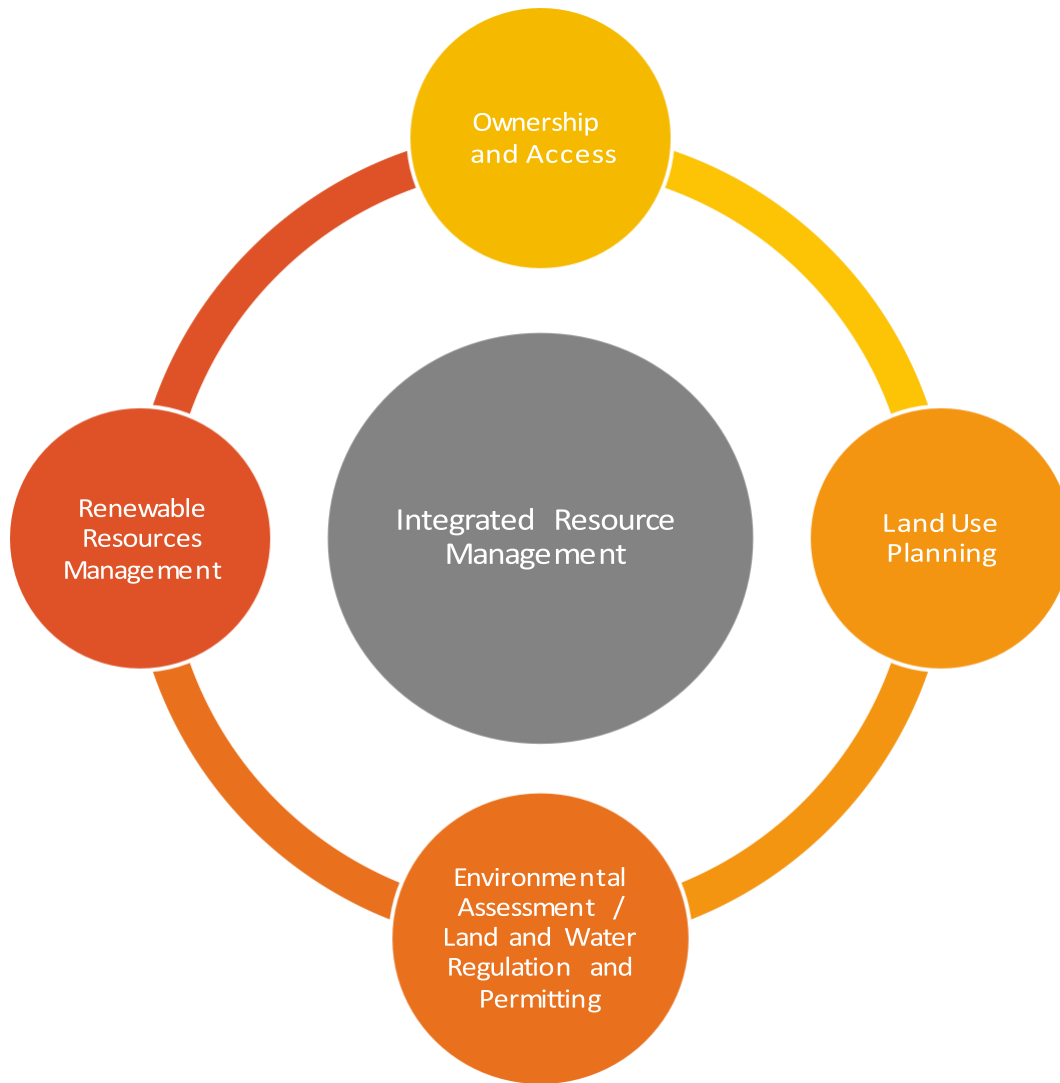


Figure 3: Integrated Resources Management Processes in the NWT

Land use planning is undertaken on a regional basis according to settlement region boundaries. The planning regions/areas in the Mackenzie Valley, identified according to the terms of regional land claim agreements or interim negotiated documents are:

- The Gwich'in Settlement Region
- The Sahtú Settlement Area
- Wek'èezhìi Management Area
 - Tłjchq Lands
 - Public Lands within Wek'èezhìi
- The Dehcho territory
 - Note: Different mechanisms are proposed in the Dehcho region to achieve a binding effect on the Mackenzie Valley Land and Water Board to implement the Draft Interim Dehcho Plan when its approved.

- The Southeastern NWT, covering those portions of the traditional territories of the Akaitcho Dene First Nations (ADFN) and Northwest Territory Métis Nation (NWTMN) lying outside the Dehcho and Wek'èezhìi regions

Map 1 and Table 1 show and describe the status of the Mackenzie Valley's regional planning processes.



Map 1: Regional Land Use Plans in the Mackenzie Valley

Table 1: Overview of Regional Land Use Planning in the Mackenzie Valley

Settlement Area/Region	Status of Planning	Planning Body	Approving Parties
Gwich'in Settlement Area (GSA)	Approved August 2003 and being implemented. Amendments are in progress.	Gwich'in Land Use Planning Board (GLUPB)	Gwich'in Tribal Council (GTC), GNWT, GoC
Sahtú Settlement Area (SSA)	Approved August 2013 and being implemented. Five-Year review and amendment is complete with approvals in progress.	Sahtú Land Use Planning Board (SLUPB)	Sahtú Secretariat Incorporated (SSI), GNWT, GoC
Dehcho Region	Initial Draft Plan completed in 2006 but not approved. The DLUPC is currently completing revisions to the draft plan.	Dehcho Land Use Planning Committee (DLUPC)	Dehcho First Nations (DFN), GNWT, GoC
Tłjchq Lands	Tłjchq Wenek'e Plan approved for Tłjchq lands in 2013. Five-Year review and amendment are in progress.	Tłjchq Government (TG)	TG
Wek'èezhìi Management Area (WMA)	Planning has not yet begun in this region. The GNWT, GoC and TG have proposed a government-to-government (G2G) approach for planning for public land in the Wek'èezhìi Management Area. The approach has not been finalized or approved.	To be determined (TBD)	TBD
Southeastern NWT (SE NWT)	Planning has not yet begun in this region. The GNWT is working with Indigenous governments and organizations and the GoC to develop a land use planning process for the region.	TBD	TBD

KEY TERM

What is a government-to-government (G2G) approach?)



- A G2G approach is based on the premise that each party at the table is an independent government with its own rights and jurisdictions. The governments work directly with each other, coming together as equal

partners to jointly make decisions that affect their mutual interests. Decisions are made by consensus, rather than majority voting, giving equal decision-making authority to each government at the table.

- A G2G governance approach builds the relationships, understanding and awareness needed to move ahead.
- It is an approach that resonates with parties on the path to Indigenous Reconciliation and is being increasingly used.

Where claims are settled or under negotiation, planning is carried out according to the terms negotiated in those agreements. This has led to some differences between regions, though there are common elements as well.

- Planning requirements for the Gwich'in and Sahtú processes are defined in the same manner in their respective land claim agreements and incorporated into the *MVRMA*, resulting in similar processes.
- Planning in the Dehcho was modelled after these processes, though lacks a similar legislated foundation, resulting in some differences.
- Planning on Tłı̄chǫ lands was carried out independently by the TG under the authority of the Tłı̄chǫ Agreement.
- Regional land use planning processes for the Wek'èezhì Management Area and the southeastern corner of the NWT are under discussion with Indigenous Governments.

Regional land use plans in the Mackenzie Valley are legally binding documents.

Regional land use plans in the Mackenzie Valley are legally binding documents – that is, all new applications for the use of land, water or resources must follow approved land use plans or they will be rejected. Approved plans act like the gatekeeper to the regulatory system.

Regional plans do not apply within:

- The boundaries of local government.
 - Community planning is done by the communities themselves, with support from the GNWT.
- National Parks or Historic Sites once they are established.
 - However, the establishment of National Parks are subject to land use plans. It is just as important to decide where to protect land as it is to decide where to develop land. This is why plans are required to provide for “the conservation, use and development of land, waters and resources.”

In other respects, the plans and processes differ by region. Information about the general land use planning process is provided in Chapter 2. Information on the typical contents of plans is provided in Chapter 3. Detailed descriptions of each of the plans is included in Chapters 5 to 9.

1.4.2 Gwich'in and Sahtú Settlement Areas

The Gwich'in and Sahtú land claim agreements were signed in 1992 and 1993, respectively, and set out identical requirements and processes for land use planning, which were incorporated into Part 2 of the MVRMA. The MVRMA came into force in 1998. Work on both plans pre-dated the MVRMA but re-started in many respects after the MVRMA came into force and land use planning boards were formally established.

The Gwich'in Plan was the first to be completed in the Mackenzie Valley, with the completed plan submitted for approval in 1999. However, it wasn't until the approval stage that the federal government discovered a conflict between (then) *Canada Mining Regulations* and the authority of plans to protect land from mineral staking. This conflict required the use of an Interim Land Withdrawal to restrict mineral staking in Conservation and Heritage Zones, until such time as the *Canada Mining Regulations* could be amended to restrict mineral staking as set out in approved land use plans. Determining the path forward took several years and the Gwich'in Plan was approved in 2003.

The Sahtú Land Use Plan took longer to develop, owing mainly to frequent turnover in staff and board members over the years that delayed progress. A final plan was completed and submitted for approval in early 2013 and approved later that same year.

Both boards have been working on plan amendments, which have progressed slowly. The GLUPB has been working through a series of plan revision issues with the GNWT and GoC. The SLUPB has three separate amendment processes in progress:

- one to rezone areas left out of Nááts'jìhch'oh National Park Reserve, which is complete except for the final approval from the federal government;
- a broader five-year review and amendment of the entire plan, which is complete and awaiting approval by the territorial and federal governments; and
- an amendment to rezone areas affected by the establishment of the Ts'udé Nìlìné Tuyeta Protected Area, which will be completed in June 2021 and submitted for approval.

More information:

- Gwich'in Land Use Plan and Board may be found at: <https://www.gwichinplanning.nt.ca>
- Sahtú Land Use Plan and Board may be found at: <https://Sahtúlanduseplan.org>



1.4.3 Dehcho Land Use Plan

The Dehcho First Nations (DFN) are still negotiating their land claims agreement with the federal and territorial governments. However, land use planning is a core component of the *Dehcho First Nations Interim Measures Agreement*, signed in 2001. The planning regime established in that document essentially mirrors the processes and principles developed in

the Gwich'in and Sahtú final agreements, with some differences for implementation procedures. Planning was initiated in 2002. A final draft plan was submitted to the Parties in June 2006 and approved by the DFN. The federal and territorial governments did not accept the Plan. The Planning Committee was given a new Terms of Reference in 2007 to revise the Plan, and those revisions are ongoing. The 2006 draft plan may be a useful source of information about the region and community expectations for development. A new draft is expected to be released for public review in 2023.

More information:

- Dehcho Land Use Planning Committee's website at: <http://www.dehcholands.org/home.htm>




1.4.4 Tłı̄chǵ Land Use Plan

The Tłı̄chǵ Government (TG) completed its own planning process for the approximately 39,000 km² of Tłı̄chǵ lands, using its authority under S. 7.4.2(b) of the Tłı̄chǵ Agreement. The plan does not apply within community boundaries or to fee simple lands. The purpose of the Tłı̄chǵ Land Use Plan (Tłı̄chǵ Wenek'e) is to protect the land for future generations by developing goals, planning statements, and a set of rules and regulations that are administered by the Department of Culture and Lands Protection and followed by all parties and individuals. The Tłı̄chǵ Land Use Plan was approved by the TG and came into effect in June 2013. The plan is legally binding on new land uses occurring on Tłı̄chǵ lands.⁶ The Department of Culture and Lands Protection has initiated a plan review process, which is in the early stages. A revised plan is expected near the end of 2022.

More information:

- TG's planning process and land use plan can be found at: <https://Tlı̄chǵ.ca/government/departments/culture-lands-protection/lands-protection>



⁶ TA S. 22.3.16

1.5 Status and Overview of Planning in the Inuvialuit Settlement Region

The Inuvialuit Final Agreement (IFA) provides for area-specific land use planning⁷ with equal representation between government and Inuvialuit on each planning group. However, the Inuvialuit have opted to not develop a regional land use plan.

Instead, community conservation planning (CCP) has been conducted under Section 14 (60) (b) of the IFA (the wildlife chapter).

There are six community conservation plans (CCPs) within the Inuvialuit Settlement Region (ISR): Aklavik, Inuvik, Paulatuk, Sachs Harbour, Tuktoyaktuk and Ulukhaktok.

The CCPs are developed by the following groups:

The Inuvialuit have opted to not develop a regional land use plan and have community conservation plans (CCP) instead.

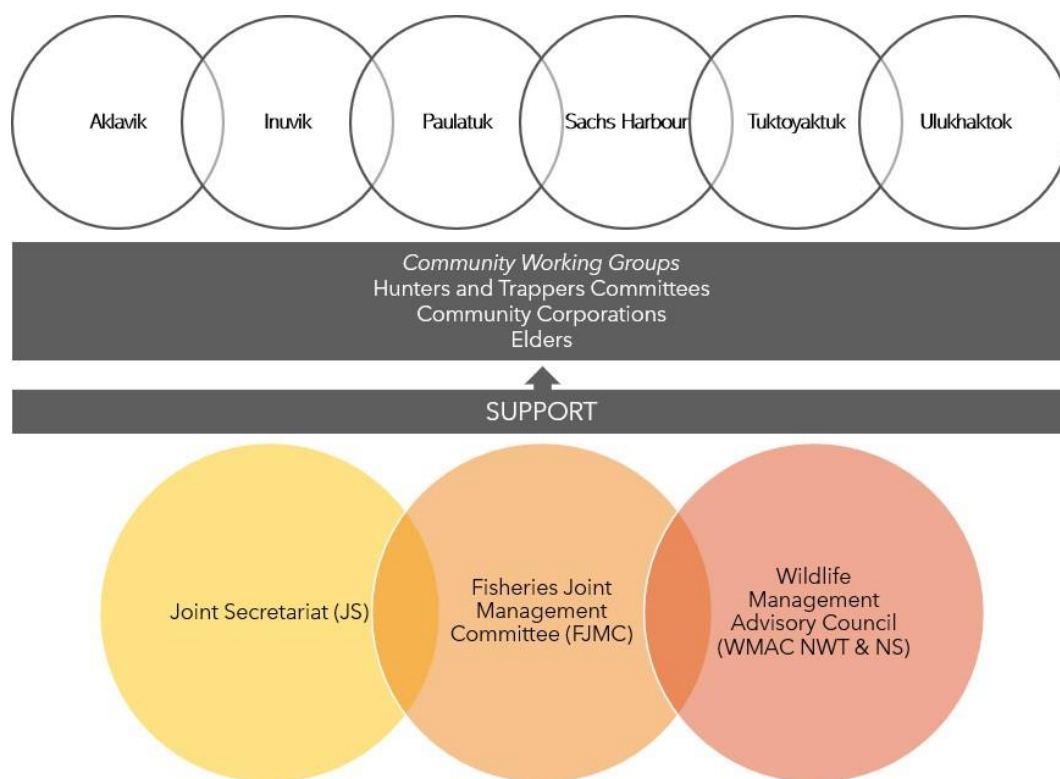


Figure 4: Organizations Involved in Developing the CCPs in the ISR

Each plan covers the traditional lands of the community. The geographical area of the six plans overlap so multiple plans may need to be consulted during decision-making processes, depending on the location of a proposed development.

⁷ Inuvialuit Final Agreement, S.7. (82)

CCPs express the Inuvialuit communities' goals and objectives for the conservation of lands, waters and living resources.

The CCPs are conservation plans, not land use plans. They express the Inuvialuit communities' goals and objectives for the conservation of lands, waters and living resources in the ISR generally, and particularly in the community conservation planning area. The CCPs classify lands and waters according to their cultural and ecological significance and sensitivity. There are five categories ranging from areas of no known significance (Category A), to areas of extreme significance where no development should occur (Category E). They make recommendations to avoid land use conflicts and address community concerns and describe

activities to be undertaken by individuals and organizations at the local, regional and national level.

The plans are non-binding (advisory only) and are considered by the Environmental Impact Screening Committee (EISC) and the Environmental Impact Review Board (EIRB) in reviewing project applications. All bodies with an interest in the ISR are expected to acknowledge and actively support the CCPs, associated land use designations and recommendations. It is important to note, however, the Inuvialuit Land Administration (ILA) does not use the CCPs because the Inuvialuit Regional Corporation (IRC) is not involved in their development or approval. The community HTC and Community Corporations assess proposals on the basis of their consistency with the CCPs, paying particular attention to the land use category and community conservation concerns. The plans were initially developed in 1993, and updated in 2000, 2008, and 2016.

More information:

- More information on the CCPs can be found at:
<https://www.jointsecretariat.ca/community-conservation-plan>



Chapter 2: Description of the Planning Processes

This section describes the land use planning processes across the NWT, including who is responsible, guiding principles that are followed and how plans are developed, approved and implemented.

CHAPTER OBJECTIVES

By reading this chapter, you will be able to:

- ✓ Identify the fundamental elements that need to be considered before the land use planning process begins
- ✓ Describe the key steps in the land use planning process
- ✓ Compare the key differences between the NWT planning areas
- ✓ Provide an overview of how land use planning is conducted in the NWT planning areas

Chapter Breakdown:

Section 2.1 Legal Framework of a Land Use Planning Process

Section 2.2 Key Steps of a Land Use Planning Process

Section 2.3 Comparison of Land Use Planning Processes Across the NWT

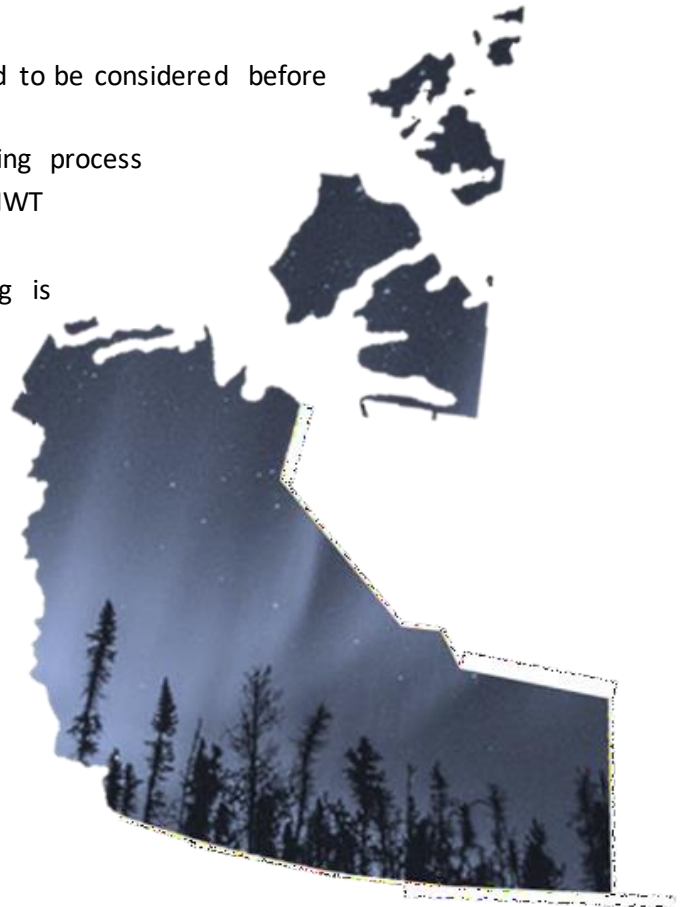
Section 2.4 Sahtú and Gwich'in Land Use Planning Processes

Section 2.5 Dehcho Land Use Planning Process

Section 2.6 Tłı̨chǫ Land Use Planning Process

Section 2.7 Inuvialuit Community Conservation Planning Processes

Section 2.8 Planning Approach in Unplanned Areas



2.1 Legal Framework of a Land Use Planning Process

Before land use plans are developed, a legal framework is needed. Many aspects of planning processes are fixed according to the agreements in each region where they apply.

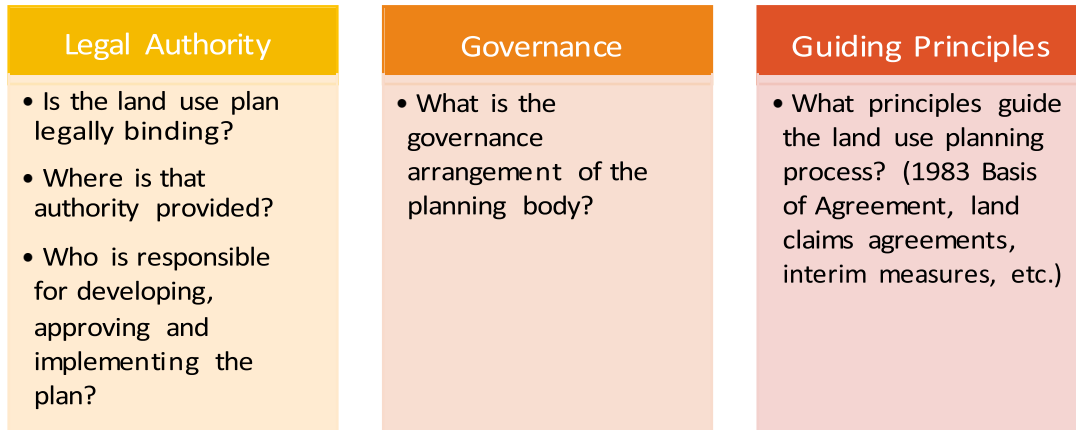


Figure 5: Legal Framework for Land Use Plans

2.1.1 Legal Authority

It is important to first understand whether the land use plan is legally binding and which bodies are responsible for, or have the legal authority to:

- Develop the plan
- Approve the plan (and later amendments)
- Determine conformity with the plan
- Grant licenses, permits, leases or interests related to the plan
- Consider exceptions to the plan
- Monitor plan implementation
- Review and amend the plan
- Coordinate the plan with other regions

2.1.2 Governance

The governance of each land use plan must also be determined, and may be set out in land claim agreements, interim agreements, or a process' Terms of Reference (for example in regions embarking on land use planning in advance of a final land claim agreement). The following governance arrangements are being used or considered in the NWT:

- Institutions of Public Government (or co-management boards): Where neutral, independent co-management boards are established at arms' length from the approving parties to govern the planning process and make decisions in the public interest
 - E.g., In the Gwich'in Settlement Area, the Gwich'in Land Use Planning Board governs the planning process

More information:



- More information on governance of Institutions of Public Governance or co-management boards for integrated resource management boards in the NWT can be found in two specific NWT Board Forum online training courses:
 - Board Orientation Training: Course designed to prepare NWT Board Forum members and staff to fulfill their role effectively as it relates to the NWT's integrated and coordinated resource management system.
<https://training.nwtboardforum.com/course/board-orientation/>
 - Administrative Law: Course designed to ensure that NWT Board Forum members and staff have the knowledge and tools required to make effective and independent decisions that meet the requirements under administrative law.
<https://training.nwtboardfor um.com/course/administrative-law-training-course/>

- Government-to-government: An approach to governance based on the premise that each party at the table is an independent government with its own rights and jurisdictions. The governments work directly with each other, coming together as equal partners to jointly make decisions that affect their mutual interests. Decisions are made by consensus, rather than majority voting, giving equal decision-making authority to each government at the table.
 - E.g., In the SE NWT, the GNWT, the ADFN, the NWTMN and the GoC are exploring a government-to-government approach for the planning process.
- Single party: Where one entity that is not a public board governs the planning process. This applies only to Tłı̄ch̄q lands, where the Tłı̄ch̄q Government developed its own plan for its own lands and holds the exclusive authority to approve its plan.
- Working Groups and the Joint Secretariat: In the ISR, plan development is carried out by Community Working Groups consisting of representatives from Hunters and Trappers Committees (HTCs), the Community Corporation (CCs), and Elders, with Wildlife Management Advisory Council (WMAC) and Fisheries Joint Management Committee (FJMC) support staff providing the technical support to draft the plans. All of these Parties approve the plans when complete.

2.1.3 Guiding Principles

A set of broad principles or values guides the land use planning process in each planning area. These principles may be derived from the 1983 Basis of Agreement, or identified in land claims agreements, the MVRMA, interim measures agreements, or a process' Terms of Reference.

Some examples of principles include:

- Protecting and conserving the environment for future generations (Gwich'in/Sahtú)
- Directly involving communities and designated local organizations (Gwich'in/Sahtú)
- Promoting the social, cultural and economic well-being of residents and communities, having regard to the interests of all Canadians (Dehcho, Gwich'in, Sahtú)

- Taking into consideration the principles of respect for the land, as understood and explained by the Dehcho Elders, and sustainable development, the Plan shall provide for the conservation, development and utilization of the land, waters and other resources (Dehcho)
- Protecting the Tłı̄chǫ language, culture and way of life through the protection of the land and ensuring its sustainable use in the future (Tłı̄chǫ Land Use Plan)
- Ensuring the management process is integrated and consistent with existing plans or agreements (ISR)

This list is not comprehensive and is only intended to highlight the types of principles and/or values that may be considered throughout the planning processes in each area. The planning area-specific principles are described in detail in Chapters 5 to 9.

Table 2: Legal Framework for Land Use Planning Processes by Region

Planning Process	Planning Body	Governance Model	Legal Authority / Direction	Authority of Plan
Gwich'in Settlement Area (GSA)	Gwich'in Land Use Planning Board (GLUPB)	Institution of Public Government (IPG)	GCLCA, MVRMA	Legally binding
Sahtú Settlement Area (SSA)	Sahtú Land Use Planning Board (GLUPB)	IPG	SDMCLCA, MVRMA	Legally binding
Dehcho Territory	Dehcho Land Use Planning Committee (DLUPC)	Initially IPG 2007 to present, similar to government-to-government (G2G)	Interim Measures Agreement (IMA) (not legally binding)	Intended to be legally binding; lacking some implementation mechanisms
Wek'èezhìi (Tłı̄chǫ Lands)	Tłı̄chǫ Government (TG)	Single Party	Tłı̄chǫ Agreement (TA), MVRMA (limited)	Legally binding
Wek'èezhìi Management Area (Public Lands)	To be determined (TBD)	TBD – Proposed G2G	TA	Legally binding
Southeastern NWT	TBD	TBD – Proposed G2G	No explicit authority, GNWT/Federal authority as land managers	Intended to be legally binding; implementation mechanisms to be determined
Inuvialuit Settlement Region (Community Traditional Use areas)	Wildlife Management Advisory Councils (WMACs), Fisheries Joint Management Committee (FJMC), Community Working Groups	Working Groups and the Joint Secretariat	Inuvialuit Final Agreement (IFA)	Advisory

2.2 Key Steps in the Land Use Planning Process

The development, approval and implementation of land use plans varies by planning area and is grounded in the legal framework outlined earlier in this chapter. However, there are some standard steps that every process must go through.

Land use planning is often depicted as a cycle as illustrated in Figure 6. Steps 1-5 represent plan development; Step 6 is Plan Approval; and Step 7 is Implementation. Each of these steps are described below. Some processes may combine some of the steps. For example, “Scoping” may be done at the same time as “Vision, Goals and Principles” as they all contribute to deciding what the plan will focus on. Others may divide the cycle into more steps, but the general order of steps is standard to most processes. Some steps may be repeated with internal feedback loops (e.g., multiple drafts of a plan as steps to get to the final draft). Engagement is a core component of every step.

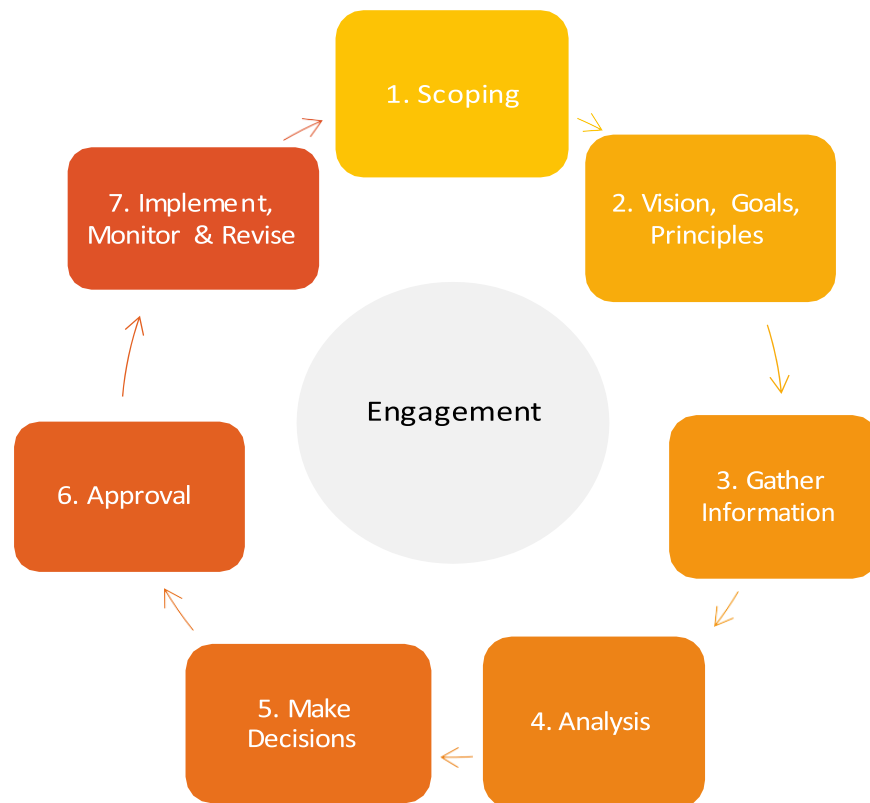


Figure 6: The Planning Cycle

The sections that follow provide an overview of each step in the planning process.

2.2.1 Plan Development



Step 1 – Scoping

Identifying what land uses and/or issues will be addressed in the plan and which will not.

Every planning process begins (or should) with some form of scoping exercise. This involves identifying what land uses and/or issues will be addressed by the plan, and which will not. This helps to keep a process from getting so complex or lengthy that it cannot be completed in a reasonable timeframe and focuses research and data collection.

Historically, most NWT planning processes have not paid sufficient attention to this step, but it is becoming standard in new plans and for plan reviews. Scoping discussions are constrained by the legal authority of the process (what a plan can and cannot do), and budget and timeline considerations, so they are generally decided by the planning body in collaboration with approving parties, but it is helpful for the planning body to first get input on the desired scope from communities and other planning partners, and then prioritize if needed.

Plans need to be scoped to be completed in three to four years, or they risk not being completed in a timely manner due to turnover in board members, staff and key planning partners.

Intersecting Initiatives: An Important Land Use Plan Scoping Consideration

Planning bodies generally keep a close eye on external processes affecting their planning regions, as land use plans (or plan amendments) may play a role in implementing these external strategies or initiatives. For example, the delineation of critical habitat in recovery plans for species at risk may require that land use plans incorporate that new habitat into the plan and provide some manner of protection through zoning or conditions. Similarly, transportation strategies or energy plans may indicate a government plan to develop a new infrastructure corridor through a planning region, and the planning body may need to craft some special conditions for that land use. When scoping a planning process, it is important to first look around at what all the planning partners are up to, so that the land use plan can address reasonably foreseeable plans for the conservation, development and use of land, waters and resources.



Step 2 – Vision, Goals and Principles

Working with communities and partners to determine the overarching framework to guide land use decisions.

This step is always done through meaningful engagement with residents and communities of the planning area (as it is their interests that must drive the process), and to a lesser extent, with other planning partners (they may add elements to the vision, or suggest elements for the communities to consider).

The vision and goals identified provide the overarching framework to guide land use decisions, so it is important to understand the regional priorities and how the communities envision their future. The guiding principles or values, which are laid out in legislation for some of the processes, provide similar overarching guidance for the process. Communities and planning partners may add to those identified in legislation to capture principles or values important to them.

While vision and goals speak to the “what”, principles or values speak to the “how”; both are needed to make good land use decisions.



Step 3 – Data and Information Collection

Collecting relevant data (existing data from government, mapping sessions with communities, gathering traditional knowledge, etc.) to inform planning decisions.

The planning body collects data and information pertaining to the social, cultural, ecological and economic state and future of the planning area, which is used to inform planning decisions. This stage must be constrained and guided by the scoping process. This is one of the longest stages of a planning process, often taking two years or more. It is time consuming work to track down information from a variety of government departments and agencies, read it, extract information relevant to planning, integrate it with other information and present it in a way that is concise and informative. Data collection also includes conducting mapping sessions with communities to record and compile their traditional knowledge and map important traditional use areas. Data collection is also at risk of continually expanding if not managed properly, as communities or planning partners raise new issues, request more mapping or information, and as new data becomes available. “Data chasing” is a common challenge in planning processes.

While this is mostly an exercise carried out by the planning body, engagement is needed to reach out to information holders to collect the information, understand it, and then vet how it is being used and characterized in the planning context to ensure it is accurate and appropriate. Similarly, documenting traditional knowledge is generally done through community mapping sessions and interviews. Scientific information also must be presented and discussed with communities, to ensure it aligns with their knowledge or where it may be in conflict, and to give communities access to information pertaining to the land, waters and resources needed to inform planning decisions.



Step 4 – Analysis

Processing the relevant data through modelling, development of options, or spatial data analysis to guide and inform decision making.

This step can take many forms and names, but it means processing the information collected to guide and inform decision making. It may involve modelling to see how future scenarios may impact values of interest. It sometimes involves the development of options (this can be its own step in some processes.). It may involve using the data to answer specific questions raised in the

scoping process, or to see how different land uses and values overlap in the region to determine areas of compatibility and potential conflict.

Because zoning is the heart of every plan, a major part of analysis focuses on the analysis of spatial data in a geographic information system (GIS). Data collection and analysis often happen together (processing data as it comes in) and in reality, often seem like one very long but important step.

Land Use Plan Analysis: An Example from the Dehcho Region

The DLUPC conducted or relied on several modelling and analysis projects to inform planning decisions, including:

- an Economic Development Model (forecasting future development scenarios);
- cumulative effects modelling (to assess the current level of landscape fragmentation against a series of disturbance thresholds);
- the development of zoning options (developed by applying different weights to values to protect versus resources to be developed);
- wildlife habitat modelling (ENR conducted modelling of boreal caribou habitat, and the DLUPC used a digital elevation model to determine critical mountain goat habitat); and
- Marxan analysis (used to assess how well proposed zoning contributed to ecological representation).

Other planning bodies have used less modelling, relying instead on more basic analysis tools (such as GIS overlays) to sort out and resolve land use issues. Modelling can sometimes help identify important factors for decisions, but they can just as often get bogged down with challenges such as unrealistic assumptions or insufficient data to run them.



Step 5 – Make Decisions

Coming to decisions on plan content in a highly consultative and iterative manner.

This step is where the land use plan is actually created. It is a bit of a black box in that there is no clear, common methodology shared by any two planning bodies, because they must be responsive to the communities, issues, priorities and information unique to each region. Some may focus decisions on the land uses (which use is allowed where and under what conditions). Some may focus on values and what is needed to sustain those values, and developing zoning and conditions to achieve them. Some may divide the landscape into discrete units and apply GIS zoning rules that propose zoning based on the underlying datasets present in each unit.

What is common is that plan development is highly consultative and iterative. Whatever method is used to arrive at a preliminary set of decisions in the form of a draft plan is then sent out for broad review and comment, and followed with meaningful engagement of communities and planning partners to see what the plan got right, where there are issues, and how those issues can be addressed. The planning body makes revisions, and then engages again. This step repeats until the issues are addressed and the approving parties signal that it is ready for approval.

Steps 4 and 5 also merge with each other as planning bodies complete some analysis, identify a potential solution, engage communities and planning partners on it, then revise it. In the Mackenzie Valley, every plan development process has required multiple drafts, with each one getting closer to a final plan that all the parties can accept.

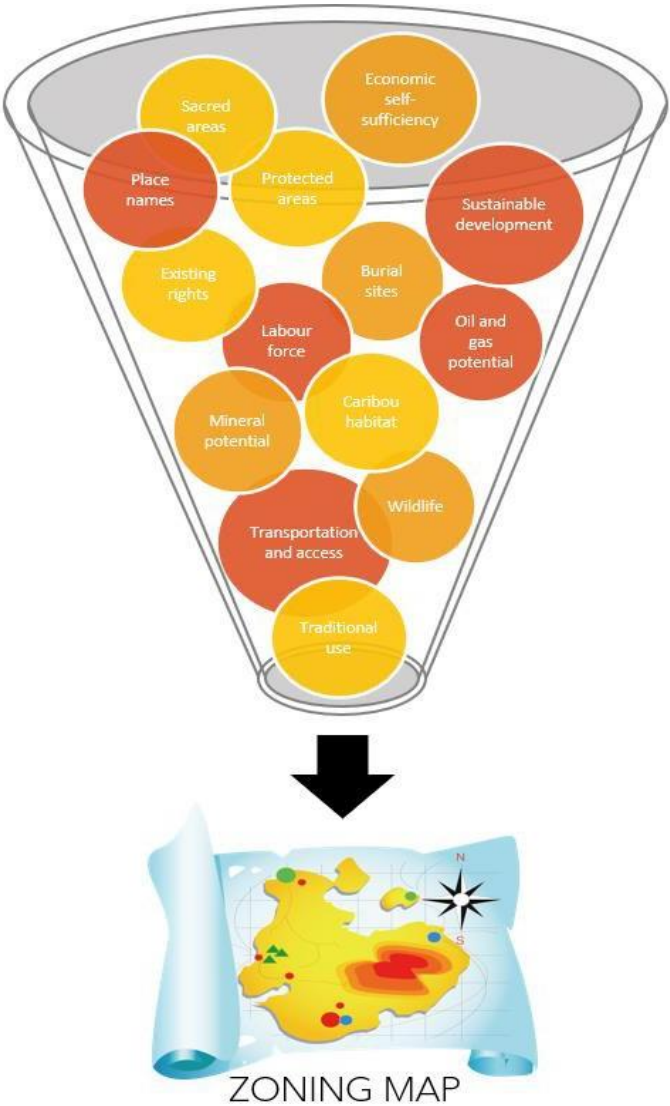


Figure 7: Considerations When a Zoning Map is Created

While planning boards engage the approving parties (along with many other parties) throughout plan development, they operate at arm’s length from all parties and are responsible for balancing the parties’ interests where they conflict. This is both a strength and a challenge for planning processes.

- ➔ The strength of an independent Planning Board is that it can make decisions that are in the best interests of the region and buffer the planning process from political or individual agendas.
- ➔ The challenge is to have sufficient involvement of the approving parties that they feel the plan represents their interests in an acceptable way. It takes a lot of back and forth between the Planning Board and the approving parties to result in a mutually acceptable plan.

Plan development ends when a Planning Board “adopts” a final plan and submits it to the approving parties for approval.

The reality of developing a plan is more complicated than the steps presented above suggest. Both the Gwich’in and Sahtú plans took 15-20 years to develop.

2.2.2 Plan Approval



Step 6 – Plan Approval

The approval authority for land use plans can be held by federal, regional and/or local organizations.

Plan approval is unique to each planning area and may include review and approval by:

- The regional Indigenous Government (or its representative body)
- The GNWT
- The appropriate federal Minister
- The appropriate Hunters and Trappers Committee (HTC), the Community Corporation (CC), the Inuvialuit Game Council, and the fish and wildlife co-management boards (ISR)

Example of Plan Approval: Gwich’in Land Use Plan

During plan approval, the Planning Board steps back while the Gwich’in Tribal Council, GNWT and federal government run their internal approval processes. The Planning Board may assist the parties to understand the plan contents, answer questions and work through approval issues, but they have no direct role during the approval period.

Section 43 of the MVRMA (below) lays out a sequential approval process, requiring first approval from the First Nation (GTC), then the GNWT, then the federal Minister. The plan comes into legal effect on the day it is signed by the federal Minister.

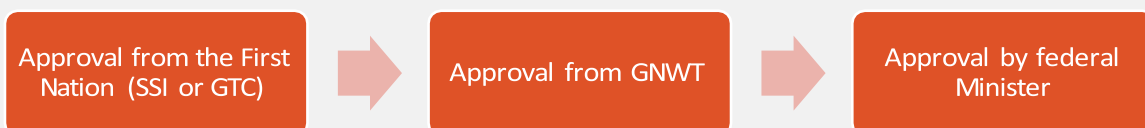


Figure 8: Example of a Plan Approval Process

What happens if a party does not approve the plan?

According to the MVRMA, where any party *does not approve* the plan:

- That party shall notify the other parties and the Planning Board, in writing, of the reasons for not approving the plan.
- The Planning Board will consider the reasons provided, make any modifications to the land use plan that it considers desirable, and then restart the approval process, beginning with the First Nation.
- Despite this direction, a rejection of the plan by one party does not imply that the Planning Board has to change the plan (though this is generally expected to be the case). During the Gwich'in Plan's approval process, the federal government rejected the plan. However, the GLUPB and GTC disagreed with the reasons for rejection. The Planning Board worked with the federal Minister to find a solution to the issues. That work delayed plan approval for four years, but the plan was approved substantially as written.

Table 3 shows which organizations have a role in the approval of land use plans.

Table 3: Plan Approval Authority for Each Region

Planning Process	Plan Approval
Gwich'in Settlement Area (GSA)	GTC, GNWT, GoC; Sequential
Sahtú Settlement Area (SSA)	SSI, GNWT, GoC; Sequential
Dehcho Territory	DFN, GNWT, GoC; Sequential
Wek'èezhìi (Tłı̄chǭ Lands)	TG – Assembly passes a law to give legal effect to the plan
Wek'èezhìi Management Area (Public Lands)	TBD
Southeastern NWT	TBD
Inuvialuit Settlement Region (Community Traditional Use areas)	WMAC (NWT and NS), FJMC, Inuvialuit Game Council (IGC), and the HTC, CC, and Elders Committee in each community

2.2.3 Plan Implementation

Step 7 – Implement & Monitor



The implementation and monitoring of land use plans is typically the responsibility of planning boards, in coordination with other organizations.

Generally, the main elements of plan implementation are described in Table 4 (p. 32), along with examples of what they look like in practice in the NWT regions. The Sahtú and Gwich'in processes have more direction for implementation and monitoring than other processes, because

considerable detail is laid out in the MVRMA to guide these processes. The Dehcho and Tłı̄chǫ planning processes have similar implementation elements but they are not spelled out in legislation, may use different terminology, and take slightly different approaches. Keep in mind that only the Sahtú, Gwich'in and Tłı̄chǫ plans are approved and therefore have implementation experience.

- **Conformity Determinations:** When an application for the use of land, water or resources is submitted to a regulator, it requires a conformity check to see if the activity conforms with (or is consistent with) the approved land use plan for that area. For the Sahtú and Gwich'in regions, generally it is the regulator who will check conformity, unless the regulator, applicant, or someone affected by the application refers it to the Planning Board. In those cases, the decision of the Planning Board will be final and binding.
 - E.g., The GNWT submitted an application for a land use permit for work related to the Mackenzie Valley Highway Extension within the SSA. The Sahtú Land and Water Board (SLWB) first had to determine if the application conformed with the approved Sahtú Land Use Plan before it could initiate its regulatory process. This conformity check is done when determining whether the application is complete.
- **Exceptions / Variances:** A plan may include the ability to make exceptions to the plan and the manner of exercising that authority.
 - E.g., The GLUP says the GLUPB may grant an exception to the land use plan and lays out criteria the Board will consider in making its decision, namely that it must be a minor exception, the exception must be desirable in the opinion of the Board, and the general intent and purpose of the plan must be maintained.
- **Periodic Review:** Planning bodies are typically required to carry out a comprehensive review of their land use plans every five years after the plans take effect and thereafter every five years, or at other intervals as agreed upon.
 - E.g., The Tłı̄chǫ Plan was approved in 2013. In 2018 the TG began scoping its plan review process.
 - E.g., The Sahtú Plan was approved in 2013. In January 2018 it released the results of its five-year review, determining that some amendments were required, but that it was too early to begin amending key aspects of the plan like the conformity requirements, as they had not been properly tested yet.
- **Amendments:** A plan amendment means changing the contents and direction of the land use plan. A planning board may adopt any amendments to a land use plan that the planning board considers necessary, and those amendments may be initiated by the planning board itself, or by any other party, at any time.
 - E.g., When Nááts'ı̄hch'oh National Park Reserve (NNPR) was formally established in December 2014, it triggered a plan amendment process by the SLUPB to rezone the areas previously set aside for the area as a Proposed Conservation Initiative that were not included in the final NNPR boundary.
 - E.g., The SLUPB initiated a second amendment process in 2018 to process the amendments arising from its five-year review.

- **Monitoring:** A process of tracking how or if plans have been applied to development applications, and/or monitoring how effective plans are in advancing the regional vision and goals.
 - E.g., In the initial years after plan approval, the GLUPB reviewed every application for the use of land, waters or resources to monitor land use activity and how the plan was being implemented by regulators. It summarized land use and conformity checks in annual reports.
 - E.g., In 2020, the SLUPB began contacting regulators to understand their processes for implementing the Sahtú Plan and to refine templates for regulators to report annually to the SLUPB on how the Plan was implemented through their authorizations. The SLUPB will issue its first Implementation Monitoring Report in 2021 covering the 2020-21 fiscal year.
- **Record Keeping:** The Sahtú and Gwich'in Land Use Planning Boards are required to keep a public record of applications made to them and all decisions made by them.
 - E.g., The SLUPB website acts as its public registry and contains all documentation and correspondence related to its periodic review, amendments and conformity determinations.
- **Cooperative Planning:** Planning bodies may cooperate with adjacent planning bodies, either within or outside the NWT, and may develop joint plans for the combined area.
 - E.g., Cooperative planning has been minimal to date, though there are transboundary connections, such as Nahanni National Park Reserve (Dehcho) and NNPR (Sahtú).

ISR Community Conservation Plan Implementation

CCPs are implemented differently than regional plans in the Mackenzie Valley, but they share some of the same elements. HTCs and CCs conduct conformity checks and forward their decisions to regulators. However, because CCPs are advisory and not legally binding, projects that don't conform may not be rejected. For example, the Inuvik-Tuk Highway passes through Category E Lands, on which no development is supposed to take place. The advisory status of CCPs also means there is no need for exceptions.

The CCPs also have a five-year review cycle and have been amended roughly every eight years. Community HTCs and CCs monitor implementation and compliance with their plans through every application they review. Further, the ISR communities have previously cooperated in the development of their plans (Aklavik and Inuvik formed a joint working group to develop the first plans in 1993), and all six communities come together to review amendments during each plan review cycle to agree on the common elements shared across all six plans.

Table 4: The Implementation and Monitoring of Land Use Plans

Planning Process	Implementation Roles of Planning Body	Who Determines Conformity?	Ability to Grant Exceptions	Review and Amendment	Monitoring Plan Implementation	Other
Gwich'in Settlement Area (GSA)	<ul style="list-style-type: none"> • Monitor plan implementation • Consider and make decisions on exceptions • Determine conformity upon referral • Conduct comprehensive review • Consider and adopt amendments (for approving parties to approve) • Maintain public record of applications for exceptions, amendments and conformity determinations, and decisions 	Gwich'in Land and Water Board (GLWB) & other regulators, GLUPB on referral	Yes	Five-year review cycle, amendments as needed	Regional Plan of Action under development	
Sahtú Settlement Area (SSA)	<ul style="list-style-type: none"> • Monitor plan implementation • Consider and make decisions on exceptions • Determine conformity upon referral • Conduct comprehensive review • Consider and adopt amendments (for approving parties to approve) • Maintain public record of applications for exceptions, amendments and conformity determinations and decisions 	Sahtú Land and Water Board (SLWB) & other regulators, SLUPB on referral	Yes	Five-year review cycle, amendments as needed	Monitoring and Evaluation Framework under development	
Dehcho Territory (as currently proposed. Plan is subject to change until approved by Dehcho First Nations, GNWT and Canada)	<ul style="list-style-type: none"> • Monitor plan implementation • Consider /grant exceptions (with the support of the approving parties) • Determine conformity upon referral • Conduct comprehensive review • Review and propose amendments • Maintain a database of human disturbance • Undertake cumulative effects assessments, evaluates indicators of landscape disturbance and establishes thresholds. 	Mackenzie Valley Land and Water Board (MVLWB) & other regulators, DLUPC on referral	Yes	Five-year review cycle, amendments as needed	Monitoring through active participation in the regulatory process, management of human disturbance database and cumulative effects assessments	Proposes Dispute Resolution and Plan Termination Processes

Planning Process	Implementation Roles of Planning Body	Who Determines Conformity?	Ability to Grant Exceptions	Review and Amendment	Monitoring Plan Implementation	Other
Wek'èezhì (Tìchq̃ Lands)	<ul style="list-style-type: none"> • Implement the plan through TG land use permissions and conditions attached to those • Grant plan variances • Conduct plan reviews and amendments 	TG, Department of Culture and Lands Protection	Yes	Five-year review cycle, amendments as needed	Implementation tracking to be considered in next five-year review	
Wek'èezhì Management Area (Public Lands)	TBD	TBD	TBD	TBD	TBD	
Southeastern NWT	TBD	TBD	TBD	TBD	TBD	
Inuvialuit Settlement Region (Community Traditional Use areas)	Community HTC and CCs review applications for conformity with CCPs and submit their decisions to regulators for consideration. Community WGs responsible for plan review and amendment.	HTCs and CCs	Advisory only so not needed.	Five-year review cycle	HTCs and CCs monitor through regular use in review of applications	

2.3 Comparison of NWT Land Use Planning Processes by Region

Land use planning processes look differently depending on the region in question. This section will help you to identify some of the key differences between the NWT plans.

2.3.1 Gwich'in and Sahtú Settlement Areas

The Gwich'in and Sahtú land claim agreements were signed in 1992 and 1993, respectively, and set out identical requirements and processes for land use planning, which were incorporated into Part 2 of the MVRMA. This description applies to both processes generally, other than where differences are specifically noted.

These documents establish community-driven planning processes, the purpose of which is to “protect and promote the social, cultural and economic well-being of residents and communities in the settlement area, having regard to the interests of all Canadians.”⁸

The plans created apply to all lands within the planning area except lands “that comprise a park to which the *Canada National Parks Act* applies, that have been acquired pursuant to the *Historic Sites and Monuments Act* or that are situated within the boundaries of a local government.”⁹ The plans “shall provide for the conservation, development and use of land, waters and other resources in a settlement area.”¹⁰

Treatment of National Historic Sites in the Gwich'in and Sahtú Land Use Plans

The words “lands...acquired pursuant to the *Historic Sites and Monuments Act*” are important. Most times, a national historic site is a plaque or monument on a historic building or site. No lands are acquired, and the site is subject to the land use plan. This is the case for the Nagwichoonjik (Mackenzie River) National Historic Site in the Gwich'in Plan. In the Sahtú, Saoyú-ʔehdacho National Historic Site is exempt from the Plan because lands were acquired by Parks Canada to form this large historic site. Once established, it was essentially removed from the planning area and application of the Plan.

The Gwich'in and Sahtú plans are legally binding – landowners and those bodies with the authority to issue rights and authorizations in these regions must ensure that proposed activities are consistent with the plans.¹¹ A planning board only determines conformity of applications against its land use plan where the activity is referred to it by “a first nation, a department or agency of the federal or territorial government, by the body having authority under any federal or territorial law to issue a license, permit or other authorization in respect of the activity, or by any person directly

⁸ MVRMA S. 35(a)

⁹ MVRMA, S. 34

¹⁰ MVRMA, S. 41(2)

¹¹ MVRMA, S. 46(1) and S. 61(1)

affected by the activity".¹² Where such a referral has been made, the decision of the planning board is final and binding.¹³

Generally, the onus is on the department issuing the right or authorization to ensure the application conforms to a plan before issuing it. If they are unsure, they may formally refer the application to the planning body for a conformity determination. In the absence of a referral to the planning body, it is up to every regulator and landowner to carry out its own assessment.

¹² MVRMA, S. 47(1)

¹³ MVRMA, S. 47(4)

2.3.2 Dehcho Region

The Dehcho First Nations (DFN) are still negotiating their land claim agreement. The planning process is not a constitutionally enshrined process like the Sahtú and Gwich'in Plans. The parties (DFN, GNWT and GoC) instead embedded the direction for planning in the *Dehcho Interim Measures Agreement* (IMA), which generally follows the Sahtú and Gwich'in processes, with some differences.

The Draft Interim Dehcho Land Use Plan is being prepared by the Dehcho Land Use Planning Committee (DLUPC), which was established under the IMA in 2001. The 2006 draft plan was approved by the DFN and not accepted by GoC and the GNWT. In 2007, the Terms of Reference for the Committee were revised to guide revisions to the draft plan so it could be supported by all three parties to the IMA (DFN, GoC, GNWT). A 2016 draft is the most current and is in the process of being revised. A new public draft is expected in 2023.

The purpose of the interim plan is to promote the social, cultural and economic well-being of residents and communities in the Dehcho territory, having regard for the interests of all Canadians. This is achieved through the conformity requirements (which includes zoning), actions and recommendations of the interim plan. The interim plan groups conformity requirements, actions and recommendations into three categories – Zoning, Dene Culture and Traditional Use, and Sustainable Development.

2.3.3 Wek'èezhì Management Area

Land use planning is different in the Wek'èezhì Management Area in that the Tłı̄chǫ Agreement (TA) establishes the possibility of three separate planning processes:

1. one carried out by the Tłı̄chǫ Government for Tłı̄chǫ lands only (S. 7.4.2(b)),
2. one carried out by GNWT and GoC on public land in the Wek'èezhì Management Area (S.22.5.1), and
3. one carried out by the Tłı̄chǫ Government, GNWT and GoC for Tłı̄chǫ lands and public lands within the Wek'èezhì Management Area (S.22.5.3).

The Tłı̄chǫ Government, Tłı̄chǫ community governments, and the federal and territorial governments must consult each other in developing their respective plans (S.22.5.2). Once a plan is approved that is applicable to any part of Wek'èezhì, “government [GoC, GNWT, or both], the Tłı̄chǫ Government and the Tłı̄chǫ community governments and their departments and agencies, including the Wek'èezhì Land and Water Board, shall exercise their powers in relation to Wek'èezhì in accordance with the plan” (S.22.5.4).

The Tłı̄chǫ Government has completed its own planning process for the approximately 39,000 km² of Tłı̄chǫ lands. The plan does not apply within community boundaries or to fee simple lands. The purpose of the Tłı̄chǫ Land Use Plan (Tłı̄chǫ Wenek'e) is to protect the land for future generations by developing goals, planning statements, and a set of rules and regulations that are administered by the Department of Culture and Lands Protection and followed by all parties and individuals. The Tłı̄chǫ Land Use Plan was approved by the Tłı̄chǫ Government and came into effect in June 2013. The plan is legally binding on new land uses occurring on Tłı̄chǫ lands (S. 22.3.16).

The GNWT, Government of Canada and the Tłıchǫ Government have been working collaboratively to develop options for a planning process for the public lands in Wek'èezhii. The parties have proposed to develop a land use plan on a government-to-government basis. No further information is available on this process yet, as it is in the early stages of development.

2.3.4 Southeastern NWT

The GNWT is working with Indigenous governments and organizations (including the ADFN and the NWTMN) and the GoC to develop an approach to land use planning concurrently to negotiations for modern land, resources and self-government agreements.¹⁴

2.3.5 Inuvialuit Settlement Region

Community Conservation Plans (CCPs) are not regional land use plans, they are conservation plans. They provide the community perspective on the integrated resource management system, identifying species of interest, areas of concern, community knowledge on wildlife, habitat use and related topics.

They are intended to address five broad goals:

1. To identify important wildlife habitat and seasonal harvesting areas and make recommendations for their management.
2. To describe a community process for land use decisions and managing cumulative impacts, which will help protect community values and the resources on which priority lifestyles depend.
3. To identify educational initiatives for the Inuvialuit of each community and others interested in the area around the community, which will promote conservation, understanding and appreciation.
4. To describe a general system of wildlife management and identify population goals and conservation measures appropriate for each species of concern in the planning area using the knowledge of community and others with expertise.
5. To enhance the local economy by adopting a cooperative and consistent approach to community decision making and renewable resource management.

¹⁴ Finding Common Ground: A renewed commitment to regional land use planning in the Northwest Territories, Government of the Northwest Territories, Department of Lands, May 2019.

2.3.6 Comparison Table Across Regions

Table 5 below presents a comparison of all elements of the land use planning processes across the NWT. The processes for each planning area are described in further detail earlier in this chapter.

Table 5: Comparison of the Land Use Planning Processes Across the NWT

Planning Process	Gwich'in Settlement Area (GSA)	Sahtú Settlement Area (SSA)	Dehcho Territory	Wek'èezhìi (Tìchq Lands)	Wek'èezhìi Management Area (Public Lands)	Southeastern NWT (Akaitcho / NWTMN Interim Measures Agreement)	Inuvialuit Settlement Region (Community Traditional Use areas)
Size	~56,935 km ²	~283,988 km ²	~ 215,615 km ²	~39,000 km ²	114,940 km ² (excluding Tìchq lands)	~322,143 km ²	1,172,748 km ²
Planning Body	GLUPB	SLUPB	DLUPC	TG	TBD	TBD	WMAC (NWT & NS), FJMC, Community Working Groups (WGs), which includes HTC, CC and Elders Committee
Governance Model	IPG	IPG	Initially IPG 2007 – Present, similar to government-to-government (G2G)	Single Party	TBD - proposed G2G	TBD - proposed G2G	WGs and JS
Plan Status	Approved	Approved	Draft, under revision (NOT Approved)	Approved	Not yet started	Not yet started	Approved
Legal Authority / Direction	Gwich'in Comprehensive Land Claim Agreement (GCLCA), MVRMA	Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA), MVRMA	Interim Measures Agreement (not legally binding)	Tìchq Agreement (TA), MVRMA (limited)	TA	No explicit authority, GNWT/federal authority as land managers	Inuvialuit Final Agreement (IFA)

Planning Process	Gwich'in Settlement Area (GSA)	Sahtú Settlement Area (SSA)	Dehcho Territory ¹⁵	Wek'èezhì (Tìchq̄ Lands)	Wek'èezhì Management Area (Public Lands)	Southeastern NWT (Akaitcho / NWTMN Interim Measures Agreement)	Inuvialuit Settlement Region (Community Traditional Use areas)
Authority of Plan	Legally binding	Legally binding	Intended to be legally binding; lacking some implementation mechanisms	Legally binding	Legally binding	Intended to be legally binding; implementation mechanisms TBD	Advisory
Application to Land	Public and settlement lands, excludes lands in community boundaries and national parks and lands acquired for a national historic site or monument	Public and settlement lands, excludes lands in community boundaries and national parks and lands acquired for a national historic site or monument	Public and settlement lands (when they exist upon completion of land claim agreement), excludes lands in community boundaries and national parks and lands acquired for a national historic site or monument	Tìchq̄ land, excludes lands in community boundaries	Public land	TBD	Public and Inuvialuit private lands, Gwich'in private lands. CCPs cover municipal boundaries, but are not the main planning instrument in those areas
Plan Approval	GTC, GNWT, GoC; Sequential	SSI, GNWT, GoC; Sequential	DFN, GNWT, GoC; Sequential	TG – Assembly passes a law to give legal effect to the plan	TBD - TA gives 'Government' the authority to plan (GNWT and GoC)	TBD	WMAC (NWT & NS), FJMC, HTC, CC, Elders Committee, Inuvialuit Game Council (IGC)
Implementation Roles of Planning Body	<ul style="list-style-type: none"> Monitor plan implementation Consider and make decisions on exceptions Determine conformity upon referral Conduct comprehensive review 		<ul style="list-style-type: none"> Monitor plan implementation Consider / grant exceptions (with support of approving parties) 	<ul style="list-style-type: none"> Implement the plan through TG land use permissions and conditions 	TBD	TBD	Community HTCs and CCs review applications for conformity with CCPs and submit their decisions to

¹⁵ As the Interim Draft Dehcho Land Use Plan is still under revision, some of the parameters outlined may change prior to completion and approval.

Planning Process	Gwich'in Settlement Area (GSA)	Sahtú Settlement Area (SSA)	Dehcho Territory	Wek'èezhì (Tìchq̄ Lands)	Wek'èezhì Management Area (Public Lands)	Southeastern NWT (Akaitcho / NWTMN Interim Measures Agreement)	Inuvialuit Settlement Region (Community Traditional Use areas)
	<ul style="list-style-type: none"> Consider and adopt amendments Maintain public record of applications for exceptions, amendments and conformity determinations, and decisions 		<ul style="list-style-type: none"> Determine conformity upon referral Conduct comprehensive review Review and propose amendments Maintain a database of human disturbance Undertake cumulative effects assessments, evaluates indicators of landscape disturbance and establishes thresholds. 	<p>attached to those</p> <ul style="list-style-type: none"> Grant plan variances Conduct plan reviews and amendments 			<p>regulators for consideration.</p> <p>Community WGs responsible for plan review and amendment</p>
Who Determines Conformity?	Gwich'in Land and Water Board (GLWB) & other regulators, GLUPB on referral	SLWB & other regulators, SLUPB on referral	Mackenzie Valley Land and Water Board (MVLWB) & other regulators, DLUPC on referral	TG, Department of Culture and Lands Protection	TBD	TBD	HTCs and CCs
Ability to Grant Exceptions	Yes	Yes	Yes	Yes	TBD	TBD	Advisory only so not needed.
Review and Amendment	Five-year review cycle, amendments as needed	Five-year review cycle, amendments as needed	Five-year review cycle, amendments as needed	Five-year review cycle, amendments as needed	TBD	TBD	Five-year review cycle

Planning Process	Gwich'in Settlement Area (GSA)	Sahtú Settlement Area (SSA)	Dehcho Territory	Wek'èezhìi (Tìchq̄ Lands)	Wek'èezhìi Management Area (Public Lands)	Southeastern NWT (Akaitcho / NWTMN Interim Measures Agreement)	Inuvialuit Settlement Region (Community Traditional Use areas)
Monitoring Plan Implementation	Regional Plan of Action under development	Monitoring and Evaluation Framework under development	Monitoring through active participation in the regulatory process, management of human disturbance database and cumulative effects assessments	Implementation tracking to be considered in next five-year review	TBD	TBD	HTCs and CCs monitor through regular use in review of applications
Other			Includes Dispute Resolution and Plan Termination Processes				

Chapter 3: The Structure and Key Elements of Land Use Plans

This section provides an overview and comparison of content and structure of land use plans in the NWT, as well as a detailed description of each plan.

CHAPTER OBJECTIVES

By reading this chapter, you will be able to:

- ✓ Outline the general content of a land use plan
- ✓ Identify similarities and differences across the land use plans in NWT
- ✓ Distinguish between types of land use zones
- ✓ Describe the basic components of each land use plan in the NWT
- ✓ Describe key elements of land use plans and community conservation plans

Chapter Breakdown:

Section 3.1 Structure of the Plans

Section 3.2 Key Elements within Land Use Plans



3.1 Structure of the Plans

As described in Chapter 1, there are four existing land use plans in the Mackenzie Valley (the Dehcho Plan is under active revision though and not yet approved or in force):



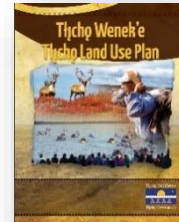
Gwich'in Land Use Plan



Sahtú Land Use Plan



Interim Draft Dehcho Land Use Plan



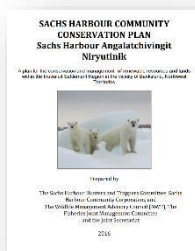
Tłı̄chǫ Land Use Plan (Tłı̄chǫ Wenek'e)

There are also six Community Conservation Plans in the Inuvialuit Settlement Region:

Aklavik



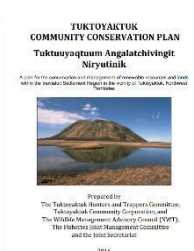
Sachs Harbour



Inuvik



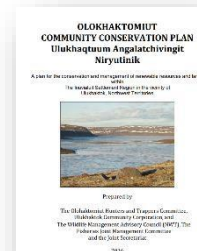
Tuktoyaktuk



Paulatuk



Ulukhaktok



While the content and structure of each plan varies, many of the plans include similar types of information. Figure 9 below provides a loose structure of the types of information that might be included in the land use plans. More detail is provided under the description of each land use plan in this Chapter.

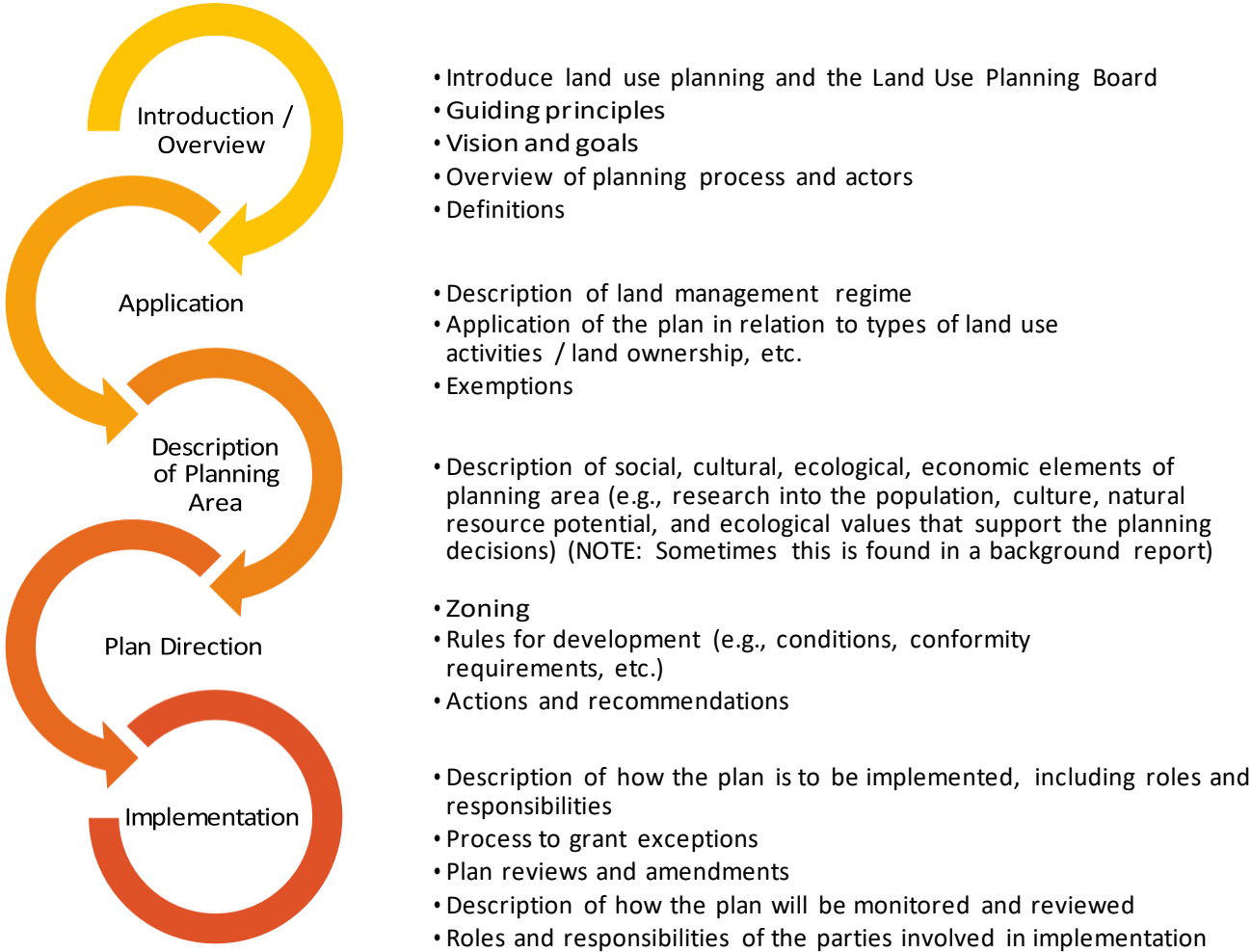


Figure 9: Examples of Land Use Plan Content

3.2 Key Elements in Land Use Plans




This section breaks down the following key elements of land use plans, including general definitions and how these terms are used in the land use plans in the NWT.



Figure 10: Key Elements Found in a Land Use Plan

3.2.1 Zoning

Zoning identifies which land uses are allowed where, and under what conditions. Each plan uses different zone designations and names, but it is possible to group the various zone designations into three broad categories to simplify comparison. Refer to each of the plans for specific definitions.

	Types of Zones	General Description
	General <i>General Use</i> <i>Enhanced Management</i> <i>Category A</i>	Areas where all or most land uses are possible, subject to necessary approvals from current regulatory system and a plan's general conditions (as applicable).
	Special <i>Special Management</i> <i>Special Development</i> <i>Special Infrastructure Corridor</i> <i>Cultural Heritage</i> <i>Traditional Use</i> <i>Category B, C, D</i>	Areas that include cultural or ecological values that are sensitive to development, but that can be managed through the application of conditions, to allow a variety of land uses to occur.
	Conservation <i>Conservation</i> <i>Proposed Conservation Initiatives</i> <i>Established Protected Areas</i> <i>Candidate Protected Areas</i> <i>Habitat Management</i> <i>Land Use Exclusion</i> <i>Category E</i>	Areas having significant ecological and/or cultural values to protect, where certain incompatible land uses are not permitted.

The comparison table below lists the types of zones (designations used) in each of the regions. A description of each designation for each region is included later in this Chapter.

Table 6: Names of Zone Designations Used in Each Region

	Gwich'in	Sahtú	Dehcho	Tłı̨chǫ	Inuvialuit
Zone Type	GLUP (2003)	SLUP (2013)	DRAFTIDLUP (2016)	Tłı̨chǫ Wenek'e (2013)	Inuvialuit CCPs (2016)
General	<ul style="list-style-type: none"> • General Use 	<ul style="list-style-type: none"> • General Use 	<ul style="list-style-type: none"> • General Use 	<ul style="list-style-type: none"> • Enhanced Management 	<ul style="list-style-type: none"> • Category A
Special	<ul style="list-style-type: none"> • Special Management 	<ul style="list-style-type: none"> • Special Management 	<ul style="list-style-type: none"> • Special Management • Special Development • Special Infrastructure Corridor 	<ul style="list-style-type: none"> • Cultural Heritage • Traditional Use 	<ul style="list-style-type: none"> • Category B • Category C • Category D
Conservation	<ul style="list-style-type: none"> • Conservation • Heritage Conservation 	<ul style="list-style-type: none"> • Conservation • Proposed Conservation Initiatives • Established Protected Areas 	<ul style="list-style-type: none"> • Conservation • Candidate Protected Areas 	<ul style="list-style-type: none"> • Habitat Management • Land Use Exclusion 	<ul style="list-style-type: none"> • Category E

Land Uses

Land use plans describe what types of land use activities can be allowed, where and under what conditions. In general, land uses that have potential for significant physical impact on the land are more carefully managed through the plans.

Table 7 below lists the types of land uses that are addressed through existing land use plans, whether through zoning (see S.3.2.2). Other land uses not mentioned may still be subject to the plans if they require authorizations for which some of the plan's conditions or recommendations are relevant, but there may be no specific direction for those land uses.

Table 7: Land Uses Addressed Through Land Use Plans¹⁶

	Gwich'in	Sahtú	Dehcho	Tłjchq	Inuvialuit
Type of activities:	GLUP (2003)	SLUP (2013)	DRAFTIDLUP (2016)	Tłjchq Wenek'e (2013)	Inuvialuit CCPs (2016)
Oil and Gas Exploration & Development	X	X	X	X	X
Mineral Exploration & Development	X	X	X	X	X
Quarrying	X	X	X	X	X
Transportation & Infrastructure Development	X (Includes communication)	X	X	X	X (Includes Marine Shipping)
Waste Disposal	X				
Power Development	X	X	Hydro Generation	Hydro Generation	
Commercial Renewable Resource Activities	X	Forestry Fish Farming and Aquaculture	Forestry Commercial Fishing	Forestry	Commercial Fishing
Bulk Water Removal		X			
Agriculture			X		
Tourism	X		X	Eco-cultural Tourism Hunting and Fishing Lodge	X
Military Use					X
Non-Exploitive Scientific Research				X	

¹⁶ "X" denotes that the plan addresses that land use. Where the plan focuses on a subset of the category of land use, it is specified.

	Gwich'in	Sahtú	Dehcho	Tłjchq	Inuvialuit
Type of activities:	GLUP (2003)	SLUP (2013)	DRAFTIDLUP (2016)	Tłjchq Wenek'e (2013)	Inuvialuit CCPs (2016)
Traditional Use (Camp, Cabin, Harvesting)				X	X

Exempt Activities

Most plans specifically exempt some activities from application of the plan, either from the entire plan, or from zoning only (some conditions for development may apply). In general, exempt activities are land use activities that have a low physical impact on the land (e.g., tourism and recreation), existed prior to the development of the plan (existing rights), or are very important from a safety (clean-up of contaminated sites) or cultural perspective (traditional use of the land). Some plans treat “below threshold” activities (minor activities that do not require any authorizations) separately from “exempt activities”, However, since plans can only be implemented through authorizations, activities that do not require authorizations are automatically exempt from the Plan. Therefore, they are combined for comparative purposes.

Table 8: Exempt Activities

Region	Gwich'in	Sahtú	Dehcho	Tłjchq	Inuvialuit
Plan	GLUP (2003)	SLUP (2013)	DRAFTIDLUP (2016)	Tłjchq Wenek'e (2013)	Inuvialuit CCPs (2016)
Existing Uses	X	X	X	X	Not applicable
Traditional Use	X	X	X	X	
Emergency Activities	X	X	X	X	
Municipal Infrastructure		X			
Cleanup and Reclamation		X	X	X	
Activities within Established Protected Areas		X			
Low Impact / Below Threshold Activities*	Recreation, Tourism	X	Scientific research, prospecting and	X	

Region	Gwich'in	Sahtú	Dehcho	Tłjchq	Inuvialuit
Plan	GLUP (2003)	SLUP (2013)	DRAFTIDLUP (2016)	Tłjchq Wenek'e (2013)	Inuvialuit CCPs (2016)
			mineral staking, free timber cutting permits, resident and non-resident hunting, anything not requiring an authorization.		
*Activities that do not require an authorization or disposition or are specifically listed as exempt due to low impact.					

3.2.2 Conditions for Development

Zoning maps are often accompanied by land use conditions or rules for development. Different conditions apply to different zones, according to the values needing protection. In general, conditions are requirements that a land use must meet in order to receive authorization, or that must be included and/or complied with under an authorization. Conditions often differ according to the type of zoning. For example, General Use Zones may be subject to general conditions, applicable to a variety of land uses; while there might be special conditions that apply only to certain special management zones to protect the values unique to that area. For example, conditions may stipulate that land use activities must:

- not substantially alter water quality, quantity and rate of flow
- demonstrate no negative impacts on wildlife, habitat, traplines and winter trails
- engage with the community to gather information on concerns and relevant traditional knowledge
- demonstrate community benefits, or benefits to the public interest

Conditions are referred to differently in the different planning regions; terms used include “Land Protection Directives” (Tłıchǫ), “Conformity Requirements” (Dehcho and Sahtú) and “Conditions” (Gwich’in).

The following table compares the topics of conditions set forth in each of the land use plans.

Table 9: Conditions for Development

	Gwich'in GLUP (2003)	Sahtú SLUP (2013)	Dehcho DRAFT IDLUP (2016 – proposed as plan not approved) *	Tłı̨chǫ Tłı̨chǫ Wenek'e (2013)	Inuvialuit Inuvialuit CCPs (2016)
Terminology	'Conditions'	'Conformity Requirements'	'Conformity Requirements'	'Land Protection Directives'	Community WG Recommendations
Water Protection	<ul style="list-style-type: none"> • Water Quality 	<ul style="list-style-type: none"> • Watershed Management • Drinking Water • Disturbance of Lakebed • Water Withdrawal 	<ul style="list-style-type: none"> • Water Management 	<ul style="list-style-type: none"> • Watershed 	<ul style="list-style-type: none"> • Water level monitoring • Many of the wildlife and habitat protection recommendations protect water as they are marine species (E.g., there are restrictions on ship/tanker/ice breaker traffic, hydro development, oil and gas and mining activities, and port development in Beluga management zones)
Fish and Wildlife, and Habitat Protection	<ul style="list-style-type: none"> • Porcupine • Caribou • Traditional Fish Harvesting • Fish Habitat • Waterfowl • Peregrine Falcons and other Raptors 	<ul style="list-style-type: none"> • Fish and Wildlife • Species Introductions • Sensitive Species and Features • Fish Farming and Aquaculture 	<ul style="list-style-type: none"> • Significant environmental and habitat features 	<ul style="list-style-type: none"> • Wildlife, habitat, traplines and winter trails 	<ul style="list-style-type: none"> • Commercial fishing • Development near fish lakes and rivers • Site- and species-specific wildlife monitoring programs • Species-specific management and habitat protection plans

	Gwich'in	Sahtú	Dehcho	Tłjchq	Inuvialuit
	GLUP (2003)	SLUP (2013)	DRAFT IDLUP (2016 – proposed as plan not approved) *	Tłjchq Wenek'e (2013)	Inuvialuit CCPs (2016)
					<ul style="list-style-type: none"> • Site-specific direction or prohibitions on land use to protect wildlife and habitat • Minimum flight altitudes • Waterfowl, migratory birds, beluga, seals, polar bears, grizzly bears, moose, caribou
Culture/ Heritage Resource Protection	<ul style="list-style-type: none"> • Heritage Resources 	<ul style="list-style-type: none"> • Archaeological Sites and Burial Sites 	<ul style="list-style-type: none"> • Special Development Zone Cultural and Ecological Features 	<ul style="list-style-type: none"> • Wildlife, habitat, traplines and winter trails 	<ul style="list-style-type: none"> • Protection of traditional Inuvialuit camps and cultural sites • Designation of sites as historical sites • Protection of fossil and cultural artefacts
Protection of Special Features / Places	<ul style="list-style-type: none"> • Tourism Value 	<ul style="list-style-type: none"> • Protection of Special Values • The Great Bear Lake Watershed • Uses of Du K'ets'Edi Conservation Zone 	<ul style="list-style-type: none"> • Special Development Zone Cultural and Ecological Features 	<ul style="list-style-type: none"> • Ecological representation analysis 	<ul style="list-style-type: none"> • Establishment of protected areas
Managing Environmental Impacts		<ul style="list-style-type: none"> • Permafrost • Project-Specific Monitoring • Financial Security • Closure and Reclamation 	<ul style="list-style-type: none"> • Timber recovery • Digital mapping • Cumulative effects (advisory only) 		<ul style="list-style-type: none"> • Cumulative effects • Management of land use impacts on sensitive sites

	Gwich'in	Sahtú	Dehcho	Tłı̄chǫ	Inuvialuit
	GLUP (2003)	SLUP (2013)	DRAFT IDLUP (2016 – proposed as plan not approved) *	Tłı̄chǫ Wenek'e (2013)	Inuvialuit CCPs (2016)
Community Well-Being	(Some of the conditions above have a community engagement and traditional knowledge component)	<ul style="list-style-type: none"> • Community Engagement and Traditional Knowledge • Community Benefits 	<ul style="list-style-type: none"> • Community / Public Infrastructure 	<ul style="list-style-type: none"> • Demonstrating Benefits 	<ul style="list-style-type: none"> • Engaging HTC's • Protection of the Inuvialuit right to peaceable enjoyment of the lands
Direction for Specific Land Uses			<ul style="list-style-type: none"> • Pipelines • Transportation and infrastructure corridors • Quarrying • Commercial fishing • Hydro-electric development • Agriculture • Big Game Outfitting • Fishing Lodges 	<ul style="list-style-type: none"> • Forestry • Tourism • Uses not considered in zoning 	<ul style="list-style-type: none"> • Designation of Shipping Channels • Shipping restrictions during ice cover • Tourism guidelines • Dredging
Making Land Use Decisions				<ul style="list-style-type: none"> • Tłı̄chǫ Land Use Guidelines • Balancing protection and economic development 	<ul style="list-style-type: none"> • Development of land use / recreation plan (site-specific)
<p>* The items listed for the Draft IDLUP are proposed Actions or Recommendations in the most current draft (2016), rather than Conformity Requirements, but are included here for comparative purposes because they provide specific direction or limitations on land uses similar to that provided in other plans. For some, the status (mandatory or advisory) is still being negotiated.</p>					

3.2.3 Actions and Recommendations

All plans contain additional guidance meant to advance the vision, goals or effectiveness of the plan, or resolve land use issues. They are advisory only (not mandatory). They may be called Actions, Recommendations or Land Protection Directives (Tłı̄chǫ), and they mean something different in each plan.

Actions are generally directed at various bodies, including co-management boards, Indigenous organizations and governments, and departments and agencies of the federal and territorial governments. Actions may be directive (“will” or “shall”) and may represent a political commitment by the approving parties to make reasonable efforts to complete them (Sahtú), or they may use suggestive language (“encourage”). The Gwich’in Land Use Plan uses a combination of directive and suggestive language, depending on the action and organization the action is directed at. Regardless of the wording used, actions are not legally binding. Examples of actions include:

Actions generally mean measures to advance planning issues or fill data gaps needed to move the plan forward during future review cycles.

- Inspection and Enforcement Priorities – Directs those with inspection and enforcement responsibilities to consider zone designations in setting their inspection and enforcement priorities, recognizing the sensitivity of these areas.
- Access to Wildlife Information – Directs wildlife managers to share current available data on important and critical wildlife habitat.

Recommendations identify measures for applicants and regulators to act on to support the regulatory process.

Recommendations support the regulatory process by identifying additional factors or measures for applicants and regulators to consider or act on during project reviews. Recommendations are advisory, not legally binding. Applicants and regulators are asked to consider and

implement recommendations wherever feasible and appropriate. Only the Sahtú and Dehcho plans include recommendations. Examples of recommendations include:

- Climate Change – Encourages applicants and regulators to integrate analysis of the effects of climate change into proposed land use activities, to monitor how activities contribute to climate change, and minimize such effects.
- Community Land Use Monitors – Encourages applicants to fund local Renewable Resource Councils to hire independent land use monitors.

The Tłı̄chǫ Plan calls all of its guidance “Land Protection Directives”, regardless of whether they set conditions for development, or provide guidance to advance broader planning goals or implementation. Some plans use both actions and recommendations (Sahtú and Dehcho), some plans use only actions (Gwich’in), some plans use only recommendations (CCPs).

Table 10: Actions and Recommendations

Region	Gwich'in	Sahtú	Dehcho	Tłı̄chǫ	Inuvialuit
Plan	GLUP (2003)	SLUP (2013)	DRAFT IDLUP (2016)	Tłı̄chǫ Wenek'e (2013)	Inuvialuit CCPs (2016)
Actions	<p>There are 50 "Required and Recommended Actions" - some use "shall" while some use "recommend". See Ch. 5 of the GLUP. The Actions are grouped according to the following land use issues:</p> <ul style="list-style-type: none"> • Community Involvement 	<ul style="list-style-type: none"> • Sahtú Land Use Working Group • Inspection and Enforcement Priorities • Access to Wildlife Information • Water Withdrawals 	<ul style="list-style-type: none"> • Pipeline locations • Community Involvement • Local guides and monitors • Silvicultural practices • Big Game Outfitters • Fishing Lodges • Cumulative Effects Working Group • Cumulative Effects Assessment 	<p>"Land Protection Directives"</p> <ul style="list-style-type: none"> • Land use in seasonal caribou range • Conservation of migratory caribou • National Recovery Strategy for Boreal Caribou • Climate Change Adaptation and Mitigation 	<p>Re-designation of lands to manage cumulative impacts</p>
Recommendations	<ul style="list-style-type: none"> • Economic Development • Gwich'in Heritage Resources • Water and Air Resources • Renewable Resources • Non-Renewable Resources • Pollution and Waste Management 	<ul style="list-style-type: none"> • Air Quality • Climate Change • Community Land Use Monitors • Incidental Harvest 	<ul style="list-style-type: none"> • Minimizing environmental impacts • Community engagement • Pipelines • Dene Laws, Values and Principles • Dene language and culture • Climate change • Non-Exclusive Geophysical Surveys • Quarry locations 	<ul style="list-style-type: none"> • Use of Elders' Knowledge • Document Tłı̄chǫ Cultural Heritage Resources • Filling Research Gaps • Cumulative effects monitoring framework • Contaminated Sites • Forest Fire Management 	<p>The CCPs include recommendations or guidelines related to:</p> <ul style="list-style-type: none"> • General land use (camp building, keep the land clean, strengthen the Heritage Resources Act) • Improving the environmental screening and review processes

Region	Gwich'in	Sahtú	Dehcho	Tłı̨chǫ	Inuvialuit
Plan	GLUP (2003)	SLUP (2013)	DRAFT IDLUP (2016)	Tłı̨chǫ Wenek'e (2013)	Inuvialuit CCPs (2016)
	<ul style="list-style-type: none"> • Transportation, Utilities and Communications • Tourism and Recreation • Transboundary Areas • Legislated Protected Areas 		<ul style="list-style-type: none"> • Air quality standards • Mine reclamation • Revegetation • Tourism guidelines and visitor management • Agricultural impacts • Landscape disturbance • Significant habitat protections • Camps and communities • Implementation processes 	<ul style="list-style-type: none"> • Application of the Plan to third party interests and non-Tłı̨chǫ landowners • Implementation roles • Partnerships to build capacity and increase economic development • Community engagement • Communications with Tłı̨chǫ citizens • Inspections • Further Research 	<ul style="list-style-type: none"> • Necessary education, training and information exchange • General wildlife management and research • Subsistence and Commercial Harvest • Tourism

Chapter 4: The Future of Land Use Planning in the NWT

What could the future of land use planning in the NWT look like? How might land use plans work across regional planning boundaries? There is some work remaining to improve land use planning in the NWT.

CHAPTER OBJECTIVES

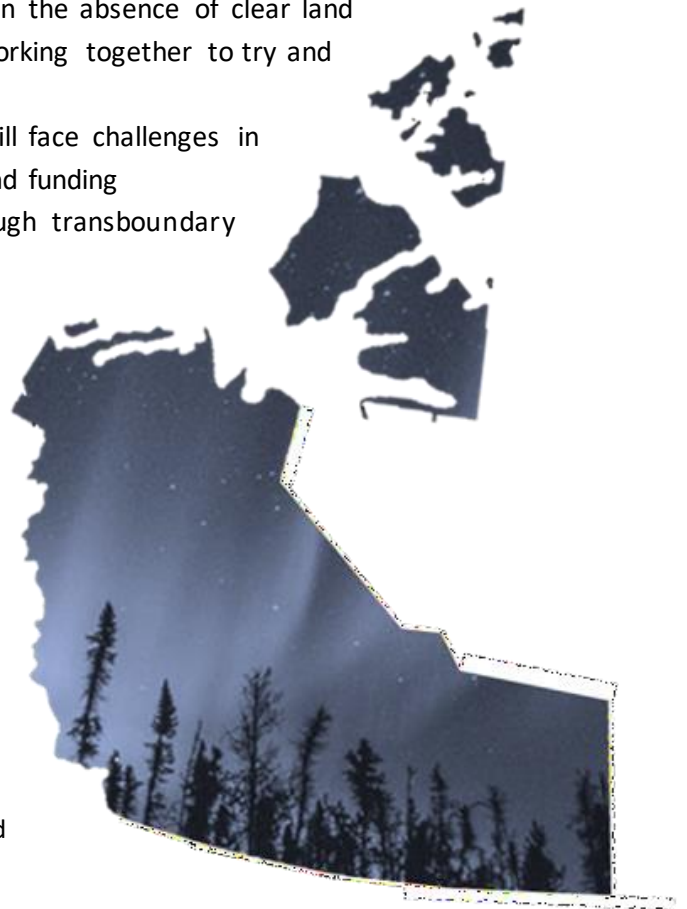
By reading this chapter, you will be able to:

- ✓ Understand why completing land use plans in the absence of clear land claims is complicated and how parties are working together to try and finish the plans
- ✓ Describe how areas with completed plans still face challenges in terms of monitoring plan implementation and funding
- ✓ Describe how areas may work together through transboundary planning and regional cooperation

Chapter Breakdown:

Section 4.1 Future of Planning in Areas Without Completed Plans

Section 4.2 Future of Planning in Areas with Completed Plans



4.1 Future of Planning for Areas Without Completed Plans

The future of planning looks very different for regions with land use plans than for those without. As a reminder from Chapter 1, here is a snapshot of areas without complete plans.

Table 11: Areas Without Completed Plans

Settlement Region	Status of Planning	Planning Body	Approving Parties
Dehcho Region	Initial Draft Plan completed in 2006 but not approved. A new draft is expected to be released for public review in 2023.	Dehcho Land Use Planning Committee	Dehcho First Nations, GNWT, GoC
Wek'èezhì Management Area (Public Lands)	Planning has not yet begun in this region. The GNWT, GoC and Tłı̄chų Government have agreed on a government-to-government approach for planning for public land in the Wek'èezhì Management Area and the establishment a joint planning office in Behchokò.	To be determined	TBD
Southeastern NWT	Planning has not yet begun in this region. The GNWT is partnering with the Akaitcho Dene First Nations, the Northwest Territory Métis Nation and the GoC to determine the feasibility of a land use planning process proceeding concurrently with land claim negotiations.	To be determined	TBD

4.1.1 Challenges for Areas Without Completed Plans

Areas without completed plans face a number of unique challenges. This section describes those challenges and summarizes them below.



Figure 11: Challenges for Areas Without Completed Plans

A New Planning Model Required: Government-to-Government (G2G) Planning

The regions lacking completed or approved plans cannot easily replicate the models that worked for the Sahtú and the Gwich'in as those are based on finalized land claim agreements. The future of planning for those regions lies in establishing a new planning model that allows those plans to be completed and approved in a timely manner.

With the Dehcho region, major elements of the plan and planning process in the Dehcho First Nations Interim Measures Agreement mirrored those used in the Sahtú and Gwich'in regions. After the 2006 plan was not accepted by the GNWT or GoC, new Terms of Reference for the Dehcho Land Use Planning Committee were agreed in 2007 to by Dehcho First Nations, GNWT and GoC, which placed the Planning Committee under the direction of the Dehcho Process Main Table (Land Claim negotiations).

In the southeastern NWT, the situation is one of complex, overlapping Indigenous rights, primarily between the Akaitcho Dene and Northwest Territories Métis Nation in the NWT, with additional overlapping rights from the Manitoba and Athabasca Denesuline, all negotiating separate and partially overlapping land claim agreements.

The key element between these two regions is a context of ongoing land claim negotiations. The easiest solution would of course be to complete the land claim agreements first, but that may not be a timely solution.

Establishing a neutral planning body, as was done for the Sahtú and Gwich'in regions, will not be effective in this environment. When the parties are still negotiating major issues related to land, they need to be at the table, making the decisions directly, rather than delegating that decision-making authority to another body. They need to make the trade-offs required in developing a plan themselves, to be able to sign off on the final results. The future of land use planning lies in establishing a new government-to-government (G2G) model.

KEY TERM

What is a Government-to-Government (G2G model)?



- A G2G approach is based on the premise that each party at the table is an independent government with its own rights and jurisdictions. The governments work directly with each other, coming together as equal partners to jointly make decisions that affect their mutual interests. Decisions are made by consensus, rather than majority voting, giving equal decision-making authority to each government at the table.
- A G2G governance approach builds the relationships, understanding and awareness needed to move ahead.
- It is an approach that resonates with parties on the path to Indigenous Reconciliation and is being increasingly used.

As it requires building consensus across a number of parties, plan development that follows a G2G model will likely proceed slower than one that uses an IPG governance structure, as each decision needs to be discussed internally in each party, and vetted. It will also require each party to invest more time and resources in plan development than they have previously in IPG-led processes, as the Parties will be actively developing the plan themselves, rather than only commenting on and approving it. However, a G2G approach should ensure that when the plan is complete, every party is prepared to accept it, because they wrote it together.

A G2G model is being used between the Tłıchǫ Government, GNWT and GoC for the planning process for public lands in the Wek'èezhì Management Area. While that process is being carried out under the authority and guidance of a completed land claim agreement, a G2G model is the best means to advance reconciliation and will assist the parties to address overlapping interests with adjacent Indigenous Governments present in that region as well.

Indigenous-Led Planning and Capacity Building

Other future directions for planning in unplanned areas are Indigenous-led planning and capacity building. For years, the Akaitcho and Métis communities in the southeastern NWT have been asking for the funds, training and capacity to begin planning on their own, rather than having someone come in and plan for them. The most effective and supported plan will be one that the communities develop themselves. Giving each First Nation and Métis community the opportunity to lay out their

The most effective and supported plan will be one that the communities can develop themselves.

own vision for the conservation, use and development of land, waters and resources in their traditional territories puts them in a better position to participate effectively in a public planning process. Armed with knowledge and data about their own land use and priorities, they will be prepared and able to negotiate revisions to accommodate others' interests. In the absence of going through the process to define and plan for their own interests, their safest choice is to say 'no'. Building capacity in land use planning also builds capacity in land administration, land selection, and participation in the regulatory system.

The biggest challenge facing planning in the southeastern NWT is how to resolve plan direction in areas of overlap. The easiest way to do this is to have the Indigenous Governments resolve their overlap themselves and jointly develop an integrated plan that each Indigenous Government supports. Anything Government can do to facilitate or encourage overlapping Indigenous Governments to resolve their issues in areas of overlap directly, the easier planning gets.

Implementation Mechanisms

One final direction critical to advancing planning in areas without land claims is the need to determine a complete set of implementation mechanisms, to give the plans the same legal effect as the Sahtú and Gwich'in plans. New stand-alone planning legislation may be required to fulfill this commitment to give the plans legal force. This challenge exists for the Dehcho and southeastern NWT processes, but not for the Wek'èezhì process, which can be implemented under the authority of the Tłı̄chǫ Agreement.¹⁷

4.2 Future of Planning for Areas with Completed Plans

Here is a snapshot of areas with complete plans in the NWT.

Table 12: Snapshot of Areas with Completed Plans

Settlement Region	Status of Planning	Planning Body	Approving Parties
Gwich'in Settlement Area	Approved August 2003 and being implemented. Amendments are in progress.	Gwich'in Land Use Planning Board	Gwich'in Tribal Council, GNWT, GoC
Sahtú Settlement Area	Approved August 2013 and being implemented. Five-Year review and amendment is complete with approvals in progress.	Sahtú Land Use Planning Board	Sahtú Secretariat Incorporated, GNWT, GoC

¹⁷ There may be benefits to including the Wek'èezhì public planning process in any new planning legislation, to guide the process as the MVRMA does for the Sahtú and Gwich'in processes, but there is no legal need to do so.

Settlement Region	Status of Planning	Planning Body	Approving Parties
Tłjchq Lands	Tłjchq Wenek'e Plan approved for Tłjchq lands in 2013. Five-Year review and amendment are in progress.	Tłjchq Government	Tłjchq Government
Inuvialuit Settlement Region	Community Conservation Plans	WMAC (NWT & NS), FJMC, Community Working Groups (WGs), which includes HTC, CC and Elders Committee	HTC, CC, Elders Committee, Inuvialuit Game Council (IGC), WMAC (NWT & NS), FJMC

4.2.1 Challenges for Areas with Completed Plans

Areas with completed plans face different challenges, as they blaze the trail and tackle plan implementation questions for the first time. This section describes those challenges and summarizes them below.

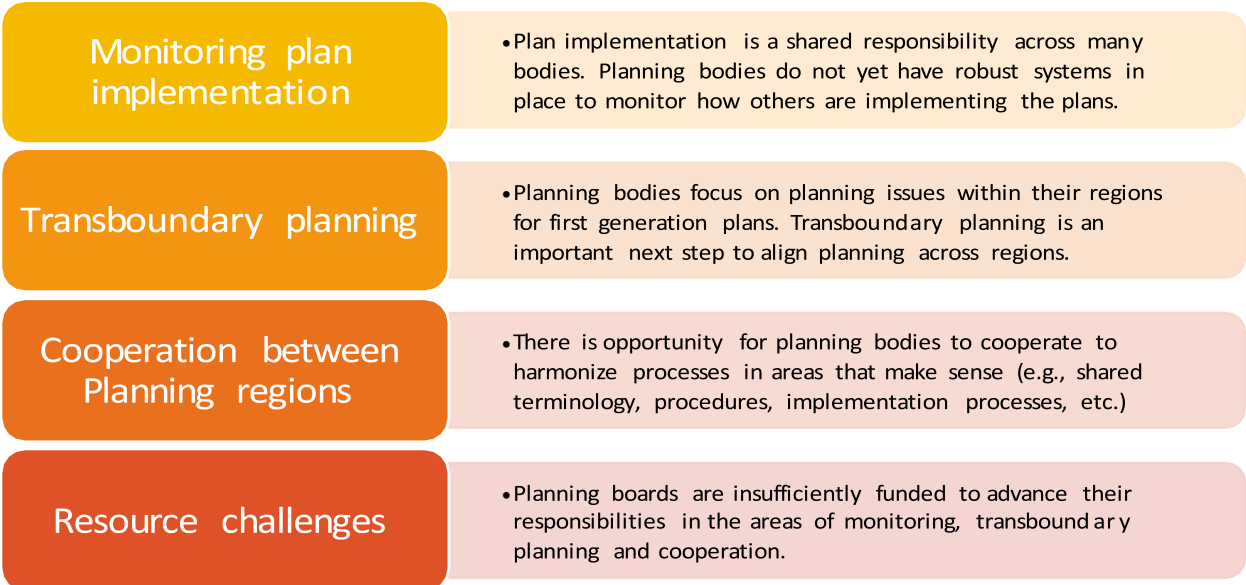


Figure 12: Challenges for Areas with Completed Plans

Monitoring Plan Implementation

Plan implementation is a shared responsibility with many bodies responsible for implementing the plans within their existing processes, jurisdictions and authorities. That means different things for different bodies. Getting the plans fully implemented remains a challenge. The issuance of subsurface tenure (oil and gas and mineral rights, surface leases) is carried out in compliance with land use plan zoning as the legislation and processes governing tenure issuance prevents the GNWT from issuing rights in land use zones where these uses are not allowed. The land and water boards (Sahtú, Gwich'in, Wek'èezhì and Mackenzie Valley) are the main bodies tasked with implementing the plans through their preliminary screening and regulatory processes. They have developed processes to determine conformity with land use plans and encourage proponents to include in their applications how their proposed activities (and application contents) demonstrate conformity with the applicable land use plans.

Beyond these examples, it is unclear if, or the extent to which other bodies check for conformity with land use plans before issuing their authorizations. Planning Boards don't typically receive copies of or have access to regulators' conformity determination processes or results. The planning bodies are still developing formal approaches to monitor implementation.

The GLUPB tracked implementation of the plan through all authorizations in the initial years after plan approval, before a lack of resources and capacity required the Board to divert its attention to other work. The GLUPB pulled actions and recommendations out of its plan into a separate Plan of Action in the early stages of its plan review, noting that little to no implementation had taken place on those items. The TG also plans to address how it will track and monitor plan implementation as part of its five-year review, but this has not yet been defined.

The SLUPB released a SLUP Monitoring and Evaluation Framework in 2020, which described two streams for monitoring: Stream 1 involves working with regulators to report annually on how the SLUP is being implemented through their authorizations, while Stream 2 monitors how effective the plan has been in advancing the vision and goals of the region. The Board is now implementing Stream 1 with regulators and will release its first Annual SLUP Implementation Report in the summer of 2021, reporting on the 2020-21 fiscal year. Over the next year, the SLUPB will also begin refining how to monitor plan effectiveness (Stream 2), with the intent of implementing that part of the framework in subsequent years, subject to funding.

Transboundary Planning

Developing a land use plan is a monumental task. During this time, a planning board's attention is directed inwards, ensuring that the land use issues raised by communities are adequately addressed, that other planning partners are engaged and helping to develop the solutions and direction included in the plan, and that the approving parties are informed and sufficiently involved in the process to accept the final results. There is little time or energy to work with adjacent planning bodies to align zoning between planning regions, so transboundary planning is rarely addressed during first generation land use plans.

Transboundary planning has been slow to occur but remains an important goal for the future. As more plans are completed and approved in the Mackenzie Valley, there will be increasing incentives to step back and look at the overall zoning and the other types of direction provided in the land use plans, identify where the zoning and direction aligns and where it does not. This responsibility falls not only on the planning boards, but on the approving parties and other planning partners to identify areas or topics where transboundary planning is needed – whether it is driven by issue-specific need (e.g., planning for caribou range, water management and

The future of planning lies in aligning zoning and other plan direction between regions, where it makes sense to do so.

stewardship, cumulative effects management), by landscape changes like climate change, or by the need for a consistent response to foreseeable transboundary resource development projects.

The planning bodies (and their respective approving parties) will always have the final say on what goes into each plan. There may be cases where zoning will continue to not align between regions and there may be good reasons, unique to each region, for that. However, the future of planning lies in having the discussions and aligning zoning and other plan direction where it makes sense to do so.

Increased Cooperation Between Planning Regions

Similar to transboundary planning, there are a number of good reasons why planning bodies might cooperate to determine where they can align or harmonize aspects of their processes. When the initial Gwich'in Plan was submitted for approval in 1999 and faced legal challenges over conflicts with the (formerly named) *Canada Mining Regulations* over the ability of land use plans to prohibit mineral staking in Conservation Zones, that was recognized as an issue that would affect all land use plans. While the GLUPB and the GTC largely resolved the issue on their own, the active northern planning boards of the day held a pan-territorial planning workshop in 2003 to discuss common issues, including a coordinated response to support the GLUPB's efforts to amend the *Canada Mining Regulations* to respect the authority of plans to prohibit mineral staking.¹⁸

Another area for coordination could be aligning the terminology used in planning (e.g., zone designation categories, what we call conditions for development, standardizing conditions that are similar between regions). The land and water boards met over several years to create standard conditions for land use permits or water licences. A similar practice could benefit land use planning bodies by making plans easier to understand for proponents and regulators. Some of that has already begun through plan reviews, as boards and approving parties look to conditions approved in other regions for guidance on what has been accepted previously.

Standardizing implementation processes is another area where coordination may be beneficial. In the Mackenzie Valley Fibre Optic Line project when the application was referred to the Gwich'in and Sahtú Land Use Planning Boards initially, both had challenges with it, but the GLUPB deemed the application as having insufficient information to make a determination, while the SLUPB deemed the application to not conform, triggering a different regulatory response. The proponent

¹⁸ Terriplan Consultants. February 2004. Land Use Planners' Networking & Learning Workshop, December 9-11, 2003.

had to submit a new application in response to the SLUPB decision, while the GLUPB decision triggered information requests instead.

Again, the final decisions rest with the planning boards themselves, especially with respect to procedural matters, but regulatory certainty would benefit from greater process consistency between planning regions, which will make plans easier to understand and implement by both proponents and regulators.

Appropriate Funding Levels to Carry Out Planning Mandates

All of the above are important goals for the planning bodies. They will only translate into action if the planning bodies are sufficiently resourced to carry out their implementation responsibilities and they are not.

Historically, planning bodies have been underfunded to carry out their mandates. The core funding is sufficient to cover the costs of Board and office administration only (quarterly board meetings, staff salaries, office rent and power). There are no funds available in core funding to cover any planning work that has direct costs attached, such as travel to engage the communities or other planning partners, contract out research, or even print a new amended plan.

All the things that planning boards would like to do, including their core mandates of monitoring plan implementation, carrying out periodic reviews and amendments, granting exceptions, determining conformity, engaging communities, advancing implementation issues, are dependent on supplemental funding. Planning bodies must submit annual requests for supplemental funding. These are rarely fully funded, and supplemental funding decisions are often delayed until late in the fiscal year, making it difficult for the planning bodies to carry out their mandates and work plans in a timely and effective manner.

Finally, planning board members are paid lower honoraria rates than many of the other Mackenzie Valley boards. Planning boards have an important role to play in the integrated resource management system in the NWT. Lower rates can be a deterrent to attracting and retaining board members.



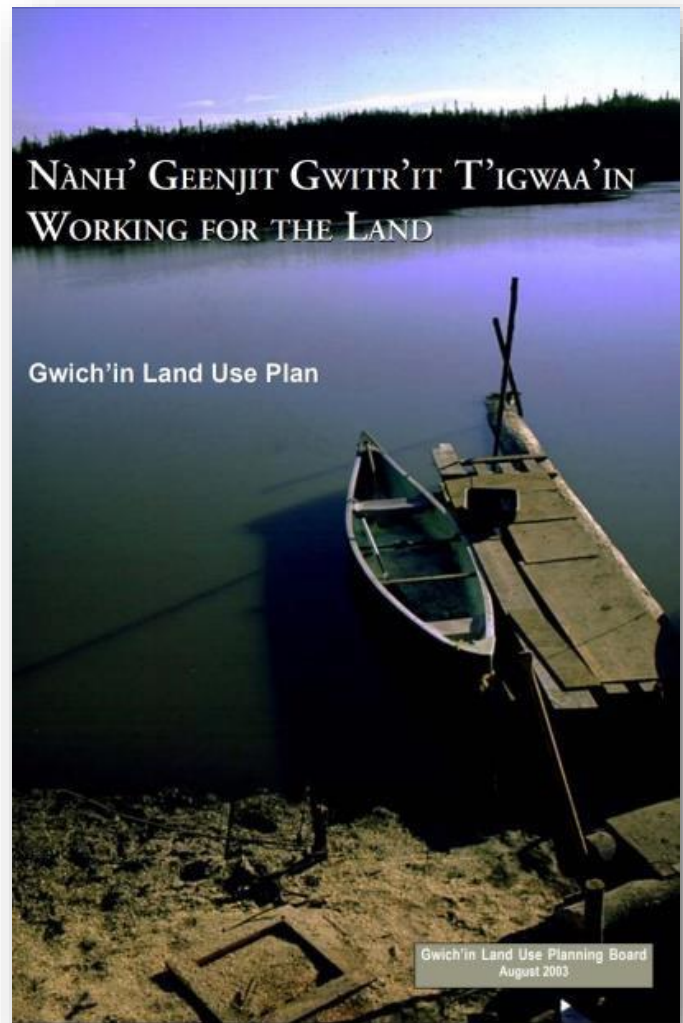
Part 2:

Land Use Planning by NWT
Region

Chapter 5: Gwich'in Land Use Plan, Nành' Geenjít Gwitr'it T'igwaa'in – Working for the Land

Chapter Breakdown:

- Section 5.1 Overview of the Plan
- Section 5.2 Plan Development and Approval
- Section 5.3 Foundations of the Plan
- Section 5.4 Contents of the Plan
- Section 5.5 Plan Implementation



5.1 Overview of the Gwich'in Land Use Plan

Table 13: Overview of the Gwich'in Land Use Plan

Details	Gwich'in Settlement Area (GSA)
Title of the Plan	Gwich'in Land Use Plan, Nành' Geenjit Gwitr'it T'igwaa'in – Working for the Land
Date of Approval	August 2003
Size	~56,935 km ²
Planning Body	Gwich'in Land Use Planning Board (GLUPB)
Governance Model	Institutions of Public Government (IPG)
Legal Authority / Direction	Gwich'in Comprehensive Land Claim Agreement (GCLCA) <i>Mackenzie Valley Resource Management Act (MVRMA)</i>
Authority of Plan	Legally binding
Application to Land	Public and settlement lands, excludes lands in community boundaries and national parks and historic sites
Plan Approval	Sequential: <ul style="list-style-type: none"> • Gwich'in Tribal Council (GTC) • Government of NWT (GNWT) • Government of Canada (GoC)
Implementation Roles of Planning Body	Monitor plan implementation Consider and make decisions on exceptions Determine conformity upon referral Conduct comprehensive reviews Consider and adopt amendments (for approving parties to approve) Maintain public record of applications for exceptions, amendments and conformity determinations, and decisions
Who Determines Conformity?	Gwich'in Land and Water Board (GLWB) Other regulators GLUPB on referral
Ability to Grant Exceptions	Yes
Review and Amendment	Five-Year Review Amendments upon application (by anyone or by Board initiative)
Monitoring Plan Implementation	Regional Plan of Action under development

5.2 Plan Development and Approval

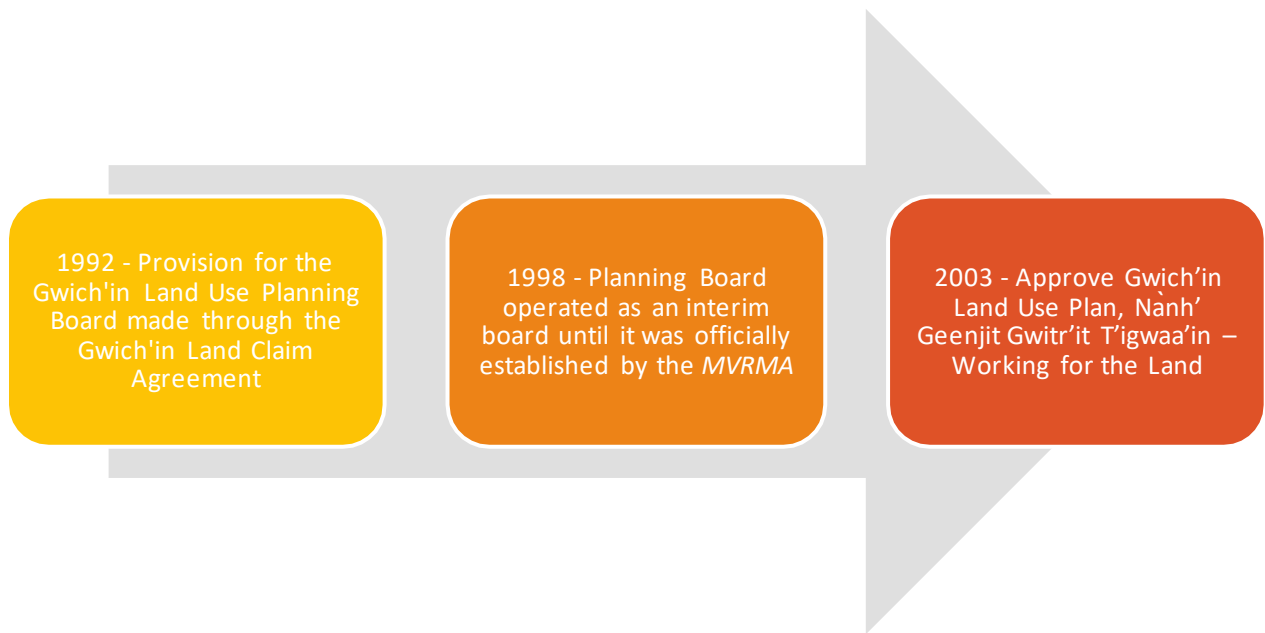


Figure 13: General Timeline of Gwich'in Land Use Plan Development and Approval

Provision for the Gwich'in Land Use Planning Board was made through the Gwich'in Comprehensive Land Claim Agreement in 1992. Soon after the Land Claim was signed, the Planning Board operated as an interim board until it was officially established by the MVRMA in 1998.

The Gwich'in Land Use Plan, Nành' Geenjit Gwitr'it T'igwaa'in – Working for the Land was under development for 20 years. When the Interim Land Use Planning Board began work in 1993, the previous ten years of effort by the Mackenzie Delta Beaufort Sea Land Use Planning Commission was considered. It then took six years to evaluate and incorporate the views of the communities, regional organizations, industrial interests, and government departments and agencies before the land use plan was ready to submit for approval.

Under MVRMA section 43, subsection 6, a rejection of the plan by one party does not necessarily mean the Planning Board has to change the plan. During the Gwich'in Plan's first approval, the Planning Board worked with the federal Minister (then Department of Indian Affairs and Northern Development) to find a solution to their issues that would allow the plan to be approved as written. This caused a delay in approval and the final plan was approved in 2003 when it was signed by a federal Minister.

5.3 Foundations of the Gwich'in Land Use Plan

5.3.1 Legal Authority

The *Gwich'in Comprehensive Land Claim Agreement (GCLCA)* establishes the authorities related to the Gwich'in planning processes.

The MVRMA, enacted in 1998, is the federal legislation that implements the *GCLCA's* land use planning provisions. Part 2 of the MVRMA establishes the GLUPB as an institution of public government (IPG) and provides more details to guide land use planning, such as plan contents, requirements for public notice and hearings, the plan approval process, plan authority, and plan implementation responsibilities. Under the MVRMA, the planning boards are mandated to:

- prepare and adopt a land use plan for submission and approval (S. 41(1));
- following approval, monitor the implementation of the plan, and consider exceptions to the plan (S. 44); and
- determine whether an activity is in accordance with a plan where the activity is referred to the Board (S. 47(1)).

The Gwich'in plan does not apply to national parks, lands acquired for a national historic site or monument (this is rare¹⁹), or lands within community boundaries.

5.3.2 Governance

The Gwich'in Planning Board is a public, independent co-management board, considered neutral and operating in the public interest. The board has five members:

- 2 nominated by the First Nation (Gwich'in Tribal Council);
- 1 nominated by the GNWT;
- 1 nominated by the GoC; and
- A Chair, jointly nominated by the other four members.

All are appointed by the Minister of Northern Affairs and hold three-year terms. Once appointed, board members are expected to be independent. They do not represent the interests of the party which nominated them, but rather the public interest. This is an important element of administrative law to ensure an unbiased board.

Quorum for the board consists of three members, including one of the members nominated by the GTC / SSI, and one of the members nominated by the federal or territorial government.²⁰

Part 1 of the MVRMA sets out general provisions applicable to all boards within the Mackenzie Valley, covering topics such as board appointments, conflict of interest, remuneration, staffing, financial provisions, annual reporting, by-laws, rules of procedure, and public notices.

¹⁹ The *Historic Sites and Monuments Act* does not usually "acquire lands" – generally these are historic buildings or sites where a plaque is erected to commemorate a historic place or monument. Only historic sites where land has actually been transferred from CIRNAC to Parks Canada are exempt from the plan. Saoyú-?ehdacho in the Sahtú Settlement Area is an example of this. There are no such sites in the Gwich'in Settlement Area.

²⁰ MVRMA S. 36(3)

5.3.3 Objectives and Guiding Principles

The GCLCA includes a set of broad objectives to guide the overall agreement. These principles also apply to planning:

1. To recognize and encourage the Gwich'in way of life which is based on the cultural and economic relationship between them and the land.
2. To encourage the self-sufficiency of the Gwich'in and to enhance their ability to participate fully in all aspects of the economy.
3. To provide the Gwich'in the right to participate in decision making concerning the use, management and conservation of land, water and resources.
4. To protect and conserve the wildlife and environment of the settlement area for present and future generations.
5. To integrate planning and management of wildlife and wildlife habitat with the planning and management of all types of land and water use in order to protect wildlife and wildlife habitat.

The Agreement also sets out guiding principles specifically for land use planning, which are reiterated in Part 2 of the MVRMA, under S. 35 (Guiding Principles) and S.41(2).

1. The purpose of land use planning is to protect and promote the existing and future well-being of the residents and communities of the settlement area having regard to the interests of all Canadians.
2. Special attention shall be devoted to:
 - a. protecting and promoting the existing and future social, cultural and economic well-being of the Gwich'in;
 - b. lands used by the Gwich'in for harvesting and other uses of resources; and
 - c. the rights of the Gwich'in under this agreement.
3. Land use planning shall directly involve communities and designated Gwich'in organizations.
4. The plan developed through the planning process shall provide for the conservation, development and utilization of land, resources and waters.
5. Water resources planning within the Mackenzie Valley is an integral part of land use planning.

5.4 Contents of the Plan

5.4.1 Plan Structure

The Gwich'in Land Use Plan (GLUP) is divided into seven chapters and an appendix:

Chapter 1 – Introduction: Introduces land use planning, the Board, guiding principles, the planning process, overview of the plan, its approval, and defines “conformity with the land use plan”.

Chapter 2 – The Gwich'in Settlement Area (GSA) and its Resources: Describes the planning area, people, economy, environment, heritage resources, renewable resources, non-renewable resources, transportation and communication, and existing conservation designations.

Chapter 3 – Land Ownership, Regulation and Management: Describes land ownership and the different land management regimes and participating bodies in those regimes in the GSA.

Chapter 4 – Land Use Plan for the Future – Vision and Land Zoning: Sets out the vision guiding the plan, the zoning system, activities exempt from zoning, and special rules for a pipeline and for the extension of the Mackenzie Highway. This chapter includes mapping, zone descriptions and the applicable conditions for development for each zone.

Chapter 5 – Land Use Plan for the Future – Land Use Issues and Actions: Describes the major land use issues addressed by the plan and identifies action items to address them.

Chapter 6 – Procedures for Implementing the Land Use Plan: Describes how the plan is to be implemented, including determining conformity with the land use plan, granting exceptions, amendments, and comprehensive reviews.

Chapter 7 – Implementation Plan Outline: Describes the GLUPB's priorities to advance the state of planning in the GSA and provides a set of required and recommended actions to do so.

Appendix A: Includes a list of groups the GLUPB consulted during plan development and a list of meetings.

5.4.2 Key Elements of the Plan

Land Use Zones

The main direction in the Gwich'in Land Use Plan comes from its zoning map and its conditions (Chapter 4). The zone designations in the Gwich'in Land Use Plan are described below. Figure 14 provides a guide to use the zoning system, and Map 2 is the Zoning Map.

- Gwich'in General Use Zones: Areas where all land uses are possible with the necessary approvals from the current regulatory system. Lands in this zone were not identified by communities or other groups as having any specific resources needing protection beyond what is available through the regulatory system. This zone type imposes no conditions for

proposed uses and activities in these areas. Approximately 57% of the GSA is allocated to the Gwich'in General Use Zone.

- Gwich'in Special Management Zones: Areas where all land uses are possible as long as conditions outlined in the Gwich'in Land Use Plan are met and approvals through the regulatory system are obtained. The additional plan conditions are designed to protect valued resources identified by communities or other organizations during the planning process. Regulatory agencies may not issue a licence, permit, or authorization in Gwich'in Special Management Zones unless the proposed use is in conformity with the Gwich'in Land Use Plan. This zone places no restrictions on traditional uses protected by the *GCLCA*. Approximately 33% of the settlement area is allocated to 16 Special Management Zones.
- Gwich'in Conservation Zones / Gwich'in Heritage Conservation Zones: Lands where the following new uses, and activities related to these uses, are not permitted.
 - oil and gas exploration and development (see section 4.2.4 regarding pipeline development),
 - mineral exploration and development requiring a permit,
 - sand, gravel and rock extraction,
 - transportation (see section 4.2.5 regarding Mackenzie Highway extension),
 - waste disposal,
 - communication,
 - power development, and
 - commercial renewable resource activities.

Regulatory agencies may not issue a licence, permit, or authorization for the above. Approximately 10% of the GSA is allocated to four Conservation Zones. Gwich'in Conservation Zones are of extra special value to residents and communities of the GSA and include areas that communities or science-based groups proposed for year-round protection.

There are also 13 small Gwich'in Heritage Conservation Zones, areas of outstanding historical or cultural significance in the GSA. These areas have the same status as Gwich'in Conservation Zones and were identified through community consultation and with the assistance of the Gwich'in Social and Cultural Institute (now the Department of Cultural Heritage of the Gwich'in Tribal Council).

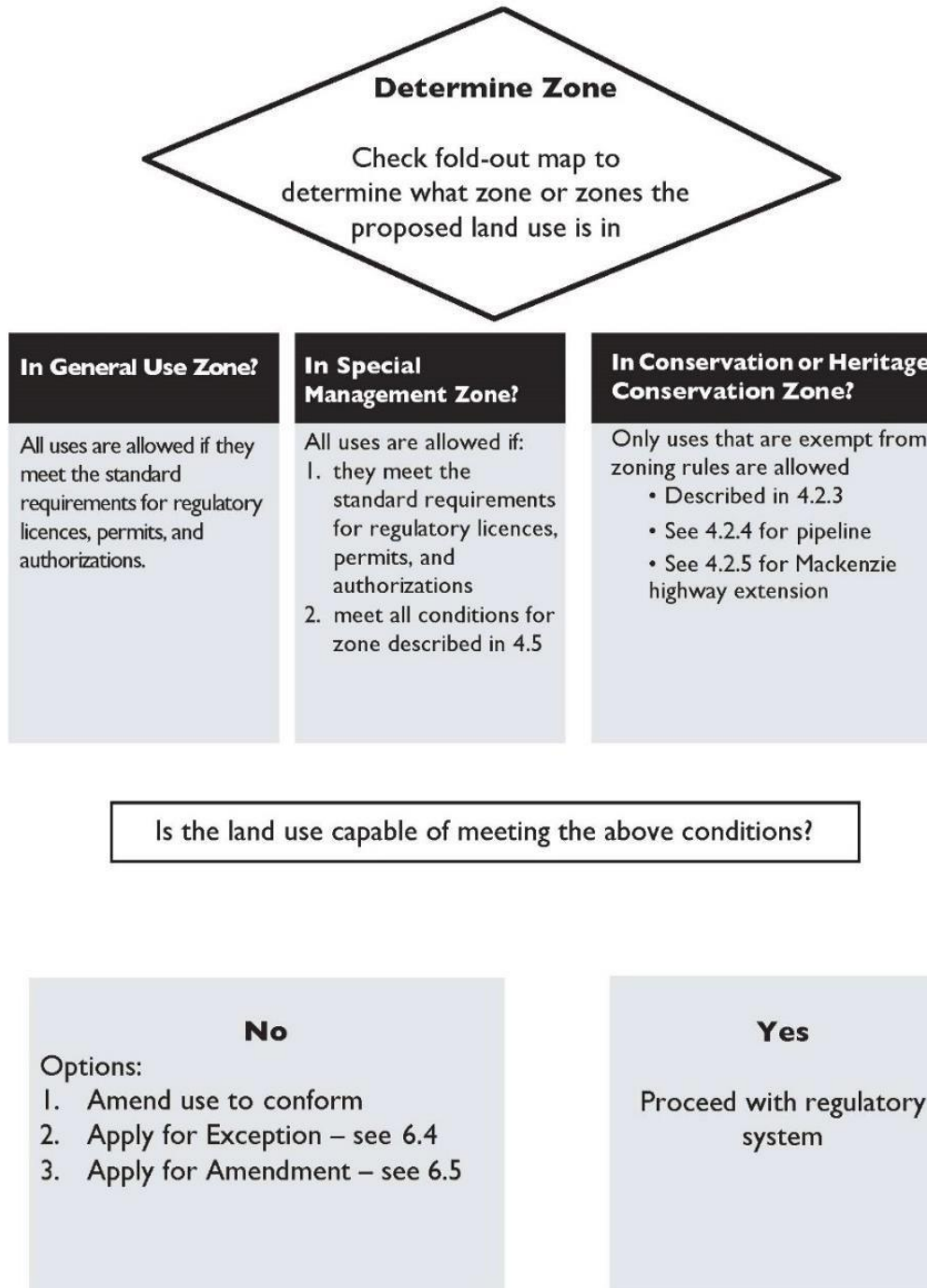
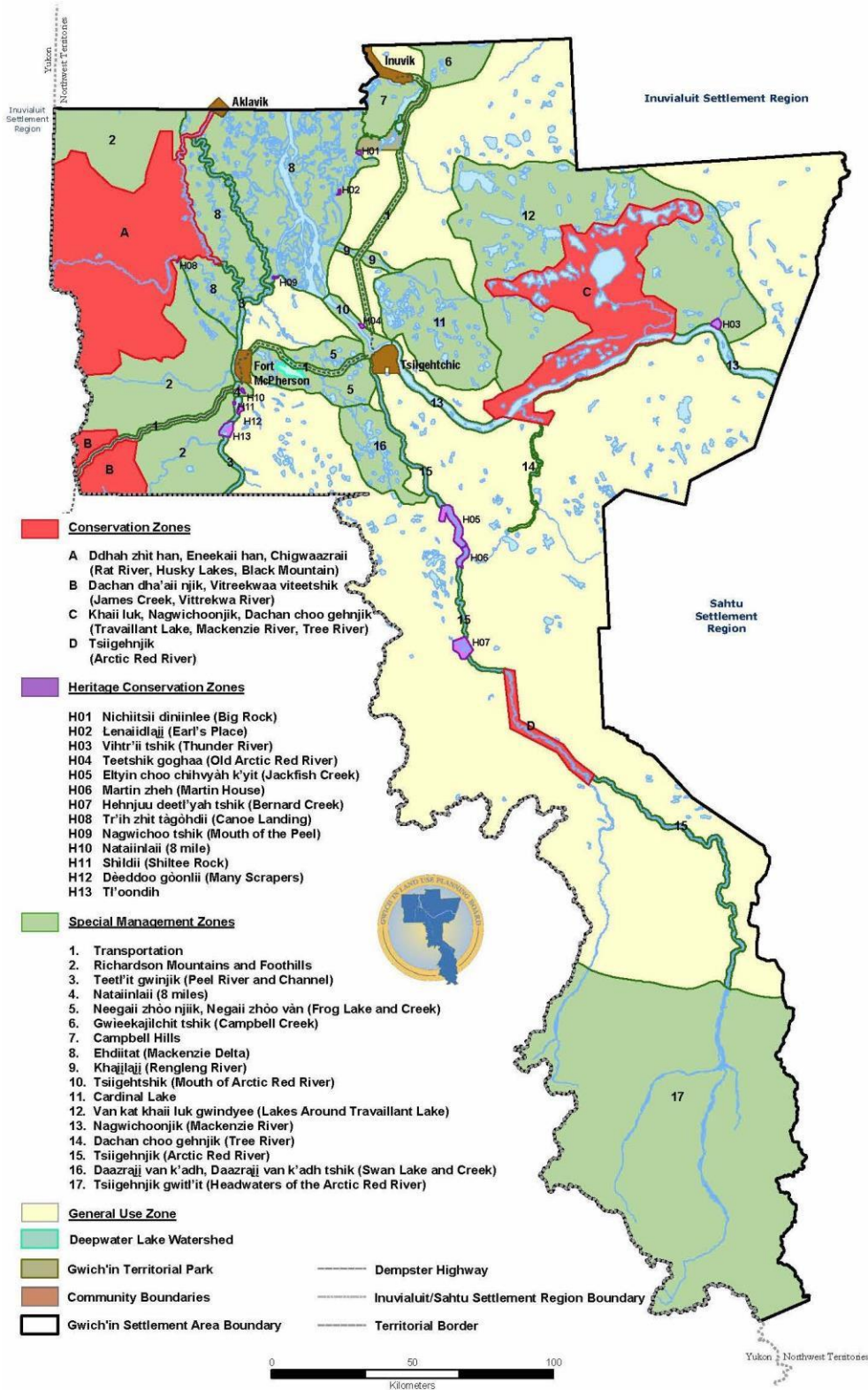


Figure 14: Step-by-Step Reference to the GLUPB Zoning System



Map 2: Gwich'in Land Use Planning Zones

Exempt Activities

The Gwich'in Land Use Plan exempts a number of activities from the zoning rules:

1. Existing activities, including development arising from rights existing at the time of plan approval, even if the activities are not in keeping with the land zones. These existing uses will be allowed to continue as non-conforming activities. Renewal of permits, licences and authorizations for existing activities will be allowed.
2. Low impact recreational and tourism activities such as hiking and canoeing that do not require any type of permit, licence or authorization are allowed.
3. Traditional activities protected by the *GCLCA* are allowed.
4. Where an emergency threatens life, property or the environment, a person may carry out any land use that is necessary to cope with the emergency. If the activity is not in keeping with the land use zoning, the Planning Board requests that a written report describing the operation be submitted as soon as possible.
5. In certain areas the Planning Board recognizes minor exceptions to the plan are required. These exceptions are noted in the description of specific areas and apply to those areas only.

Conditions

Special Management Zones have conditions associated with them to protect the values within each zone while allowing development to proceed. Different conditions apply to different zones, according to the values needing protection. The Gwich'in Land Use Plan includes conditions related to the following topics:

- Porcupine Caribou: Prevents diversion or alteration of the Porcupine Caribou migration.
- Water Quality: Activities must not substantially alter water quality, quantity or rate of flow.
- Heritage Resources: Requires assessment of impacts on heritage resources and engagement on conditions to protect them.
- Traditional Fish Harvesting: Requires engagement on fish harvesting and prohibits interferences with traditional fish harvesting.
- Fish (Habitat): New activities in the Peel River and Channel Special Management Zone must demonstrate no negative impacts on fish habitat during peak times in the spring and fall.
- Waterfowl, Peregrine Falcons and Other Raptors: Activities should demonstrate no adverse impacts to nesting and staging sites, maintain a setback of 250 m from these sites, and a minimum flight altitude of 650 m from June – August.
- Tourism Value: New activities within a 2 km buffer along the Dempster Highway not related to the maintenance, construction and operations of the right of way should not be visible from the highway.

Issues and Actions

The Gwich'in Land Use Plan identifies 11 topic areas/issues for which further work is required to advance planning in the GSA, so that more informed decisions can be made during the five-year review. They are:

1. Community Involvement
2. Economic Development
3. Gwich'in Heritage Resources
4. Water and Air Resources
5. Renewable Resources
6. Non-Renewable Resources
7. Pollution and Waste Management
8. Transportation, Utilities and Communications
9. Tourism and Recreation
10. Transboundary Areas
11. Legislated Protected Areas

For each of these issues, the plan identifies goals, objectives, analysis and actions to resolve the issue. In total there are 50 actions, directed at the Planning Board, the GTC, departments and agencies of the federal and territorial governments, regulators, other co-management boards, and other planning partners as appropriate. In more recent plan revisions (not yet approved), these items have been removed from the plan and placed into a new Regional Plan of Action.

5.5 Plan Implementation

According to the MVRMA, the planning boards' implementation functions are to:

1. Monitor the implementation of the plan (MVRMA S. 44);
2. Where so authorized by the plan, consider applications for exceptions to the plan (MVRMA S. 44);
3. Where an application has been referred to the Planning Board, determine whether the proposed activity conforms with the plan (MVRMA S. 47); and
4. Adopt any amendments to the plan it deems necessary (MVRMA S. 48);
5. Maintain a public record of all applications to it, and decisions it makes (MVRMA S. 49); and
6. Carry out a comprehensive review of the plan not later than five years after the plan takes effect, or at any other interval agreed to by the Parties (MVRMA S. 50).

5.5.1 Conformity Determinations

When an application for the use of land, water or resources is submitted to a regulator, it requires a conformity check to see if the activity as proposed conforms with the land use plan for that area. Figure 15 demonstrates GLUPB best practices regarding conformity with the plan.

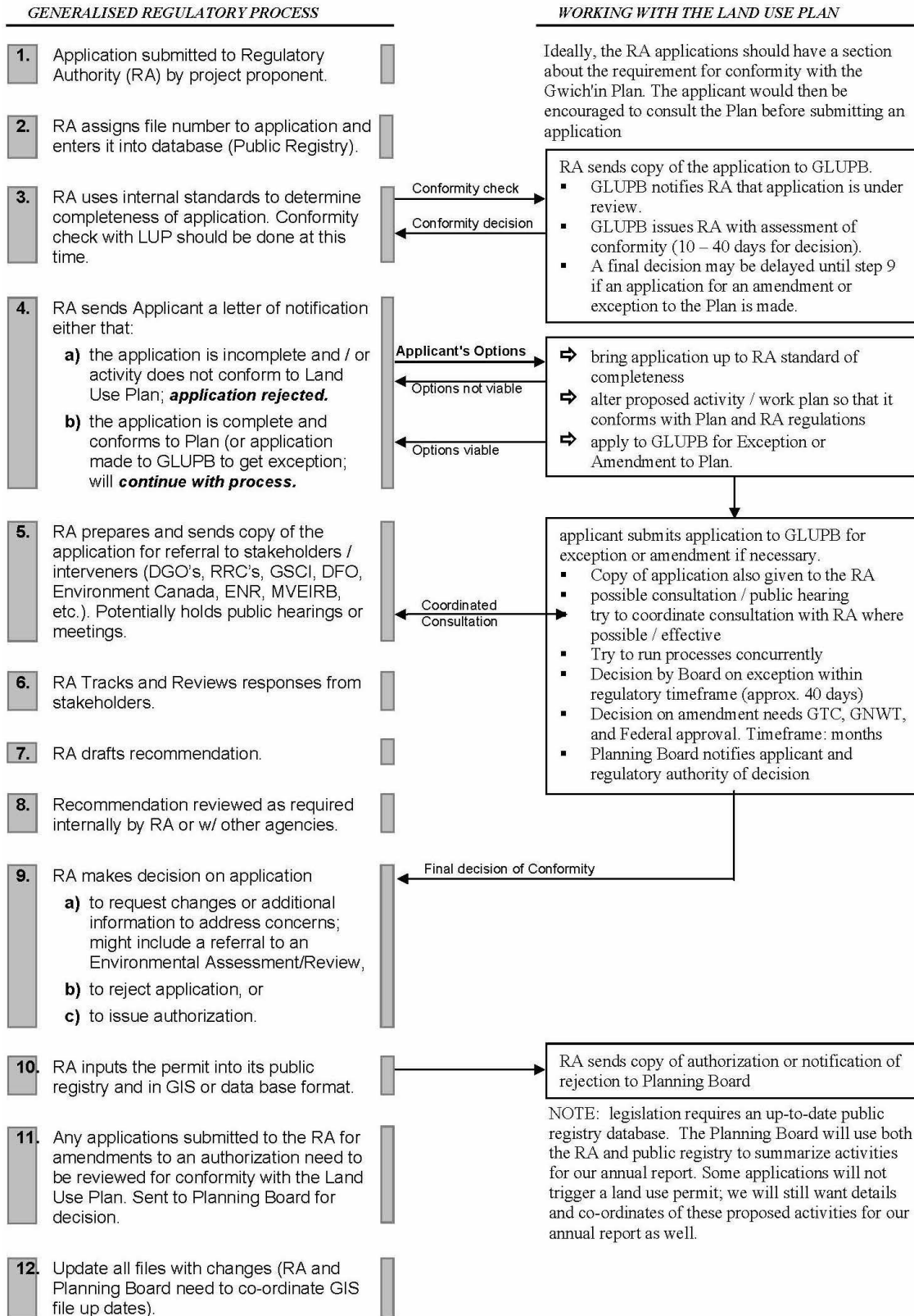


Figure 15: GLUPB Best Practices Regarding Conformity with the Land Use Plan

The GLUPB has had one formal referral for conformity for the Mackenzie Valley Fibre Optic Line. The Fibre Optic Line was initially deemed to not have enough information. Later submissions allowed the Board to complete its analysis. The application required an exception to be granted and was then deemed to conform.

Had the Mackenzie Gas Project (MGP) proceeded, it would have been formally referred to the GLUPB, and it would have required a plan amendment and three exceptions to be granted before it could conform. The exceptions were for fieldwork required for the MGP proponent to finish engineering and design needed for the project application. Those were actually processed and granted. The amendment was to allow a quarry on the edge of a Conservation Zone. The GLUPB rolled the required amendment into its five-year review. The project proponent never got to the stage of submitting the final application, so there was no formal referral or conformity determination needed by GLUPB, but the zone amendment has been retained in the revised plan.

5.5.2 Exceptions

The Gwich'in Land Use Plan commits the board to make a decision within 30 days of receiving the application for exception. The GLUPB has processed a few applications for exceptions since 2003 – all were granted. The GLUPB encourages proponents to discuss required exceptions with staff prior to submitting an application for them.

Criteria used by the GLUPB when considering applications for exception:

- The exception must be minor. The general intent and purpose of the Gwich'in Land Use Plan must be maintained.
- The exception must be desirable in the opinion of the Board for the appropriate development or use of the land.
- Whether it benefits the residents and communities of the GSA.
- Whether it has the support of the GTC, the GNWT and the GoC.
- The environmental, cultural and economic consequences of allowing the activity.
- The implications of the activity for other activities that are occurring or will potentially occur in the area.

5.5.3 Monitoring, Review and Amendments

Monitoring

In the early years following plan approval, the GLUPB staff reviewed every regulatory authorization to assist regulators and as part of its monitoring function. It provided general advice to proponents, the Gwich'in Land and Water Board, and other authorizing bodies as needed on applications to assist all plan users achieve compliance with the plan. GLUPB staff continue to monitor applications for land and water use and use of resources and comment when required. They are reviewing how regulators are determining conformity and implementing the plan, and communicating the need for greater

transparency around these decisions to allow the GLUPB to better monitor implementation.

Review and Amendments

Section 50 of the MVRMA requires the planning board to carry out a comprehensive review of their land use plan five years after the plan takes effect and thereafter every five years, or at any other intervals agreed to by the approving parties. The GLUPB has initiated a plan review but it is not complete. Readers should check the GLUPB's website for current plan review status.

Chapter 6: Sahtú Land Use Plan

Contents of the Plan:

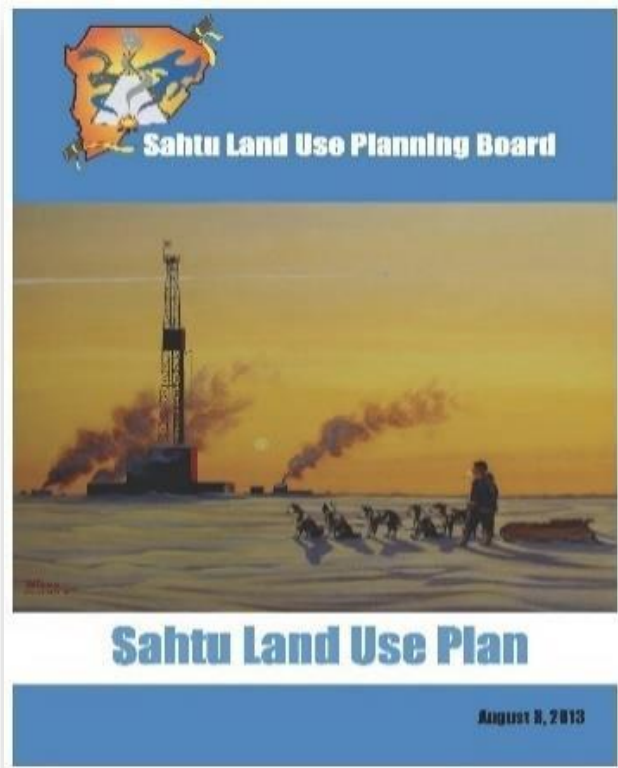
Section 6.1 Overview of the Plan

Section 6.2 Plan Development and Approval

Section 6.3 Foundations of the Plan

Section 6.4 Contents of the Plan

Section 6.5 Plan Implementation



6.1 Overview of the Sahtú Land Use Plan

Table 14: Overview of Sahtú Land Use Plan

Details	Sahtú Settlement Area (SSA)
Title of the Plan	Sahtú Land Use Plan
Date of Approval	2013
Size	~283,988 km ²
Planning Body	Sahtú Land Use Planning Board (SLUPB)
Governance Model	Institutions of Public Government (IPG)
Legal Authority /Direction	Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA) <i>Mackenzie Valley Resource Management Act (MVRMA)</i>
Authority of Plan	Legally binding
Application to Land	Public and settlement lands, excludes lands in community boundaries and national parks and historic sites
Plan Approval	Sequential: <ul style="list-style-type: none"> • Sahtú Secretariat Incorporated (SSI) • Government of NWT (GNWT) • Government of Canada (GoC)
Implementation Roles of Planning Body	Monitor plan implementation Consider and make decisions on exceptions Determine conformity upon referral Conduct comprehensive reviews Consider and adopt amendments (for approving parties to approve) Maintain public record of applications for exceptions, amendments and conformity determinations, and decisions
Who Determines Conformity ?	Sahtú Land and Water Board (SLWB) Other regulators SLUPB on referral
Ability to Grant Exceptions	Yes
Review and Amendment	Five-Year Review Amendments upon application (by anyone or by Board initiative)
Monitoring Plan Implementation	Monitoring and Evaluation Framework <ul style="list-style-type: none"> • Stream 1 (Regulatory) Implementation Report (2020-21) to be complete Summer 2021 • Stream 2 (Plan Effectiveness) monitoring under development

6.2 Plan Development and Approval

The Sahtú Land Use Plan took roughly 18 years from initiation (pre-MVRMA) to submission of the approved plan in 2013.

The initial block of planning work occurred between 1998 and 2002. The Board was established, built awareness in the communities, developed the vision and goals, and conducted extensive data collection. It had fieldworkers in every community working to understand and document traditional use, which became the foundation for the plan's zoning.

At the end of 2002, the Board's four years of core funding ended. The results were compiled into a Preliminary Draft Sahtú Land Use Plan, the staff were laid off and the Board lost quorum. A few years then passed with no activity.

A consultant was hired around 2005 to re-start the process and later an Executive Director. They created Draft 1 of the plan and began engaging on it. Initial feedback identified significant issues with it, so they began reworking the document, before the Executive Director left and the Board lost quorum again.

In 2008, new board members were appointed and a new consultant hired. Under new direction, the Board sought and received sufficient funds to hire staff and complete the plan. Between 2008 and 2013, the Board developed and consulted extensively on Draft 2, Draft 3 and a Final Draft. It ran a public hearing, three technical sessions to resolve some of the more complex issues, and a Tri-Partite Meeting (just the Board and approving parties) to resolve the final issues and ensure the parties were ready to approve the plan before the formal approval process was initiated.

During the final stage of Sahtú plan development in 2013, the federal and territorial governments asked for a "pre-approval screening" to get a final look at the plan before beginning the lengthy internal processes necessary for formal plan approval. The intent was to give all three approving parties a chance to catch any minor errors (e.g., correcting department names or similar errors that might cause a problem) and "signal check" that all three parties were in fact ready to approve the plan before the process was initiated. The parties were given 30 days (though it took a bit longer) and they did identify some minor corrections that were needed. It also gave the parties time to collaboratively work out wording on one final issue in the plan, that the Planning Board adopted into the final plan.

The "pre-approval screening" delayed formal submission by about three months but cleared away a major issue. The Sahtú plan was then approved in less than four months. Given its success, this step is likely to become a best practice, though there is nothing to compel the planning boards to do so if they do not feel it is necessary. The final plan was approved in 2013.

6.3 Foundations of the SLUP

6.3.1 Legal Authority

The Sahtú Dene and Métis Comprehensive Land Claim Agreement (SDMCLCA) provides the legal authority for the Sahtú planning process:

The MVRMA, enacted in 1998, is the federal legislation that implements the SDMCLCA's land use planning provisions. Part 2 of the MVRMA establishes the SLUPB and provides more details to guide land use planning, such as plan contents, requirements for public notice and hearings, the plan approval process, plan authority, and plan implementation responsibilities. Under the MVRMA, the planning boards are mandated to:

- prepare and adopt a land use plan for submission and approval (S. 41(1));
- following approval, monitor the implementation of the plan, and consider exceptions to the plan (S. 44); and
- determine whether an activity is in accordance with a plan where the activity is referred to the Board (S. 47 (1)).

6.3.2 Governance

The Sahtú Land Use Planning Board is a public board, established as an Institution of Public Government (IPGs) through the MVRMA. That is, the Board is a neutral, independent co-management Board, operating in the public interest. The board has five members:

- Two nominated by the First Nation (Sahtú Secretariat Incorporated)
- One nominated by the GNWT
- One nominated by Canada
- A Chair, jointly nominated by the other four members

All are appointed by the Minister of Northern Affairs and hold three-year terms. Once appointed, board members are expected to be independent. They do not represent the interests of the party which nominated them, but rather the public interest. This is an important element of administrative law to ensure an unbiased board.

Quorum for Board consists of three members, including one of the members nominated by the SSI, and one of the members nominated by the federal or territorial government.¹⁵

Part 1 of the MVRMA sets out general provisions applicable to all boards within the Mackenzie Valley, covering topics such as Board appointments, conflict of interest, remuneration, staffing, financial provisions, annual reporting, by-laws, rules of procedure, and public notices.

6.3.3 Objectives and Guiding Principles

The SDMCLCA includes a set of broad objectives to guide the overall agreement. These principles also apply to planning:

1. To recognize and encourage the Sahtú Dene and Métis way of life which is based on the cultural and economic relationship between them and the land.
2. To encourage the self-sufficiency of the Sahtú Dene and Métis and to enhance their ability to participate fully in all aspects of the economy.
3. To provide the Sahtú Dene and Métis the right to participate in decision making concerning the use, management and conservation of land, water and resources.
4. To protect and conserve the wildlife and environment of the settlement area for present and future generations.
5. To integrate planning and management of wildlife and wildlife habitat with the planning and management of all types of land and water use in order to protect wildlife and wildlife habitat.

The Agreement also sets out guiding principles specifically for land use planning, which are included under Part 2 of the MVRMA, under S. 35 (Guiding Principles) and S.41(2):

1. The purpose of land use planning is to protect and promote the existing and future well-being of the residents and communities of the settlement area having regard to the interests of all Canadians.
2. Special attention shall be devoted to:
 - a. protecting and promoting the existing and future social, cultural and economic well-being of the participants;
 - b. lands used by participants for harvesting and other uses of resources; and
 - c. the rights of participants under this agreement.
3. Water resources planning is an integral part of land use planning;
4. Land use planning shall directly involve communities and designated Sahtu organizations.
5. The plan developed through the planning process shall provide for the conservation, development and utilization of land, resources and waters.

6.4 Contents of the Plan

6.4.1 Plan Structure

The Sahtú Land Use Plan is divided into five sections:

1. Introduction – Sets the planning context, identifies the plan’s guiding principles, vision and goals, describes district-level direction for planning, and references the other documents that support the plan (Implementation Guide, Background Report and an Action Plan²¹).
2. Application and Effect of the Plan – Describes:
 - the planning area;
 - the application of the plan in relation to protected areas, land ownership, land use activities and applicants, and exempt activities;
 - the authority of the SLUPB to grant exceptions; and
 - the legal effect of the plan.
3. Conformity Requirements: Zoning and Conditions for Development – Describes the mandatory direction that applications for the use of land, waters and resources must meet to be allowed to proceed further in the regulatory process.
4. Actions and Recommendations – Outlines non-mandatory activities and measures recommended by the Board to advance planning goals or resolve issues and concerns.
5. Plan Implementation – Describes:
 - the roles and responsibilities of the parties involved in implementation,
 - the authorizations and dispositions that implement the plan,
 - the conformity determination process,
 - enforcement, and
 - the Board’s responsibilities for monitoring plan implementation, amendments and five-year reviews.

6.4.2 Key Elements of the Plan

Land Use Zones

Zoning is used to manage seven types of land use, each of which are defined in the plan:

- Bulk water removal
- Mineral exploration and development
- Oil and gas exploration and development
- Power development

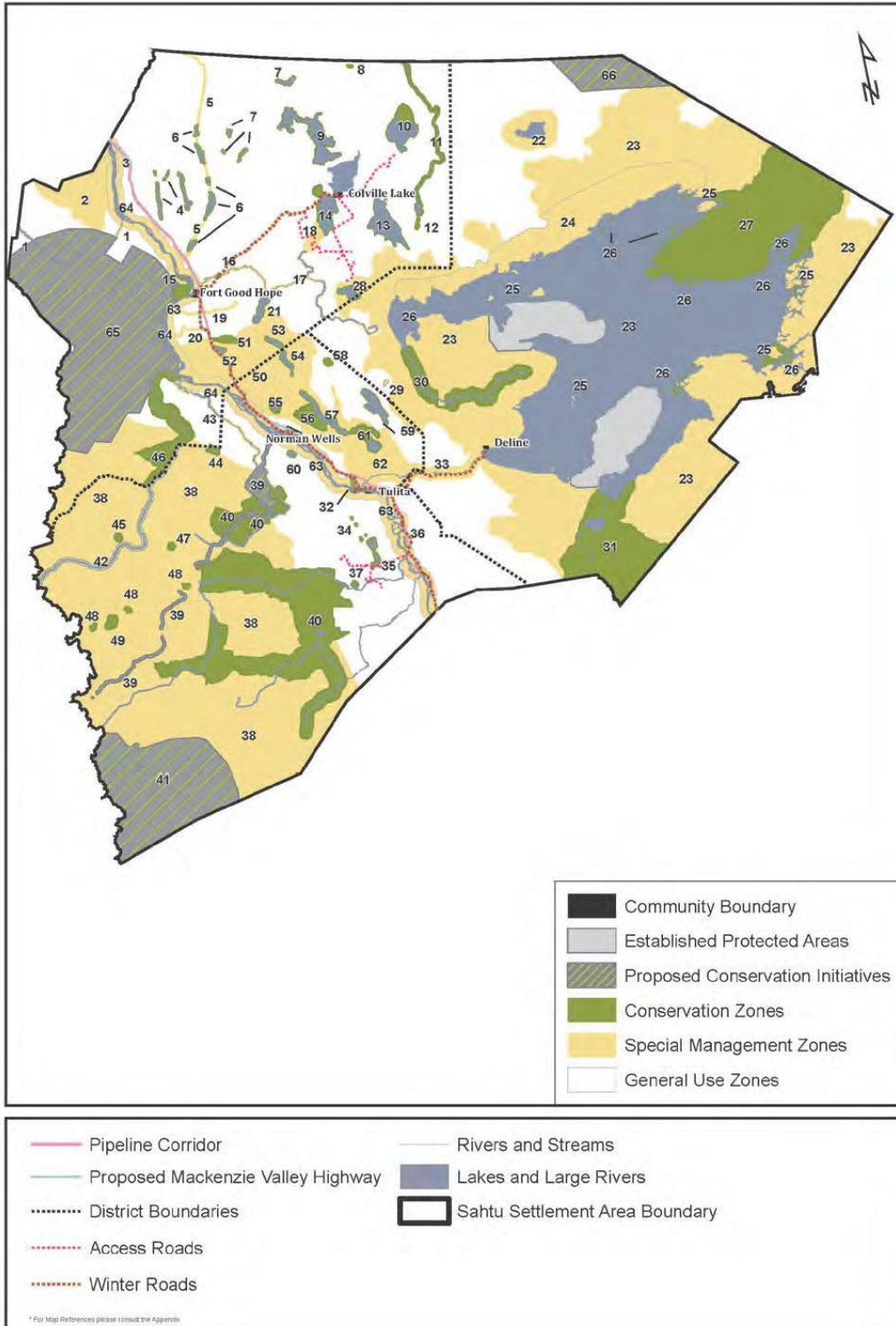
²¹ The Action Plan does not exist. It was intended to outline the Board’s perspective on its monitoring role and provide additional information on actions, recommendations and other initiatives to advance the plan in preparation for the five-year review. This was never completed. The SLUPB has released some documents related to monitoring and assessing the plan’s implementation and effectiveness, but they were not referred to as an Action Plan.

- Commercial forestry
- Quarrying
- Transportation corridors and infrastructure development

The Sahtú Land Use Plan uses five zone designations:

- General Use Zones (GUZ) allow all land use except bulk water removal, subject to the general conformity requirements outlined in this plan.
- Special Management Zones (SMZ) allow all types of land use other than bulk water removal, subject to the general conformity requirements and applicable special management conformity requirements outlined in this plan. Special management conformity requirements may differ between special management zones; some are limited in application to specified zones.
- Conservation Zones (CZ) are significant traditional, cultural, heritage and ecological areas in which specified land uses are prohibited. Permitted land uses (anything not prohibited, or grandfathered uses) are subject to the general conformity requirements and applicable special management conformity requirements outlined in this plan.
- Proposed Conservation Initiatives (PCI) are areas for which formal legislated protection is being sought through the Protected Areas Strategy, pursuant to commitments under the SDMCLCA, or under Parks Canada's legislation. The establishment of a protected area is the intended use of PCIs and is permitted. PCIs have the same status as Conservation Zones in the Plan until they are protected under other legislation.
- Established Protected Areas (EPA) is the designation given to all legislated protected areas once they are fully established. Once an area is designated as an Established Protected Area, the plan no longer provides direction to these areas. Instead, they are managed according to their sponsoring legislation and management plans (where applicable). As such, EPAs are treated separately than the four zone types in the rest of the Plan.

Map 3 illustrates the approved 2013 Sahtú Land Use Zones. Table 15 shows the area and percentage of the SSA under each zone designation, while Table 16 shows which land uses are allowed in each zone type.



Map 3: Sahtú Land Use Zones (2013)

Table 15: Overview of Sahtú Land Use Zones

Zone Type	# of Zones	% of SSA	Total Area (km ²)
General Use Zones	Not Numbered	30.85	87,618
Special Management Zones	20	47.49	134,855
Conservation Zones	42	10.70	30,384
Proposed Conservation Initiatives	4	8.84	25,115
Established Protected Areas ²²	(1)	1.97	5,608
Community Boundaries ²³	(5)	0.14	409
Total	66 Zones	100.0	283,988

Table 16: Zone Prohibitions and Applicable Conditions

Zone Type	Prohibited Uses						Applicable Conditions						
	Bulk Water Removal	Mineral E&D	O&G E&D	Forestry	Power	Quarrying	CR # 2-13	CR #14	CR #15	CR #16	CR #17	CR #18	CR #19
General Use Zones	X						X						
Special Management Zones	X						X	X	Zones 23—27, 30-31		Zone 23		
Conservation Zones	X	X	X	X	X	X	X	X				Zone 26	Zone 14, 35
Proposed Conservation Initiatives	X	X	X	X	X	X	X	X					

Exempt Activities

The following activities are exempt from all or some of the plan’s conformity requirements:

²² The plan does not apply within Established Protected Areas so it does not count in the number of zones.

²³ The plan does not apply within community boundaries but the area is included to give an accurate breakdown of percentage of the SSA by zone type.

- Emergencies;
- Sahtú Dene and Métis harvesting activities;
- Activities within Established Protected Areas (as the plan does not provide direction within these areas after establishment);
- Legacy land uses (existing uses which are grandfathered);
- Municipal infrastructure projects, activities under a municipal water licence, and the removal of quarry material necessary for municipal operations; and
- Cleanup and reclamation activities.

Conformity Requirements

The plan provides direction to landowners, regulators and applicants on what land uses are appropriate, where, and under what conditions to achieve the vision and goals identified for the Sahtú Settlement Area. Direction is provided through conformity requirements, which set out the rules under which land use may take place. Conformity requirements are implemented through authorizations and dispositions. All land use activities must conform to all conformity requirements that are applicable to the location and proposed activities.

Conformity requirements consist of:

- Zoning (described above - Zoning is conformity requirement #1);
- General Conformity Requirements - applicable in all zones within the plan area; and
- Special Management Conformity Requirements - only applicable to Special Management Zones, Conservation Zones and Proposed Conservation Initiatives for uses that are permitted in those zones. Some special management conformity requirements are only applicable to specific zones, as outlined in the plan.

Table 17: Application of Conformity Requirements to Zone Types

Applicable Conformity Requirements	General Use Zone (GUZ)	Special Management Zone (SMZ)	Conservation Zone (CZ)/PCI
General Conformity Requirements	X	X	X
Special Management Conformity Requirements		X	X

The General Conformity Requirements provide direction on the following:

- #2 – Community Engagement and Traditional Knowledge – Requires community engagement to gather information on concerns and relevant traditional knowledge.
- #3 – Community Benefits – Activities must demonstrate community benefits, or benefits to the public interest.
- #4 – Archaeological Sites and Burial Sites – Creates setbacks and may require archaeological impact assessments to protect these sites.

- #5 – Watershed Management – Activities must not substantially alter the quality, quantity and rate of flow of waters flowing on, through or adjacent to Sahtú lands and minimize impacts on surface and groundwater.
- #6 – Drinking Water – Sets requirements to avoid and monitor activities that may affect downstream drinking water sources.
- #7 – Fish and Wildlife – Sets requirements, including setbacks and minimum flight altitudes to minimize impacts to fish and wildlife.
- #8 – Species Introductions – Requires precautions to avoid the introduction of non-native plant and animal species.
- #9 – Sensitive Species and Features – Identifies setbacks and communication protocols to identify and avoid impacts to rare or may-be-at-risk plants, hot and warm springs, mineral licks, karst topography, amphibians and ice patches.
- #10 – Permafrost – Activities must prevent or mitigate impacts from changes to permafrost.
- #11 – Project-Specific Monitoring – Requires site-specific monitoring to monitor the effectiveness of an activity's mitigation measures and impacts to surrounding values.
- #12 – Financial Security – Requires security to be posted for all activities requiring a land use permit or water licences.
- #13 – Closure and Reclamation – Activities must include consideration of closure and reclamation.

The Special Management Conformity Requirements provide direction on the following topics. The zones to which each are applicable are identified in brackets following each.

- #14 – Protection of Special Values – Activities must protect, respect or take into account the values of the zone as directed in the Zone Descriptions (All SMZs, CZS, and PCIs, except those in the Great Bear Lake Watershed).
- #15 – The Great Bear Lake Watershed – Sets requirements specific to zones in the Great Bear Watershed to engage Déline organizations, ensure activities are consistent with the maintenance of a self-sustaining ecosystem and there is a site-specific monitoring program in place (Zones 23-27, 30-31).
- #16 – Fish Farming and Aquaculture – Prohibits these activities within the Great Bear Lake Watershed within the SSA (Zones 23-27, 30 and 31).
- #17 – Disturbance of Lakebed – Prohibits activities that would disturb the lakebed of Great Bear Lake except the installation of environmental monitoring equipment; public, private or commercial wharves and docks; and work related to community water intake pipelines (Zone 23).
- #18 – Uses of Du K'ets'Edi Conservation Zone – Prohibits all commercial renewable and non-renewable resource development and the establishment of permanent structures other than research and monitoring equipment (Zone 26).
- #19 – Water Withdrawal – Prohibits water withdrawal for industrial purposes from Lac Belot, Stewart Lake and Tate Lake, except from the outflow (Zones 14 and 35).

Actions

Actions are measures directed at various bodies, including Designated Sahtú Organizations, departments and agencies of the federal and territorial governments, and co-management boards, to advance planning issues or fill data gaps needed to move the plan forward during future review cycles. By approving the plan, the approving parties agreed to make reasonable efforts to complete all actions pertaining to them. Approval of the plan does not imply a commitment for additional government funding.

The plan includes four actions on the following:

- #1 – Sahtú Land Use Working Group – Tasks the SLUPB with establishing a Land Use Working Group to discuss, study and resolve key regional land use and plan implementation issues.
- #2 – Inspection and Enforcement Priorities – Directs those with inspection and enforcement responsibilities to consider zone designations in setting their inspection and enforcement priorities, recognizing the sensitivity of these areas.
- #3 – Access to Wildlife Information – Directs wildlife managers to share current available data on important and critical wildlife habitat.
- #4 – Water Withdrawals – Directs DFO and the SLWB to make reasonable efforts to work with communities as requested to discuss community concerns related to water withdrawals.

Recommendations

Recommendations support the regulatory process by identifying additional factors or measures for applicants and regulators to consider or act on during project reviews. Recommendations are not legally binding, and approval of this plan by SSI, the GNWT and GoC does not make the plan's recommendations legally binding. They are intended to be advisory only. Applicants and regulators are asked to consider and implement recommendations wherever feasible and appropriate.

The plan includes four recommendations on the following topics:

- #1 – Air Quality – Encourages ENR to distribute air quality reports, expand the air quality monitoring network in the NWT, develop air quality regulations or standards for the NWT, and proponents to follow the GNWT's Guidelines for Ambient Air Quality Standards and other applicable regulations or standards as they are developed.
- #2 – Climate Change – Encourages applicants and regulators to integrate analysis of the effects of climate change into proposed land use activities, to monitor how activities contribute to climate change, and minimize such effects.
- #3 – Community Land Use Monitors – Encourages applicants to fund local Renewable Resource Councils to hire independent land use monitors.
- #4 – Incidental Harvest – Encourages applicants to share any incidental harvest (e.g., cutting trees to build a road or clear a seismic line) with nearby communities.

6.5 Plan Implementation

According to the MVRMA, the planning boards' implementation functions are to:

1. Monitor the implementation of the plan (MVRMA S. 44);
2. Where so authorized by the plan, consider applications for exceptions to the plan (MVRMA S. 44);
3. Where an application has been referred to the Planning Board, determine whether the proposed activity conforms with the plan (MVRMA S.47); and
4. Adopt any amendments to the plan it deems necessary (MVRMA S. 48);
5. Maintain a public record of all applications to it, and decisions it makes (MVRMA S. 49); and
6. Carry out a comprehensive review of the plan not later than five years after the plan takes effect, or at any other interval agreed to by the parties (MVRMA S.50).

6.5.1 Conformity Determinations

When an application for the use of land, water or resources is submitted to a regulator, it requires a conformity check to see if the activity as proposed conforms with the land use plan for that area. Figure 16 demonstrates SLUPB's conformity determination process.

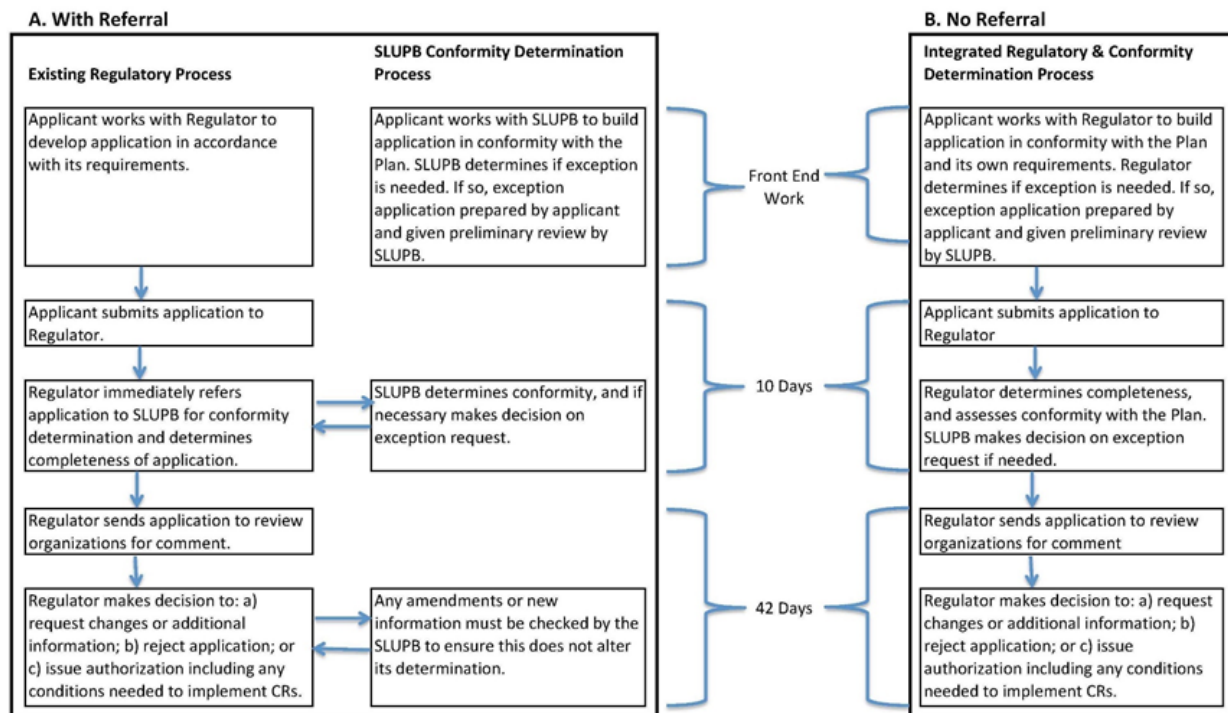


Figure 16: SLUPB Conformity Determination Process

6.5.2 Exceptions

The SLUPB provides application forms for exceptions. Unlike the Gwich'in Land Use Plan, which commits the Planning Board to make a decision within 30 days of receiving the application for exception, the Sahtú Land Use Plan does not have a timeline. The SLUPB has never had an application for exception. In order to grant exceptions, the SLUPB considers the following:

- Will granting the exception enable the plan to continue to meet the goals for the zone?
- Why is the exception required? Is it consistent with the reasons described in the plan for which an exception might be granted?
- How will the exception benefit the residents and communities of the Sahtú Settlement Region?
- Is the exception request supported by affected communities? Does it reflect the interests of other planning partners?
- What are the ecological, social, cultural and economic effects of allowing the proposed land use?
- What implications will the proposed land use have for other activities occurring or likely to occur in the region, and in the zone specifically?
- Is the exception potentially precedent setting, i.e., is it likely to lead to more requests for similar exceptions?
- Is the issue better handled by a plan amendment proposal?

6.5.3 Plan Review and Amendments

The SLUPB may adopt any amendments to a land use plan that the Board considers necessary. Amendments are likely to occur as a result of a five-year review, to address a new land use or issue, clarify plan requirements, or to update the status and application of the plan to a newly Established Protected Area. The SLUPB has two active plan amendments. Each amendment is kept separate until approved, at which time the plan is updated with the approved amendment. Amendments follow the same approval process as the initial plan (approval first by SSI, then the GNWT, then GoC), and take effect on the date they are approved by the GoC.

Nááts'ihch'oh Amendments

Nááts'ihch'oh National Park Reserve (NNPR) was created on December 18, 2014. As per S.34 of the MVRMA, the plan ceases to apply to the National Park immediately. However, the plan's zoning identified a larger area than the final NNPR boundary as a PCI, leaving pieces of land surrounding the park boundary as a PCI. Section 2.2. of the plan states that a change in boundary or status of an area proposed for protection will require a plan amendment, and that the SLUPB will engage the approving parties on alternate zoning for any areas left out of the final protected area.

The Board began its amendment process in early 2015, proposing that all areas not included in NNPR be rezoned as Special Management, and subject to a new Conformity Requirement #20.

The amendment is complete, and has been approved by SSI and the GNWT. It is awaiting federal approval.

As the final outstanding approval authority on the amendment package, it is up to the federal government to either approve the amendment, or reject it, and send its reasons in writing to the SLUPB and the other two approving parties. If rejected, the amendment package would come back to the SLUPB to reconsider, make any changes it deemed appropriate, then start the approval process over again.

Five-Year Review Amendments

The Board began work on its five-year review in mid 2016 (three years after plan approval) by contracting a consulting firm to conduct a review of the Sahtú Land Use Plan to evaluate the effectiveness of the plan, identify challenges and opportunities, and recommend areas for plan revisions. The report was released February 3, 2017. For the rest of 2017, the Board carried out community and stakeholder engagement to determine the scope of amendments. The results of this work were released in a report on January 23, 2018, entitled “Sahtú Land Use Plan – the First 5 Years: A Look Back to Move Forward” – an opinion paper to propose the scope of amendments for the five-year review. It is important to note that the Nááts’ihch’oh Amendments are not included in this amendment package; they are kept separate.

The Board moved forward with the above scope and released a draft amendment for public review on December 9, 2019, then revised and adopted the final amendment on May 1, 2020, for submission to Approving Parties. SSI approved the amendment in September 2020. The GNWT and Canada jointly conducted Crown Consultation with adjacent Indigenous Governments on the amendment and are now completing their final internal reviews as per their own approval processes.

Ts’udé Nijíiné Tuyeta Amendments

On September 4, 2019, the GNWT and the K’asho Got’ine Lands Corporation signed an Establishment Agreement to establish Ts’udé Nijíiné Tuyeta as a new protected area under the *NWT Protected Areas Act*. Similar to National Parks, the Sahtú Land Use Plan states that upon establishment of a protected area, a plan amendment will be required to rezone areas remaining under the PCI designation that were not included in the final protected area boundary. The Board initiated a new plan amendment in 2020. It released a Background Report on the process in August 2020 for public review, followed by a Draft Amendment Application in February 2021. The SLUPB expects to adopt the final amendment application for submission to Approving Parties in June 2021.

6.5.4 Monitoring

The SLUPB hired a consulting company in 2016 to review the Sahtú Land Use Plan development and its initial three years of plan implementation to evaluate the awareness that planning partners had of the plan, the effectiveness of the Sahtú Land Use Plan and to identify what was working well,

challenges and opportunities for further work. This work was intended to assist the Board in fulfilling its monitoring function and prepare for the upcoming five-year review. The consultants interviewed / surveyed a number of planning partners as part of this process.

The SLUPB has also begun work on a Monitoring and Evaluation Framework for the Sahtú Land Use Plan that addresses the following questions:

1. Is the plan achieving its goals and advancing the vision (for the Sahtú region)?
2. Is the plan being implemented fully and appropriately (by the many bodies responsible for implementation)?
3. Would further clarification assist in accurately interpreting and implementing the plan?
4. How is the plan affecting the regulatory system (is it having the desired result)?

The SLUPB released a Monitoring and Evaluation Framework in 2020, which described two streams for monitoring: Stream 1 involves working with regulators to report annually on how the SLUP is being implemented through their authorizations, while Stream 2 monitors how effective the plan has been in advancing the vision and goals of the region. The Board is now implementing Stream 1 with regulators and will release its first Annual SLUP Implementation Report in the summer of 2021, reporting on the 2020-21 fiscal year. Over the next year, the SLUPB will also begin refining how to monitor plan effectiveness (Stream 2), with the intent of implementing that part of the framework in subsequent years, subject to funding.

Chapter 7: Interim Draft Dehcho Land Use Plan

Chapter Breakdown:

Section 7.1 Overview of the Plan

Section 7.2 Plan Development and Approval

Section 7.3 Foundations of the Plan

Section 7.4 Contents of the Plan

Section 7.5 Plan Implementation



7.1 Overview of Dehcho Land Use Planning

DISCLAIMER – Table 18 and Chapter 7 are based on a June 27, 2016 draft of the Interim Draft Dehcho Land Use Plan and reviewed by Susan Fleck, Executive Director, Dehcho Land Use Planning Committee (DLUPC). The Draft Plan has and will continue to be revised by the DLUPC, and, until approved by DFN, the GNWT and Canada, is subject to change.

Table 18: Overview of Dehcho Land Use Planning

Details	Dehcho
Plan Name	Interim Draft Dehcho Land Use Plan ²⁴
Approval Status	Plan still under revision (Note: All of the parameters below could be revised before the Plan is approved)
Size	~ 215,615 km ²
Planning Body	Dehcho Land Use Planning Committee (DLUPC)
Governance Model	Initially IPG 2007 – Present, similar to government-to-government (G2G)
Legal Authority / Direction	Interim Measures Agreement (IMA) (not legally binding)
Authority of Plan	Intended to be legally binding; lacking some implementation mechanisms
Application to Land	Public land (no settlement lands yet), excludes lands in community boundaries and national parks and historic sites
Plan Approval	Sequential: <ul style="list-style-type: none"> • Dehcho First Nations (DFN) • Government of NWT (GNWT) • Government of Canada (GoC)
Implementation Roles of Planning Body	Monitor plan implementation Consider / grant exceptions (with support of approving parties) Determine conformity upon referral Conduct comprehensive review and propose amendments Maintain a database of human disturbance Undertake cumulative effects assessments, evaluate indicators or landscape disturbance and establish thresholds
Who Determines Conformity?	Mackenzie Valley Land and Water Board (MVLWB) and other regulators DLUPC on referral
Ability to Grant Exceptions	Yes

Details	Dehcho
Review and Amendment	Five-year review cycle, amendments as needed
Monitoring Plan Implementation	Monitoring through active participation in the regulatory process, management of human disturbance database
Other	Includes Dispute Resolution and Plan Termination Processes

7.2 Plan Development and Approval

The Dehcho Land Use Planning Committee (DLUPC) initiated plan development in 2002. The *Dehcho First Nations Interim Measures Agreement* (IMA) required that the Planning Committee carry out the following:

1. Develop maps identifying sensitive cultural sites, critical habitat, and related harvesting patterns throughout the Dehcho territory;
2. Develop maps identifying resource development potential in the mineral, hydrocarbon, forestry, tourism and agricultural sectors;
3. Develop a socio-demographic forecast to identify job creation and training needs over the next 20 years;
4. Develop an economic development assessment to determine what entrepreneurial opportunities may exist currently and in the future;
5. Integrate the above to identify development opportunities, social and ecological constraints, including consideration of potential land use projects, potential core representative areas within each ecoregion, and any other issues appropriate for consideration in the land use plan;
6. Identify potential surface/subsurface land withdrawals and sub-surface only land withdrawals;
7. Develop a set of land use options for consideration by the parties and other stakeholders;
8. Solicit comments on the land use options from Dehcho communities and First Nations, Dehcho First Nations (DFN), GNWT, GoC, and interested stakeholders (this step and the previous one are to be repeated as necessary to arrive at a preferred option);
9. Prepare a draft land use plan based on the preferred option;
10. Solicit comments on the draft plan as previously done; and
11. Revise the plan and present a final draft plan to the parties for approval and consideration.

The land use plan will include proposed land withdrawals to be presented for negotiations.

The Planning Committee contracted most of the data collection and map preparation to expedite the process, hiring experts in each field. Additional research projects were needed to fill in gaps or address specific issues, including:

- A wildlife workshop to bring together community harvesters and wildlife specialists to fill in gaps in existing wildlife habitat mapping;

- A cultural workshop to provide a cultural foundation for the plan;
- Additional modelling to fill in gaps in both oil and gas and mineral exploration potential mapping; and
- Satellite imagery was acquired and a cumulative effects management model developed to run real-time assessments of land use applications' contribution to landscape disturbance indicators.

The Planning Committee ran a comprehensive engagement process with all Dehcho community organizations, government, industry, environmental organizations, and the public. Six rounds of engagement were conducted over the initial four years (2002-2005) of plan development at the following stages:

1. Introduce the process and develop the vision and goals;
2. Present the results of data gathering and get initial input on zoning for each land use;
3. Presentation of zoning options and refining zoning;
4. Draft plan;
5. Revised plan; and
6. Final plan (2006).

Three comprehensive drafts were produced before the plan was submitted for approval in June 2006. The plan was approved unanimously by DFN at the 2006 Dehcho Assembly. It was not accepted by the GNWT and GoC for various reasons.

The process was restarted in the spring of 2007 with a new Terms of Reference. The Committee has been revising the interim plan since then. A number of factors have affected the timelines to complete the plan, including:

- length of time to appoint new government members,
- an internal review by the parties of a draft plan in 2016 took three years, and
- the lack of a Dehcho negotiations table for several years affected providing direction to the Committee on outstanding issues.

To keep the Dehcho public informed of the status of the plan, an annual report in the form of a pamphlet has been mailed to all Dehcho households since 2012. As well, the Committee provides updates at every DFN leadership session and annual Assembly.

The Planning Committee expects to release a revised draft plan for public review in 2023. The GNWT and GoC will also conduct S. 35 consultation with neighbouring Indigenous Governments with established or asserted rights within the plan area.

The IMA requires the plan to be forwarded to DFN for approval when it has been completed (S. 9). Following approval by DFN, the plan will be forwarded to the GNWT for approval, and the Minister of CIRNAC for consideration (S. 10).

7.3 Foundations of the Plan

The DFN are still negotiating their land claim agreement so the Dehcho land use planning process is not a constitutionally enshrined process like the Sahtú and Gwich'in Land Use Plans. In 2001, the parties (DFN, GNWT and GoC) signed the IMA, which lays out the planning process. It generally follows the Sahtú and Gwich'in processes, with some differences.

7.3.1 Legal Authority

The DLUPC derives its authority from the IMA of 2001, which includes similar planning provisions to the MVRMA, with some exceptions:

- The Dehcho IMA is not legally binding, and therefore, the planning process and plan lack a legal basis; and
- Because the plan does not have its own legal authority, it requires alternative implementation mechanisms to give it legal force, until such time as a Dehcho Final Agreement is completed, which would give legal authority to the plan.

7.3.2 Governance

Under the Dehcho First Nations IMA, the DLUPC consists of four board members with equal representation from DFN and government, and a Chair, operating together in the public interest. However, after the 2006 final draft plan was approved by DFN but not accepted by the territorial and federal governments, the DLUPC was issued a new Terms of Reference in 2007, which placed the Planning Committee under the direction of the Dehcho Process Main Table (Land Claim negotiations). The Dehcho plan was also assigned “interim” status to signify that it is being developed in advance of completion of the land claim agreement. The Planning Committee has a Technical Working Group (with members from each party) to provide technical advice to the Committee.

Following completion of a Dehcho Final Agreement, the plan will be revised, and will drop “interim” from its title.

7.3.3 Guiding Principles

The Dehcho First Nations IMA sets out the following principles for the planning process:

- The purpose of the plan is to promote the social, cultural and economic well-being of residents and communities in the Dehcho territory, having regard to the interests of all Canadians (S. 2).
- Taking into consideration the principles of respect for the land, as understood and explained by the Dehcho Elders, and sustainable development, the plan shall provide for the conservation, development and utilization of the land, waters and other resources in the Dehcho territory (S. 3).

7.4 Contents of the Plan

7.4.1 Structure of the Plan

The Draft Interim Dehcho Land Use Plan includes three main sections:

1. Introduction – Describes the context, scope and application of the interim plan;
2. Vision and Goals, Conformity Requirements, Actions and Recommendations – Proposes the plan's guidance for land use; and
3. Interim Plan Approval and Implementation – Proposes the processes for how the plan may be approved, implemented, reviewed, amended or terminated.

7.4.2 Key Elements of the Plan

Land Use Zones

The plan's zoning addresses five key land use activities:

- agriculture,
- commercial timber development,
- tourism,
- mining and
- oil/gas.

The interim plan proposes a simple zoning system to define areas which specify what types of land use are permitted or restricted and where. The interim plan proposes the following land use zones:

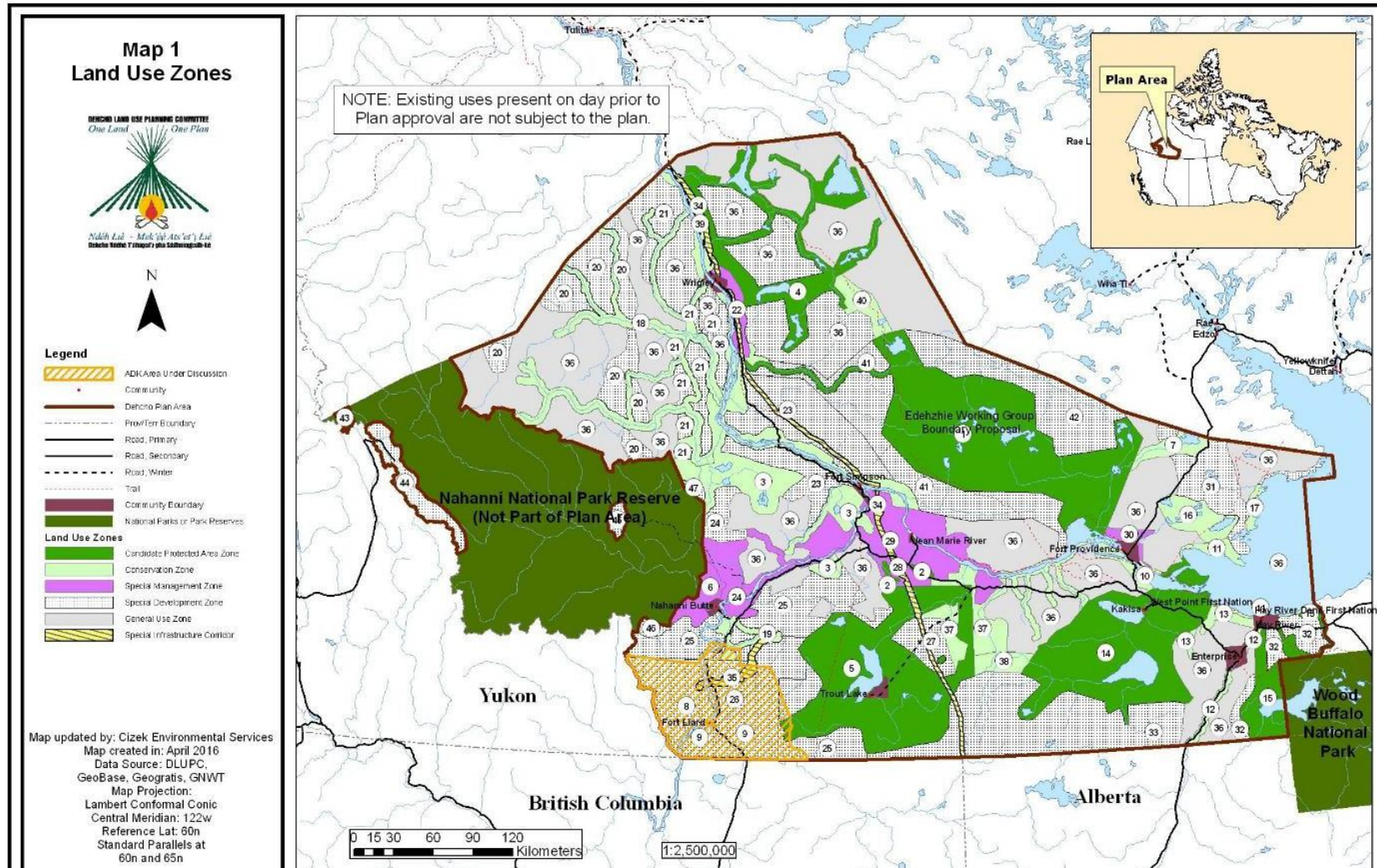
- General Use Zones permit all land uses, subject to this interim plan's conformity requirements.
- Special Management Zones are areas where there is significant potential for conservation and resource development to occur concurrently. Special Management Zones promote certain types of land use and allow them to proceed while protecting cultural and ecological features. To achieve these goals, each Special Management Zone prohibits at least one of the five land use types addressed, while permitting others, subject to this interim plan's other conformity requirements. Special Management Zones prohibit both oil/gas and mining, except for Jean Marie South (Zone 28), which allows oil/gas.
- Special Development Zones also provide for conservation and resource development to occur concurrently. Special Development Zones allow for multiple land uses, including oil and gas and mining, subject to conditions to protect a listed set of cultural and ecological features within each zone.
- Two Special Infrastructure Corridor Zones delineate two study corridors for proposed pipeline projects (the Mackenzie Gas Project and one in the Netla-Arrowhead area near Fort Liard). These zones overlay the other zone types. The construction and operation of a pipeline is permitted within these corridors, subject to conformity requirements, even

where the corridors cross zones where oil and gas operations are not otherwise permitted (e.g. Candidate Protected Area Zones). However, all zone requirements and restrictions continue to apply in the corridors, to pipeline construction and operation as well as other land uses, except where and to the extent that this interim plan expressly states an exception.

- Candidate Protected Areas Zones are areas going through federal or territorial initiatives for establishing protected areas. None of the five key land use activities are currently permitted due to interim land withdrawals. Once protected areas are established through their own legislation, tourism and other land uses may be permitted according to the sponsoring legislation and management plan developed for the area.
- Conservation Zones provide protection to lands with important cultural or ecological features. Of the five types of land uses controlled by zoning, only tourism is permitted in Conservation Zones, and it is subject to conformity requirements. One zone (Zone 7 – Birch Lake) prohibits tourism as well. Under certain restrictive conditions, the following land uses may be permitted in Conservation Zones: non-exclusive geophysical surveys, public and minor infrastructure, quarrying, transportation corridors, pipelines, hydro-electric developments and forest management activities required for fire and disease prevention and salvage logging.

The interim draft zoning is shown in Map 4.

(2016 draft. The Draft Plan has and will continue to be revised by the DLUPC, and, until approved by DFN, the GNWT and Canada, is subject to change. Zoning in orange stripes is under review by the Acho Dene Koe Main Table.)



Map 4: Draft Dehcho Interim Land Use Plan Zoning

Exempt Activities

The following activities are exempt from the Draft Interim Dehcho Land Use Plan:

- traditional land uses,
- existing authorized land use activities,
- clean-up and remediation of contaminated sites, and
- activities carried out in response to an emergency.

That interim plan proposes another class of exempt activities, often called “below threshold activities” because they are small scale, low impact or may not require an authorization. Under the interim plan, the proposed activities that do not constitute land uses (as per the definition in the plan) and are not subject to this plan are:

- scientific research activities that require only a scientific authorization,
- prospecting, staking or locating a mineral claim unless it requires equipment referenced in Sections 4 or 5 of the MVRMA,
- free timber cutting permit,
- resident and non-resident hunting, and
- anything that does not require an authorization such as travel and recreational activities.

Conformity Requirements

Conformity requirements are requirements that, upon implementation of this interim plan, a land use must meet in order to receive authorization, or that must be included and/or complied with under an authorization. Zoning is the first conformity requirement. Proposed conformity requirements would address the following topics:

- Establishing the plan’s zoning system;
- Protection of special features in Special Development Zones;
- Existing and planned community and public infrastructure;
- Conditions for transportation corridors, electricity transmission lines and communication cables;
- Commercial fishing outside Great Slave Lake;
- Land uses proposed within a source watershed for a community’s public water supply;
- Hydro-electric developments;
- Timber recovery from lands uses carried out on forest lands;
- Agricultural practices;
- Identification of, and mitigation of impacts to, significant environmental and habitat features, including during critical life-cycle periods.

Actions

Proposed actions are measures directed at the DFN, GNWT or the GoC that do not regulate land or water use (e.g., research, meetings) and are not legally binding. Actions are proposed to resolve larger issues or data gaps in order to move the interim plan forward during future review cycles.

Proposed actions would address the following topics:

- Public engagement guidelines;
- Outlining contract terms and develop a list of qualified guides and monitors;
- Silvicultural practices for the Dehcho territory;
- Issuance of new big game outfitter licences and new fishing lodges;
- Establishing a Cumulative Effects Advisory Working Group to discuss cumulative effects methodologies in the Dehcho territory; and
- Implementing the proposed cumulative effects assessment methodology.

Recommendations

Proposed recommendations are statements that provide advice to proponents, regulatory authorities, governments and other organizations on additional measures that will help achieve the goals of the Draft Interim Dehcho Land Use Plan. They are not legally binding requirements but, where appropriate, should be given consideration in future land use decisions and policy initiatives.

Proposed recommendations would address the following topics:

- Environmental impacts from developments;
- Community engagement on cultural and ecological features;
- Dene laws, values and principles;
- Dene cultural and linguistic experiences;
- Climate change effects on land uses;
- Harmonizing non-exclusive geophysical surveys with the plan's proposed zoning;
- Quarry locations;
- Planning and routing studies for pipelines;
- Air quality standards;
- Updating the *Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories*;
- Best practices for revegetation to reduce fire hazards, prevent the spread of invasive species and promote indigenous plant growth;
- SMART (Sustainable Model for Arctic Regional Tourism) Principles and Leave No Trace Guidelines in tourism operations;
- Visitor quotas in commercial tourism operations;
- Impacts from agricultural activities;
- Landscape disturbance thresholds to new land uses;
- Minimum flight altitude for aircraft flying over significant habitat features during critical periods as specified in the plan;
- Industrial camp locations and camp rules and policies to manage interactions between communities and camp personnel; and
- Conformity determination processes and standard criteria to implement the plan.

7.5 Plan Implementation

It is intended by all parties that the Draft Interim Dehcho Land Use Plan, once complete and approved, will be legally binding. The proposed implementation mechanisms are laid out in the IMA (S. 11 and 14). The Dehcho plan would rely on two key mechanisms:

- Surface and/or subsurface land withdrawals, which restrict the issuance of rights and interests in land and resources - they will implement the zoning restrictions; and
- Binding policy direction from the Minister of Crown-Indigenous Relations and Northern Affairs on the MVLWB – intended to replicate S. 61(1) of the MVRMA that specifically directs the SLWB and GLWB to carry out their powers in accordance with the approved plans.

What is currently missing are legal mechanisms to bind other federal and territorial regulatory authorities to implement the plan, as is done in S. 46(1) of the MVRMA. The GNWT is considering stand-alone planning legislation to require its regulatory authorities to follow land use plans completed prior to land claim agreements. No mechanism, other than land withdrawals, has been identified to require federal departments and agencies to follow a land use plan developed in the absence of a final land claims agreement.

Plan implementation is expected to be a shared responsibility. The final interim plan will describe the various roles and responsibilities of the Planning Committee, parties, regulatory authorities and others.

7.5.1 Conformity Determinations

Regulatory authorities will have primary responsibility for determining whether or not a new land use application meets the conformity requirements described in the interim plan. The MVLWB will be a key regulatory authority, as most land uses require either a land use permit or water licence. As the plan is not yet approved, conformity determinations do not yet take place.

However, the plan may be consulted as a source of information for proponents and regulators on community and regional values, priorities and wishes with respect to the use of land, water and other resources, and considered in decision-making.

The interim plan sets out the following conformity determination process, shown in Figure 17.

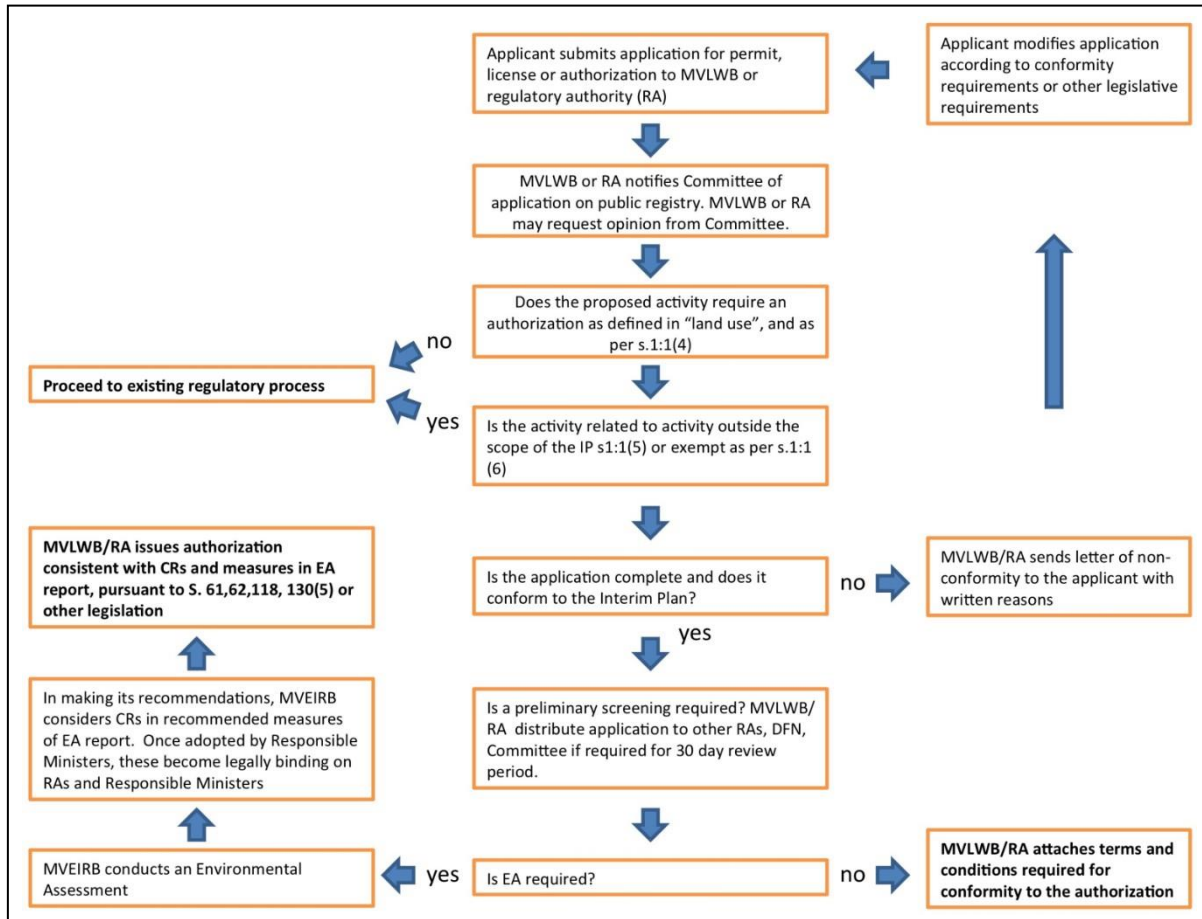


Figure 17: Conformity Determination Process for Applications to the MVLWB and Other Regulatory Authorities

7.5.2 Exceptions

The plan proposes the DLUPC, with the support of the parties, may grant an exception to the plan. An exception allows a land use to take place that is not in conformity with the interim plan. When considering an application for an exception the Planning Committee would make a decision based on the following criteria:

1. The exception must be a minor exception from the provisions of the interim plan. If it is not a minor exception, the DLUPC may consider proposing an amendment to the interim plan.
2. The exception must be desirable in the opinion of the Planning Committee for the appropriate development or use of the land. In determining whether or not the exception is desirable, the Committee considers:
 - a. The benefits to the residents and communities of the Dehcho territory;
 - b. The support of the DFN, the GNWT and the GoC;
 - c. The environmental, cultural and economic consequences of allowing the land use; and
 - d. The implications it will have for other activities that are occurring or will potentially occur in the area.

3. The general intent and purpose of the interim plan must be maintained.

To obtain an exception to the interim plan, applicants must apply directly in writing to the DLUPC. Once the DLUPC has received a request for an exception, it immediately advertises the request, considers the application and makes a decision within 60 calendar days of receiving the exception application. A record of decision forms the Planning Committee's response, and the decision must be made public. Applicants may be asked to make a presentation to the DLUPC on the proposed exception.

7.5.3 Review and Amendment

The Draft Interim Dehcho Land Use Plan proposes four types of interim plan reviews:

1. A periodic review focusing on the efficacy of the interim plan – to be undertaken five years after the effective date of the interim plan, and every five years thereafter, or at any other interval agreed to by the parties.
2. A review following establishment of a Protected Area.
3. A review following changes to legislation or the enactment of new legislation.
4. A comprehensive review of the interim plan upon the signing of a Dehcho Agreement focusing on the changes required by the Dehcho Final Agreement and providing for future periodic reviews.

Factors to be considered during the interim plan review include:

1. Are the vision and goals still appropriate?
2. Has the interim plan achieved its objectives?
3. Have there been any amendments proposed?
4. Are there new data available that need to be considered?
5. Does the interim plan allow for sufficient economic opportunities to meet the needs of the Dehcho territory?
6. Have there been any changes in other land use initiatives (community plans, protected area strategy proposals, etc.) that need to be reflected in the interim plan?
7. Have there been any large projects or changes that need to be addressed?
8. Are there new land uses or technological advancements that need to be considered by the interim plan?

The other types of plan review will be narrower in scope and focused on the change driving the plan revisions. For each review, the DLUPC will:

1. Initiate the review and conduct it based on the factors listed above;
2. Consult the parties, appropriate regulatory authorities, and other planning partners on issues and proposed changes to the interim plan; and
3. Forward the recommended amendments to the parties for their consideration and approval, following the same approval process as for the initial interim plan.

7.5.4 Dispute Resolution

If disputes arise during the conduct of any review or amendment processes, the parties and the Planning Committee will employ an Alternative Dispute Resolution (ADR) Process to attempt to resolve the dispute. The plan proposes the parties employ three stages of ADR:

1. Stage One – Collaborative Negotiations: Participation is voluntary and there is no third party who facilitates the resolution process or imposes a resolution.
2. Stage Two – Facilitated Processes: A mediator facilitates the resolution process (and may suggest a resolution, typically known as a “mediator's proposal”), but does not impose a resolution on the parties.
3. Stage Three – Arbitration: Participation is typically voluntary and there is a third party who, as a “private judge”, proposes a binding resolution. The parties may agree on their own procedural rules for the arbitration, or alternatively, follow procedure set out in legislation.

Each of the stages will include a resolution agreement.

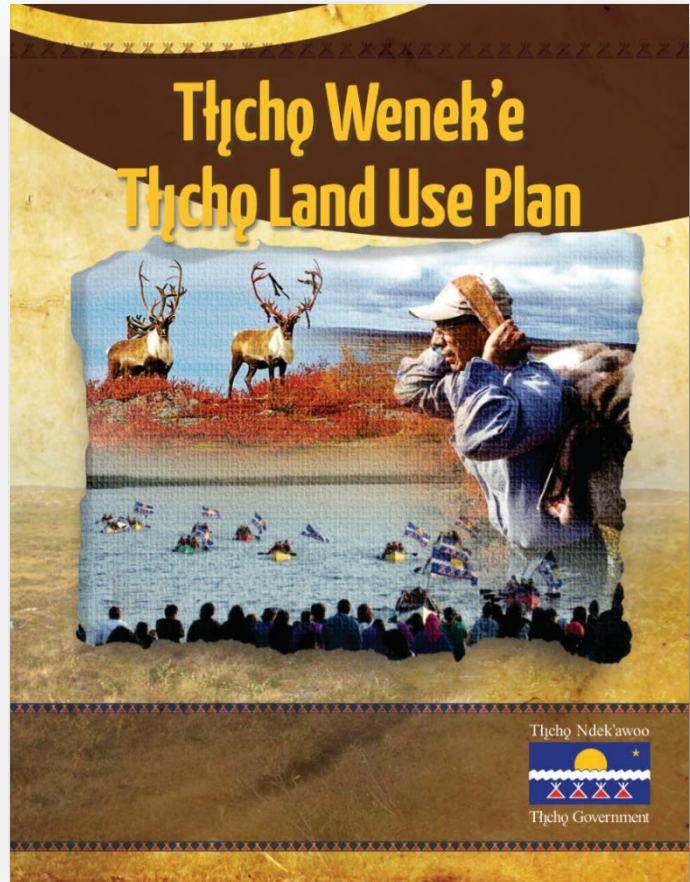
7.5.5 Termination

The Draft Interim Dehcho Land Use Plan proposes a termination section, which is currently under review by the parties. The Gwich'in and Sahtú Land Use Plans do not have such provisions as they are requirements of their respective land claim agreements.

Chapter 8: Tłjchq Land Use Plan, Tłjchq Wenek'e

Chapter Breakdown:

- Section 8.1 Overview of the Plan
- Section 8.2 Plan Development and Approval
- Section 8.3 Foundations of the Plan
- Section 8.4 Contents of the Plan
- Section 8.5 Plan Implementation



8.1 Overview of the Tłı̨chǫ Land Use Plan

Table 19: Overview of the Tłı̨chǫ Land Use Plan

Details	Wek'èezhìi (Tłı̨chǫ Lands)
Size	~39,000 km ²
Planning Body	Tłı̨chǫ Government (TG)
Governance Model	Single Party
Legal Authority / Direction	<i>Tłı̨chǫ Agreement (TA)</i> <i>Mackenzie Valley Resources Management Act (MVRMA) (limited)</i>
Authority of Plan	Legally binding
Application to Land	Tłı̨chǫ land, excludes lands in community boundaries
Plan Approval	TG – Assembly passes a law to give legal effect to the plan
Implementation Roles of Planning Body	Implement the plan through TG land use permissions and conditions attached to those Grant plan variances Conduct plan reviews and amendments
Who Determines Conformity?	TG, Department of Culture and Lands Protection
Ability to Grant Exceptions	Yes
Review and Amendment	Five-year review cycle, amendments as needed
Monitoring Plan Implementation	Implementation tracking to be considered in next five-year review

8.2 Plan Development and Approval

Unlike the other planning processes, there is no direction laid out in the Tłjchq Agreement (TA) or legislation to guide plan development, so the TG was free to develop its own process. The Tłjchq Land Use Plan was also 20 years in development.

Work on the plan began as a traditional knowledge study, started in 1993. This involved ten years of data collection with communities and Elders, involving consultations, mapping workshops and fieldwork, to identify important cultural resources, document traditional place names and history, and recording the information into a series of digital maps. This work allowed for the identification and protection of significant cultural features such as spiritual gathering places, special sites, gravesites, harvesting sites, traditional trails and waterways.

This was complemented by data gathering work to identify and protect significant environmental features, such as watersheds, biodiversity and ecological representation, and key wildlife habitat and migration routes.

The goal of protecting these features formed the basis of the plan's zoning. Buffers were used around significant features to protect them, and varied in size and extent according to factors such as the significance of the feature, the need for separation between it and surrounding land uses, or the need to continue traditional transportation practices. The plan also considered future land uses, including roads and utility corridors, resource development, and tourism; and landscape factors such as climate change, cumulative effects, and forest fires.

The plan includes Land Protection Directives (LPDs) – policies which guide the TG in considering development proposals. They ensure the appropriate management and use of Tłjchq lands, and address a variety of matters, including renewable resource management, environmental protection, and Tłjchq lands management.

The plan was developed over many years by the Department of Culture and Lands Protection with the help of community working groups and guided by the advice of an ongoing regional Land Use Planning Working Group.

8.2.1 Plan Approval

The completed plan is first submitted to the Chief's Executive Council for approval. Once approved, they take it to the Assembly, which must pass a law (by vote) to approve and implement the plan. The Tłjchq Assembly enacted the Tłjchq Land Use Plan Law on April 25, 2013 to give legal effect to the completed Tłjchq Land Use Plan. It came into force on June 1, 2013. If and when the plan is revised, the same process will be followed to approve the amended plan.

8.3 Foundations of the Land Use Plan

8.3.1 Legal Authority

The TG has the authority to enact laws in relation to the use, management, administration and protection of Tłjchq lands and the renewable and non-renewable resources found thereon, including land use plans for Tłjchq lands (Tłjchq Agreement, S. 7.4.2(c)). As mentioned above, the TG enacted the Tłjchq Land Use Plan Law on April 25, 2013 to give legal effect to the completed Tłjchq Land Use Plan. It came into force on June 1, 2013.

Section 22.5.4 of the TA gives legal force to the Tłjchq Plan in the broader regulatory context: *“Upon approval of a land use plan applicable to any part of Wek’èezhìi, government, the Tłjchq Government and the Tłjchq community governments and their departments and agencies, including the Wek’èezhìi Land and Water Board, shall exercise their powers in relation to Wek’èezhìi in accordance with the plan.”*

The MVRMA has a similar clause directing the Wek’èezhìi Land and Water Board to exercise its discretionary powers relating to the use of Tłjchq lands in accordance with any Tłjchq laws enacted under S.7.4.2 of the Tłjchq Agreement (MVRMA S.61.1).

8.3.2 Governance

Unlike other planning regions in the Mackenzie Valley, the TG owns the block of Tłjchq lands for which the Tłjchq Land Use Plan was developed. As such, no co-management board was established. The TG developed its own plan for its own lands and holds the exclusive authority to approve its plan. The TG’s Department of Culture and Lands Protection coordinated plan development. Early work on the plan (data collection, mapping) was carried out with the assistance of a contractor. Working Groups were created in each Tłjchq community to collect data and traditional knowledge and do mapping workshops. This traditional knowledge collection informed plan development. A Tłjchq Land Use Planning Working Group (LUPWG), which consisted of two Elders from each Tłjchq community, was also established to guide the Department in the establishment of planning goals, and contribute knowledge and direction throughout the process.

8.3.3 Values

The Tłjchq Land Use Plan is based on Tłjchq values and the sacred connection the Tłjchq have with the land. Stewardship – protecting and respecting the land - is a key value guiding the plan. Protecting the land and ensuring its sustainable use in the future is critical in protecting Tłjchq language, culture and way of life.

The use of Tłjchq place names in the plan are a key way of integrating Tłjchq values into the planning process. Tłjchq place names speak to what events took place in an area, the landscape, the history, the wildlife and vegetation, which are central to Tłjchq culture and heritage. They are an important way of sharing the memories of what has taken place in particular areas and help to show what is important to the Tłjchq.

8.4 Contents of the Plan

The Tłjchq Land Use Plan includes seven sections:

1. The Setting – Describes the planning process, foundation, scope and legislative context for the plan;
2. The Tłjchq – Describes the people, history and values on which the plan is based;
3. The Process – Describes the plan development process, how Tłjchq values were incorporated, plan preparation, and tools for the protection and management of Tłjchq lands;
4. The Land – Describes the planning area, biophysical environment, existing and future land uses, and cumulative effects;
5. Tłjchq Land Protection Zones – Describes the zoning system;
6. Tłjchq Land Protection Directives – Describes the rules/guidance for proponents, for further activities and study by the TG, and for partners in the management of Tłjchq lands; and
7. The Future – Describes plan implementation, how it will be updated, and future actions.

The Tłjchq plan uses different terminology than other plans in the Mackenzie Valley. It provides direction for land use through “Tłjchq Land Protection Zones,” and “Land Protection Directives”, the names emphasizing the Tłjchq’s main goal of land protection. Because the plan is for Tłjchq lands, over which the TG has control, they have taken a softer approach to zoning than in other regions, preferring to ‘encourage’ or ‘discourage’ uses, instead of ‘permit’ or ‘restrict’.

The model for Tłjchq Land Protection through the plan is shown in Figure 18.

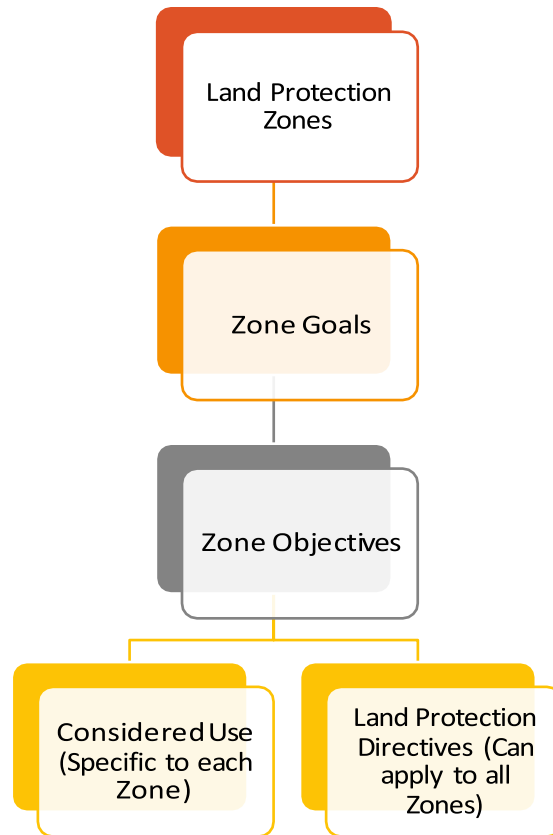


Figure 18: Land Protection Approach under the Tjichq Land Use Plan

8.4.1 Tjichq Land Protection Zones

Zone establishment reflects the Elders’ experience on the land and traditional knowledge. They are intended to support Tjichq harvesting activities and protect sacred places, important cultural areas and trails, and heritage resources located throughout Tjichq lands.

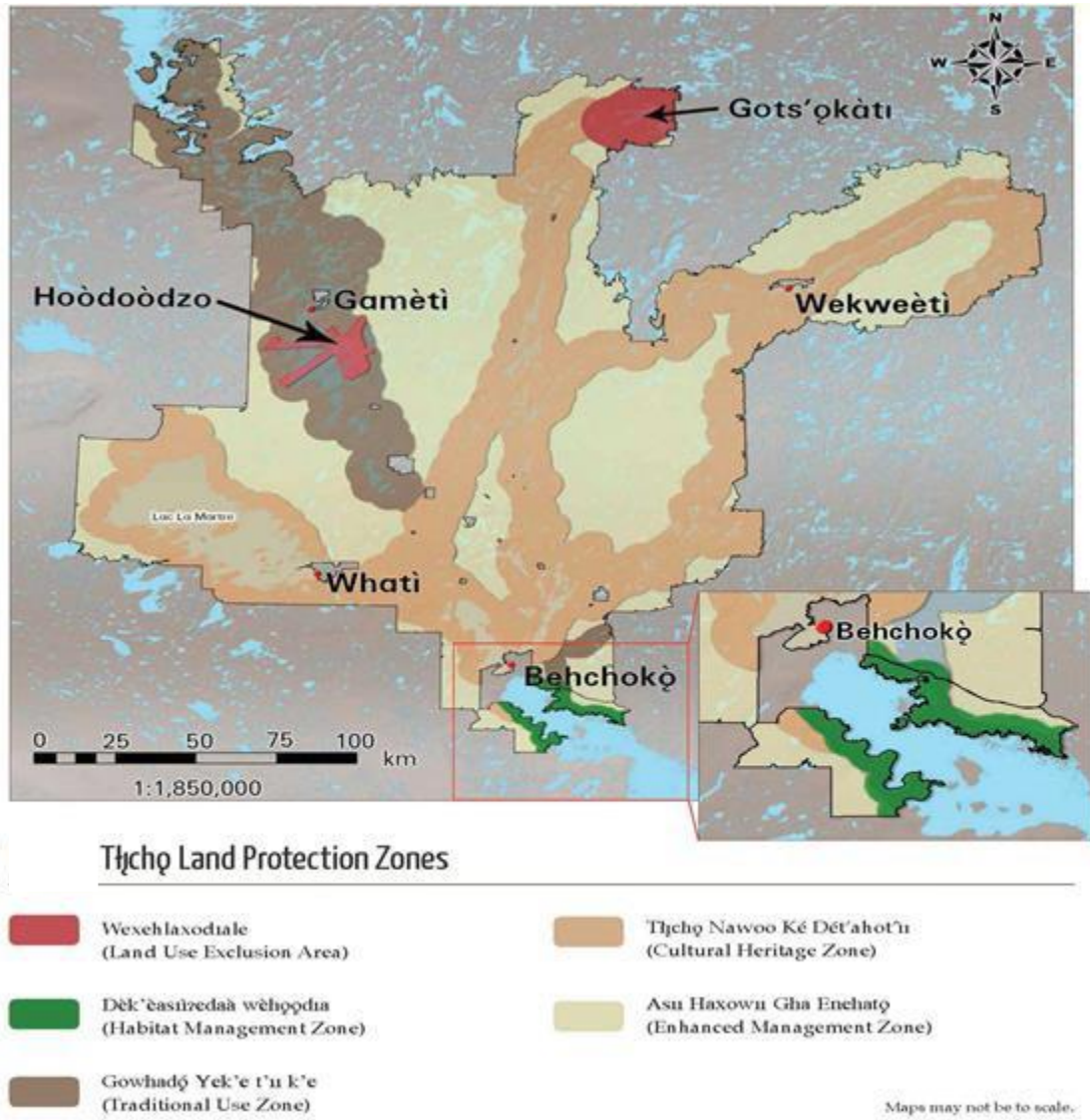
There are five types of land protection zones used, as described in Table 20 below.

Table 20: Description of Land Protection Zones

Zone Type	Description	Goal	Objectives
Wehexlaxidiale (Land Use Exclusion Zone)	Sites where the connection between Tjichq culture and heritage and the land are very strong: <ul style="list-style-type: none"> • Gots’oḱ àti • Hoòdoòdzo 	To protect sites fundamentally linked to Tjichq history and heritage from development	1. No development 2. Further protection measures may be considered

Zone Type	Description	Goal	Objectives
Dek'easiwedaa wehoodia (Habitat Management Zone)	Ecologically significant area identified for protection through the Protected Area Strategy <ul style="list-style-type: none"> Dinaga Wek'ehodi 	To protect selected areas of permanent or seasonal wildlife and bird habitat on Tłjchq lands	<ol style="list-style-type: none"> 1. Restrict land use 2. Encourage research to improve protection and identify further sites for protection
Gowhadq Yek'e t'u k'e (Traditional Use Zone)	The zone is centred around the Idaa Trail, an ancestral trail that follows waterways. It is still used for active harvesting and includes spiritual sites, burial sites, cabins, caribou trails and canoe routes	To preserve the Idaa Trail for continued traditional use	<ol style="list-style-type: none"> 1. Preserve lands used to practice traditional activities 2. Remember the ancestral trails 3. Protect spiritual and burial sites 4. Promote and share traditional knowledge
Tłjchq Nawoo Ké Det'ahot'u (Cultural Heritage Zone)	Traditional trails used by Chief Monfwi to follow caribou and survive hardship	To protect the land from activities that interfere with the integrity of Monfwi's trails	<ol style="list-style-type: none"> 1. Protect Monfwi's trails 2. Preserve the caribou trails associated with Monfwi 3. Allow Tłjchq to travel these trails 4. Promote continued sharing of stories and knowledge of the trails
Asu Haxown Gha Enchato (Enhanced Management Zone)	Areas where there may be opportunities for sustainable economic development	To provide for a range of development proposals to create economic opportunities	<ol style="list-style-type: none"> 1. Identify opportunities for development proposals 2. Encourage sustainable, managed economic development 3. Ensure a comprehensive review of proposals

Map 5 shows the location of the Tjichq Land Protection Zones and Table 21 shows the land uses considered in each.



Map 5: Tjichq Land Protection Zones

Table 21: Land Uses Considered in each Land Protection Zone

Land Uses Considered	Wehexlaxidiale (Land Use Exclusion Zone)	Dèk'éasiwedaä wehoodia (Habitat Management Zone)	Gowhadó Yek'é t'u k'e (Traditional Use Zone)	Tłjchq Nawoo Ké Dèt'ahot'ii (Cultural Heritage Zone)	Asu Haxown Gha Enchato (Enhanced Management Zone)
Camp or Cabin	X	X	X	X	X
Non-Exploitive Scientific Research	X	X	X	X	X
Transportation Corridors	X	X	X	X	X
Eco-cultural Tourism		X	X	X	X
Hydro-Power Generation			X	X	X
Utility Corridor			X	X	X
Quarries					X
Commercial Forestry					X
Hunting and Fishing lodge					X
Mineral Exploration					X
Mines and Mineral development					X
Oil and gas exploration					X
Oil and gas extraction					X

8.4.2 Exempt Activities and Lands

The Tłıchq plan identifies the following activities as exempt from the requirement for land use permissions as set out in the plan:

- Traditional land use and occupancy by Tłıchq; and
- Activities carried out in response to an emergency, law enforcement, national defense or similar activities as provided for by the Tłıchq Agreement.

The plan also refers to Chapter 19 of the Tłıchq Agreement, which provides for certain situations, referred to as “bare access”, where people can access Tłıchq lands without a land use permission being granted. This right of access is subject to the condition that the person:

- Does not cause any damage to Tłıchq lands and is responsible for any such damage;
- Does not commit any mischief on Tłıchq lands; and
- Does not significantly interfere with the use and peaceable enjoyment of Tłıchq lands by a Tłıchq citizen or the Tłıchq First Nation.

The plan further excludes certain lands and interests from application of the plan as identified in Chapter 18 of the Tłıchq Agreement:

- Parcels of land retained or held by the federal or territorial governments that were cut out of the block of Tłıchq lands, including the Snare Lake hydroelectric generation facility, former mine sites, and active mining leases.
- Third Party interests on Tłıchq lands specifically noted under Chapter 18, which provides for the continued management by the GoC until such time as the interest is no longer operative; and
- Contaminated sites on Tłıchq lands identified in the Tłıchq Agreement, for which the programs of the GoC for contaminated sites cleanup will apply.

8.4.3 Land Protection Directives

Land Protection Directives are policies that will be used by the TG along with zoning to provide a framework for the consideration of land use permissions by the TG. They address a range of issues that may arise in the considering proposed activities and development on Tłıchq lands. The Land Protection Directives reflect Tłıchq priorities about renewable resource management and the environment. They are organized into three groups as summarized below.

Land Protection Directives for Proponents of Development on Tłıchq Lands

There are ten Directives relating to:

- Minimizing impacts to wildlife and their habitat, traplines and winter trails;
- Identifying potential impacts of the development on the watershed;
- Ensuring forestry activities are small scale, community-based and minimize impacts to wildlife habitat and cultural features;
- Maximizing Tłıchq jobs, and promoting Tłıchq culture, history and way of life within tourism activities;

- Using ecological representation analysis to assess proposals;
- Following Tłjchq Land Use Guidelines;
- Balancing the need for protection of traditional uses, heritage and culture, and the need for economic opportunities;
- Analyzing the environmental, cultural and socio-economics of resource development proposals and demonstrating substantial benefits for the Tłjchq; and
- Requirements for proponents and considerations for the TG when proposing an activity or development not listed as a considered use in the cultural heritage or traditional use zone (minimize impacts on zone values, undertaking community engagement).

There are eight Land Protection Directives for further activities and study by the TG (and its partners), relating to:

- Developing a strategy to permit and manage land uses within seasonal caribou range;
- Developing an integrated approach to planning, monitoring and managing land use activities that support long-term conservation and resilience of migratory caribou;
- Implementing the National Recovery Strategy for Boreal Woodland Caribou;
- Limiting the number of resource projects occurring at one time to reduce negative impacts on the Tłjchq people, lands, culture and environment;
- Amending the plan to address climate change adaptation and mitigation as required;
- Requiring the use of Elders' knowledge in the review of all proposed development;
- Involving Tłjchq Elders and/or Department of Culture and Land Protection staff in the review and potential collection and documentation of Tłjchq cultural heritage resources; and
- Potential partnerships to undertake field research to update information about Tłjchq lands.

There are five Land Protection Directives for the TG and its partners in the management of Tłjchq Lands relating to:

- Developing a cumulative effects monitoring, assessment and management framework;
- Clean-up of contaminated sites;
- Establish common approaches to forest fire management and protection measures; and
- The Tłjchq Land Use Plan providing direction and guidance to regulators, non-Tłjchq landowners and holders of existing third-party interests in the consideration of proposals for development within the planning area.

The Tłjchq Land Use Plan has a further 12 Land Protection Directives focused on plan implementation relating to:

- The role and requirements of the Department of Culture and Land Protection to review and process applications for use and access to Tłjchq lands;
- Partnerships and activities to build capacity and increase economic development;
- The need for community engagement on project application and peer review of technical studies;

- The need to communicate with Tłjchq citizens on the land use plan and permitting activity on Tłjchq lands;
- Inspection of permits and licences on Tłjchq lands and potential partnerships; and
- Further studies to support better management, including on wildlife habitat, geology and the development of a cumulative impact monitoring framework within Moqwhì Gogha dè Nijitlèè

8.5 Plan Implementation

The Tłjchq Land Use Plan will guide the TG in making decisions related to the future use and management of Tłjchq land. The TG will implement the plan in a consistent way to ensure respect for its land protection directives, guidelines and requirements. As well, the TG will interact with other regulatory bodies to implement the plan.

The *Tłjchq Agreement* provides for a cooperative approach to land and resource management between the TG, the GNWT, GoC, the Wek'èezhì Land and Water Board (WLWB), and the Wek'èezhì Renewable Resources Board (WRRB). Generally, TG support for access to Tłjchq lands is required prior to any decisions by the WLWB on the issuance of land use permits or water licences. This is where plan implementation begins. Applicants are expected to review the Tłjchq Land Use Plan and supporting guidelines with Department of Culture and Land Protection staff to confirm the requirements for obtaining TG permission to use Tłjchq lands. Once the TG grants access (assuming the development meets the plan requirements), the regulatory bodies can proceed with their process and decisions. Some of the land protection directives in the Tłjchq plan may be implemented through conditions to be attached to land use permits or water licences issued by the WLWB. Table 22 illustrates this process.

Table 22: Process for the Review of Development Proposals on Tłjchq Lands

Preliminary Discussions and Information Sharing	Opportunity to explain important information about Tłjchq lands to applicants.
Application	The formal review process by the Department of Culture and Land Protection begins.
Department of Culture and Land Protection Review	Tłjchq Land Use Plan zoning and Land Protection Directives applied; possible community engagement and discussions with regulatory boards.
Tłjchq Government Decision	Where a permission is granted, the decision would include conditions.
Regulatory Board Review and Permitting (if application is supported by the Tłjchq Government)	Implementation of Tłjchq Government conditions as well as others arising in regulatory board review process.

8.5.1 Plan Variance

The Tłı̄chǰ plan speaks to variances, rather than exceptions, and treats them differently than in the Sahtú, Gwich'in and Dehcho plans. In those plans, the relevant boards can waive individual plan requirements for the development in question (grant an exception to the plan). By contrast, the Tłı̄chǰ plan defines a variance as a minor change to the plan. Minor changes are those that:

- Do not compromise the goals or objectives of the land use designation;
- Would result in minimal environmental, cultural and economic consequences; and
- Would not result in a precedent (likely to lead to a number of similar requests).

8.5.2 Review and Amendment

The Tłı̄chǰ plan envisions amendments being required to:

- improve the clarity of the plan,
- address a new land use or new information, or
- update the plan with respect to changes in land management (e.g., to expand the boundaries of an ecologically sensitive area).

Plan amendments are expected to involve substantive research and discussion prior to a decision being made by the TG. By contrast, a plan review is a formal process, initiated by the Department of Culture and Lands Protection every five years to re-evaluate the entire plan. Questions to be considered in a plan review may include:

- Do the purpose and goals still reflect Tłı̄chǰ values?
- Is the plan achieving the vision and goals of the individual zones?
- Have there been any exception or amendment requests that signal a need for a change?
- Is there new information available that needs to be considered in land use decisions?
- Are there new land uses, issues or major projects on the horizon that need to be addressed?

The TG has begun work to scope its first five-year review and amendment.

Monitoring Implementation

As with other planning regions, the TG has struggled to monitor the degree to which the plan is being implemented. There are no formal tracking mechanisms in place yet to monitor how or if the plan has been applied to development applications. Establishing implementation monitoring processes is one of the TG's priorities in the current plan review.

8.5.3 Current Plan Review

The TG began scoping its first plan review in early 2019. It has established a central committee to guide the review process, involving relevant arms of the TG, Elders from each community, two former Grand Chiefs, and representatives from TG's Boots on the Ground program. They have developed a workplan and will meet quarterly over the next year to discuss necessary revisions to the plan and work needed to inform those revisions. Priorities identified so far include zone

revisions, the collection of more place names, and how they can attract more economic development on Tłjchq lands. Plan revisions will flow from Committee discussions and will be processed in 2021. The process is expected to be completed by the end of 2021.

Chapter 9: Inuvialuit Community Conservation Plans

Chapter Breakdown:

Section 9.1 Overview of the Plan

Section 9.2 Plan Development and Approval

Section 9.3 Foundations of the Plan

Section 9.4 Contents of the Plan

Section 9.5 Plan Implementation

9.1 Overview of the Inuvialuit Community Conservation Plans

Table 23: Overview of the Inuvialuit Community Conservation Plans

Details	Inuvialuit Settlement Region (Community Traditional Use areas)
Name	Community Conservation Plans
Size	ISR: 1,172,748 km ²
Planning Body	Wildlife Management Advisory Council (WMAC), NWT and North Slope (NS) Fisheries Joint Management Committee (FJMC) Community Working Groups (WGs)
Governance Model	WGs and Joint Secretariat (JS)
Legal Authority / Direction	<i>Inuvialuit Final Agreement</i> (IFA)
Authority of Plan	Advisory
Application to Land	Public and Inuvialuit private lands, Gwich'in private lands. CCPs cover municipal boundaries but are not the main planning instrument in those areas.
Plan Approval	WMAC (NWT and NS), FJMC, Hunters and Trappers Committees (HTCs), the Community Corporation (CC), and Elders Committee, Inuvialuit Game Council (IGC)
Implementation Roles of Planning Body	Community HTCs and CCs review applications for conformity with CCPs and submit their decisions to regulators for consideration. Community WGs responsible for plan review and amendment
Who Determines Conformity?	HTCs and CCs
Ability to Grant Exceptions	Advisory only so not needed
Review and Amendment	Five-year review cycle
Monitoring Plan Implementation	HTCs and CCs monitor plan implementation through regular review of applications

9.2 Plan Development and Approval

9.2.1 Plan Development

Development of the original plans was coordinated by:

- representatives of the Hunters and Trappers Committees (HTCs)
- the Community Corporations (CCs)
- the Elders and other community representatives.

To prepare the original plans, the CCP Working Groups (WGs) reviewed relevant documents, including species management plans, the Inuvialuit Renewable Resources Conservation and Management Plan, the Yukon North Slope Wildlife Conservation and Management Plan, the Regional Land Use Plan for the Mackenzie Delta- Beaufort Sea Region and relevant documents arising from the Inuit Circumpolar Conference. Considerable effort was made to obtain opinion and advice from Inuvialuit members as well as government agencies. Consultation with Inuvialuit and non-Inuvialuit organizations and co-management bodies played an important role in the review process.

The six plans are all developed simultaneously, follow the same format and provide the same general guidance. Only the designation of land categories and the species of importance differ by community/plan. Once the plans/revisions are sufficiently advanced, the six WGs are brought together to review and verify the information and align their direction. Then the plans are finalized.

9.2.2 Plan Approval

The CCPs are “owned” by the community HTCs – they are the driving voice. However, each CCP is signed off by the HTC, the CC, the Inuvialuit Game Council (IGC), Wildlife Management Advisory Council (WMAC)-NWT, WMAC North Slope (NS) and the Fisheries Joint Management Committee (FJMC), all of which contribute to their development. It is important to note that the Inuvialuit Land Administration (ILA) does not use the CCPs because the Inuvialuit Regional Corporation (IRC) is not involved in their development or approval.

9.3 Foundations of the Plans

9.3.1 Legal Authority

Community conservation planning is conducted under Section 14 (60) (b) of the *Inuvialuit Final Agreement* (IFA) (the wildlife chapter), which requires the WMACs to provide advice, on request, to the appropriate Ministers on all matters relating to wildlife policy and the management, regulation and administration of wildlife, habitat and harvesting for the Western Arctic Region, including the preparation of a wildlife conservation and management plan for recommendation to the appropriate authorities. The CCPs are advisory, representing the community interests and knowledge on wildlife and land.

9.3.2 Governance

The primary responsibility for writing the CCPs rests with WMAC-NWT, with support from the Joint Secretariat (JS). They work with the FJMC to address marine issues. The community voice for each plan comes from the HTC, CCs and Elders Committees. During plan development and in subsequent reviews, WMAC-NWT established a WG in each community consisting of representatives from the HTC, the CC, and Elders to guide decisions, with WMAC-NWT and FJMC support staff providing the technical support to draft the plans based on the direction of the working groups.

9.3.3 Guiding Principles

The CCPs identify the following community beliefs and values with respect to conservation and resource management:

- Conservation (of the renewable resource base) is the first priority
- Integrated management (of conservation, economic development and resource management)
- Maximize community benefit (from renewable and non-renewable resource development)
- Protect priority community activities (hunting, fishing, guiding, trapping, tourism, and arts and crafts manufacturing)
- Cooperative management of shared resources (migratory species)
- Maintain healthy environment (air, water quality and the health of resources)
- Consistency (with the principles of wildlife harvesting and management from the IFA, and other applicable wildlife and conservation plans or agreements endorsed by the communities' representatives).

The CCPs also identify five general goals:

1. To identify and protect important habitats and harvesting areas.
2. To describe the community process for making land use decisions and managing cumulative impacts that will help protect community values and conserve the resources on which priority lifestyles depend.
3. To identify educational initiatives which will promote conservation, understanding and appreciation.
4. To describe a general system for wildlife management and conservation and identify population goals and conservation measures appropriate for each species of concern in the planning area.
5. To enhance the local economy by adopting a cooperative and consistent approach to community decision making and resource management.

9.4 Contents of the Plan

Each of the six CCPs provides direction within its own planning area, and the planning areas overlap between some of the plans. Except for the land designations and species conservation summaries, all of the guidance provided in the CCPs is the same, so the descriptions below apply equally to all six CCPs.

The contents generally include:

1. Introduction – History of the area, information on the IFA and Renewable Resource Management
2. Community Values
3. Goals
4. Special areas and recommended land use practices for the planning area – Special designated lands, Inuvialuit community process for land use decisions, cumulative impacts management and environmental screening and review
5. Education, training and information exchange
6. Wildlife management and research
7. Appendices

9.4.1 Special Designated Lands

Each of the CCPs identifies lands that are important for wildlife habitat and/or harvesting. These lands are assigned one of five categories as follows:

Category A: Lands and waters where there are no known significant and sensitive cultural or renewable resources. Lands and waters shall be managed according to current regulatory practices.

Category B: Lands and waters where there are cultural or renewable resources of some significance and sensitivity but where terms and conditions associated with permits and leases shall assure the conservation of these resources.

Category C: Lands and waters where cultural or renewable resources are of particular significance and sensitivity during specific times of the year. These lands and waters shall be managed so as to eliminate, to the greatest extent possible, potential damage and disruption.

Category D: Lands and waters where cultural or renewable resources are of particular significance and sensitivity throughout the year. As with Category C, these areas shall be managed so as to eliminate, to the greatest extent possible, potential damage and disruption.

Category E: Lands and waters where cultural or renewable resources are of extreme significance and sensitivity. There shall be no development on these areas. These lands and waters shall be managed to eliminate, to the greatest extent possible, potential

damage and disruption. This category recommends the highest degree of protection in this document.

The Special Designated Lands under each CCP is illustrated in the maps below. Each CCP provides considerable information on each site mapped, including:

- Name;
- Which organizations were involved in its designation;
- The management category (A to E);
- Land ownership;
- Description of the area;
- Overlap with other special designated areas;
- Overlapping non-renewable resource interests and activities;
- Overlapping military, transportation and tourism interests and activities;
- Community WG concerns; and
- Community WG recommendations.

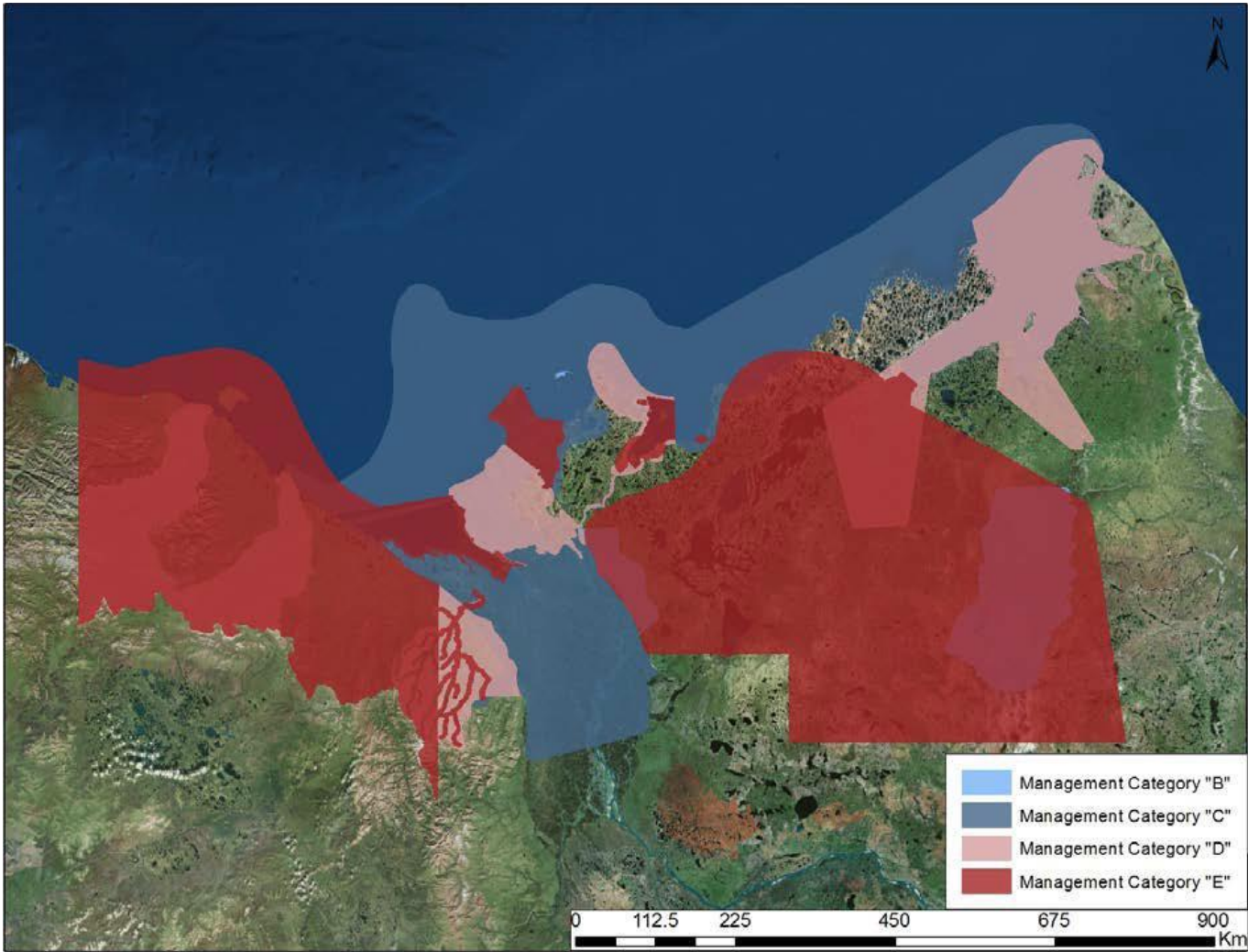
While each plan contains a number of guidelines (outlined in S.9.4.2 – 9.4.6 below), the Community Working Group Recommendations identified for Special Designated Lands come closest to the types of conditions or conformity requirements found in land use plans. Examples are provided below for illustrative purposes.

E.G., The Ulukhaktok CCP includes Community Working Group Recommendations related to:

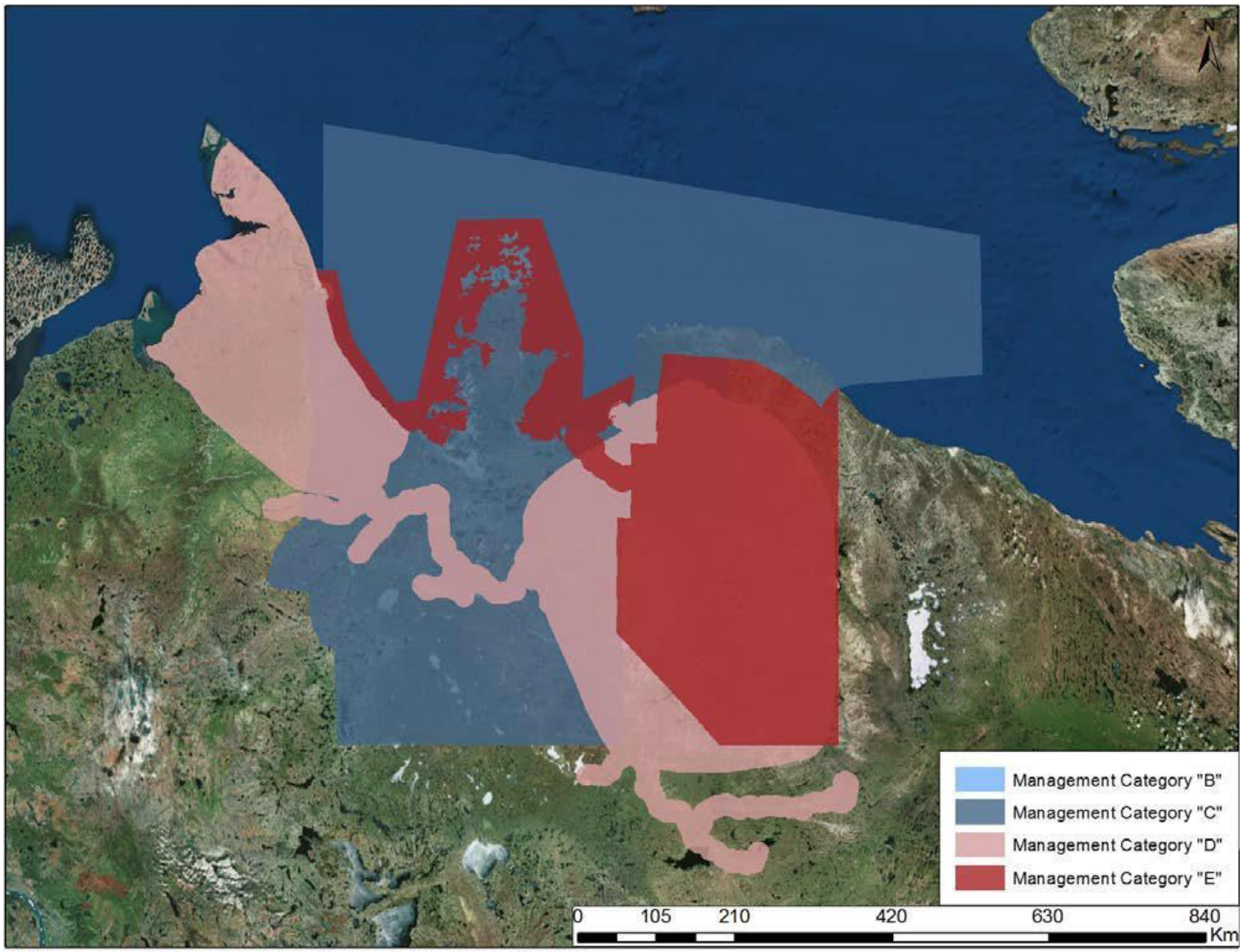
- the removal of fossils and the needs for an Historical Resources Impact Assessment to be done for any proposed activities around culturally important sites located throughout the region (which are designated on the site map);
- setting seasonal shipping restrictions in sensitive wildlife areas around the coastline;
- limiting shipping traffic during periods of ice cover; and
- identifying areas where wildlife management plans or populations censuses should be undertaken.

E.G., The Aklavik CCP contains Community Working Group Recommendations related to:

- Enforcement of provisions of the Inuvialuit Final Agreement regarding no dredging or development activities to be undertaken on the waters of the designated sites;
- The need to develop a recreation plan for Husky Lakes to define travel-restricted zones, access points, tourism/fishing use areas and facilities;
- Designation of an area as a historic site; and
- Designation of a shipping channel in accordance with the Beluga Management Plan.

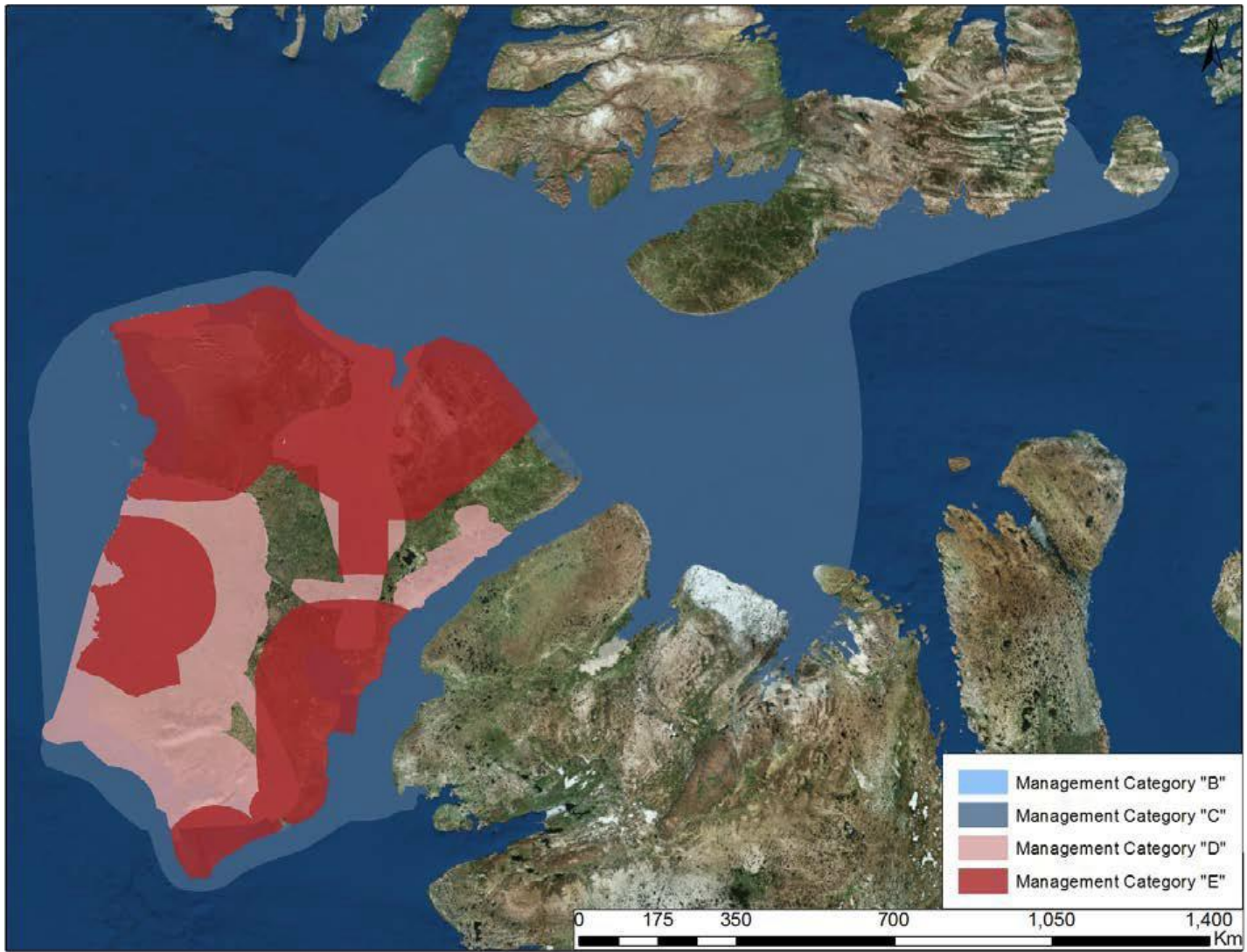


Map 6: Aklavik and Inuvik Special Designated Lands

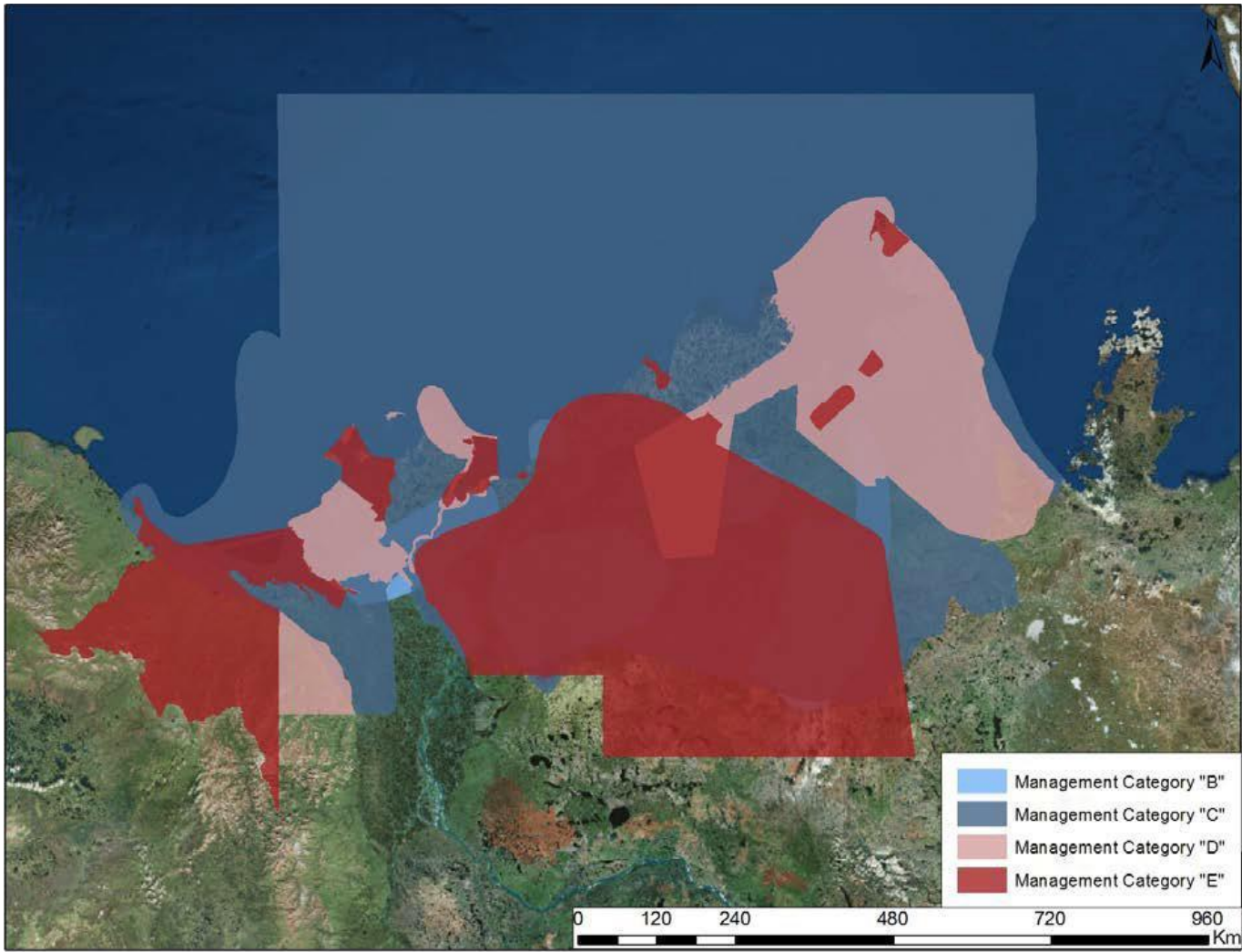


Map 7: Paulatuk Special Designated Lands

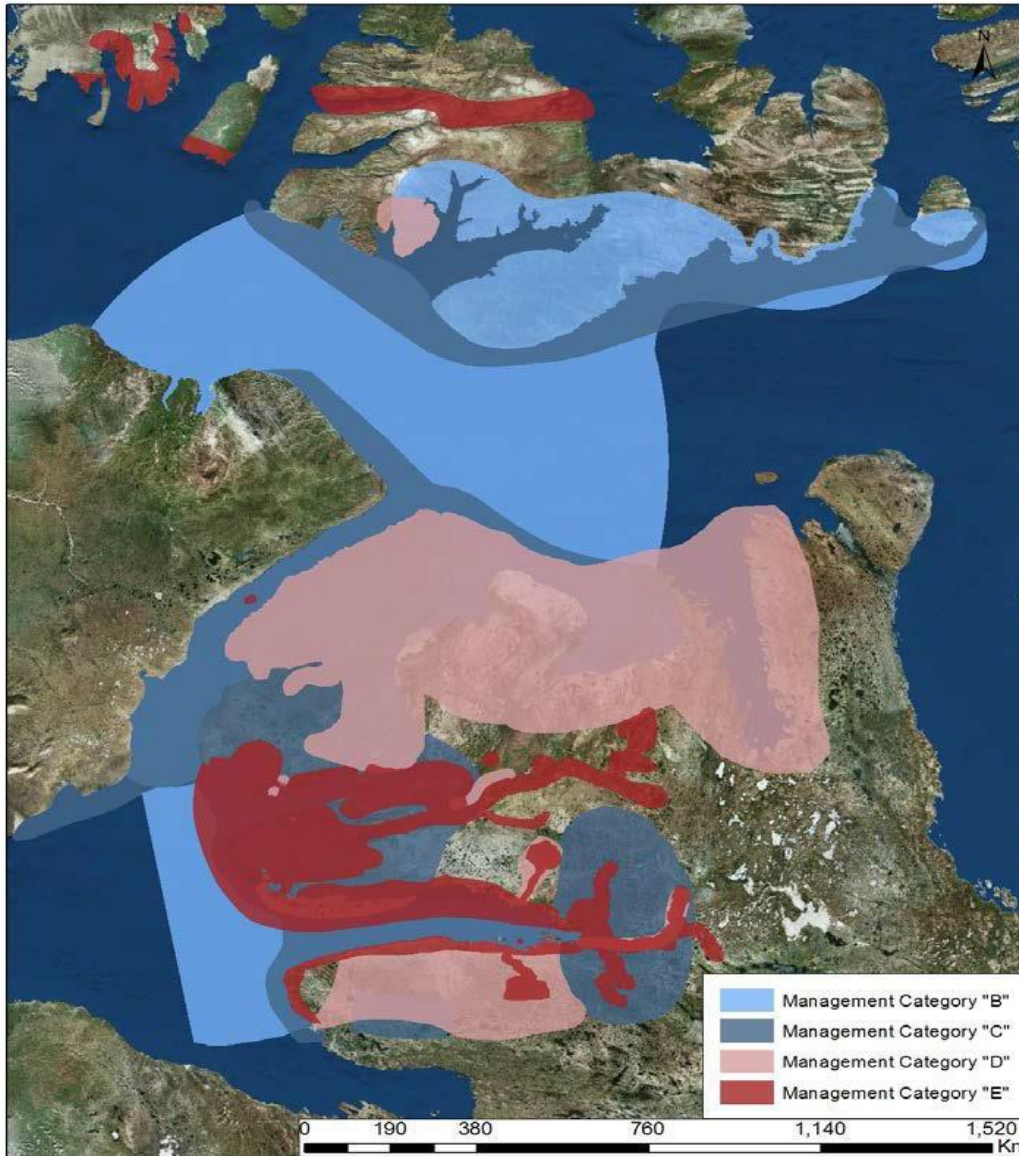
Map 8: Paulatuk Special Designated Lands



Map 9: Sachs Harbour Special Designated Lands



Map 10: Tuktoyaktuk Special Designated Lands



Map 11: Ulukhaktok Special Designated Land

9.4.2 General Land Use Guidelines

Each of the CCPs includes general land use guidelines related to the following:

- All organizations using their procedures, the CCPs and IFA to protect community harvesting areas and support priority land uses as identified in the CCPs;
- Community support for bird sanctuaries;
- The process to resolve the status of other candidate protected areas identified by non-Inuvialuit;
- Alerting those wishing to build camps to the HTC camp-building by-law and the ILA practices and decision criteria for granting permission to new camps;
- Encouraging residents and visitors to keep the land clean and dispose of garbage appropriately; and
- Encouraging the Prince of Wales Northern Heritage Centre to implement protection of heritage resources through a strengthened *Heritage Resources Act*.

9.4.3 Cumulative Impacts Management

The 2016 CCPs include a new section to manage cumulative effects. Whenever wildlife habitat is lost or degraded as a result of land use, they propose to re-designate areas of remaining habitat in the same land use category (Category A, B, C, D) to a more protective category (Category B, C, D, E) in proportion to the amount of effective habitat lost or affected by the authorized land use. This is based on the principle that remaining wildlife habitat becomes more valuable as some is lost and should require greater public support to alter.

Re-designation is proposed to occur during subsequent plan reviews. The process has therefore not been implemented yet.

9.4.4 Environmental Screening and Review Recommendations

The CCPs include recommendations to improve environmental screening and review, such as:

- Developing consistent land use procedures;
- Making sure community environmental concerns are addressed and involving local people as environmental inspectors;
- Agreeing to reclamation plans and costing mechanisms to ensure compliance;
- Consulting the community on all land use activities;
- The need for immediate and appropriate action when there is a violation of land use permit conditions, including potentially revoking permits;
- Increasing community awareness of Environmental Impact Screening Committee (EISC), the Environmental Impact Review Board (EIRB) and ILA mandates and activities; and
- Detailing community commitments to:
 - review land use proposals,
 - consult with developers on projects,

- support or refer proposals to environmental screening or review (and the basis for that decision),
- familiarize itself with Wildlife Compensation Agreements,
- advise the EISC or ILA of community concerns with development projects, and
- develop a monitoring system with industry, transportation companies and local tourist operators, and ensure community harvest data are kept current.

9.4.5 Education, Training and Information Exchange

The CCPS recommend that WMAC (NWT and NS) and FJMC work with other Inuvialuit and non-Inuvialuit agencies to obtain funding and expertise to carry out a variety of education and training initiatives to support the implementation of the CCPs, related to:

- The environment, people, the CCPs and the IFA;
- Inspection, monitoring and proper harvesting techniques;
- The use of local language, cultural values and conservation practices;
- Continuing to record and convey traditional knowledge of the land, culture, wildlife and conservation;
- The use of environmentally friendly products and proper handling of hazardous wastes; and
- Encouraging researchers to make presentations and convey their research results to the communities.

9.4.6 Wildlife Management and Research

General Guidelines

The CCPs include a number of recommendations to improve the system of wildlife management as described in the Inuvialuit Renewable Resource Conservation and Management Plan (1988), the IFA and the goals of the Yukon North Slope Wildlife Conservation and Management Plan. Recommendations are directed at the HTC's, WMAC (NWT and NS), FJMC and IGC, as appropriate, related to the following topics:

- Setting research and monitoring priorities, and providing input into, and participating in research, such as water quality, change in water levels and ecological integrity;
- Developing a consistent process for community consultation and distribution of results on wildlife research;
- Discouraging low level flights except in conjunction with authorized research;
- Monitoring wildlife and habitat;
- Regulating and managing Inuvialuit harvest and developing consistent criteria for the establishment of harvest quotas;
- Identifying the need for education programs on conservation, wildlife management and research;
- Implementing the CCPs;

- Encouraging the development of species management plans for important wildlife populations;
- Raising awareness of natural seasonal and annual animal cycles; and
- Revising the species conservation summaries included in the CCPs every two years.

Subsistence and Commercial Harvesting Guidelines

The CCPs include specific guidelines for WMAC (NWT) in determining the total allowable harvest for game, such as:

- giving priority to subsistence harvest over commercial harvest,
- requiring compliance with the CCPs,
- specifying how commercial quotas will be allocated,
- monitoring harvests to supply information for compensation and resource conservation; and
- considering the use of alternative harvesting methods where there is a demonstrated need.

Tourism Guidelines

The CCPs support tourism as a valuable economic activity which is compatible with conservation and cultural needs, provided it is properly managed. The CCPs include recommendations related to the following:

- Restricting tourist operators and tourists in sensitive areas at sensitive times (e.g., nesting and moulting areas for migratory birds, calving and denning areas);
- Making compliance with the CCPs and its recommendations a condition of authorization for all tourist operators;
- Minimum flight altitudes, site restrictions and setbacks to protect sensitive wildlife areas at certain times;
- Prohibiting tourists from handling or harassing wildlife;
- Identifying travel restricted areas to protect heritage resources; and
- Alerting tourists and tourism operators to ILA rules and regulations around Pingos.

Species Conservation Summaries

Each of the CCPs includes extensive information about species of interest in each planning area, including for each species, its biology, its traditional use, important habitat, management plans/agreements, research priority, population status, population goal, and conservation measures.

9.5 Plan Implementation

CCPs are advisory only, not legally binding. The CCPs are primarily used by the Community Corporations and the HTCs to make a community land use decision related to applications for land use. They carefully consider the land management category and other direction in the CCPs in making their decision. Proponents will often reference the CCP land categories in their proposals and consult the HTCs in developing their applications to address CCP direction as well.

Figure 19 illustrates the community land use decision process (using Aklavik's as an example, but it is the same for all six). The CCs and HTCs hold separate meetings to review proposals, and independently transmit their decisions to the decision-making body, but they also meet to develop a joint community decision. Their decisions are transmitted to the landowner (ILA or CIRNAC) and the Environmental Impact Screening Committee (EISC). The EISC considers the HTC and CC input. If an application is bumped to environmental review, then the Environmental Impact Review Board (EIRB) will consider this input as well.

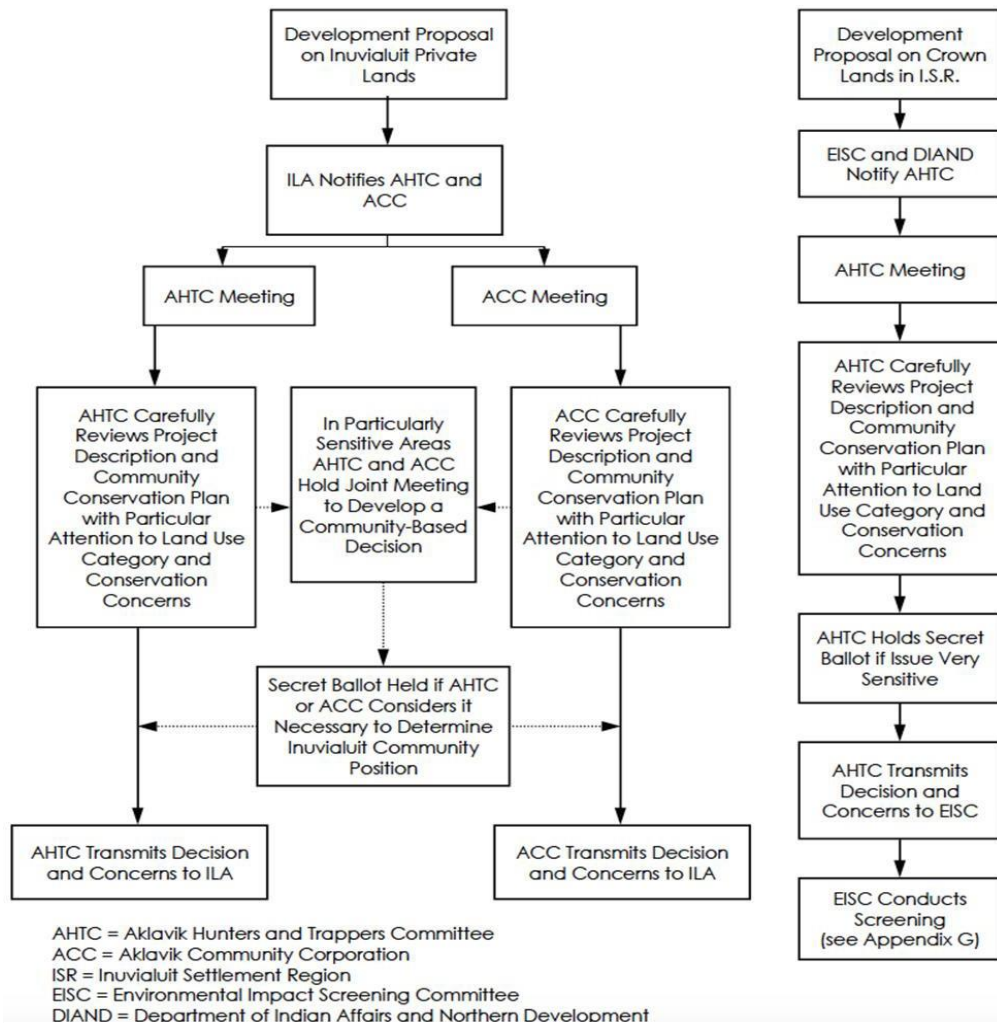


Figure 19: Aklavik Land Use Decision Process

Figure 20: Aklavik Land Use Decision Process

9.5.1 Review and Amendment

The plans state that a review and potential amendment will occur every five years or as needed. The review process typically takes about two years to complete. Plan reviews were completed in 2000, 2008 and 2016.

For each, the WGs were re-established to review and update the plans. Once again, consultation with Inuvialuit and non-Inuvialuit organizations and co-management bodies played an important role in the review process. A multi-stakeholder workshop was held in 2016 to exchange advice and recommendations before the final versions of the CCPs were drafted.