

Combined Response to Signatory Comments on January 2015 Draft Revised Gwich'in Land Use Plan

GNWT Comment: Conformance/Conformity: Suggest changing “conformance” to “conformity” for consistency. (p. vi, title of Fig. 20; Section 1.7, p. 6; Section 2.3.2, p. 20; Section 4.6.11, p. 95)”

GNWT Recommendation: Please make sure that terminology is standard throughout the document.

GNWT Comment: Licence/License: Both “licence” and “license” is used in the draft. “Licence” is the spelling used in the MVRMA, Waters Act, etc. Quote from MVRMA on p. 149 uses the incorrect spelling (license); it should be “licence.”

GNWT Recommendation: Please make sure that terminology is standard throughout the document.

GNWT Comment: Authorization/authorisation: “Authorisation” is used on p. 2, p. 56, and p. 57, whereas “authorization” is used on p. 6, 20, 38, 41 etc. The MVRMA uses “authorization.”

GNWT Recommendation: Please make sure that terminology is standard throughout the document.

GLUPB Response:

Amended the revised Plan document with the recommended text.

- Conformity
- Licence
- Authorization

GNWT Comment: Pages 11, 23, 119, 133 Contain dated references to the MGP.

GNWT Recommendation: Please update references to MGP.

GLUPB Response:

Updated the revised Plan document as recommended.

Page ii

Approval

GNWT Comment: Minister of Environment and Natural Resources (ENR) is listed as being responsible for approving the GLUP.

GNWT Recommendation: Please replace the Minister of ENR with the Minister of Lands as the approval signatory for the GNWT.

GLUPB Response:

Amended the revised Plan document with the recommended text.

Page ix

Acknowledgements

GNWT Comment: ENR is the only agency identified as having participated in the review of the revised GLUP.

GNWT Recommendation: The GNWT recommends that ENR be replaced by the GNWT as having participated in the review of the revised GLUP.

GLUPB Response:

The paragraph acknowledges the larger participation in the review but singles out specific boards and departments. Rewrote to clarify the contribution of larger government participation but includes special thanks given to departments that had a more integral working relationship.

Page 2

1.2 What is a Land Use Plan?

GNWT Comment/Recommendation: The GNWT recommends that in the first sentence of the fourth paragraph, there should be a reference to the ability to apply for an exception under section 44(b) of the Mackenzie Valley Resource Management Act (MVRMA) or potentially seek an amendment to the GLUP.

GLUPB Response:

As this section is a simple overview of what the plan is, the Planning Board would rather leave the explanation of the more detailed implementation options to chapter 5. Because conformity is discussed on page 6, the Planning Board is willing to add mention of exceptions and amendments to page 6 (see below).

Page 6

1.7 "Conformity with the Land Use Plan" What does it mean?

GNWT Comment/Recommendation: The GNWT recommends that in the final sentence of the second paragraph in this section that there should be a reference to being able to apply for an exception under section 44(b).

GLUPB Response:

Added a mention of exceptions and amendments in a general way and provided direction to chapter 5 for more detail.

Page 7

2.1.1 Boundaries

GNWT Comment/Recommendation: Please include Gwichya Gwich'in of Tsiigehtchic.

GLUPB Response:

Reworked to be more reflective of traditional use of the Gwichya while providing reference to Appendix C of the GCLCA which identifies only the Teetl'it.

Page 9

2.1.1 Boundaries

GNWT Comment: In the first paragraph on this page, it should be noted that the Yukon Government has appealed Justice Vertes' Decision on the Peel Watershed LUP.

GNWT Recommendation: Please update the Peel context.

GLUPB Response:

Amended the revised Plan document with an update on the Peel Watershed Planning Process.

2.1.1 Boundaries

GNWT Comment: Statement that “In the Sahtu Settlement Area, the Sahtu Land Use Planning Board is in the middle of developing a Land Use Plan” is out of date.

GNWT Recommendation: Please update the SLUP context. Mention any ongoing transboundary issues and/or resolutions from tripartite discussions.

INAC, DFO: Chapter 2.1.1 Boundaries

The third sentence of the fifth paragraph of section 2.1.1 is inaccurate. The Statement reads “...the Sahtu Land Use Planning Board is in the middle of developing a Land Use Plan.” The Sahtu Land Use Plan was approved in 2013. The GOC recommends that the Planning Board adjust the text to read “The Sahtu Land Use Plan was approved in 2013 for the Sahtu Settlement Area.”

GLUPB Response:

Amended the revised Plan document with the recommended text.

2.1.1 Boundaries

GNWT Comment: "They were developed by the Inuvialuit Game Council (IGC) of the Inuvialuit Regional Corporation." The draft plan wording implies that IGC is part of IRC. The IGC is a separate entity (as per S14(73&74) of the Inuvialuit Final Agreement.

GNWT Recommendation: The GNWT recommends amending the wording to demonstrate that the IGC is a separate entity than the IRC.

GLUPB Response:

Amended the revised Plan document with the following text:

"These plans were developed by the Inuvialuit Game Council (IGC), a co-management board under the Inuvialuit Final Agreement."

Page 17

2.3.1 Water

GNWT Comment: There is no mention about transboundary water management. Acknowledging the Transboundary Water Management Agreement for Peel River between the Yukon and the NWT would add further context for this section. Please see: www.mrb.ca/uploads/files/general/18/yukon-northwest-territories-transboundary-water-management-agreement.pdf

GNWT Recommendation: Please add wording to reflect the following information: Per the Gwich'in Settlement Agreement, the Gwich'in Tribal Council (GTC) and its representatives were consulted on the development of the negotiation positions for transboundary water management agreements between NWT-Alberta, NWT- British Columbia, NWT – Saskatchewan, as well as between NWT-Yukon for

revisiting the transboundary water management agreement for Peel River. The GTC and its representatives were consulted on draft transboundary water management agreements (intention documents) between NWT-Alberta and NWT- British Columbia. Once, re-negotiated GTC will be consulted on a draft transboundary water management agreement for Peel River. Once negotiated, GTC will be consulted on a draft transboundary water management agreement between the NWT- Saskatchewan.

GLUPB Response:

Amended the revised Plan document as recommended. Used a general description with a footnote providing a link to ENR's water agreements webpage.

Page 18

2.3.2 Wildlife and Fish

GNWT Comment: Federal implies a government structure while COSEWIC is not a federal government agency. "National" better reflects the idea that COSEWIC considers the status of species in Canada

GNWT Recommendation: Please replace the terms "federal" with "national" in the sentence: "At the national level, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) uses a process..."

2.3.2 Wildlife & Fish

GNWT Comment: "The status of some of the species in the Gwich'in Settlement Area that are listed under the above acts are summarized in the following table. The table also..."

GNWT Recommendation: Should read: "The status of some of the species in the Gwich'in Settlement Area that are listed under the above acts are summarized in Table 1. Table 1 also..."

DFO: Chapter 2.3.2 Wildlife and Fish

The second sentence of the fifth paragraph of section 2.3.2 on page 18 reads "The status of some of the species in the Gwich'in Settlement Area that are listed under the above acts are summarised in the following table." For clarity, the GOC recommends that all species of concern are identified in this table. If this is unwieldy, an explanation of why these species have been selected would be of benefit to the reader. If the table is inclusive, the sentence should be corrected.

GLUPB Response:

Amended the revised Plan document as recommended, by explaining it is only some of the more recognisable species listed and including a recommendation above the table to get the latest list of all species from COSEWIC and the GNWT.

Page 20

2.3.2 Wildlife & Fish

GNWT Comment: In the second paragraph, critical habitat identified for protection under (the federal or NWT) Species at Risk Act is not a "use" of land.

GNWT Recommendation: The GNWT recommends that it should instead be described as a designation under legislation that most likely necessitates amending the GLUP to make lands with any such

designation a conservation zone. As this is not a “use” of land, it would not be appropriate to apply for an exception under section 44(b).

DFO: Chapter 2.3.2 Wildlife and Fish

The first paragraph on page 20 discusses reduced char harvesting. It is suggested that reference be made indicating that the reductions are as outlined in the Integrated Fisheries Management Plan guidelines.

2.3.3 Forests

GNWT Comment: Last paragraph remove “a” before “...Forest Management Plan...”

GNWT Recommendation: Should read: “...a recently completed a Forest Management Plan ...”

GLUPB Response:

Amended the revised Plan document as recommended. (DFO, GNWT)

Page 23

2.4.1 Oil and Gas

GNWT Comment: Text states that it is estimated that 15 percent of Canada’s proven oil reserves are found in the Beaufort Sea/Mackenzie Delta Region, but it is unclear what reference was used to provide this estimate.

GNWT Recommendation: The GNWT recommends changing the term 'reserves' to 'resources' given that 'resources' acknowledges a higher level of uncertainty and includes recoverable and unrecoverable, discovered and undiscovered resources.

GLUPB Response:

Could not confirm facts and source material to include an updated reference so removed the text. The use of a percentage was also too much of a moving target given new discoveries or technologies that allow for higher production from existing national reserves (e.g. hydraulic fracturing) during the period between plan reviews.

Page 26

2.4.3 Sand, Gravel and Crushed Rock

GNWT Comment: The GNWT issues Quarry Permits under the authority of the Quarry Regulations enacted under the Northwest Territories Lands Act. Certain quarry sites in Gwich’in are held and operated by the GNWT. For clarity, it is suggested that Paragraph #3 of Section 2.4.3 be revised to include a sentence noting that GNWT maintains such holdings to fulfill its maintenance obligations already noted in this paragraph.

- References: (1) Quarrying Regulations, R-017-2014, Sections 3 and 4.

GNWT Recommendation: The GNWT recommends adding the following new sentence in Section 2.4.3, Paragraph #3, after the first sentence: “GNWT operates some quarry sites in Gwich’in to fulfill its obligations to maintain public highways.”

GLUPB Response:

Amended the revised Plan document with the recommended text.

Page 29

2.6 Existing Designated Areas

GNWT Comment/Recommendation: A sentence needs to be added to the Gwich'in Territorial Park section that states that the Gwich'in Territorial Park is designated as a recreation park under the Territorial Parks Act. (This designation determines what allowable uses of land are within the Gwich'in Territorial Park).

GLUPB Response:

Amended the revised Plan document to include a statement that the park is designated as a Recreation Park under the Territorial Parks Act.

Page 32

2.7 Northwest Territories Historic Sites

GNWT Comment/Recommendation: Number title as follow: 2.7. NORTHWEST TERRITORIES HISTORIC SITES

GLUPB Response:

The all capitals formatting was misleading, as this is still part of S. 2.6. The heading formatting was adjusted to match the previous headings under section 2.6 for consistency.

Page 37

INAC: Chapter 3.1 Land Ownership and Management

The introductory paragraph of section 3.1 does not provide a complete overview of land ownership and management in the Gwich'in Settlement Area. The paragraph does not include remaining federal lands. The GOC recommends the text be rewritten to read:

"Within the Gwich'in Settlement Area, the majority of lands are Gwich'in Settlement Lands, Commissioner's lands, and Municipal lands (see Figure 16), with relatively small parcels of federal Crown lands excluded from transfer of administration and control to the Government of the Northwest Territories."

*for a complete list see schedule 4 of the Northwest Territories Lands and Resources Devolution Agreement, June 25, 2013:

https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-NTH/STAGING/texte-text/nwt_1385670345276_eng.pdf

3.1.2 Territorial Lands and Commissioner's Lands

GNWT Comment: This section needs to be updated. A sentence should be added explaining what Territorial Lands are.

GNWT Recommendation: The GNWT suggest: "Currently there are two separate sets of public land management regimes under two pieces of legislation in the Northwest Territories. One regime exists for Commissioner's land, typically found within NWT communities and is administered under the Commissioner's Land Act. The other regime is for Territorial land, which is public land that transferred from the federal government to the Government of the Northwest Territories on April 1, 2014, and is administered under the Northwest Territories Lands Act."

3.1.2 Territorial Lands and Commissioner's Lands

GNWT Comment/Recommendation: The GNWT recommends that "Lands" (in the second paragraph) be replaced with "... GNWT has the primary administrative responsibility ...".

3.1.2 Territorial Lands and Commissioner's Lands

GNWT Comment: The second paragraph of this section incorrectly states that ITI is responsible for the management of land tenure. Lands is responsible for land tenure.

GNWT Recommendation: The GNWT recommends: "The GNWT is responsible for the management of land tenure ...".

GLUPB Response:

Amended the revised Plan document as recommended.

Page 38

3.2.1 Mackenzie Valley Resource Management Act

GNWT Comment: Discussion of amendments is out of date due to devolution and claims negotiations. The MVRMA is also expected to be amended in 2015 or 2016 to reflect changes resulting from the Déljñę Agreement.

GNWT Recommendation: The GNWT recommends new wording: "The MVRMA was amended on March 25, 2014 to bring into effect certain aspects of devolution and to implement a number of changes to the regulatory system. The amending legislation provides for additional changes to come into force at later dates." Also consider if the current injunction granted to the Tłjchq government to prevent the amalgamation of the existing land and water boards should be referenced.

INAC: Chapter 3.2.1 Mackenzie Valley Resource Management Act

The last paragraph of section 3.2.1 does not include the most recent amendments to the *Mackenzie Valley Resource Management Act*. The sentence should be rewritten to read "the MVRMA was amended on March 3, 2006 to reflect the regional boards and process set up under the Tlıcho Agreement (signed August 2003), and amended again on April 1, 2014 to reflect the Northwest Territories Lands and Resources Devolution Agreement and regulatory improvements.

GLUPB Response:

Amended the revised Plan document almost as recommended but left out reference to legal challenges which have been resolved.

3.2.1 Mackenzie Valley Resource Management Act

GNWT Comment: 3rd paragraph add "of" before "... an Environmental Audit ..."

GNWT Recommendation: Should read: "... MVRMA is the requirement of an Environmental Audit ..."

3.2.1 Mackenzie Valley Resource Management Act

GNWT Comment: Last paragraph, final sentence amend font for nasal vowels.

GNWT Recommendation: Should read: "... the Tłjchq Agreement ..."

GLUPB Response:

Amended the revised Plan document as recommended.

Added nasal vowels to Tłjchq.

3.2.1 Table 2: Authorizations regarding the use of land, water, or the deposit of waste

GNWT Comment: The GNWT issues various types of land authorizations under the Northwest Territories Lands Act. Authorisations are as follows: Quarry Permit, Surface Lease, Easement, Licence of Occupation and Reserve. In Table 2, under “Department of Lands, GNWT”, the listing is missing the word “Reserve”. This type of land authorisation therefore should be added to the list, which is found in the column titled “Authorisations”.

- References: (1) Northwest Territories Lands Act, SNWT 2014, c.13, Section 19; also Section 6 (“...the Commissioner in Executive Council may authorize the sale, lease, licensing or other disposition of territorial lands...”).

GNWT Recommendation: The GNWT recommends adding the word “Reserve” to the listing in Table 2 under the column “Authorization”, immediately to the right of “Department of Lands, GNWT”, which heading is found in the column titled “Regulatory Agency”. The corrected list, reading down, should then display: “Quarry Permit”, “Surface Lease”, “Easement”, “Licence of Occupation”, “Reserve”, “Recreational Lease”. Add “NWT Commissioner's Lands Act” to the list of Department of Lands associated legislation.

3.2.1 Table 2: Authorizations Regarding the Use of Land, Water, or the Deposit of Wastes

GNWT Comment: Table lists ITI as the department responsible for establishing territorial parks and issuing tourism operator licences. Three different GNWT departments can now establish new Territorial Parks under the Territorial Parks Act, and ITI remains responsible for issuing tourism operator licences under the Tourism Act.

GNWT Recommendation: The GNWT recommends that this row be divided into two rows; one row stating ITI-GNWT is responsible for issuance of tourism operator licences under the Tourism Act, and the second row stating the GNWT (all departments) would be responsible for the establishment of territorial parks under the Territorial Parks Act.

DFO, TC: Chapter 3.2 Regulation

- TC had previously expressed the preference to be listed as a regulatory Agency in Appendix C and include the appropriate authorizations and associated legislation and regulations over which they have responsibility: in this version of the Plan, TC has not been added to Table 2 of section 3.2 which is replacing Appendix C from the previous version. Although TC acknowledges the Planning Board’s response and desire to keep the table to one page, TC’s preference remains to be added as a Regulatory Agency in Table 2, along with the associated Legislation/Regulation for which TC is responsible (e.g. *Navigation Protection Act*, *Transportation of Dangerous Goods Act*, *Aeronautics Act*, *Canadian Aviation Regulation*) for credibility and clarity purposes.
- The Planning Board has incorporated DFO’s initial amendment to Table 2, but further clarity is required due to the amendment of the *Fisheries Act* in 2015 and the reference to fisheries protection versus habitat protection. The GOC recommends the following changes to Table 2 on page 39 of the Plan:
 - Under the Authorization column:
 - Replace “Authorization for impacts to fish and fish habitat” with “authorization of a work, undertaking or activity that results in serious harm to fish (as defined in the *Fisheries Act*) that are part of a commercial, recreational, or Aboriginal fishery, or to fish that support such a fishery.”

- Add: “Application for a licence to fish for scientific, experimental, or educational purposes.”
 - Under Associated Legislation/Regulation column:
 - Replace “Fishery Regulations” with a more specific reference to the applicable regulations “Fishery (General) Regulations” and “Northwest Territories Fishery Regulations” to avoid misinterpretation.

GLUPB Response:
Amended the revised Plan document as recommended.

Page 40 (Now page 42 in 2018 document)

3.2.4 Mackenzie Valley Land and Water Board

GNWT Comment: The first sentence is missing part of what is stated in section 103(1)(a) of the MVRMA.

GNWT Recommendation: The GNWT recommends that the first sentence should track the language of section 103(1)(a); i.e., “that is to take place, or is likely to have an impact, in more than one management area, or in a management area and an area outside any management area”. In the second sentence, the phrase “become involved in” should be replaced by “regulate the use of land and water with respect to”. In the last sentence Figure 19 should be Figure 17.

3.2.4 Mackenzie Valley Land and Water Board

GNWT Comment: The last sentence references Figure 19, but perhaps this is supposed to reference Figure 17.

GNWT Recommendation: If so, please replace with: “Figure 17”

DFO: Chapter 3.2.3 Gwich’in Land and Water Board

Section 3.2.3 makes reference to Figure 17 regarding the Gwich’in Land and Water Board’s authority on both government lands (commissioner’s land) and Gwich’in Settlement Lands. The paragraph continues but inaccurately references Figure 19 which is the ‘Fold Out Map of Gwich’in Land Use Plan Zones’. The GOC recommends replacing the reference to Figure 19 with a reference to Figure 17.

GLUPB Response:
Amended the revised Plan document as recommended.

Page 41 (Now page 43 in 2018 document)

3.2.4 Figure 17: Gwich'in Land and Water Board Process

GNWT Comment: Out of date due to devolution

GNWT Recommendation: Change oval with “Minister of AANDC and Responsible Ministers” to “GNWT Minister of Lands, or Minister of AANDC, and Responsible Ministers” If more explanation is needed, suggest wording such as “For most projects on non-federal land, the Minister of AANDC has delegated to the GNWT Minister of Lands the authority to sign the MVRMA EA decision letter on behalf of Responsible Ministers.” Change spelling of “license” to “licence” to match spelling in legislation. The MVRMA environmental assessment decision process is oversimplified and inaccurate on this chart. It needs to be clear what all of the possible outcomes are at the section 128 MVRMA stage, and the possible section 130 outcomes that follow from each of the section 128 outcomes.

INAC, DFO: Chapter 3.2.5 Mackenzie Valley Environmental Impact Review Board

- A number of the powers, duties, and functions of the Minister of INAC under the *Mackenzie Valley Resource Management Act* have been delegated to the Minister of Lands in the transfer of administration and control to the Government of the Northwest Territories. Figure 17 on page 41 and the text of section 3.2.5 suggest that it is the Minister of INAC and Responsible Ministers that make a decision on a Review Board or Joint Review Panel recommendation. This is partially accurate for those circumstances where the federal minister has retained this responsibility, specifically, where a proposed development is located in whole or in part on lands under the administration or control of the GOC, in relation to a federally managed contaminated site, or is transboundary, transregional, or in the national interest. This is inaccurate for all other proposed developments where it is now the territorial Minister of Lands and Responsible Ministers that hold the authority for the decision-making process. It is also relevant to note that under section 111.1 of the *Mackenzie Valley Resource Management Act*, it is the Minister of Indigenous and Northern Affairs that exercises the powers and performs the duties and functions of all federal responsible ministers for the purposes of subsections 130(1) to (3) and sections 131.2, 135 and 137.2.
- The GOC notes that this section of the Plan does not include reference to the distribution of reports to a federal designated regulatory agency where they have jurisdiction. This includes the National Energy Board and their jurisdiction over transboundary pipelines and the Canadian Nuclear Safety Commission and their jurisdiction over uranium mining and milling. For environmental assessments or environmental impact reviews of projects involving transboundary oil and gas pipelines, the Review Board or review panel respectively would also submit its recommendation to the National Energy Board. For environmental assessments or environmental impact reviews of projects involving uranium mining or milling, the Review Board or review panel respectively would also submit its recommendation to the Canadian Nuclear Safety Commission.
- The GOC recommends the following revisions to the Plan:
 - Figure 17 - In the figure bubble that lists the Minister of INAC and Responsible Ministers, please add:
"Territorial Minister of Lands (or Minister of INAC) and Responsible Ministers."
in relation to a project that is located in whole or in part on lands under the administration or control of Canada, or a federally managed contaminated site, or is transboundary, transregional, or in the national interest.

GLUPB Response:

The bubble and page did not have space to include the GOC's recommended text. The diagram is intended to show a simplified, visual depiction of the MVRMA elements that have a relationship to the Gwich'in Land and Water Board. The GLUPB updated the Ministers in the oval as requested and added a reference at the bottom of the diagram to the pages of 3.2.5 *Mackenzie Valley Environmental Impact Review Board*. The detail about ministerial roles is presented on pages 44-45.

Page 42 (Now page 44 in 2018 document)

3.2.5 Mackenzie Valley Environmental Impact Review Board

GNWT Comment: The title of this section may be misleading – although Part 5 of the MVRMA is called “MVEIRB,” it deals with a broad range of actors.

GNWT Recommendation: The GNWT recommends changing title of 3.2.5 to “Environmental Impact Assessment.”

GLUPB Response:

For consistency with the MVRMA, and because the structure of the section in the revised Plan is listing the various Boards by name and not necessarily the MVRMA sections, the Planning Board suggests the title remain as it is.

3.2.5 Mackenzie Valley Environmental Impact Review Board: Stage one

GNWT Comment: Stage One Preliminary Screening: “All development projects must undergo a preliminary screening” Text does not accurately describe the MVRMA legislative framework. Not all developments are required to undergo preliminary screening (refer to MVRMA 119(a)&(b); 124(1)(a)&(b); 157.1). Essentially there are 4 scenarios for when a development may be referred to EA:

- Referred even though PS has not been started
- Referred after PS has been started but before it is finished
- Referred by the preliminary screener at the conclusion of the PS
- Referred by another authority notwithstanding the preliminary screener’s decision.

The simplest way to capture all 4 scenarios in the text is to delete “after preliminary screening” from the lead-in to the bulleted list.

GNWT Recommendation: The GNWT recommends:

1. Changing “All development projects must undergo a preliminary screening” to wording such as “Almost all development projects must undergo a preliminary screening.” or “All development project must undergo a preliminary screening unless exempted”. Consider explaining the exceptions.
2. Deleting “after preliminary screening” from the lead-in to the bulleted list, for example “... a proposed development can also be sent to environmental assessment from:”
3. Adding “designated regulatory agency” to the bulleted list of referrers.

GLUPB Response:

Amended using the following text:

Stage One: Preliminary Screening

Almost all development projects must undergo a preliminary screening (**section 124 of the MVRMA lists the exceptions to this requirement**). When a regulatory authority (such as a land and water board) receives an application for a development project, it coordinates the process for a quick assessment of the potential impacts. If this preliminary screening indicates a project might have significant adverse impacts on the environment or might cause public concern, the regulatory authority sends the application to the MVEIRB to begin stage two for an environmental assessment. If it is decided that it won’t, the application continues through the process of the regulatory authority.

In the Gwich’in Settlement Area, a proposed development can also be sent to environmental assessment by referral from:

- the Mackenzie Valley Environmental Review Board by its own motion,
- the Gwich’in Tribal Council,
- a local government if the development will have an impact within their boundaries, or
- a designated regulatory agency, or a department or agency of the federal or territorial government.

3.2.5 Mackenzie Valley Environmental Impact Review Board: Stage two

GNWT Comment: This section is out of date due to devolution and does not accurately describe the MVRMA legislative framework. The Review Board submits its conclusions and Report of Environmental Assessment to the GNWT Minister of Lands, for developments not on federal land, or to the Minister of AANDC, for developments partially or wholly on federal land. The Minister of Lands or the Minister of AANDC, as the case may be, distributes the report to the other responsible Ministers having jurisdiction in relation to the development. Generally speaking, the responsible Ministers must make one of the following decisions on the Review Board's conclusions and report:

- agree with the Review Board;
- modify the Review Board's recommendation, after consulting the Board; or
- order an environmental impact review.

If the development is within the jurisdiction of a designated regulatory agency (i.e. the National Energy Board or the Canadian Nuclear Safety Commission), the Review Board also submits its conclusions and Report of Environmental Assessment to that Agency. The Agency must make a decision on the Report of EA, separate from and in addition to the RMs' decision. The Designated Regulatory Agency can either agree with the Review Board or modify the Board's recommendation, after consulting the Board.

GNWT Recommendation: The GNWT recommends:

1. Updating the responsible minister: "The Review Board submits its recommendation to the Minister of Lands ..."
2. Adding: "Generally speaking, at the end of an environmental assessment, the Review Board must decide whether the development should be:
 - approved
 - approved with conditions, or
 - rejected.

Alternatively, the Board may decide to order an environmental impact review."

3. Amending the first sentence and replacing the phrase "might cause" with the phrase "is likely to cause significant".

Note that this wording is a general overview of the legislative requirements and does not cover all the possible details of the EA decision process and that the CNSC was added to the schedule of DRAs as part of the March 2014 MVRMA amendments.

INAC, DFO: Chapter 3.2.5 Mackenzie Valley Environmental Impact Review Board

- "Stage Two: Environmental Assessment" - requires clarification in order to accurately represent the territorial Minister of Lands, the federal Minister of Indigenous and Northern Affairs, and the designated regulatory agencies roles. The GOC recommends rewording this section as follows:
*"...The Review Board submits its recommendation to the **territorial Minister of Lands** who distributes it to the other responsible Ministers having jurisdiction in relation to the proposed development. **The federal Minister of Indigenous and Northern Affairs retains this role in relation to a project that is located in whole or in part on lands under the administration or control of Canada, in relation to a federally managed contaminated site, or is transboundary, transregional, or in the national interest. For environmental assessments of oil and gas projects that are the jurisdiction of the National Energy Board (transboundary northern pipelines), or projects that are the jurisdiction of the Canadian Nuclear Safety Commission (uranium mining and milling), the panel would also submit its recommendation to the National Energy Board or Canadian Nuclear Safety Commission respectively. The Minister makes a decision based on the recommendation that either...**"*

GLUPB Response:

Amended the revised Plan document as recommended. (INAC, DFO)

3.2.5 Mackenzie Valley Environmental Impact Review Boards: Stage three

GNWT Comment: Current wording in text: “The panel submits recommendations to the federal Minister who distributes it to other responsible Ministers having jurisdiction in relation to the proposed development. For environmental impact reviews of oil and gas projects that fall within the OROGO’s jurisdiction, the panel would also submit its recommendation to OROGO, which is within the department of Investment, Tourism and Industry of the GNWT.” The Office of the Regulator of Oil and Gas Operations (OROGO) is an agency with independent regulatory authority, which is administratively housed within ITI. In addition, “The panel submits recommendations to the federal Minister” does not accurately describe the MVRMA legislative framework, nor does it accurately describe the role of OROGO. DRA’s have decision authority at both the EA and EIR stages. In the “Stage Three: Environmental Impact Review” subsection, the statement that less than 1% of developments that are referred to environmental assessment go to an environmental impact review is inaccurate. The statement would be accurate if it indicated that less than 1% of all developments are ultimately referred for environmental impact review.

GNWT Recommendation: The GNWT recommends:

1. Wording that removes association of OROGO with ITI for EA reviews: “The panel submits recommendations to the federal Minister who distributes it to other responsible Ministers having jurisdiction in relation to the proposed development. For EIRs of oil and gas projects that fall within the Regulator of Oil and Gas Operations (pursuant to the Oil and Gas Operations Act), the panel would also submit its recommendation to OROGO.”
2. Wording such as “ The Review Panel submits its conclusions and report to the GNWT Minister of Lands,” for developments not on federal land, or to the Minister of AANDC, for developments partially or wholly on federal land, and to a designated regulatory agency, if applicable. The EIR decision options are broadly parallel to the EA decision options.
3. Clarifying the last sentence: “... less than 1% of all developments are ultimately referred for environmental impact review.”

INAC, DFO: Chapter 3.2.5 Mackenzie Valley Environmental Impact Review Board

- “Stage Three: Environmental Impact Review” - requires clarification in order to accurately represent the territorial Minister of Lands, the federal Minister of Indigenous and Northern Affairs, and the designated regulatory agencies roles. The GOC suggests rewording this section as follows:
*“...An independent panel of members appointed by the Mackenzie Valley Environmental Impact Review Board conducts the environmental review and submits its recommendation to the **territorial Minister of Lands** who distributes it to the other responsible Ministers having jurisdiction in relation to the proposed development. **The territorial Minister of Lands makes a decision based on the review panel’s recommendation.** For environmental impact reviews of oil and gas projects that fall within the Office of the Regulator of Oil and Gas Operations’ (OROGO) jurisdiction, the panel would also submit its recommendation to OROGO, which is within the department of investment, Tourism, and Industry of the government of the Northwest Territories. **The federal Minister of Indigenous and Northern Affairs retains this role in relation to a project that is located in whole or in part on lands under the administration or control of Canada, in relation to a federally managed contaminated site, or is transboundary, transregional, or in the national interest. For environmental impact reviews of oil and gas projects that are the jurisdiction of the National Energy Board (transboundary northern pipelines), or projects that are the jurisdiction of the Canadian Nuclear Safety Commission (uranium mining and milling), the panel would also submit its recommendation to the National Energy Board or Canadian Nuclear Safety Commission respectively.**”*

GLUPB Response:

Amended the revised Plan document as recommended.

Page 44 (Now page 46 in 2018 document)

3.2.6 Gwich'in Renewable Resources Board

GNWT Comment: Paragraph one, "Summarised, these are a mandate to..."

GNWT Recommendation: Should read: "Summarised, they are mandated to ..."

GLUPB Response:

Amended the text to "Summarised, the GRRB are mandated to..." for clarity.

Page 48 (Now page 50 in 2018 document)

4.2.2 Activities that are Exempt from the Zoning Rules

GNWT Comment: Community governments require significant parcels of land to develop municipal infrastructure such as land fills, sewage lagoons, water treatment plans and quarries. It may not be possible to locate these types of sites within municipal boundaries given site constraints such as unfavourable topography, poor drainage, flood areas, land title/tenure issues and other physical and/or legal issues. In these circumstances, community government may have no option except to locate municipal infrastructure outside of community boundaries. The GLUP zoning would not permit the development of municipal infrastructure in some areas outside of municipal boundaries. As a result, the GLUP may potentially impede the development of essential local government infrastructure, the delivery of municipal services and future community growth. Other regional land use plans in the NWT recognize the need to accommodate municipal infrastructure outside of community boundaries. The Sahtu Land Use Plan section 2.5 (E) exempts the development of municipal infrastructure and the removal of quarry material for municipal purposes from the plan's zoning requirements.

GNWT Recommendation: The GNWT recommends revising Section 4.2.2 of the GLUP in order to add municipal infrastructure and quarries to the activities that are exempt from the zoning rules. The wording could be borrowed directly from the Sahtu Land Use Plan as follows:

4.2.2 Activities that are Exempt from the Zoning rules:

6. a) the development of new municipal infrastructure necessary for community use or service;
- b) Activities authorized under a municipal water license;
- c) The removal of quarry material as needed for municipal operations and the construction of municipal infrastructure.

GLUPB Response:

Will leave an exemption for municipal activities out of the Plan at this time, however, the Board is open to discussing the issue further in the next Plan review should planning partners raise it.

Rationale: During plan implementation for the past 15 years, this hasn't presented itself as an issue. The Gwich'in Land Use Plan accommodates municipal infrastructure outside of municipal boundaries in two ways. First, municipalities are brought into the regional planning process to discuss and address any transboundary issues between the Gwich'in Land Use Plan and any municipal plans/activities. Second, any critical infrastructure proposals not integrated into the Gwich'in Land Use Plan during a five year review can be addressed with an amendment or exception at any time, should there be conformity issues. Given the time required for communities to plan and get funding for infrastructure, most can be addressed during a five-year review.

DFO: Chapter 4.3 Using the Gwich'in Land Use Plan

The last sentence in paragraph two reads “To insure a complete application, and therefore a smooth regulatory process, a proponent might wish to provide a habitat survey.” The GOC recommends improving the clarity of the sentence by replacing “insure” with “ensure”, replacing “might wish” with “may need”, and replacing the reference to “habitat survey” with “detailed description of biological and physical characteristics of populations and a determination of baseline fish species composition and abundance within the proposed project site.”

GLUPB Response:

Amended with slight alterations:

“To ensure a complete application, and therefore a smooth regulatory process, a proponent may need to provide for studies that result in a detailed description of the characteristics of fish populations and a determination of baseline fish species composition and abundance for the area that could be impacted by the development.”

4.3 Figure 20: Generalized Best Practices Regarding Conformity with the Land Use Plan

GNWT Comment/Recommendation: The GNWT recommends adding an asterisk at Step 2 in Figure 20, referring to a footnote at the bottom of Page 52. The footnote should read as follows: “Department of Lands dispositions, including leases (see Table 2, Lands – Authorisations), are not entered into a public registry; access to specific information is controlled and may or may not be available upon request, on a case-by-case basis.”

4.3 Figure 20: Generalized Best Practices Regarding Conformity with the Land Use Plan

GNWT Comment: Please update to reflect Devolution changes.

GNWT Recommendation: In Step 5, the figure lists ENR as a possible intervener. Please change ENR reference to GNWT.

INAC: Chapter 4.3 Using the Gwich'in Land Use Plan, Figure 20, Generalized Best Practices Regarding Conformity with the Land Use Plan

- Step 3 of figure 20 could be interpreted to suggest the Planning Board conducts and provides a regulatory authority with a conformity decision in all cases. While this is accurate in those situations where an application is referred to the Planning Board, this is not the regular practice. While the GOC recognizes that the Planning Board has the sole jurisdiction to determine whether an activity is in accordance with the plan where the activity is referred to the Planning Board or someone directly affected by the activity so applies (see s. 47 of the *Mackenzie Valley Resource Management Act*), in most situations a regulatory authority will make a conformity decision themselves. Therefore, the GOC recommends that the Planning Board adjust the text of step 3 to read as follows to improve the clarity of Step 3:
“RA uses internal standards to determine completeness of application. Conformity check with the LUP should be done at this time. The RA may refer an application to the GLUPB for a conformity decision.”
- Similarly, the Step 3 arrow that reads “Conformity check” should read “Conformity check referral”.

GLUPB Response:

Removed the reference to a public registry and just have “database/file system” in step 2.

Amended the revised Plan document almost as recommended (slight alterations due to space and formatting).

Page 53 (Now page 55 in 2018 document)

4.4 Regional Conditions that Apply in All Zones

GNWT Comment: In an earlier plan review, the GNWT recommended a regional condition related to archaeological site protection. In their response to the GNWT’s recommendations, the GLUPB stated that the GLUPB will add this to the Regional Plan of Action and bring it to plan stakeholders for discussion during the next plan review.

GNWT Recommendation: None. This approach is acceptable.

4.4 Regional Conditions that Apply in All Zones

GNWT Comment: The use of the word “regional” in Regional Condition suggests, and could be misinterpreted, by someone who fails to read the rest of the title and the subsequent two sentences, as meaning that these conditions only apply within a certain region of the Gwich’in Settlement Area.

GNWT Recommendation: The GNWT recommends the title be changed to: “Region Wide Conditions”.

GLUPB Response:

Amended the revised Plan document as recommended.

Chapter 4.4, Regional Conditions that Apply in All Zones

- Section 4.4 introduces regional conditions that apply in all land use zones subject to the land use plan. Regional conditions are a new component from the 2003 approved Gwich’in Land Use Plan. Regional conditions must be met before an activity is considered to conform with the Plan.
- The GOC stated in its previous review of the 2011 draft revised Plan, that it will not approve a revised Plan that does not include clear tests for conformity for regional conditions. As an alternative, where clear tests for conformity can’t be developed, the GOC proposed the Plan include many of these concerns in a new section of the Plan titled “Priority Concerns”. The Planning Board has responded that they insist the conditions remain as regional conditions, but has modified the wording to create clear tests for conformity. The following concerns remain with specific regional conditions:

Pages 53-54 (Now pages 55-56 in 2018 document)

4.4.1 Water Quality and Water Quantity

GNWT Comment: This comment is provided based on the last sentence in the 4th paragraph on page 53, in Section 4.4.1: For projects with greater risk of negative impacts on water, a monitoring program should be established that will determine a pre-project baseline and measure potential effects through the life of the project. Monitoring is required for projects that require a water licence. As it is written, the sentence could confuse the reader by implying that monitoring is not a requirement.

GNWT Recommendation: The GNWT recommends:

1. Adding a sentence at the end of the paragraph to the effect of “For projects that require a water licence, it is recognized that a monitoring program is a requirement of the water licence.”

INAC, TC: Chapter 4.4.1 Regional Conditions that Apply in All Zones, Water Quality and Quantity

- The GOC stated in its previous review of the revised Plan that it does not support the inclusion of 4.4.1 as a regional condition, but would rather see it identified as a priority concern in the Plan. The Gwich'in Land Use Planning Board has instead modified the wording of the condition to reflect Conformity Requirement #5, Watershed Management in the Sahtu Land Use Plan. The GOC recommends further modifying the proposed wording as follows to identify the potential impacts targeted by the condition and clarify that the conditions are also subject to applicable legislation:
 - 4.4.1 Water Quality and Quantity
 - 1. For water licences and land use permits, the Land and Water Boards will ensure that, subject to Chapter 19 of the Gwich'in Comprehensive Land Claim Agreement **and applicable legislation**, the proposed activity:
 - a) does not substantially alter quality, quantity, or rate of flow for waters that flow on, through, or are adjacent to Gwich'in lands, and
 - b) is subject to mitigation measures to minimize potential impacts **to the quality, quantity, or rate of flow of waters that flow on, through, or are adjacent to Gwich'in lands** to the greatest extent reasonably practicable.

GLUPB Response:

Amended the revised Plan document almost as recommended (GNWT).

The GLUPB will add “**and applicable legislation**” but suggests the second suggestion of “**to the quality, quantity, or rate of flow of waters that flow on, through, or are adjacent to Gwich'in lands**” deviates from the intent of CR#5 of the approved Sahtu Plan in that part (b) of that text is not specific to settlement lands. This condition is meant to have region wide application given how significantly water underpins the health of the land and the communities.

The GLUPB feels the following wording should be used:

- is subject to mitigation measures to minimize potential impacts to the quality, quantity, or rate of flow of waters to the greatest extent reasonably practicable.

This wording is intended to strike the compromise of identifying the importance of minimizing impacts on water resources throughout the GSA but leaving the Land and Water Board discretion in determining “**the greatest extent reasonably practicable**” on a project by project basis so that development isn't unduly restricted.

Page 54 (Now page 56 in 2018 document)

4.4.2 Non-Native Species of Plants

GNWT Comment: A better means of preventing the introduction of non-native plant species would be for a policy direction to be issued from the GNWT to the MVLWB and GLWB, requiring that all land use permit applicants within the Gwich'in Settlement Area indicate what precautions will be taken to prevent the introduction of non-native plant species.

GNWT Recommendation: None.

GLUPB Response:

The GLUPB asks that the GNWT provide the Board with the wording of any policy directive that it issues. Either the wording in the plan can be revised to be consistent and reiterate the directive or evaluated for removal if it is found to be unnecessary in the next plan review.

Page 55 (Now page 57 in 2018 document)

4.4.3 Management Plans for Granular Resources

GNWT Comment: The GLUPB requests that all new pits or quarries shall have management plans; however, the GLUPB's rationale "is to ensure that proponents are aware". If there is a need to raise awareness, there can be a more efficient means of doing so by creating a new section within the GLUP. In addition, the GLUPB may not have the authority to impose this regional condition requiring a management plan, as it creates a procedural requirement and does not involve any substantive allowance or restriction on the use of land or water or deposit of waste (which is the scope of the GLUPB's authority). This regional condition effectively amends the Territorial Quarrying Regulations and the Commissioner's Land Act/Regulations within the GSA since no application can be considered without demonstrating this conformity. The GLUPB notes (p 56, 2para) that the GNWT has existing policy with regard to management plans; however, this is inaccurate. At present, the Department of Lands follows the Northern Land Use Guidelines: Pits and Quarries (mirrored from AANDC) that requires applicants to submit a quarry management plan only if any of the following conditions are met:

- Quarry permit volumes are equal to or greater than 1,000m³;
- There is more than 1 permittee in the same quarry location; and
- The permittee has had issues with permit compliance in the past.

These guidelines do not replace the applicable acts or regulations.

In sum, the GNWT cannot approve this condition as:

1. The GLUPB does not have the authority (or scope) to impose this regional condition; and
2. It does not involve any substantive allowance or restriction on the use of land or water or deposit of waste.

GNWT Recommendation: Similar to our 2011 comments, the GNWT cannot approve a revised GLUP that contains this regional condition as it is currently written. The GNWT recommends:

1. Removing the request for a management plan from the list of regional conditions;
2. Creating a new section within the GLUP titled "Priority Concerns"
3. Within "Priority Concerns", the GLUP can raise awareness of quarrying;
4. Placing the GNWT quarry management plan template in the appendix (as a recommended best practice; contact GNWT Lands); and
5. That the GLUPB and the GNWT (Lands, DOT, DOJ, Lands regional office) work together to amend the appropriate Acts and Regulations for implementing a management plan for granular resources rather than using the GLUP as an amendment mechanism."

GLUPB Response:

The GLUPB met with the GNWT at the staff level to further discuss. It was agreed to keep the section as "Region Wide Conditions" and not create a new one, "Priority Concerns".

The condition was rewritten to resemble the Heritage condition where applicants "should be prepared" to assess and submit a plan. Language from the Northern Land Use Guidelines: Pits and Quarries (mirrored from AANDC) was also incorporated. A template for a GNWT pit/quarry development plan replaced the one from the report prepared for the Planning Board.

4.4.4 Species at Risk, General Condition for Species at Risk

GNWT Comment: In the first paragraph on page 56, in Section 4.4.4, the sentence “Pursuant to and not superseding....” and the subsequent bullets are confusing because they don’t list all the requirements of the Acts and it is unclear why only those listed were selected.

GNWT Recommendation: The GNWT recommends replacing the sentence with something like “Proponents will be required to meet all obligations under the federal and territorial Species at Risk legislation including but not limited to:.....”

4.4.4 Species at Risk, General Condition for Species at Risk

GNWT Comment: Under the Species at Risk (NWT) Act there is no designation of critical habitat but there is the ability to designate habitat for the conservation of a species. Further, a pre-listed species (i.e., a species that has been assessed by the Species at Risk Committee but has not been listed) may also have special requirements or considerations. The wording in this section of the GLUP should reflect these differences in the federal SARA and SARA (NWT)

GNWT Recommendation: The GNWT recommends that the GLUP amend Part C to read as follows: "destruct critical or designated habitat of a pre-listed or listed threatened or endangered species (on territorial lands)."

4.4.4 Species at Risk, General Condition for Species at Risk

GNWT Comment: The last paragraph lists the agencies that proponents should contact to obtain information on species at risk. Environment Canada is missing from this list.

GNWT Recommendation: In last paragraph please add Environment Canada in the list of agencies to consult with on species at risk

4.4.4 Species at Risk, General Condition for Species at Risk

GNWT Comment: The last paragraph list the agencies that proponents should contact to obtain a list of species near the proposed project. However, we suggest that in addition to the list of species it is also important to consider any management plans or recovery actions that may be relevant to these species.

GNWT Recommendation: In last paragraph on page 56 please add " ... obtain a current and complete list of species at risk that could be in the vicinity of a proposed project as well as determine whether there are any management or recovery actions/restrictions that may apply to them."

GLUPB Response:

Amended the revised Plan document as recommended for the first three. Adjusted the 4th slightly to avoid a very long sentence. Added another sentence to capture the intent: “Proponents will need to consider any management or recovery actions/restrictions that may be relevant.”

4.4.5 Exploration and Development of Uranium

GNWT Comment: The GLUPB requests that any proponents who wish to undertake exploration and development of uranium resources must meet with affected communities prior to submitting their application to regulators. The current Mackenzie Valley Land and Water Board Engagement and Consultation Policy (2013) already requires applicants to meet with affected communities prior to submitting their application. In order to meet the GLWB engagement requirements, all proponents must initiate dialogue with impacted groups. This condition would not necessarily add to pre-existing requirements given that this condition is beyond the scope of a land use plan (as it duplicates the engagement effort and consultation requirements within the MVRMA for EA, EIR and regulatory reviews). In addition, the GLUPB does not have the authority to impose this regional condition as it does not involve any substantive allowance or restriction on the use of land or water or deposit of waste. The specific engagement topics for discussion could be covered throughout the regulatory process. In other words, if a proponent applied for a drilling permit (which they would have to provide their engagement and consultation record prior to their submission), there is still an opportunity for interveners to express concern or to request that the permit go to an Environmental Assessment. In sum, the GNWT cannot approve this condition as:

1. The GLUPB does not have the authority (or scope) to impose this regional condition; as it does not involve any substantive allowance or restriction on the use of land or water or deposit of waste; and
2. It overlaps, but does not necessarily add to existing engagement and consultation requirements."

GNWT Recommendation: As it is written, the GNWT cannot approve a revised GLUP that contains this regional condition.

The GNWT recommends:

1. Removing 4.4.5 Exploration and Development of Uranium from the list of Regional Conditions;
2. Creating a new section within the GLUP titled "Priority Concerns";
3. Within "Priority Concerns", the GLUP can raise awareness of uranium as an issue within the GSA based on GSA concerns. The GLUP can cite GTC opposition (cite workshop results; please do not note other jurisdictions); and
4. Continuing to work with the GNWT in building community awareness on uranium in the GSA.

GLUPB Response:

The GLUPB met with the GNWT at the staff level to further discuss. It was agreed to keep the section as "Region Wide Conditions" and not create a new one, "Priority Concerns". Developed revised wording to maintain intent of condition and reflect existing GNWT policy and recommendations.

The wording has been adjusted so that it does not duplicate the engagement effort and consultation requirements within the MVRMA for EA, EIR and regulatory reviews. It provides guidance within the LWB engagement guidelines to ensure the up front work that will be required for a smoother regulatory process. The specific engagement topics are highlighted to ensure they are covered in the regulatory process.

The GLUPB disagrees with the GNWT assertion that the ~~GLUPB~~ Plan does not have the authority to impose for this regional condition because "it does not involve any substantive allowance or restriction on the use of land or water or deposit of waste". As the land use plan

may include written statements, policies, guidelines and forecasts that provide for the conservation, development, and use of land, waters and other resources, it does not have to be a matter of a “substantive allowance or restriction”. This condition involves allowance for the activity within the context guidance to the proponent and regulators for addressing the known, significant concern that will be expressed in the regulatory process.

Page 59 (Now page 61 in 2018 document)

4.4.6 Oil and Gas Operations Involving Hydraulic Fracturing

GNWT Comment: The GLUPB requests that any proponents who wish to undertake exploration and development of oil and gas resources must meet with affected communities prior to submitting their application to regulators. The current Mackenzie Valley Land and Water Board Engagement and Consultation Policy (2013) already requires applicants to meet with affected communities prior to submitting their application. In order to meet the GLWB engagement requirements, all proponents must initiate dialogue with impacted groups. This condition would not necessarily add to pre-existing requirements given that this condition is beyond the scope of a land use plan (as it duplicates the engagement effort and consultation requirements within the MVRMA for EA, EIR and regulatory reviews). In addition, the GLUPB does not have the authority to impose this regional condition as it does not involve any substantive allowance or restriction on the use of land or water or deposit of waste. The specific engagement topics for discussion could be covered throughout the regulatory process. In sum, the GNWT cannot approve this condition as:

1. The GLUPB does not have the authority (or scope) to impose this regional condition; as it does not involve any substantive allowance or restriction on the use of land or water or deposit of waste; and
1. 2. It overlaps, but does not necessarily add to existing engagement and consultation requirements.

GNWT Recommendation: As it is written, the GNWT cannot approve a revised GLUP that contains this regional condition.

The GNWT recommends:

1. Removing 4.4.6 Oil and Gas Operations Involving Hydraulic Fracturing from the list of Regional Conditions;
2. Creating a new section within the GLUP titled "Priority Concerns";
3. Within "Priority Concerns", the GLUP can raise awareness of oil and gas operations involving hydraulic fracturing as an issue within the GCA. The GLUP can cite GTC opposition (cite workshop results; please do not note other jurisdictions);
4. Noting that the GNWT is in the process of engaging on new draft Hydraulic Fracturing Filing Regulations, which would outline filing regulations for proposed activities involving hydraulic fracturing techniques in the onshore, and that the GNWT is responsible to draft new legislation, not OROGO (OROGO is an independent regulatory agency; however, it is not able to develop or modify its own legislation); and
5. Continuing to work with the GNWT in building community awareness on oil and gas operations involving hydraulic fracturing.

GLUPB Response:

The GLUPB met with the GNWT at the staff level to further discuss. It was agreed to keep the section as “Region Wide Conditions” and not create a new one, “Priority Concerns”. Staff are working on revised wording to maintain intent of condition and reflect existing GNWT policy and recommendations.

4.4.7 Sumps

GNWT Comment: The new regional condition prohibiting the use of sumps for the ‘storage or treatment of any substance, including greywater’ requires additional explanation as to how this would be implemented and clarify what activities this condition is intending to prohibit."

GNWT Recommendation: The GNWT recommends the following wording:

"Sumps are not the preferred method for disposal of drilling waste or greywater in the Gwich'in Settlement Area. Proponents should explore alternative methods of disposal of waste."

The GNWT recommends that the guidance for this condition makes reference and directs proponents to Land and Water Board guidelines that are developed for the management of wastes and, more specifically, the use of sumps.

Further, the GNWT recommends that the GLUPB provide additional information outlining how this regional condition would be implemented, including consideration of how the "Planning Board may consider an exception or an amendment":

- Explanation of the scope of prohibition (municipal disposal, research camps, mineral exploration, oil and gas exploration, dishwater from hunting and fishing camps, etc.);
- Guideline outlining other acceptable waste management technologies that could be utilized instead of sumps;
- Plan should outline the exception/amendment process that a proponent would be required to follow if a sump were to be used on a project (e.g., would a proponent's request to use a sump need to be approved by all plan signatories, how long would an exception/amendment process take, etc.);
- Consideration of existing Land Use Permits/grandfathering of project activities where the use of sumps may be permitted; and
- Plan should confirm how transboundary projects would be managed given that sumps are an acceptable form of waste management in other NWT regions (although subject to safety criteria pertaining to safe disposal of deleterious substances).

AANDC's Northern Land Use Guidelines for Camps and Support Facilities (<http://www.aadnc-aandc.gc.ca/eng/1319659277961>) may provide useful background.

INAC: Chapter 4.4.7 Regional Conditions that Apply in All Zones, Sumps

This condition requires that proponents seek alternative methods than sumps to manage the disposal of drilling wastes and grey water. It stems from concern that sumps (particularly in permafrost) lose integrity over time and allow their contents to permeate the surrounding environment. The GOC stated in its previous review of the revised Plan that it preferred the condition differentiate between sumps for various uses and waste types. The Planning Board has responded that the condition will still apply in all cases although the option to apply for an exception or amendment exists. While the GOC recognizes that this issue is now primarily the jurisdiction of the GNWT, the GOC notes that there is no regulatory mechanism to implement this condition as it is currently drafted for those activities below legislated thresholds requiring a land use permit or water licence. The GOC recommends further modifying the proposed wording as follows:

1. **For water licences and land use permits, the Gwich'in Land and Water Board will ensure that sumps for the storage or treatment of any substance, including greywater, are not included as an instrument to implement waste management except in those situations where an exception or amendment has been approved for the use of a sump.** Proponents should explore alternative methods for managing waste in the planning stages of projects.

GLUPB Response:

- Explanation of the scope of prohibition (municipal disposal, research camps, mineral exploration, oil and gas exploration, dishwater from hunting and fishing camps, etc.); This is not dependant or connected to a particular activity so feel wording is clear that the scope is a prohibition of all.
- Guideline outlining other acceptable waste management technologies that could be utilized instead of sumps;
The Board is leaving judgement of acceptable alternatives to the expertise of the regulators. Do not want to limit the options with a list that could become outdated and is not comprehensive or allows for innovation.
- Plan should outline the exception/amendment process that a proponent would be required to follow if a sump were to be used on a project (e.g., would a proponent's request to use a sump need to be approved by all plan signatories, how long would an exception / amendment process take, etc.);
Whether an exception or amendment might be allowed/required is dependent on the project and location. It's not possible to provide a detailed outline as suggested. The Plan document provides the necessary information regarding these processes already.
- Consideration of existing Land Use Permits/grandfathering of project activities where the use of sumps may be permitted; and
The issue of grandfathering has been assessed. There are no existing activities where this will be an issue.
- Plan should confirm how transboundary projects would be managed given that sumps are an acceptable form of waste management in other NWT regions.
The GLUPB does not feel it is necessary to discuss management of transboundary projects within the plan. It is a given that transboundary projects will be subject to regional differences in land use plans and aboriginal governance – not just a restriction on sumps. As one example, the Mackenzie Gas Project, the proponent bundled land use permits and water licences by region in the draft applications to account for these differences and it seems that it addressed the GNWT's concerns.

Regarding the GOC wording recommendation:

The Plan wording doesn't specify the GLWB as a project might be transboundary and the MVLWB will be the issuing authority.

As it is a given for any condition that an exception or amendment might be granted, the GLUPB would rather not include as part of wording of the condition. For consistency, this would mean having to do the same to all other conditions which would be too wordy and repetitive. The last paragraph for 4.4.7 explicitly restates the opportunity of making allowances for sumps using an exception or amendment.

Proposed revised condition wording:

1. New activities requiring permits, licences or authorisations will not use sumps as an instrument to implement waste management. Proponents should explore alternative methods for managing waste in the planning stages of projects.

4.6 Lands in Gwich'in Special Management Zones

GNWT Comment: Of the 17 Special Management Zones (SMZ) described in the GLUP, the Transportation SMZ is the only one that lacks Conditions Regarding Heritage Resources. Very little archaeological survey work has been done in this zone, but it is likely to be rich in unrecorded archaeological sites.

GNWT Recommendation: The GNWT recommends that standard Conditions Regarding Heritage Resources should be added to the Transportation Special Management Zone.

4.6 Lands in Gwich'in Special Management Zones

GNWT Comment: Delete: "The following table is a list of Gwich'in Special Management Zones and the conditions applied to each:"

GNWT Recommendation: Should read: "The following Table 3 is a list of Gwich'in Special Management Zones and the conditions applied to each:"

GLUPB Response:

Amended the revised Plan document to:

"Table 3 provides a list of Gwich'in Special Management Zones and the conditions applied to each."

The condition regarding heritage resources states that "*Significant heritage resources are known to exist in the area...*" While it is *likely* to be rich in unrecorded archaeological sites, the Board has not received any documentation or indication of "significant resources" from either the Prince of Wales Northern Heritage Centre or the Gwich'in Social and Cultural Institute (now the GTC Department of Cultural Heritage). Instead of delaying this plan revision process to adequately consider changes right now, the Board will put this as a priority issue for the next Plan review and discuss with the department of Cultural Heritage in the meantime. For now, the application of the Northwest Territories Archaeological Sites Regulations or the submission of comments by the fore mentioned organisations on development applications will continue to act as a means of managing potential archaeological sites in this zone.

INAC, DFO, EC: Chapter 4.6, Conditions regarding Traditional Harvesting

- Condition 2. of the Conditions regarding Traditional Harvesting on page 66 references "affected Gwich'in Renewable Resources Council(s), affected Gwich'in Council(s)", but references "local Gwich'in Renewable Resources Council(s), local Gwich'in Council(s)" on pages 66, 67, 70, 73, 76, 79, 81, 84, 87, 90, 93, 96, 99, 102, 105, 108, 111, and 114. The GOC recommends consistent terminology throughout the Plan to avoid uncertainty. The GOC prefers the use of "local" in Condition 2. Of the Conditions regarding Traditional Harvesting as consultation would be required to determine whether a proposed activity would "affect" the traditional harvesting of local communities.
- The 2011 draft Plan included the Department of Fisheries and Oceans Canada in the 'Conditions regarding Traditional Harvesting' as a party to be consulted before any activity requiring a permit, licence or authorization takes place. The 2015 draft Plan excludes the Department of Fisheries and Oceans Canada from condition 2. While exclusion in some areas is reasonable, in others where fisheries are an important resource or if an activity potentially affects or impacts fisheries, the Department of Fisheries and Oceans Canada should be consulted. The GOC

recommends including the Department of Fisheries and Oceans Canada as a party to be consulted under condition 2. of the Conditions regarding Traditional Harvesting on pages 70, 73, 76, 79, 81, 84, 87, 90, 93, 99, 102, 105, 108, and 111.

~~Page 664.6.1 Transportation Special Management Zones: Conditions regarding Traditional Harvesting (Condition 2)~~

GNWT Comment: The revised GLUP 's requirement for proponent consultation with specified Gwich'in and GNWT regulators "to help identify affected harvesters and specific measures to mitigate impacts" duplicates and then expands upon the consultation requirements already in legislation (for the associated Land Use Permit application to be deemed complete), and potentially increases the information/process requirements (and, thus, the timelines and levels of uncertainty) for proponents. These backdoor amendments of existing legislation and/or corrections to perceived gaps in legislation become incremental obstacles for routine work. The GNWT recommends that this requirement be directed at the regulators and those with the mandate to protect the interests of beneficiaries, rather than expanding the legislated consultation requirements of the proponent. The regulators should be identifying the mitigations that are required under law to protect their jurisdictional interests or those of the traditional users (according to the land claim), and establishing standardized terms and conditions for inclusion in the Land Use Permit.

GLUPB Response:

(INAC, DFO, EC comment)

Added "potentially" before "affected harvesters" but did not remove "affected" in this sentence because it is terminology used by the Land and Water Boards* and appropriate in this context.

(GNWT comment)

The condition was intentionally written to not be directed at just the proponent or just the regulator. While the condition does seem to duplicate some existing policy or legislation, it is meant as a way to identify, up-front, a list of specific organisations and departments for engagement on the issue of how the development might affect traditional harvesting activities. This will either be a benefit to the proponent who consults the land use plan prior to submitting an application, or the regulator to double check that engagement occurs, maybe as part of their process. That said, for the benefit of clarity of process and to accommodate the concern presented, the wording has been revised to be similar in form to the heritage condition, directing responsibility to the regulator:

1. ~~Before any activity requiring a~~ **Regulatory Authorities** issuing permits, licences or authorizations ~~takes place,~~ **will work with** the local Gwich'in Renewable Resources Council(s), local Gwich'in Council(s), the Gwich'in Renewable Resources Board, ~~and~~ **the Department of Environment and Natural Resources, and Fisheries and Oceans Canada shall be consulted** to ~~help~~ **identify potentially** affected harvesters and specific measures to mitigate impacts.

* Definition from the *Engagement and Consultation Policy* of the Mackenzie Valley Land and Water Boards:

Affected Party: *a party that is predicted to be affected by a proposed project, such as an Aboriginal organization/government, an individual occupying land for traditional purposes, a private landowner, or lease holder (e.g., for a lodge).*

EC: Chapter 4.6, Conditions regarding Peregrine Falcons and Other Raptors

- The GOC stated in its previous review of the revised Plan that the Conditions regarding Peregrine Falcons and Other Raptors may need revision as the Plan had not clearly laid out how a proponent is to demonstrate there is no adverse effect on nesting raptors. The Planning Board has included in its response to the GOC’s comments, what it expects a proponent to provide to demonstrate conformity with the condition, but has not included this information within the current revision of the Plan. The GOC recommends that the Planning Board include the requirement that proponents identify how they will ensure pilots are aware of these conditions within the Conditions regarding Peregrine Falcons and Other Raptors.

~~Page 674.6.1 Transportation Special Management Zones: Conditions regarding Peregrine Falcons and other Raptors~~

GNWT Comment: A setback of 250 metres in the 2011 version of the GLUP has been changed to 500 metres in the 2015 version. The first setback was based on the Nunavut Impact Review Board Screening Terms and Conditions, 1997. The new one has been “Adapted to be consistent with the Sahtu Land Use Plan. April 2013. Referenced in that document to the Government of the Northwest Territories.” Both versions exceed any regulatory requirements, but 500 metres is going to be impossible to maintain if the falcons or raptors nest close to the right of way or to a potential borrow source. In addition In Condition 1, the term “will demonstrate” needs to be replaced by “will provide sufficient evidence” for the same reasons described above.

GNWT Recommendation: The GNWT recommends an exception be made to ensure that the transportation system is not put out of conformity with the GLUP if a falcon or raptor moves into the existing corridor or into the area of an active borrow pit. The GNWT also recommends replacing "will demonstrate" with "will provide sufficient evidence".

GLUPB Response:

Added this sentence to part 3 to address EC’s comment:

Removed the sentence “Proponents will identify how they will ensure pilots are informed and follow this condition.”

(GNWT comment)

Amended to use “will provide sufficient evidence”

Given the Board’s experience with Plan implementation, the transportation system is not likely to be put at risk of being shut down due to conformity issues around nesting raptors. i.e At Airport Lake there are peregrines that nest closer than 500m to a quarry. Blasting operations are scheduled outside of the March to August timeframe. The condition for the 500 m buffer also has a discretionary element by using the term “should be avoided”. Regulators and inspectors can make allowances for the scenario described.

DFO: Chapter 4.6, Condition regarding Fish

- The GOC asked in its previous review of the revised Plan that the Planning Board consider including the Condition regarding Fish in the Cardinal Lake, Tsiigehnjik gwit’it (headwaters of the Arctic Red River) and the three Transportation zones. Fish habitat is present and fisheries protection a concern

for these areas. The GOC is recommending again that the Condition regarding Fish be applied to these areas and be marked appropriately in Table 3 on page 64.

- DFO's previously recommended changes regarding wording for the 'Condition regarding Fish' have been incorporated, however, the condition as it is currently written still allows for interpretation. The GOC recommends rewording the Condition regarding Fish as provided below. Including this reworded condition for all areas will provide the appropriate guidance for proponents:
 1. During peak migration times in the spring and fall, new activities requiring a permit, licence or authorization will not be allowed unless it is demonstrated by the proponent that no **impacts that result in serious harm to fish or impediments to the movement of fish will occur, unless approved by the Gwich'in Renewable Resources Board, Fisheries and Oceans Canada, and the local Gwich'in Renewable Resources Council(s)**. Peak migration times for fish will be established by the proponent with the **recommendation** of the Gwich'in Renewable Resources Board, Fisheries and Oceans Canada, and the local Gwich'in Renewable Resources Council(s).

Page 704.6.1 Conditions regarding Fish (Condition 1)

GNWT Comment: In Condition 1, the phrase "It is demonstrated" needs to be replaced by "sufficient evidence is provided" for the same reasons described in our comment on Conditions regarding Waterfowl, above.

GNWT Recommendation: The GNWT recommends replacing "will demonstrate" with "will provide sufficient evidence".

GLUPB Response:

Incorporating GNWT and DFO comments, the resulting proposed condition for fish is:

1. During peak migration times in the spring and fall, new activities requiring a permit, licence or authorization will not be allowed unless ~~it is demonstrated~~ **sufficient evidence is provided** by the proponent that no **impacts that result in serious harm to fish or impediments to the movement of fish will occur, unless approved by the Gwich'in Renewable Resources Board, Fisheries and Oceans Canada, and the local Gwich'in Renewable Resources Council(s)**. Peak migration times for fish will be established by the proponent with the **recommendation** of the Gwich'in Renewable Resources Board, Fisheries and Oceans Canada, and the local Gwich'in Renewable Resources Council(s).

Pages 64-68 — 4.6.1 Transportation Special Management Zones

GNWT Comment: Under a Memorandum of Agreement and Contribution Agreement, the Gwich'in Tribal Council produced the Mackenzie Valley Highway Project Description Report; however, the footprint for the corridor that was described during the GTC project has not been referenced in the GLUP.

GNWT Recommendation: The GNWT recommends including, at a minimum, a description of the corridor footprint in the final GLUP revision

GLUPB Response:

Until the highway is constructed and the Board does more detailed planning, it would be premature to say what the zoning and relevant policy along a Mackenzie Valley Highway will be, so the GLUPB are hesitant to make mention of it in Transportation SMZ section. For

example, one idea the GLUPB has already discussed is an infrastructure corridor given the existing fibre link and potential pipeline which would be more than just a transportation SMZ. A reference of the project description document was added in first paragraph 4.7.2 ii) Rules for Extensions of Highways, as well as updated that section.

GNWT Recommendation: The GNWT recommends the following wording for Condition 2: "Before issuing a permit, licence or authorization, the affected GRRC, local Gwich'in Council(s), the GRRB, and GNWT (ENR) shall identify affected harvesters and specific measures to mitigate impacts."

GLUPB Response:

Amended as described previously:

~~Before any activity requiring a~~ Regulatory Authorities issuing permits, licences or authorizations ~~takes place, will work with~~ the local Gwich'in Renewable Resources Council(s), local Gwich'in Council(s), the Gwich'in Renewable Resources Board, ~~and~~ the Department of Environment and Natural Resources, ~~and Fisheries and Oceans Canada shall be consulted to help~~ identify potentially affected harvesters and specific measures to mitigate impacts.

~~Page 66~~ 4.6.1 Transportation Special Management Zones: Conditions regarding Waterfowl (Condition 1)

GNWT Comment: In Condition 1, the term "will demonstrate" needs to be replaced by "will provide sufficient evidence". A standard of "will demonstrate" likely requires very strong evidence, does not grant appropriate discretion to the regulatory authority, and could be the source of legal disputes. The term "provide sufficient evidence" grants the regulatory authority appropriate discretion whilst ensuring the intent of this condition is achieved.

GNWT Recommendation: The GNWT recommends replacing "will demonstrate" with "will provide sufficient evidence".

GLUPB Response:

Amended the revised Plan document as recommended.

Page 69 (Now page 71 in 2018 document)

DFO: Chapter 4.6.2 Richardson Mountains and Foothills Special Management Zone

- Paragraph four, line four, of section 4.6.2 reads "Recent studies have focused on a population of char that spawn in the Vittrekwa River." The GOC recommends clarifying the statement to indicate that although some new work has looked at the Vittrekwa River, the majority of work continues to focus on the Rat River. The GOC recommends revising the wording of the statement as follows:
"Recent studies have **also** focused on a population of char that spawn in the Vittrekwa River."
- The GOC recommends including the following additional reference for the work done on the Rat River Char:
Harwood, L.A., Sandstrom, S., and Linn, E. 2009. Status of anadromous Dolly Varden (*Salvelinus malma*) of the Rat River, Northwest Territories, as assessed through sampling of the subsistence fishery (1995-2007). Can. Manuscr. Rep. Fish. Aquat. Sci. 2891: vii + 52 p.

GLUPB Response:

Amended the revised Plan document as recommended.

4.6.2 Conditions regarding Heritage Resources

GNWT Comment: In Condition 2, it needs to be clarified whether the conditions referred to would be specific to each application or would be blanket conditions applicable to all authorizations issued within these special management zones. If it's the latter, the GLUPB must carry out the necessary consultations with heritage and community organizations and include all proposed substantive conditions directly in the GLUP; otherwise the process will necessarily have to involve all regulatory authorities and heritage and community organizations and will be unworkable.

GNWT Recommendation: The GNWT recommends that the GLUPB:

- i. Clarify which of the two possibilities are intended in condition 2; and, if the intention is to have blanket conditions,
- ii. Have the GLUPB carry out all necessary consultations and provide its proposed substantive conditions directly in the GLUP.

GLUPB Response:

The intent of the condition is to have RA work/consult with organizations with management responsibilities for Heritage Resources to ensure site specific conditions are applied to projects (each application). Amended the wording for greater clarity:

Significant heritage resources are known to exist in ~~the area~~ **this zone**. Applicants for permits, licences and authorizations should be prepared to assess the impact of their proposed activities on heritage resources in the **project** area and submit a plan for doing so with their applications.

...Regulatory authorities issuing permits, licences or authorizations will work with heritage and community organizations on developing conditions for the protection of heritage resources in the **project** area...

4.6.7 Campbell Hills Special Management Zone

GNWT Comment: The section refers to the significant recreational and cultural value of Dolomite/Airport Lake as shown by the number of cabins on its shores. With the exception of about 4 cabins on the shoreline of Airport Lake which are located in the Gwich'in Settlement Area, most cabins around Airport Lake are located on Municipal and Commissioner's land where the GLUP does not apply. No recreational leases have been issued on Municipal and Commissioner's land around Airport Lake, and cabin owners are in fact unauthorized users of public land.

GNWT Recommendation: The GNWT recommends removing reference to cabins on Airport Lake.

GLUPB Response:

The Gwich'in Land Use Plan applies to all lands outside of municipal boundaries. The commissioner's lands outside of Inuvik are a unique case, but still subject to the plan. As the cabins are an existing land use, the Board suggests the reference remain regardless of the land tenure issues associated with the structures.

Page 92 (Now page 96 in 2018 document)

DFO: Chapter 4.6.10 Tsiigehtshik – Mouth of the Arctic Red River Special Management Zone

- In paragraph two of page 92, the GOC recommends including the ‘**least cisco**’ to the list of fish species that migrate up the Arctic Red River.
- The GOC recommends including the following reference for this inclusion:
Tallman R.F. and K.L. Howland. 2012. Seasonal migration patterns of lower Mackenzie River coregonids. *Fundamental and Applied Limnology Special Issues Advances in Limnology* 63:133-146.

GLUPB Response:

Amended the revised Plan document as recommended.

Page 95 (Now page 99 in 2018 document)

4.6.11 Cardinal Lake Special Management Zone

GNWT Comment: The GNWT’s comments on the previous draft indicated that the GNWT was not developing a boreal caribou management plan. The third sentence in the final paragraph on this page is inaccurate as the GNWT is not working on a "management plan".

GNWT Recommendation: The GNWT recommends changing the wording in para 3 to "... are working on a Boreal Caribou Range Plan and a Boreal Caribou Recovery Strategy".

GLUPB Response:

Amended the revised Plan document as recommended.

Page 101 (Now page 105 in 2018 document)

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DFO: Chapter 4.6.13 Nagwichoonjik - Mackenzie River Special Management Zone

- In paragraph two of page 101, the GOC recommends including the ‘**broad and lake whitefish, inconnu, least and arctic cisco, and chum salmon**’ to the list of fish species that migrate on the Mackenzie River and spawn in the tributaries.
- The GOC recommends including the following reference for this inclusion:
Tallman, R.F., K.L. Howland and S. Stephenson. 2005. Stability, change and species composition of fish assemblages in the lower Mackenzie River: a pristine large river. *American Fisheries Society Symposium* 45:13-21.

GLUPB Response:

Amended the revised Plan document as recommended.

Page 107 (Now page 111 in 2018 document)

DFO: Chapter 4.6.15 Tsiigehnjik – Arctic Red River Special Management Zone

- In paragraph two of page 107, the GOC recommends including the ‘**least and arctic cisco, and inconnu**’ to the list of fish species that are found on the Arctic Red River.
- In paragraph two of page 107, the GOC recommends removing the ‘**cisco**’ from the list of fish species provided nursery habitat by the Arctic Red River. It is unlikely this area provides nursery

habitat for cisco as this species (and all other coregonids) usually leave the headwaters and move downstream to more productive feeding area shortly after hatching.

- The GOC recommends including the following reference for this inclusion:
Tallman, R.F. and K.L. Howland. 2012. Seasonal migration patterns of lower Mackenzie River coregonids. *Fundamental and Applied Limnology Special Issues Advances in Limnology* 63:133-146.

GLUPB Response:
Amended the revised Plan document as recommended.

Page 114 (Now page 118 in 2018 document)

4.6.17 Conditions regarding Dall's Sheep (Condition 1)

GNWT Comment: In Condition 1, the term "will demonstrate" needs to be replaced by "will provide sufficient evidence" for the same reasons described in our comment on Conditions regarding Waterfowl, above.

GNWT Recommendation: The GNWT recommends replacing "will demonstrate" with "will provide sufficient evidence".

GLUPB Response:
Amended the revised Plan document as recommended.

Page 118 (Now page 122 in 2018 document)

INAC, DFO: Chapter 4.7.1 General Rules for Conservation and Heritage Conservation Zones

- The last statement on page 118 of the General Rules for Conservation and Heritage Conservation Zones states "Regulatory agencies may not issue a licence, permit, or authorization for the above." This statement includes in its reference to 'the above', commercial renewable resource activities including fisheries, forestry, and outfitting.
 - Section 12.7.1(a) of the Gwich'in Comprehensive Land Claim Agreement (GCLCA) states that the Renewable Resources Board shall determine whether commercial harvesting is to be permitted in a particular area for a particular species or population and may prescribe terms and conditions for such harvesting;
 - Section 12.8.1 (a) of the GCLCA provides that the Renewable Resources Board shall be established to be the main instrument of wildlife management in the settlement area.
 - Sections 12.8.24 and 12.8.25 of the GCLCA provides that the decisions of the Renewable Resources Board shall be forwarded to the Minister who within 60 days may accept, vary or set aside and replace the decision; and
 - Section 12.3.1 of the GCLCA provides that Government shall retain ultimate jurisdiction for the management of wildlife and wildlife habitat.
 - In light of these sections of the GCLCA, it is the Renewable Resources Board that determines whether commercial harvesting is to be permitted in a particular area and may prescribe terms and conditions for such harvesting. These decisions shall be forwarded to the Minister who may accept, vary or set aside and replace the decisions. Therefore, restrictions on commercial renewable resource activities including fisheries, stating that regulatory agencies may not issue a licence, permit, or authorization for the said activities, is beyond the jurisdiction of the Planning Board and should not be included in the Plan.

- The GOC is unwilling to approve the Plan with Section 4.7.1, ‘General Rules for Conservation and Heritage Conservation Zones’ as it is currently worded. The GOC requires the removal of “commercial renewable resource activities including fisheries” from the list of new uses and activities prohibited from Gwich’in Conservation and Heritage Conservation Zones (currently itemized in the final bullet on page 118 of section 4.7.1 General Rules for Conservation and Heritage Conservation Zones). The GOC recommends including commercial harvesting under a separate bullet which reads **“Commercial harvesting activities are not supported within Conservation and Heritage Conservation Zones. Before any regulatory agency issues a licence, permit or authorization for commercial harvesting, the Gwich’in Renewable Resources Board shall be consulted.”**

GLUPB Response:

Aside from the fact the plan was approved with a restriction on renewable resource activities in 2003, and the Sahtu Land Use Plan that was approved in 2013 has restrictions on Forestry, the GLUPB still disagrees that this **“is beyond the jurisdiction of the Planning Board and should not be included in the Plan”**. The legal work that was done regarding whether the Land Use Plan could restrict non-renewable resource development (when conservation zones conflicted with the mining regulations) would also apply in this case. What is agreed, is that the government retains ultimate jurisdiction, in the sense that they are a signatory to the plan. The GOC’s responsibility is then to determine whether they support the proposed policy or to provide rationale as to why not. If the GOC has no scientific, economic or other reason for disagreeing with this restriction, then it should stand. The reasons for conservation are presented in each zone description.

The Plan does rely on the expertise and authority of the GRRB (and GNWT) to make decisions for conditional approval of outfitting and tourism activities under 4.7.2 iii) Rules for Outfitting and Tourism. Commercial Fisheries and Forestry are not permitted (unless an exception or amendment is approved).

Page 119 (Now page 123 in 2018 document)

4.7.2 Special Considerations Regarding the General Rules- i) Rules for a Pipeline

GNWT Comment: Text states that a decision to construct the Mackenzie Gas Project is likely to occur within the next five years. Please provide a citation.

GLUPB Response:

Updated to: “..., it is unlikely that a decision to construct the proposed pipeline will be made in the near future.”

Page 120 (Now page 124 in 2018 document)

4.7.2 Rules for Extension of Highways

GNWT Comment: Out of Date

GNWT Recommendation: Please update information regarding the Inuvik to Tuktoyaktuk Highway as it is no longer a “potential highway”, but rather a highway under construction.

DFO: Chapter 4.7.2, Special Considerations Respecting the General Rules ii) Rules for Extension of Highways

Paragraph three of section 4.7.2 ii) makes reference to “Two other potential highways”. The extension of the Dempster Highway up to Tuktoyuktuk has been approved and is currently under construction. The GOC recommends that the Planning Board adjust the text to exclude reference to this highway section as a potential highway. If reference to the highway is retained the GOC recommends referencing the highway as currently under construction.

GLUPB Response:

The reference to the Tuktoyuktuk highway was excluded as the route as constructed is not within the land use plan jurisdiction.

Pages 120-121 (Now pages 124-125 in 2018 document)

4.7.2 Rules for Outfitting and Tourism

GNWT Comment: In Condition b., the term “can demonstrate” needs to be replaced by “can provide sufficient evidence” . A standard of “will demonstrate” likely requires very strong evidence, does not grant appropriate discretion to the regulatory authority, and could be the source of legal disputes. The term “provide sufficient evidence” grants the regulatory authority appropriate discretion whilst ensuring the intent of this condition is achieved. In addition, Condition d. ("Proponent can demonstrate community support") is highly ambiguous and is beyond the authority of the GLUPB as it would not otherwise apply with condition c and is not necessarily based upon potential impacts to land, water, and renewable or non-renewable resources as with condition a and condition b.

GNWT Recommendation: The GNWT cannot approve the revised GLUP if it contains condition d. The GNWT recommends:

1. Replacing "will demonstrate" with "will provide sufficient evidence" in Condition b.; and
2. Removing Condition d.

EC: Chapter 4.7.2 Special Considerations Respecting the General Rules iii) Rules for Outfitting and Tourism

The Planning Board has revised the wording for Conditions Regarding Waterfowl based on parameters used in the approved Sahtu Land Use Plan. While the GOC supports this terminology, it is not clear why the Planning Board has chosen not to apply these conditions to conservation zones (which the Sahtu Land Use Plan does), particularly in relation to section 4.7.2 iii) Rules for Outfitting and Tourism.

The Plan conditionally allows commercial tourism or outfitting in conservation zones provided certain conditions in section 4.7.2 (iii) are met:

- a. the proposed harvest of any species must be sustainable. This will be determined by the Gwich'in Renewable Resources Board and Environment and Natural Resources, GNWT.
- b. the proponent can demonstrate that the activity will not have negative impacts on the other values/resources identified in the zone
- c. the proponent has authorization from the land manager (GTC or GNWT) to use the land
- d. the proponent can demonstrate community support

The conservation zone Travaillant Lake/Mackenzie River is designated in part because it contains sensitive Migratory Bird Habitat. It is not clear, through the conditions under section 4.7.2 iii), if

Environment Canada would be consulted with regards to impacts on a proposed commercial tourism or outfitting activity on migratory birds in this area.

If the Plan does not intend to apply the Conditions regarding Waterfowl within the Travailant Lake/Mackenzie River Conservation Zone, the GOC recommends the inclusion of specific wording in the Plan under section 4.7.2 iii) that requires consultation with the Department of Environment Canada on any proposed commercial tourism or outfitting activities proposed in the zone.

GLUPB Response:
(GNWT comment)

Part d) requiring community support speaks to socioeconomic aspects of land use planning and does fall within the authority of a land use plan*. Under the planning principles guiding land use planning in the GCLCA, s. 24.2.4(b)(i) reads: *special attention shall be devoted to protecting and promoting the existing and future social, cultural, and economic well-being of the Gwich'in.* d) is simply explicit policy ensuring that one of the impacts of a particular land use promotes this wellbeing. While the 2015 wording was intended to give the affected communities a stronger role in decision making to ensure maximum benefit to Gwich'in participants, what would constitute community support was not defined.

It has been re-written to be similar in concept to *CR#3 Community Benefits* of the Sahtu Plan but worded more along the lines of language in the GCLCA and the MVRMA. The reiteration of this principle is to impart emphasis to regulatory authorities on requiring benefit to (or involvement of) the Gwich'in. Using "provide sufficient evidence" instead of "demonstrate" gives regulators appropriate discretion as per the GNWT's suggestion. The adapted revision of d) is:

d) the proponent can provide sufficient evidence that the proposed activity will contribute to the social, cultural, and economic wellbeing of residents and communities.

The component of the principal about "*having regard to the interest of all Canadians*" is intentionally excluded from the text. Its absence does not preclude it as part of the decision-making and given the nature of such localised tourism or outfitting activities, there is not likely to be significant national benefit anyway. Therefore, the text's emphasis only on local benefit does not conflict with legislation.

* Correcting the language of the GNWT statement, it is the authority of Plan, not the authority of the GLUPB – the distinction being that the Planning Board only facilitates the process to get agreement by the three signatories on the land use plan.

(EC comment)

Revised to include a new sentence: "Organisations that should have a role in evaluating whether a commercial tourism or outfitting proposal will have a significant impact includes but is not limited to: local Gwich'in Renewable Resources Councils, local Gwich'in Councils, Gwich'in Department of Cultural Heritage, Prince of Wales Northern Heritage Centre, GNWT Department of Environment and Natural Resources, Fisheries and Oceans Canada, and Environment Canada."

The GLUPB prefers this rather than using the condition for waterfowl as it is more comprehensive and doesn't open the door to using all the SMZ conditions in the CZ's. The CZ's don't use conditions the same way as SMZ's do to manage impacts from development because for the most part, development is not allowed.

Page 122 (Now page 126 in 2018 document)

DFO: Chapter 4.7.3 Gwich'in Conservation Zone Descriptions, Conservation Zone A: Rat River / Husky Channel / Black Mountain, More Information on Reasons for Conservation

- The first paragraph under 'More Information on Reasons for Conservation – Environment' on page 122, reads "The Dolly Varden char are a highly valuable but small population of fish." The statement should highlight that it is the Rat River population specifically of the Dolly Varden char that is a small population of fish. Additional wording should also be included to highlight the current state of the Dolly Varden fishery. The GOC recommends the following changes to the paragraph:
The **Rat River population of the** Dolly Varden char are a highly valuable but small population of fish. Declines in abundance observed in 2004 prompted the voluntary closure of the fishery for Dolly Varden in the Mackenzie Delta and Rat River between 2006 and 2008. **There is now a limited harvest and the fishery** is monitored closely by the Gwich'in Renewable Resources Board and Fisheries and Oceans Canada **due to concerns about the sustainability of the Rat River population.**
- The second paragraph under 'More Information on Reasons for Conservation – Environment' on page 122 could be clarified by including the age at which the Dolly Varden Char migrate in the spring. The GOC recommends adjusting the text as follows:
Age 3-4+ Dolly Varden char then migrate in the spring on the Rat River to the Husky Channel of the Mackenzie Delta to feed in the Beaufort Sea.

GLUPB Response:

Amended the revised Plan document as recommended.

Page 123 (Now page 127 in 2018 document)

4.7.3 Resource Development Potential

GNWT Comment/Recommendation: 2nd paragraph, 2nd line, amend "a" to "are"

GLUPB Response:

Amended the revised Plan document as recommended.

Page 131 (Now page 135 in 2018 document)

DFO: Chapter 4.7.3 Gwich'in Conservation Zone Descriptions, Conservation Zone C: Travaillant Lake / Mackenzie River / Tree River, More Information on Reasons for Conservation

- The Plan is inconsistent in its use of full common names for fish (e.g. Char, Whitefish). The full common name should be used where possible to differentiate between species of fish within the same genus of fish (e.g. Dolly Varden Char rather than Char, Broad Whitefish rather than Whitefish). In addition, the Plan is inconsistent in the capitalization of common names of the fish species. The accepted standard is to capitalize common names. As an example the GOC recommends clarifying the third paragraph under 'More Information on Reasons for Conservation – Environment' on page 131 to include the species of whitefish as follows:
"Travaillant Lake sustains its own population of **Broad Whitefish**, as well as having whitefish migrate in and out of the lake." and "Some of the many fish species include **Broad Whitefish, Lake Whitefish**, jackfish, inconnu, burbot, trout, walleye, arctic grayling, and salmon."
- The GOC recommends including the following reference for the inclusion of Broad Whitefish:

Harris, L.N., T.N. Loewen, J.D. Reist, N.M. Halden, J.A. Babaluk and R.F. Tallman. 2012. Migratory variation in Mackenzie River system Broad Whitefish: insights from otolith strontium distributions. Transactions of the American Fisheries Society 141: 1574-1585.

GLUPB Response:
Amended the revised Plan document as recommended.

Page 135 (Now page 139 in 2018 document)

DFO: Chapter 4.7.3 Gwich'in Conservation Zone Descriptions, Conservation Zone D: Arctic Red River, More Information on Reasons for Conservation

- The GOC recommends clarifying the first paragraph under 'More Information on Reasons for Conservation – Environment' on page 135 as follows:
"Fisheries and Oceans Canada has documented this site as a spawning area for inconnu."
- The GOC recommends replacing reference 132 with the following:
Howland, K.L., R.F. Tallman and W.M. Tonn. 2000. Migration patterns of freshwater and anadromous inconnu, *Stenodus leucichthys*, in the Mackenzie River system. Transactions of the American Fisheries Society 129: 41-59; Howland, K.L., W.M. ton and R.F. Tallman. 2002.

GLUPB Response:
Amended the revised Plan document as recommended.

Page 149 (Now page 153 in 2018 document)

5.3 Conformity with the Land Use Plan

GNWT Comment: In the second paragraph, the term "regulatory groups" should be replaced by "regulatory authorities".

5.3 Conformity with the Land Use Plan

GNWT Comment/Recommendation: The GNWT has a policy in place that applications received for land dispositions under its authority in Gwich'in would be sent first to the GLUPB for conformity checks to ensure, prior to issuance of any authorisation, that Lands Administration was meeting its obligation under Paragraph #2, Section 5.3 of the Gwich'in Land-Use Plan and under Part 2 of the MVRMA Section 47 (1)(a). (In the conformity chart, Figure 20 of the Plan, the request for a conformity check would occur at Step 3). The GNWT requests a conformity check by means of a form letter from the Team Lead – Territorial Lands Administration to the GLUPB, which is sent along with a copy of the application. The GNWT intends to continue this practice under the revised Plan.

- References: (1) Mackenzie Valley Resource Management Act, SC 1998, c.25, Part 2, Section 47 (1)(a); (2) Final Draft (Revised) January 2015 – Nan Geenjit Gwitrit T'agaa'in/Gwich'in Land Use Plan, Section 5.3. "Conformity with the Land Use Plan".

GNWT Recommendation: The GNWT recommends adding a footnote number in Paragraph #5 of Section 5.3 of the Plan, after the sentence beginning "Proposals for activities", referring to a footnote at the bottom of Page 149 or other suitable location in the Plan. The footnote should read as follows: "GNWT (Territorial Lands Administration) sends relevant applications for land dispositions in Gwich'in to the GLUPB, accompanied by a form letter requesting a conformity check."

GLUPB Response:
Amended the revised Plan document as recommended.

Page 150 (Now page 154 in 2018 document)

5.4 Exceptions to the Land Use Plan

GNWT Comment: The second bullet “has community support” is extremely vague. The GLUPB needs to better clarify what is meant by this term before the GNWT can potentially agree to the inclusion of any such wording.

GNWT Recommendation: The GNWT recommends that the GLUPB clarify what would indicate "community support" and how it could be measured.

GLUPB Response:

Amended to include reference to Letters from RRCs, DGOs, Gwich'in businesses, etc.

Page 152 (Now page 156 in 2018 document)

5.6 Comprehensive Reviews

GNWT Comment: Out of date due to Devolution.

GNWT Recommendation: Please update to reflect current status – replace “coordinated by AANDC” with “coordinated by GNWT”

5.6 Comprehensive Reviews of the Land Use Plan

GNWT Comment: Text states that Cumulative Impact Monitoring Program (CIMP) is coordinated by AANDC.

GNWT Recommendation: Please update the text to reflect Devolution and that CIMP is now led by GNWT (ENR).

INAC: Chapter 5.6, Comprehensive Reviews of the Land Use Plan

Post-devolution, the Northwest Territories Cumulative Impacts Monitoring Program is now coordinated by the Government of the Northwest Territories, Department of Environment and Natural Resources. The GOC recommends the reference to Aboriginal Affairs and Northern Development in the last paragraph of section 5.6 be replaced with the Government of the Northwest Territories, Department of Environment and Natural Resources.

GLUPB Response:

Amended the revised Plan document as recommended.

Page 155 (Now page 159 in 2018 document)

INAC: Chapter 6.1.2 Endorsement

- The GOC notes that the current version of the Regional Plan of Action (2011 draft, available on the Planning Board’s website) does not accurately reflect INAC’s roles and responsibilities after the transfer of resource responsibilities to the Government of the Northwest Territories on April 1, 2014. The Department is inaccurately tagged as a ‘Lead/Participants’ in a number of actions which include the Cumulative Impacts Monitoring Program, watershed mapping, oil and gas resources, mineral resources, and granular resources management plans. The GOC recommends the Regional Plan of Action is updated to properly reflect the appropriate leads and participants.

- The GOC stated in its previous review of the 2011 draft revised Plan that the Planning Board should clarify that signatory approval does not imply approval or create obligations associated with the Regional Plan of Action. In response, the Planning Board has included the wording “Though a companion document to the land use plan, approval of the plan does not carry any legal obligation for the actions listed in the Regional Plan of Action. Most actions are ‘recommended’ and mean the party receiving the recommendation should act in good faith and make reasonable effort to carry out that action.”

The GOC is unwilling to approve the Plan with this wording. The GOC will not commit itself to carry out recommendations that have potential impacts on government resources without performing adequate review of priorities, budgets, and available resources. Further, the Regional Plan of Action is in a draft form and inaccurately identifies the Department of INAC as a lead or participant in a number of actions as discussed above. The GOC recommends revising the statement as follows:

“Though a companion document to the land use plan, approval of the plan does not carry any legal obligation for the actions listed in the Regional Plan of Action. **The Gwich’in Land Use Planning Board will continue to engage environmental managers and stakeholders on the implementation of recommendations as priorities direct available resources.**”

- Alternatively, the Planning Board could update the Regional Plan of Action document to identify the accurate lead or participant and revise the above statement as follows to remove any unintended expectation that additional government funding will be committed to undertake identified actions: “Though a companion document to the land use plan, approval of the plan does not carry any legal obligation for the actions listed in the Regional Plan of Action. ~~Most~~ Actions are “recommended” and mean the party receiving the recommendation should act in good faith and make reasonable effort to carry out that action. **Approval of the plan does not imply a commitment for additional government funding.**

GLUPB Response:

Amended the revised Plan document to incorporate both suggested sentences in tandem:

“Though a companion document to the land use plan, approval of the plan does not carry any legal obligation for the actions listed in the Regional Plan of Action. These actions are “recommended” and mean the party receiving the recommendation should act in good faith and make reasonable effort to carry out that action. Approval of the land use plan does not mean a commitment for additional funding by the signatories for RPA related activities. Engagement of environmental managers and stakeholders on the implementation of recommendations will occur as priorities direct available resources.”

Page 167 (Now page 171 in 2018 document)

Appendix B: Stakeholder List

GNWT Comment: Update Territorial government signatories.

GNWT Recommendation: Please add the Department of Lands (plan signatory)

GLUPB Response:

Amended the revised Plan document as recommended.