

**INDEPENDENT REVIEW
DRAFT NUNAVUT
LAND USE PLAN**
Final Report

June 15, 2012

Submitted to:

**Aboriginal Affairs and Northern
Development Canada**

Nunavut Planning Commission

**Department of Environment,
Government of Nunavut**

Nunavut Tunngavik Incorporated

Submitted by:

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**Independent Review of the Draft Nunavut Land Use Plan
Final Report**

Enclosed please find the final report for the Independent Review of the Draft Nunavut Land Use Plan. This report incorporates clarifications and changes in response to comments on the May 28th draft report, following discussions at our meeting in Iqaluit on June 5th and subsequent written comments received by June 8th.

The Dillon team would like to thank all Parties for their participation and their contributions to this challenging assignment. We sincerely hope that the recommendations and analysis provided by this independent review will assist you as work continues on the Nunavut Land Use Plan.

Yours truly,

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Government of Nunavut

Department of Executive and Intergovernmental Affairs
Department of Environment
Department of Economic Development and Transportation

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Independent Review of the Draft Nunavut Land Use Plan

EXECUTIVE SUMMARY

Introduction

Dillon Consulting Limited (Dillon) was engaged in February, 2012 to undertake an independent review of the Draft Nunavut Land Use Plan (DNLUP) and the planning process as outlined in Terms of Reference (ToR) developed by the governments and key organizations involved in land use planning in Nunavut (the Parties):

- The Government of Canada (GoC), represented by Aboriginal Affairs and Northern Development Canada (AANDC);
- The Government of Nunavut (GN), represented by the Department of the Environment;
- Nunavut Tunngavik Incorporated (NTI); and
- Nunavut Planning Commission (NPC).

The purpose of the independent review was to recommend how best to bring about a successful conclusion to the NLUP planning process. Our review focuses only on the period since 2007. This date marked a turning point in the process because the Parties completed work on the *Broad Planning Policies, Objectives and Goals* document (the 11.4.1(a) document) and planning efforts had shifted from regional planning to the development of a single Nunavut-wide plan.

We have conducted our review and written this report in ways that respond, to the best of our ability, to the Parties' direction and expectations as stated in the ToR.

Methodology

This report has been prepared to meet the requirement of the ToR to present results "linked to the Review methodology, clearly demonstrating how conclusions were derived from the information collected, with a focus on the purpose of the Review."

The starting point for this review was a conference call, to which representatives of all of the Parties were invited and all but one participated. This call set the stage for the review and addressed questions and comments arising from the ToR and our project proposal.

We then began collecting relevant written material and reviewing the substantial number of documents submitted by the Parties. Factual briefings with representatives of each of the Parties were also conducted, during which they provided us with a summary of important events and decision points to date, identified key documents, and framed the issues from their perspectives.

The other key element of this information collection period was completing key informant interviews with individuals recommended by the Parties and a few other interviewees who we contacted on our own initiative. All interviews were conducted on a “not for attribution” basis. They were semi-structured around a series of questions designed to draw out interviewees’ knowledge of the planning process and the content of the DNLUP. Interviewees were told that they should not feel constrained by the topics identified in the questions and should raise any other issues that they considered to be relevant.

In conducting our review we tried to understand the Parties’ different perspectives on important issues and explore the interests that underlie some of their positions as expressed in interviews and in the documents that we reviewed. When considering options for our recommendations, we thought that it was most helpful to try to avoid making suggestions that seemed likely to be dismissed by one or more Parties out of hand. In the end, however, we believe that some of our recommendations will certainly challenge Parties to reconsider positions that they have stated in the past.

This review was conducted at arm’s length from all of the Parties and no Party enjoyed privileged access to the review team or exercised any pressure on us to tailor our work to their particular objectives, priorities and needs. We spoke with interviewees suggested by all of the Parties and considered the documents that they submitted, which were available on a secure web site.

Analytical Framework

Since our primary task was to recommend a path forward, it was important to find a way to simplify the complex and interrelated set of issues raised by planning in Nunavut and to clearly communicate our observations and recommendations. An analytical framework is essential to organize the issues in a way that focuses attention on root causes of the challenges and on potential solutions, rather than simply summarizing the Parties’ broad range of concerns about the current state of planning in Nunavut.

The analytical framework we developed draws on an architectural analogy to represent the components that we believe are essential for planning in Nunavut to succeed.

The roof is an approved plan. The foundation consists of the core legal and policy documents that establish land use planning in Nunavut and professional planning theory and practice. Together these foundational elements set out the most important requirements and direction for both the content of the land use plan and the process used to develop it.

Three pillars stand on the foundation to support the roof:

1. The **substantive pillar** clearly defines the specific purposes and content of the plan, including the progressive identification and prioritization of the issues to be addressed, the objectives associated with these issues, and the actions to be included in the plan to contribute to achieving these objectives;
2. The **participation pillar** constitutes effective engagement of Inuit, other residents of Nunavut and stakeholders at the appropriate stages of the planning process; and
3. The **procedural pillar** consisting of the design and implementation of the detailed planning process, including the steps in that process, the roles and responsibilities of participants, and the roadmap that establishes specific tasks and time lines and enables participants to allocate resources for completing the plan.

Pursuing the architectural analogy, all three components are integral to the design of the land use plan. In particular, the building cannot serve its intended purpose if the roof is placed directly on the foundation.

The role of the pillars is central to our analysis of land use planning in Nunavut. Their function is to elaborate on and refine the generally worded requirements and direction identified in the foundation documents. They are necessary to establish the linkages and progression between the starting points for planning and the focused, effective and defensible land use plan that should be the final product. Building the pillars should also contribute to aligning expectations among the Parties. In short, the careful development of the three pillars is essential to good planning and integral to making the argument that a draft plan should be approved. Building the pillars should also contribute to identifying and aligning the expectations of the Parties.

Our analysis suggests that the foundation is solid. However, despite effort by all Parties, they have not yet succeeded in establishing the pillars that need to be in place to support a defensible plan at the approval stage.

The Substantive Pillar

Our analysis identifies significant weakness in the substantive pillar. First, despite the Parties' efforts to align expectations on the substantive implications of a shift from regional planning to a single plan for Nunavut, the exchange of documents and correspondence appears to have been inconclusive and we found no evidence in either the written material that we reviewed or in our interviews that this question was ever formally resolved or that a common set of assumptions and expectations emerged over time through a more organic process. Second, we observe that issue scoping for the plan resulted in a compilation of issues and priorities from the perspectives of government departments and agencies, but we did not find evidence of a systematic and transparent triage to identify priorities for the DNLUP as a whole. Our interviews indicate that these two issues continue to be sources of uncertainty.

The consequences of the weakness in the substantive pillar were evident in the tendency of interviewees to define their expectations for the substance of the DNLUP largely or entirely in terms of the foundation documents, notably the Nunavut Land Claims Agreement (NLCA) and the 11.4.1(a) document, rather than beginning with those foundations but then identifying the decision path relating to specific issues and priorities that we would expect to see in the substantive pillar. While many interviewees readily agreed that the first generation plan needs to be more specific than NLCA provisions and more selective than 11.4.1(a) document, collective expectations about what that means in practical terms for developing the DNLUP have yet to be well defined.

The Participation Pillar

Land use planning must not only be open to the participation of a wide range of people, but must be designed around it. Participation is central to the foundation for planning in Nunavut, but our review of progress in this area indicates that a strong participation pillar has yet to be built. Our principal observations on the participation pillar focus on six areas.

1. Development of the pillar suffers from a lack of clarity in applying planning theory, professional practice and key concepts.
2. Meaningful public and stakeholder participation in development of the DNLUP has been extremely limited to date. At the community level, it appears largely restricted to data collection in the form of Use and Occupancy Mapping, without progressing to the discussion of issues, priorities and land use options. There has also been little stakeholder input.

3. There is a lack of clarity from NPC and alignment of expectations among all Parties concerning the roadmap for participation.
4. The appropriate relationship between public and stakeholder participation and the discussions between NPC and the other Parties has not been explicitly clarified and, in our opinion, the balance has tilted too far in favour of interaction among NPC and the government Parties.
5. The logistical challenges of public participation in Nunavut have not been addressed adequately by the Parties in order to ensure that expectations, as well as being consistent with appropriate standards for effective participation, also reflect available resources, an appropriate time frame, and a realistic assessment of what can be accomplished.
6. The critical issue of what material should be used for the first meaningful round of public and stakeholder participation has become highly contentious for the Parties, with a lack of clarity around the framing of issues and opportunities for input and the use of the DNLUP, or elements of it, and supporting documents.

The Parties inability to build a common understanding of what is both necessary and feasible is a major weakness in the participation pillar. While ideas such as a one-time funding allocation and breaking the Nunavut-wide plan into more manageable regional pieces have been proposed, we have not seen evidence of a meeting of minds among the Parties. NPC has been developing a participation strategy but it had not been released when we undertook this review. At the same time, expectations for public participation are clearly high among the other Parties, but have not been well defined. This situation creates serious risks going forward.

The Procedural Pillar

Our assessment of this pillar points to significant weaknesses in the following areas:

1. The eight steps of the process, identified in the 11.4.1(a) document and elsewhere, have not been adequately refined and explained to provide an effective and well accepted procedural roadmap for the Parties.
2. Difficulties relating to continuity and issue resolution have been evident throughout the process and have contributed to a range of other problems for the Parties.
3. Information exchange rather than decision making has too often been a driver of the planning process.

4. Documentation and transparency have both been inadequate. We offer specific observations on opportunities for improvement in these areas, including the establishment of an effective public registry.
5. The Parties have not developed common expectations on the time frame for the planning process and its implications for expectations of what can and should be accomplished.
6. The working relationships among the Parties are clearly not satisfactory and we offer several observations on how they might be improved.
7. Capacity and resources need to be realistically assessed and expectations adjusted accordingly.

Land use planning can never be a simple set of steps that unfold in a linear and entirely predictable manner, but a well designed and clearly communicated structure for planning is essential so that Parties understand where they are in the process and how they can make progress. Our recommendations in Section 8 of the report are intended to assist the NPC and the other Parties in defining the planning process with more precision and navigating through it. Strengthening important elements of the procedural pillar is essential. We also suggest that expectations for the plan need to be adjusted to reflect a reasonable time frame and a realistic assessment of resources and capacity. To quote a familiar adage, the Parties should resist allowing the perfect to become the enemy of the good.

DNLUP Structure and Content

Our observations on the content of the 2011/2012 DNLUP apply a reasonableness standard to various aspects of the plan. This analysis delves into the details of this document, assessing:

- Overall design;
- The context and purpose sections;
- The descriptions of methodology, consultation and implementation;
- Land use designation and spatially-referenced recommendations; and
- Planning decisions in five important areas.

We conclude that the basic structure of the plan and its key components are reasonable when evaluated in terms of consistency with the foundation documents for planning in Nunavut and a plausible understanding of the role of planning based on theory and best practice. In addition, NPC has provided a reasonable rationale for these components of the plan and they provide a

basis for engaging the public, stakeholders and the Parties. There are, however, a number of aspects of the DNLUP that could be improved. We offer specific suggestions for improvements.

It is important to understand that we see the current version of the DNLUP as one step in a process that will, we anticipate, include significant public and stakeholder participation and further engagement by the Parties before the draft plan is finalized by the NPC and submitted for approval.

Recommendations for a Path Forward

The terms of reference for our independent review stated that “a key result of the Review will be to recommend how best to bring about a successful conclusion to the NLUP planning process.” We have identified a set of guiding principles and a discrete series of steps that, in our opinion, offer the Parties a path forward.

The guiding principles consist of eight important points that emerge from the observations and analysis in our report:

1. Strengthen the Pillars;
2. Build on Significant Progress to Date;
3. Align Expectations, Workload and Capacity;
4. Focus on Interests Rather than Positions;
5. Change the Dynamic among the Parties;
6. Distinguish Responsibilities for Process and Substance;
7. Ensure Timely Completion of the First Generation Plan; and
8. Formalize Communication and Improve Documentation.

Recommended next steps are intended as practical ways for moving the planning process forward, rebuilding trust and resolving outstanding issues among the Parties.

Step 1: Engagement with other Institutions of Public Government

We recommend a facilitated dialogue involving NPC, NIRB and NWB to:

- assemble information from regulatory hearings and decisions on the concerns with land use issues that have been identified by the public and stakeholders; and
- more carefully consider how and to what extent a first generation Nunavut-wide plan could contribute to improved decision making within Nunavut’s integrated regulatory system

Step 2: Public and Stakeholder Participation

We recommend a tour of communities in Nunavut to engage the public and stakeholders in development of the DNLUP as soon as possible following the completion of Step 1 and once other conditions for successful participation are in place.

Step 3: Structured Process for Clarifying Specific Expectations by the Parties

We recommended a re-engagement of the Parties through a focused and well managed formal process of structured decision making aimed at clarifying specific substantive and procedural expectations for the first generation Nunavut-wide land use plan.

Step 4: Preparation of Revised DNLUP by NPC

This step involves revising the DNLUP by NPC based on the input received from Steps 1-3 and any additional information or analysis that is generated by NPC or elsewhere. We believe that the successful completion the previous steps will put NPC in a good position to propose a well substantiated draft plan that should move the planning process significantly closer to final approval. We also offer brief comments on possible scenarios for subsequent steps.

Conclusion

This independent review of the Nunavut land use planning process and the DNLUP has attempted to identify and evaluate the challenges facing the Parties by looking beneath the symptoms to identify root causes.

Significant work remains to build the substantive, procedural and participation pillars. This work is needed to support a final plan that will withstand the scrutiny that it will inevitably, and quite properly, receive from Inuit, other residents of Nunavut, stakeholders, and the Parties who ultimately will have to decide at the highest political levels whether or not to approve the draft plan submitted by NPC. In our opinion, however, there are no insurmountable obstacles to bringing the development of a first generation Nunavut-wide land use plan to a successful completion within a reasonable timeframe.

It must be acknowledged that planning in Nunavut inevitably creates complex interdependencies among the Parties in terms of roles, responsibilities, capacity and decision making. The NLCA and the Nunavut Planning and Project Assessment Act (NUPPAA), when enacted, create a regime where successful completion of the process requires that NPC put forward a draft plan that GoC, GN and NTI are willing to approve. Each of the three approving Parties has a veto.

The difficult state of relationships among the Parties therefore creates significant risk for the success of our recommendations. All Parties recognize that these relationships need to be improved. This will require effort from everyone involved. In our opinion, each of the Parties has the ability, within the coming months and years, to make decisions that at the very least could seriously compromise the chances of success for the planning initiative that has been ongoing since 2007. In fact, the Parties' positions to date and the mistrust and lack of mutual respect that was evident from some of our interviews suggest to us that, unfortunately, these decisions would be very easy to make. It will be more difficult for the Parties to find the wisdom, discipline and foresight to break from the current patterns of interaction and make the decisions that are needed to put land use planning in Nunavut back on track.

There is no silver bullet for resolving the multitude of interrelated issues that currently affect the planning process and the relationships among the Parties. We are convinced, however, that significant progress has in fact been made by the Parties and that pragmatism and a renewed focus on the common goal of completing and approving a first generation Nunavut-wide land use plan can lead to success.

Independent Review of the Draft Nunavut Land Use Plan

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SELECTED REFERENCES

1 Introduction

Dillon Consulting Limited (Dillon) was engaged in February, 2012 to undertake an independent review of the Draft Nunavut Land Use Plan (DNLUP) as outlined in Terms of Reference developed by the governments and key organizations involved in land use planning in Nunavut (the Parties):

- The Government of Canada (GoC), represented by Aboriginal Affairs and Northern Development Canada (AANDC);
- The Government of Nunavut (GN), represented by the Department of the Environment;
- Nunavut Tunngavik Incorporated (NTI); and
- Nunavut Planning Commission (NPC).

The observations, analysis, conclusions and recommendations of the independent review are presented in this report, which is organized as follows:

Section 2 provides an overview of the independent review, beginning with a summary of the Terms of Reference. It then describes the methodology, which included key informant interviews and document research. This section also discusses several important issues for the review and describes key concepts.

Section 3 introduces the analytical framework of the report, using an architectural analogy to represent the components that we believe are essential for planning in Nunavut to succeed:

- The foundation consists of the core legal and policy documents that establish land use planning in Nunavut and the guidance provided by planning theory and professional practice.
- Standing on this foundation are three pillars that define the substance, participation, and process needed to support the plan.
- Resting on these pillars is an approved land use plan for Nunavut – the roof of this structure.

Section 3 also sets out our expectations for each pillar, which inform the criteria and analysis used in subsequent sections of the report.

Sections 4, 5, and 6 provide our observations on issues related to each of the three pillars, based on the findings from interviews and document research. We review the importance of each pillar, what has been accomplished by the Parties since 2007, and what steps can be taken to strengthen any deficiencies so that they can provide the support necessary for an approved Nunavut-wide land use plan.

In Section 7 of the report we provide our observations on the content of the DNLUP and its evolution since the first working drafts prepared in 2010. This section assesses several aspects of the latest version based on explicit criteria.

Section 8 presents our recommendations for moving forward. We begin with guiding principles and then describe a step-by-step process, including commentary on responsibilities and timelines for each step.

Finally, Section 9 of the report provides a brief conclusion.

2 Overview of the Independent Review

This section summarizes the terms of reference for the review and outlines the methodology. It also briefly discusses several important issues relating to the way the review was conducted and defines key terms.

2.1 Terms of Reference

The Parties spent considerable time and effort developing the terms of reference (ToR) for this independent review, which includes specific direction on the objective, expected outcomes, review criteria and final report. The ToR states that:

The objective of the Review is to assess the Nunavut land use planning process and the resulting Draft Nunavut Land Use Plan, (DNLUP), along with supporting documents, and make recommendations on how best to continue the planning exercise in accordance with the NLCA [Nunavut Land Claims Agreement].

A key result of the Review will be to recommend how best to bring about a successful conclusion to the NLUP [Nunavut Land Use Plan] planning process. The recommendations, if any, are expected to lead to a shared set of understandings and expectations, better informed decision-making, a more collaborative working environment among the planning partners and the promotion of a more efficient and effective process for all participants.

The Contractor shall undertake analysis of the DNLUP and planning process, and provide options and recommendations for improving the DNLUP and planning process, if any, with direct reference to:

- (1) the objectives and requirements of the Nunavut Land Claims Agreement (NLCA);*
- (2) the draft Nunavut Planning and Project Assessment Act (NUPPAA)...;*
- (3) relevant planning practices, in the context of Nunavut's NLCA-based planning regime.*

In view of the above, the Contractor will:

- (a) analyze the process utilized in preparing the DNLUP and provide options and recommendations for improving the process, if any; and*
- (b) analyze the contents of and provide options and recommendations for improving the DNLUP, if any.*

The ToR also provides specific direction on the final report. It states that this report shall describe "the Review findings, challenges, lessons learned, and options and recommendations for improving the Nunavut planning process, if any" and that the "presentation of results will be linked to the Review methodology, clearly demonstrating how conclusions were derived from the information collected, with a focus on the purpose of the Review as stated above."

In addition to the elements described above, the Report will consider and provide specific recommendations, if any, with respect to the following:

- a) the structure, clarity, readability and content of the DNLUP;*

- b) *the DNLUP's compatibility with its intended purpose in the NLCA's integrated resource management system and the proposed NUPPAA;*
- c) *the role and participation of the Commission, government, DIOs, residents, municipalities, and others, under Article 11, and whether and how improvements can be made to the fulfillment of these roles;*
- d) *the adequacy of consultation and participation in view of the objectives and requirements of the NLCA; and*
- e) *opportunities to address challenges experienced by the Commission and the participants in the land use planning process.*

We have conducted our independent review and written this report in ways that respond, to the best of our ability, to the Parties' direction and expectations as stated in the ToR.

Land use planning has been occurring in the area that is now Nunavut since the 1980s. Our review focuses only on the period since 2007. This date marked a turning point in the process because the Parties completed work on the *Broad Planning Policies, Objectives and Goals* document (the 11.4.1(a) document) and planning efforts had shifted from regional planning to the development of a single Nunavut-wide plan.

2.2 Methodology

The specific methodology that we used for this review is described in the ToR and outlined in the Final Work Plan submitted to the Parties on March 9, 2012. We will not reproduce these details here. However, we will outline the principal elements of the review.

The starting point was a conference call to which representatives of all of the Parties were invited and all but one participated. This call set the stage for the review and addressed questions and comments arising from the ToR and our project proposal.

We then began collecting relevant written material and reviewing the substantial number of documents submitted by the Parties. We also completed factual briefings with representatives of each of the Parties in the early stages of the review. During these briefings they provided us with a summary of important events and decision points throughout the planning process, identified key documents, and framed the issues from their perspectives.

The other key element of information collection was key informant interviews with individuals recommended by the Parties and a few other interviewees who we contacted on our own initiative. All interviews were conducted on a 'not for attribution' basis. They were semi-structured around a series of questions designed to draw out interviewees' knowledge of the planning process and the content of the DNLUP. Interviewees were told that they should not feel constrained by the topics identified in the questions and should raise any other issues that they considered to be relevant. The questions that we used to structure the interviews were:

1. What has been your involvement in the DNLUP and who have you worked with?
2. What do you understand the purpose of the Plan to be? Has it met your expectations?
3. Have you reviewed versions of the DNLUP? If so, have you provided comments on previous plans? Are you seeing evidence of your comments being incorporated?
4. Do you feel communication about the plan has been adequate?
5. Are you aware of consultation for the DNLUP? If you are, do you feel it has been adequate?

6. Are you aware of coordination between other regulatory bodies? Does it meet the objectives of the Nunavut Land Claims Agreement?
7. Do you think it is important to complete the plan as soon as possible?
8. Are there any other issues you feel are relevant?

Following the completion of interviews and our review of documents we prepared a draft report and submitted it to the Parties. The Parties provided us with written comments and sent representatives to a meeting in Iqaluit where the draft findings were presented. This presentation was intended to assist the Parties with their review of the draft report and to provide an opportunity for questions and comments to help us to understand what information or recommendations needed clarification, or if any corrections to factual information were required. We then considered all comments from the Parties, made revisions that we thought were appropriate and submitted the final version of our report.

2.3 Independence of the Review

This review was conducted at arm's length from all of the Parties and no Party enjoyed privileged access to the review team or exercised any pressure on us to tailor our work to their particular objectives, priorities and needs. We spoke with interviewees suggested by all of the Parties and considered the documents that they submitted, which were available on a secure web site.

Our contract was administered by Aboriginal Affairs and Northern Development Canada (AANDC) on behalf of the GoC and the other Parties. The other Parties agreed to AANDC's administration of our contract. We ensured that our contacts with the AANDC representative on contract administration and related issues were separate from the interviews and review of documents that we conducted as part of the review.

The ToR specified that we were to submit a draft final report to the Parties for their comments. Our approach to these comments was consistent with the following statement in our project proposal:

Comments on the draft report provided by the Departmental Representative will be carefully considered by the review team. The review team will respond to suggestions for corrections of factual information, clarification and other modifications, however it will make the final decision on the content of the final report.

Throughout the review we have made every effort to ensure that our work was, and was seen to be, impartial and objective. We believe that the independence of our review is evident from the review process that we conducted and from the observations, analysis, conclusions and recommendations presented in this report.

2.4 Professional Planning

The review team included a Registered Professional Planner who is a member in good standing with the Alberta Professional Planners Institute (APPI) and the Canadian Institute of Planners (CIP). In addition, interviews were conducted with several other Professional Planners, and reference was made to professional planning literature. Our review considered the applicability of professional planning standards, planning theory and guidelines on planning practice. These sources of guidance for the planning profession provided general principles and some specific suggestions that informed our discussion of certain issues.

It is important to note, however, that much of the professional planning literature, the training of professional planners in Canada and the focus of professional planning associations is on urban and rural planning that is different in important respects from landscape-scale planning for an area covering approximately one fifth of Canada's land mass with comparatively little development. General planning principles are certainly applicable in this context, and there is useful guidance on some issues relating to process and public participation, but there are no professional guidelines, standards or planning templates that provides a clear roadmap for planning in Nunavut or that offer 'off the shelf' solutions to the challenges that the Parties have encountered.

The specific decisions on what should or should not be included in a given land use plan must reflect the input received from the public, stakeholders and government, the needs and opportunities that a land use plan can address in the particular context, and the capacity of the planning team and others within government to develop and implement the plan. Approval of a land use plan is ultimately a political decision, not a technical one. It is not our position, applying our professional experience with planning and related issues, to comment on the appropriateness of these choices beyond looking at issues such as the clarity and internal consistency of the plan, the alignment between issues, objectives and proposed actions within the plan, and the quality and transparency of the evidence, analysis and reasoning that underlies these planning decisions. The expertise of planning professionals allows us to review many aspects of the DNLUP, but the Parties themselves must make the ultimate decisions on the specific content of the plan and the wisdom of the underlying policy and planning decisions.

As we will show in this review, the issues are complicated and there are various options for achieving intended outcomes, each of which has advantages and disadvantages. General principles only take one so far when the devil is in the details and when contextual factors loom large in designing a planning process and making planning decisions. In writing this report we have tried to be as explicit as possible about our reasoning and the extent to which foundational principles and guidance, such as those provided by planning theory and professional practice, can contribute to developing a path forward for planning in Nunavut.

2.5 Learning from the Past to Identify a Path Forward

Many interviewees related their concerns and frustrations about the history of planning in Nunavut and were candid in their views of deficiencies within other organizations and, often, within their own. The Parties also submitted extensive correspondence and other material, much of which documents the difficult relationships among the Parties and the challenges that they have each identified during the planning process. We have considered this information and it is reflected in our report.

It is important to emphasize, however, that the purpose of this review is not to point fingers or assign blame. We did not conduct a detailed audit of the specific areas of contention among the Parties, nor did we attempt to get to the bottom of all of the issues on which we heard strikingly different perspectives. As we said at the beginning of each interview, our review is not a report card on past performance. Rather, we sought to learn from the history of planning in Nunavut in order to identify ways to avoid repeating aspects of it that have contributed to the challenges that led the Parties to commission our review.

Our conclusion is that the difficulties encountered to date are, in general, a set of collective problems and will require collective action to resolve. Based on our interviews and the material we reviewed, we assume that the Parties share a common interest in completing a land use plan for Nunavut. We have

endeavored to frame the issues in a way that is forward looking and focuses on root causes rather than symptoms. This approach seems to us to be more productive than dwelling on the specific incidents that continue to cast a shadow over the planning process.

2.6 Aligning Expectations

An interviewee from one of the Parties raised the concern that our review would be excessively influenced by a perceived need to find consensus among the Parties, rather than reflecting our independent judgment and professional experience. This interviewee also commented that some consulting reports tend simply to feed back the information and views submitted by interviewees and expressed in the documents that were reviewed, rather than offering critical analysis and new insights.

We will leave it to others to assess the value added by our report. However, we wanted to comment on our approach to consensus seeking. We discuss below the web of interconnections that bind the Parties to each other within the planning process. Although NPC has clear responsibility to direct the planning process and prepare the draft plan, it lacks the authority and resources to ensure the successful completion of the process and approval of the plan. Ultimately, the Parties must come to enough of a consensus on what constitutes a satisfactory planning process and plan to enable GoC, GN and NTI (under the terms of the draft *Nunavut Planning and Project Assessment Act* [NUPPAA]) to approve a document submitted by NPC.

When conducting our review we have therefore tried to understand the Parties' different perspectives on important issues and explore the interests that underlie some of their positions as expressed in interviews and in the documents that we reviewed. When considering options for our recommendations, we thought that it was most helpful to try to avoid making suggestions that seemed likely to be dismissed by one or more Parties out of hand. In the end, however, we believe that some of our recommendations will certainly challenge Parties to reconsider positions that they have stated in the past.

This independent review is not, however, a consensus process and we have not written a report consisting of lowest common denominator recommendations. In our opinion, the Parties would benefit from a formal structured decision making process that could help them to reach consensus on important issues. That process is one of the steps included in our recommendations. Our review may help to set the stage for consensus building, but neither our review process nor our approach to developing recommendations were designed to engage the Parties in the type of negotiations that are typically needed to reach consensus. If greater consensus is the result of our report, however, we would of course be pleased.

2.7 Key Concepts

We have tried to avoid the use of technical language in this report. However, we use several terms that warrant brief explanations:

- Substantive issues relate to the content of the plan such as the approach to land use, resource management, development, conservation and related topics. Substantive decisions include setting priorities among these issues and determining the objectives to be achieved and how the plan will contribute to achieving those objectives (e.g., information to land users, zoning, terms

and conditions, recommendations to regulatory decision makers). We also consider other aspects of the content of the plan, such as its structure, to be substantive matters.

- Participation is a systematic process for engaging Inuit and other residents of Nunavut (also referred to as the public), stakeholders (e.g., interest-based organizations and corporations¹) and the Parties in plan development. It may include activities such as providing information, obtaining feedback on analysis, confirming that values, interests and objectives have been reflected, developing alternatives, and other input to decision making.
- Procedural issues relate to the roadmap for developing the plan, including how and when substantive and procedural decisions are made by NPC and the ways that NPC and other participants interact during plan development.
- First generation Nunavut-wide plan captures the ideas that planning is an ongoing process of successive iterations of plans (generated through periodic review and updating), and that every plan involves choices about what can and should be addressed and what issues are beyond the scope of the plan or need to be deferred to subsequent iteration. We use this term in part to suggest that there is value in generating momentum by establishing an initial approved plan, which will then be improved and added to in subsequent iterations of a Nunavut-wide plan or through the development of more detailed and focused regional or sub-regional components that might be incorporated into it.

¹ We note the references to “interested corporations and organizations” in sections 43 and 50(2) of the draft Nunavut Planning and Project Assessment Act. The term ‘stakeholder’ as used in our report should not be interpreted as referring to Inuit or their representatives.

3 Analytical Framework

The interviews conducted and documents examined for our independent review leave no doubt that planning in Nunavut faces a complex and interconnected set of challenges. The Parties are well aware of this complexity. Since our primary task is to recommend a path forward, it is important to find a way to simplify this complexity and clearly communicate our observations and recommendations. An analytical framework is essential to organize the issues in a way that focuses attention on root causes of the challenges and on potential solutions, rather than simply summarizing the Parties' broad range of concerns about the current state of planning in Nunavut.

The analytical framework we have developed draws on an architectural analogy to represent the components that we believe are essential for planning in Nunavut to succeed.

The roof is an approved plan. The foundation consists of the core legal and policy documents that establish land use planning in Nunavut and professional planning theory and practice. Together these foundational elements set out the most important requirements and direction for both the content of the land use plan and the process used to develop it.



Three pillars stand on the foundation to support the roof:

- a) The **substantive pillar** clearly defines the specific purposes and content of the plan, including the progressive identification and prioritization of the issues to be addressed, the objectives associated with these issues, and the actions to be included in the plan to contribute to achieving these objectives;
- b) The **participation pillar** constitutes effective engagement of Inuit, other residents of Nunavut and stakeholders at the appropriate stages of the planning process; and
- c) The **procedural pillar** consists of the design and implementation of the detailed planning process, including the steps in that process, the roles and responsibilities of participants, and the roadmap that establishes specific tasks and time lines and enables participants to allocate resources for completing the plan.

Pursuing the architectural analogy, all three components are integral to the design of the land use plan. In particular, the building cannot serve its intended purpose if the roof is placed directly on the foundation. The pillars have an essential function as the connecting structure between the foundation and the roof. Furthermore, both the foundation and the pillars must be sufficiently well designed and built to bear the weight of the roof.

The role of the pillars is central to our analysis of land use planning in Nunavut. Their function is to elaborate on and refine the generally worded requirements and direction identified in the foundation documents. They are necessary to establish the linkages and progression between the starting points for planning and the focused, effective and defensible land use plan that should be the final product. Building the pillars should also contribute to identifying and aligning the expectations of the Parties. The

quality of a final plan, its conformity with legal requirements, its political acceptability and its legitimacy in the eyes of Inuit, other residents of Nunavut and stakeholders depend on the pillars that support it as well as on the plan's consistency with the requirements and direction from the foundational documents. In short, the careful development of the three pillars is essential to good planning and integral to making the argument that a draft plan should be approved.

Article 11 of the NLCA establishes land use planning in Nunavut and provides the basic legal foundation for all three pillars. It includes principles, objectives, purposes and other considerations relating to the planning process and the content of plans. All three pillars must also be built in conformity with the "Nunavut Planning Commission Broad Planning Policies, Objectives and Goals" (the 11.4.1(a) document) and in accordance with good professional planning practice. Once enacted, NUPPAA will also form part of the foundation for planning in Nunavut.

The following sections of the report:

- Identify relevant foundational elements for each pillar; and
- Describe what we would expect to see built on that foundation in order to support the DNLUP and, ultimately, the final approved plan.

The expectations for each pillar then inform the criteria and analysis used in subsequent sections of the report where we set out our observations on the development of each of the three pillars since 2007.

3.1 The Substantive Pillar – Purpose and Content of the Plan

3.1.1 Foundations of the Substance of the Plan

The general purpose statement for the NLUP in the NLCA is in section 11.3.2:

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

To achieve this broad purpose, plans are to "guide and direct resource use and development" in Nunavut (11.4.1(a), 11.2.2(b)). "Land" is defined to include "water and resources including wildlife" (11.1.2).

Several broad principles are identified to guide the development of planning policies, priorities and objectives. Section 11.2.1(a) states that:

People are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation.

Section 11.2.1(b) defines the purpose of land use planning in virtually the same terms as the purpose for land use plans in section 11.3.2 (above), but adds the requirement that "special attention shall be devoted to protecting and promoting the existing and future well-being of Inuit and Inuit Owned Lands." This provision is complemented by section 11.8.2, which states that: "The land use planning process

shall apply to Inuit Owned Lands” and plans “shall take into account Inuit goals and objectives for Inuit Owned Lands.”

Other principles in section 11.2.1 include:

- “the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning regions” (11.2.1(c)) and
- “plans shall provide for the conservation, development and utilization of land” (11.2.1(e)).

Section 11.3.1 provides further direction on the content of land use plans, stating that a plan “shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following:

- (a) *Demographic considerations;*
- (b) *The natural resource base and existing patterns of natural resource use;*
- (c) *Economic opportunities and needs;*
- (d) *Transportation and communication services and corridors;*
- (e) *Energy requirements, sources and availability;*
- (f) *Community infrastructural requirements, including health, housing, education and other social services;*
- (g) *Environmental considerations, including Parks and Conservation Areas, and wildlife habitat;*
- (h) *Cultural factors and priorities, including the protection and preservation of archaeological sites and outpost camps; and*
- (i) *Special local and regional considerations.”*

Many of these factors are also included in the illustrative list of factors in section 11.2.3 to be taken into account in developing planning policies, priorities and objectives. Section 11.3.3 of the NLCA also states that “a land use plan shall contain an implementation strategy.”

The other document establishing the foundation for the DNLUP is the “Nunavut Planning Commission Broad Planning Policies, Objectives and Goals” (November 10, 2007). This document was developed through a collaborative process involving the Parties and was formally approved by NPC and GN. It satisfied the requirement in NLCA section 11.4.1(a) that NPC “establish broad planning policies, objectives and goals for the Nunavut Settlement Area in conjunction with Government” and is generally referred to as the 11.4.1(a) document. It is an important foundation for the substantive pillar because Article 11 requires the preparation of land use plans to be consistent with sections referring to planning policies, objectives and priorities ((11.4.1(b), 11.2.2(b)). It also paved the way for GN’s reengagement in the planning process.

The 11.4.1(a) document identifies five 5 broad goals to support land use planning in the Nunavut Settlement Area:

1. *Strengthening Partnership and Institutions;*
2. *Protecting and Sustaining the Environment;*
3. *Encouraging Conservation Planning;*
4. *Building Healthy Communities; and*
5. *Encouraging Economic Development.*

It contains 106 objectives and policies, divided among the five goals. Goal 1 focuses primarily on the planning process and the others address the content of plans. Appendix 1 includes excerpts from Article 11 and Appendix 2 lists other relevant articles in the NLCA and numerous acts, regulations, policies and agreements under each of the five goals.

The 11.4.1(a) document is an important part of the foundation for the substantive pillar. It is based on an obligation in Article 11, which directs planning and plans to be consistent with the broad policies, objectives and goals. It also represents a measure of common ground among the Parties, particularly those who formally endorsed it, and it states that [“along with Article 11 and other relevant articles of the Nunavut Land Claims Agreement, \[it\] will inform the development of a Nunavut Land Use Plan and its regional or sub-regional components”](#) (p.2).

3.1.2 Expectations of the Substance of the Plan

We have quoted the foundational elements above at length because they are the authoritative legal basis for assessing the content of the DNLUP and are recognized as such by the Parties. When asked for their views on the purpose of the DNLUP, most interviewees referred immediately to requirements of the NLCA. Initial comments from some interviewees implied that reference to the NLCA provides an almost complete basis for determining what should be in the DNLUP.

From a legal perspective, there is no doubt that the NLCA provisions are mandatory and authoritative. From the perspective of planning theory and practice, however, we view them as providing necessary, but not sufficient, direction on the content of the DNLUP. In other words, the DNLUP must clearly be consistent with the purposes, principles and other requirements in the NLCA. However in our opinion these provisions are not, by themselves, detailed and precise enough to provide the direction needed to bring the development of a Nunavut-wide plan to completion. They are simply too broad and potentially all encompassing. The NLCA provides general direction for the content of plans, but it is certainly not a specific terms of reference or list of priority issues to be addressed. Additional work is needed to build a substantive pillar to support the plan.

It is also important to note that some of the broadest language in these provisions is qualified in an important way. The list in NLCA section 11.3.1, quoted above, begins with the words [“taking into account factors such as the following.”](#) The underlined words indicate, in our view, that the list is illustrative of the types of factors that may be relevant when establishing the [“objectives and guidelines”](#) referred to earlier in the provision. Interpreting this section as creating a mandatory list of factors to be explicitly addressed in every land use plan would, in our view, attach no meaning to the words [“such as”](#).

Like the NLCA, the 11.4.1(a) document was frequently referred to by interviewees when asked about the purpose of the DNLUP and their expectations for its content. Some interviewees viewed the 11.4.1(a) document as providing important guidance on content, although when we questioned them more closely they generally recognized the difficulty of using it as a detailed checklist for evaluating the content of the plan. Other interviewees were more cautious (or critical) from the outset about guidance provided by this document, acknowledging that it covers a broad range of topics that cannot all be addressed in a first generation Nunavut-wide plan.

In our opinion the 11.4.1(a) document is simply a starting point for defining the content of the DNLUP. This assessment is supported by section 11.4.4(b) of the NLCA which states that the NPC shall [“identify specific planning objectives, goals and variables that apply to planning regions and are consistent with](#)

the broader objectives and goals.” This wording is repeated, almost verbatim, in the 11.4.1(a) document (p.2). It indicates clearly that further issue scoping based on the 11.4.1(a) document was anticipated. Looking at the 11.4.1(a) document from the perspective of planning practitioners, we also conclude that the compendium of objectives and policies under each goal and the supporting material in the appendices are appropriately viewed as a very expansive menu of options rather than a source of specific guidance on the mandatory content of the DNLUP.

For reasons that we elaborate on below, our expectation is that the work of the NPC and other participants in the planning process since 2007 would have produced well developed substantive pillar, built on the NLCA provisions and the 11.4.1(a) document, to support the DNLUP. That pillar would define the specific content of the plan and document the reasons for important decisions, including the information and analysis supporting the identification and prioritization of issues and the associated trade-offs. On this basis, it is reasonable to expect that by the time the DNLUP was fully developed the Parties would be able to identify, and perhaps even agree on, a focused and consistent description of the specific purpose and content to be included in a first generation land use plan for Nunavut. Our observations relating to that expectation are outlined in Section 4.

3.2 The Participation Pillar – Meaningful Input

Public and stakeholder participation in planning could be included under the procedural pillar, but we consider it to be a separate pillar for two reasons. First, its place in the legal and policy underpinnings of planning in Nunavut is so important that it warrants separate attention. Second, it raises some distinct issues that can usefully be separated from our discussion of the planning process as a whole.

3.2.1 Foundations of Participation

Participation is central to the guiding principles and other requirements for developing planning policies, priorities and objectives in Article 11 of the NLCA. The purpose for participation is to ensure that the voices of Inuit, other residents of Nunavut and stakeholders are heard and reflected in planning decisions. Several provisions relating to participation are found in section 11.2.1, which sets out principles to guide the development of planning policies, priorities and objectives.

- Section 11.2.1(b) describes the primary purpose of the planning process as being “to protect and promote the existing and future well-being of those persons ordinarily resident and communities of the Nunavut Settlement Area, taking into account the interests of all Canadians.” It also states that “special attention shall be devoted to protecting and promoting the existing and future well-being of Inuit and Inuit Owned Lands” (see also section 11.8.2).
- Section 11.2.1(c) states that “the planning process shall ensure land use plans reflect the priorities and values of residents of the planning regions.”
- Section 11.2.1(d) speaks directly to the means for achieving these purposes

The public planning process shall provide an opportunity for the active and informed participation and support of Inuit and other residents affected by the land use plans; such participation shall be promoted through various means, including ready access to all relevant

materials, appropriate and realistic schedules, and training of local residents to participate in comprehensive land use planning.

- Section 11.2.1(g) also affirms that “an effective land use planning process requires the active participation of both Government and Inuit.”

Several other provisions direct participation in the process. Section 11.4.4(e) requires NPC to “solicit opinions from municipalities, residents and others about planning objectives, goals and options of the region” and section 11.4.4(g) requires it to “promote public awareness and discussion and conduct public hearings and debate throughout the planning process.” In addition:

- When conducting hearings, NPC must “at all times give weighty consideration to the tradition of Inuit oral communication and decision making.”
- NPC is directed to prepare a draft plan “after such consultation as [it] finds appropriate” (11.5.2).
- Once a draft plan is made public, written and oral comments shall be solicited from government and from “DIOs [Designated Inuit Organizations], communities and the general public” (11.5.3).
- NPC is also directed to conduct public hearings (11.5.4(a)).

The 11.4.1(a) document also addresses public and stakeholder participation. For example, Objective 1B states that the planning process “encourages Inuit, Government and planning partner participation at each step” and “promotes public awareness and discussion”.

Objective 1C is that planning “promotes *Inuit Qaujimagatuqangit* as a core and essential foundation for land use planning in Nunavut and provides for the use of Inuktitut and Inuinnaqtun in land use planning processes.” The associated policies are that planning should include both oral and written consultations and reflect “Inuit societal values by clearly identifying and implementing practical ways to apply *Inuit Qaujimagatuqangit*.”

Since the development of the plan is being guided by professional planners, the professional code of conduct also plays a role in determining what will constitute appropriate consultation. The approach adopted by planners needs to be both carefully considered and shared with participants:

“The planner as a rational and comprehensive practitioner is not about limiting input. It is about encouraging and stimulating input that leads to better informed decisions that have fuller understanding.”²

“Ensuring those who want and need to be involved are involved requires that careful consideration be given to methods for alerting interests to the process and to methods that facilitate participation.”³

² Witty, D.R. (2002). Professional practice manual. Canadian Institute of Planners p. 73.

³ Witty, D.R. (2002). Professional practice manual. Canadian Institute of Planners p. 79.

3.2.2 Expectations for Participation

The foundations for the participation pillar contain, in our opinion, very clear requirements to include participation by Inuit, other residents of Nunavut and stakeholders in the planning process. They do not, however, provide detailed instructions on how to achieve this participation.

The Treasury Board of Canada “Guidelines for Effective Regulatory Consultations” provides the following comments as an example of the value and effort typically required for adequate consultation (or participation):

A clear and comprehensive consultation plan is key to achieving the goals and objectives of the proposed regulations and facilitating a smooth consultative process. The development of the consultation plan requires an upfront investment of time, budget, and effort.

The consultation plan should frame the boundaries of the consultation process. It should precisely state the objectives of the process and include the issues under review, a public environment analysis, key participants, timelines, and a mechanism for reporting consultation results. It should clearly describe the proposed consultative approach and “rules of engagement,” so that interested Parties can decide whether or not to participate and, if so, how.

The value of ensuring public input throughout the planning process must also be reconciled with the challenges of community-based participation in Nunavut. Public participation can include kitchen table meetings, town hall forums and meetings with representatives of communities and organizations that speak for certain segments of the population. The appropriate combination of these methods at the different stages of the planning process must be determined. Ensuring meaningful Inuit participation raises a specific set of cultural, linguistic and logistical issues.

Transparent and defensible decisions on these and other issues for public and stakeholder engagement are necessary to design and implement an effective participation strategy for planning in Nunavut. We would therefore expect to see clear evidence that of a well-developed participation strategy, including explicit consideration of the appropriate amount and type of public and stakeholder engagement at different stages in the planning process.

We would also expect to see some attention to identifying and maintaining the appropriate balance and sequencing between the public and stakeholder roles in planning and the involvement of government and NTI. Finally, we would expect that that the Parties would be developing a common understanding, of the constraints and challenges of developing an appropriate participation strategy for a first generation Nunavut-wide plan. These expectations underlie our observations in the section 5 on the current state of the participation pillar and the principal challenges for public and stakeholder engagement.

3.3 The Procedural Pillar – the Planning Process

3.3.1 Foundations of the Plan Development Process

The legal foundation for the procedural pillar is largely found the first five sections of Part 5 in Article 11 of the NLCA: Development and Review of Land Use Plans. Additional guidance can be found in the

11.4.1(a) document and the Canadian Institute of Planners professional planner code of conduct. The key NLCA provisions are:

- 11.5.1 *A Nunavut land use plan shall be formulated by the NPC in accordance with Section 11.5.4 to guide and direct short term and long term development in the Nunavut Settlement Area. Regional or sub-regional components of the land use plan shall be implemented where approved pursuant to Section 11.5.9.*
- 11.5.2 *The first stage of the formulation of a land use plan, after such consultation as the NPC finds appropriate, shall be the preparation of a draft land use plan by the NPC.*
- 11.5.3 *The NPC shall prepare a draft land use plan in accordance with Section 11.5.4 and, upon completion, shall make the draft land use plan public and solicit written and oral comments from all appropriate federal and territorial government agencies, DIOs , communities and the general public.*
- 11.5.4 *The NPC shall:*
 - (a) conduct public hearings on the draft plans;*
 - (b) evaluate the draft plans in light of representations made at the public hearings; and*
 - (c) as appropriate, revise the draft plans.*
- 11.5.5 *Upon completion of the process in Section 11.5.4, the NPC shall submit the draft plan as revised along with a written report of the public hearings to the Minister of Indian Affairs and Northern Development and the Territorial Government Minister responsible for Renewable Resources. The NPC shall also make the revised draft land use plan public.*

Article 11 includes additional direction on both the components of the planning process and the roles of the Parties and others within that process. Section 11.4.4 includes the following roles and responsibilities for the NPC:

- a) identify planning regions;*
- b) identify specific planning objectives, goals and variables that apply to planning regions and are consistent with the broader objectives and goals; ...*
- d) disseminate information and data;*
- e) solicit opinions from municipalities, residents and others about planning objectives, goals and options of the region;*
- f) prepare and circulate draft land use plans;*
- g) promote public awareness and discussion and conduct public hearings and debate throughout the planning process....*

Article 11 also provides explicit direction on the appropriate role of GN and GoC within the planning process. The broad planning policies, objectives and goals, as embodied in the 11.4.1(a) document, are to be developed by the NPC “in conjunction with Government” (11.4.1(a)). Section 11.5.3 directs NPC to solicit comments from government on draft plans. Of course, government must decide whether or not to approve a draft plan once it is submitted by NPC (11.5.6-11.5.8).

In addition, several more generally worded sections could be interpreted as supporting government involvement. Section 11.5.2 directs NPC to prepare a draft plan “after such consultation as the NPC finds

appropriate”, which might include consultation with government. Section 11.4.4(e) also directs NPC to “solicit opinions from municipalities, residents and others about planning objectives, goals and options of the region.” This section could be viewed as direction to engage in a scoping exercise before preparing and circulating a draft plan as required in 11.4.4(f). The underlined words could, presumably, include government. Finally, section 11.2.1(g) states the following principle: “an effective land use planning process requires the active participation of both Government and Inuit.”

The NLCA also provides some specific direction on the role of other organizations in the process. Section 11.4.17(a) requires NPC to “allow standing at all hearings to a DIO.” Section 13.4.1 states that: “The NWB [Nunavut Water Board] shall contribute fully to the development of land use plans as they concern water in the Nunavut Settlement Area by providing its recommendations to the NPC.”

There is no equivalent provision in Article 12 referring to the role of the Nunavut Impact Review Board in the planning process, although section 11.2.1(f) states that “the planning process shall be systematic and integrated with all other planning processes and operations, including the impact review process contained in the Agreement.” Provisions dealing with the involvement of Inuit, other residents of Nunavut and stakeholders described previously under the participation pillar.

The foundation for the procedural pillar also includes the 11.4.1(a) document. Goal 1 is “Strengthening Partnership and Institutions.” The objectives and policies under this goal provide guidance on the design and implementation of the planning process. For example, Objective 1B states that land use planning “requires comprehensive, transparent procedures for all aspects of land use planning” and:

- *is participatory and inclusive;*
- *reflects the priorities and values of the residents;*
- *clearly outlines the steps of the process;*
- *is fully accountable;*
- *encourages Inuit, Government and planning partner participation at each step;*
- *promotes public awareness and discussion;*
- *is both advisory and provides clear authoritative instructions;*
- *benefits from an understanding of best professional planning practices in other jurisdictions; and*
- *identifies land use planning data gaps.*

The corresponding policy states that land use planning is guided by a “standardized professional land use plan development process”:

- Step 1 - Identification of Regional Land Use Issues*
- Step 2 - Identification of Vision, Core Values and Goals*
- Step 3 - Information and Data Collection and Analysis*
- Step 4 - Land Use Options*
- Step 5 – Decisions*
- Step 6 - Plan Evaluation and Approval*
- Step 7 – Implementation*
- Step 8 – Monitoring*

The policy also states that “This land use planning cycle is iterative and includes plan evaluation, review and amendment.” This eight step process was elaborated on in a document produced by NPC, the

“Nunavut Land Use Plan Development Process” (dated November 2007) and is referred to in subsequent documents, including earlier versions of the DNLUP.

The 11.4.1(a) document also includes more specific direction on certain attributes of the planning process. For example, Policies 1D and 1E.1 state that land use planning:

establishes targets and timelines to inform Government, Inuit Organizations and other planning partners of annual work plan activities in order to facilitate coordination of activities and maximize opportunities for multi-party participation and interaction; [and]

requires regular communication and cooperation with the Nunavut Impact Review Board, the Nunavut Wildlife Management Board, the Nunavut Water Board, Inuit organizations, and Government departments and agencies.

Professional planning practice also provides foundational guidance relevant to the procedural pillar. Although there is no requirement that planning outside of municipal boundaries in Nunavut be undertaken by Registered Professional Planners, and we note that other landscape-scale plans in northern Canada have been developed by people without formal professional accreditation or training as planners, NPC has elected to have the plan prepared by ‘qualified’ planners. The planning profession is not regulated in Nunavut, however planners who are members of the Canadian Institute of Planners (CIP) and the affiliated Alberta Professional Planning Institute (APPI) are required to meet a standard of competency and to follow a professional code of conduct. Core competencies recently established by APPI are subdivided into Functional Core Competencies and Enabling Core Competencies as summarized below:

Functional Core Competencies identify the common knowledge and skill base to include:

- *Human settlement*
- *History and principles of community planning*
- *Government law and policy*
- *Plan and policy considerations*
- *Plan and policy making*
- *Plan and policy implementation*
- *Development in planning and policy (emerging trends and issues).*

Enabling Core Competencies identify the capacities required to practice effectively:

- *Critical thinking*
- *Interpersonal*
- *Communication*
- *Leadership*
- *Professionalism and ethical behaviour.*

3.3.2 Expectations for the Plan Development Process

The legal requirements identified in the previous section provide important general direction for the planning process. Like the substantive direction in the NLCA, these procedural provisions are clearly mandatory. From this starting point, we offer three general observations.

First, we interpret them as assigning responsibility and authority to NPC to prepare the DNLUP and conduct the planning process. These key roles are not shared with the other Parties. All of the interviewees who discussed this issue agreed with this characterization of NPC's role, although there were some differences in views on the appropriate involvement of the other Parties in supporting and contributing to this process. For example, one interviewee stated clearly that government's role in the planning process is not to give management direction to NPC. Others seemed to feel that active input by government on some key decisions was at least desirable. We note that some interviewees argued strongly that the involvement of government in decision making during the planning process would be inconsistent with the legally defined autonomy of NPC under the NLCA.

Second, although Article 11 lists some specific roles for government within the process, other provisions appear to us to allow for input from government throughout the development of a plan. This flexibility is, in our view, consistent with good planning practice. We do not think that it would be either realistic or desirable for NPC to attempt to develop a draft plan with no government input between the establishment of broad policies, objectives and goals (11.4.1(a)) and the provision of comments on a draft plan (11.5.3).

Our final observation on these provisions is that they leave many important details of the planning process to be settled. The procedural foundations established by the NLCA, the 11.4.1(a) document and the NPC's eight step process are, in our opinion, also consistent with planning theory and good professional practice. They do not, however, provide the type of detail that we would expect to see in a fully developed and implemented planning process. In particular, the eight step process leaves many unanswered questions that should, in our opinion, be thoroughly addressed through more detailed process design.

As with the substantive direction in Article 11, we see the procedural sections as providing necessary, but not sufficient, direction for the design of an efficient, effective and transparent planning process. They are central to the foundation, but the procedural pillar still has to be built.

Planning practice does offer more detailed guidance and direction for the design of the planning process. In our opinion, professional planners can bring an understanding of the procedural issues and options, the different ways that land use plans can be structured, and the role of planning within the broader decision-making hierarchy relating to the use of land and resources. Their training should provide them with strong analytical and communications skills and they should have knowledge of a range of planning tools. Experienced planners should also bring judgement based on professional training and practical experience.

The role of planning theory and practice and the specialized expertise of professional planners was raised during our interviews. There was also some discussion in our interviews about the challenges of planners interacting with non-planners. Some interviewees felt obliged to qualify their comments by noting that they were not professional planners. It appears to us that some interviewees might be over-estimating the extent to which application of this body of knowledge and practical experience can, by itself, provide a basis for determining either minimum acceptable standards or cutting-edge best practices for the planning process in Nunavut or the DNLUP.

The planning issues facing Nunavut require a broad range of professional skills and practical experience that are not unique to planners. No individual planner or planning team can claim expertise in all of the issues that will arise in landscape-scale planning of the type being undertaken in Nunavut. Furthermore,

planners by definition must interact with non-planners and land use plans are not written for planners alone. Where participants in a planning process have little or no experience with planning and may be inclined to view issues from a range of perspectives, a process of education and familiarization may be necessary before they understand how to engage effectively in a planning process. Responsibility for providing this guidance may fall to professional planners. However, all participants can contribute to the process and professional planners do not hold a monopoly on specialized expertise or wisdom.

Given the time that has elapsed since 2007, we would expect that at the point where a draft plan is being prepared for public release the Parties would have a clear and common understanding of where they are in the planning process and what lies ahead. As will be discussed below in Section 6, our conclusion based on interviews and our review of documents is that this collective understanding is not yet in place, signalling a weakness in the procedural pillar.

3.4 Application of the Analytical Framework

Our discussion of the analytical framework shows that there are solid foundations for planning in Nunavut. However, they are too general to provide all of the direction that is needed for successful completion and approval of a plan. This conclusion points to three questions that are central to our independent review:

- What has been accomplished by the Parties since 2007 to build the substantive, participation and procedural pillars on these foundations?
- Is there a sufficiently well documented and commonly shared understanding of the three pillars to ensure a reasonable alignment between the Parties' expectations and what the first generation Nunavut-wide DNLUP can reasonably be expected to deliver?
- If there are deficiencies in the three pillars, what steps can be taken to strengthen them so that they can provide the support necessary for an approved Nunavut-wide land use plan?

The rest of this report is largely devoted to answering these questions.

Most of the principal issues that we have identified through interviewees and our review of documents can be organized using the analytical framework. In the next three sections of the report we provide our observations on each pillar. We then examine the content of the DNLUP that, using our architectural analogy, should be supported by the pillars. Our recommendations for moving forward are based on these observations.

4 Observations on the Substantive Pillar

4.1 Importance of the Substantive Pillar

Before turning to our specific observations on the substantive pillar in Nunavut, it is important to elaborate briefly on the role of this component within the overall structure of planning. The substantive pillar should be built by progressively identifying and answering important questions about the content of the plan. In our opinion, important questions about the substance of a first generation Nunavut-wide plan include:

1. What are the defining characteristics of a Nunavut-wide plan (as opposed to regional or sub-regional components or plans) and what are the implications of these characteristics for the substance of the draft plan and the process used to develop it?
2. What are the most important values and interests that should be reflected in the plan?
3. What issues can and should be addressed in a first generation Nunavut-wide plan?
4. What criteria should be used to prioritize these issues and how should candidate issues be prioritized?
5. What objectives should be set for addressing the priority issues through a first generation Nunavut-wide plan?
6. What options for achieving these objectives could be incorporated into the plan and which of these options should be selected?
7. What issues and options require important trade-off decisions in the plan? How and on what basis should these decisions be made and how are they reflected in the plan?
8. How could issues that the public, stakeholders or the Parties identified as important, but that are not fully or partially addressed in the plan, be dealt with through other planning, regulatory or policy processes and instruments?
9. What will the plan look like in general terms (i.e., basic template for the structure, including key elements and some direction on organization and level of detail)?
10. What supporting material should be developed to provide background information, explanation and analysis relating to the content of the plan?

All of these questions are premised on the assumption that choices or trade-offs may be needed because values, interests or perspectives on issues may conflict. Addressing land use conflicts is, in fact, a principal reason for undertaking planning in the first place.

Difficult choices are often unavoidable in planning because it may be unrealistic to attempt to address all important issues within a reasonable time and given the resource constraints (both financial and human resources) for developing the plan. Useful terms of reference for planning must be more than a wish list. Incorporating input on substantive issues often involves making difficult decisions and trade-offs, not simply an uncritical compilation of everyone's general aspirations or specific suggestions. By answering questions such as those listed above, the substantive focus for a plan should be progressively narrowed. Building the substantive pillar in this way has five important purposes:

1. It structures the planning discussion in a logical way that moves from the general to the specific. Documenting decisions along the way provides the solid substantive footholds that enable the planning process to keep moving forward, rather than continually circling back to first principles, general objectives and issue identification.

2. It provides a framework for soliciting input throughout the development of the plan. Addressing issues in this way can help to avoid the inefficiency, confusion and frustration that may occur when participants in the planning process are unsure about the appropriate focus and level of generality for their comments and suggestions – from broad identification of issues, priorities and options to editorial minutia.
3. Building the substantive pillar can help to direct effort in the collection of information, including baseline or background information, raw or interpreted data, and modelling results. Progressive refinement of the plan's content can focus information collection from the early stages on 'need to know' decision support. Without this focus, there is a real risk that time and resources will be wasted on potentially open-ended trawling for information that, in the end, may not have a material impact on the decisions that determine the plan's content. Our experience is that this problem is very common in regional or landscape-scale planning.
4. Work on the substantive pillar can contribute to building common expectations, or at least identifying clearly where expectations differ and the underlying reasons for these differences. A structured approach to decision making on substantive issues should, in the language of negotiation theory, shift the discussion from positions to underlying interests. It should also help to avoid unpleasant surprises at the end of the planning process.
5. An important objective in clarifying and aligning expectations is ensuring that aspirations and reality are connected as the plan's content is developed. Determining what is desirable with explicit reference to what is realistic requires the rigorous and transparent assessment of issues, options, priorities and constraints that is central to the substantive pillar.

The substantive pillar establishes the record for defensible planning decisions. Well justified and clearly articulated decisions on the plan's content will position the final draft plan to withstand the scrutiny from the public, stakeholders and the Parties that is inevitable and appropriate. Ensuring that the plan's content is defensible is also essential in the political forums where ultimate decisions on plan approval are made.

4.2 Progress on the Substantive Pillar

Assessing progress on the substantive pillar was an important aspect of our review. We looked for evidence of decisions on the key questions, described above in section 4.1, in the multitude of documents submitted by the Parties. Tracking decisions in the written record was not easy, itself an indication to us of challenges encountered in building the substantive pillar. We also asked interviewees about their views on the purposes of the DNLUP and the underlying decisions on substantive issues. Comments on important individual issues are discussed below.

4.2.1 Defining Characteristics and Scope of the Plan

As an initial observation, we found it revealing that we heard very different views about the fundamental decision, made between 2005 and 2007, to redirect planning efforts from regional plans to a Nunavut-wide plan. In general, there appears to be little corporate memory within the Parties about the reasons for this decision or the analysis of its implications undertaken when it was made. It is perhaps even more significant that the Parties seem reluctant, based on our interviews, to take ownership for that decision. NPC's view seems to be that the decision came from government and that

it required them to change from regional planning that was progressing well to a territory-wide approach that created new challenges, including capacity limitations linked to a fixed budget. However, some government interviewees said that the shift from a regional to a Nunavut-wide approach was made by NPC. They stated that this decision was met with surprise and concern within government, given the effort that had been devoted to regional planning

We do not think that determining which interpretation of history is more 'correct' is important at this stage in the process. However, we undertook some investigation of the extent to which the Parties identified and attempted to address the implications of this decision.

There are some documents showing that the Parties did turn their mind to the decision to shift from regional to Nunavut-wide planning. A letter dated March 30, 2005 from Glen Stephens at INAC [Indian Affairs and Northern Development Canada] to Robert Lyall, Chairperson of NPC deals primarily with the importance of developing the 11.4.1(a) document, but also states INAC's view that the following stage in the process, as specified in section 11.5.1 of the NLCA, would be the creation of a Nunavut Land Use Plan. The letter states that:

INAC envisions this document as an overarching umbrella plan, which would describe in broad and general terms the planning methods and principles to be used to develop land use plans in Nunavut. Regional Land Use Plans, such as the WKLUP [West Kitikmeot Land Use Plan], would be more detailed and geographically oriented documents that would be specific technical expressions of the 11.4.1(a) policy and 11.5.1 planning document, with detailed instructions about appropriate land use activities. It is INAC's hope that broader issues that are more territorial in their scope, such as socioeconomic and cultural issues, would be strongly reflected in the 11.4.1(a) and 11.5.1 documents but have a minimal direct role in the regional land use plans.

A graphic is included with the letter showing how the INAC envisions this process unfolding.

INAC's letter notes that "it is not the responsibility of INAC to create land use plans" and that "INAC is not a planning agency, so what advice we provide, has been and will continue to be focussed on those areas related to our mandated roles and responsibilities." Nonetheless, it opens the door to a discussion of a key issue for the substantive pillar – the differences in characteristics and functions between a Nunavut-wide plan and regional plans.

This issue was returned to by the NPC in a Revised Information Note from Adrian Boyd to John Lamb dated June 18, 2007. The rationale for shifting to a single Nunavut-wide plan is summarized as follows: "With 6 regions the NPC is caught in an unmanageable cycle of plan development and plan review processes." NPC's assessment is that: "a Nunavut Land Use Plan (NLUP) with regional and sub-regional components, if implemented in a phased approach is the most cost effective and efficient way to complete a Nunavut Land Claims Agreement (NLCA) 11.5.1 land use plan." The note elaborates on this point as follows:

it is our preference that we use a phased approach and break down the planning process into a number of smaller more manageable components. This would allow the NPC, Government and DIOs to respond more quickly and place fewer burdens on the plan approval process. As an example the NPC could first develop and submit for approval a NLUP that contains the overarching broad policy and administrative details to manage land use in Nunavut. Next the common more

complex Nunavut wide planning issues could be addressed and advanced as an amendment(s) to the NLUP. The final plan amendment(s) would consist of the region specific issues

More details on the content and timing of each component of the phased approach are provided. This document concludes as follows: “The NPC needs the support of Government and DIOs to: support the NLUP process; agree to a phased NLCA 11.5.1 NLUP plan development approach; identify what the key components of the different NLUP phases will be, and discuss how best to address revisions to the Kivalliq, North Baffin and draft West Kitikmeot plans.”

GN responded to this proposal in a letter from John Walsh, Deputy Minister, Department of Executive and Intergovernmental Affairs to Ron Roach, Chairperson NPC dated September 21, 2007 and an attached Discussion Paper entitled “Land Use Planning Options for Nunavut”. The letter noted that discussions on the 11.4.1(a) document were nearing completion and stated that: “it now seems timely for Parties to consider approaches to land use planning that respond to the issues that have historically hampered the timely production of land use plans in Nunavut.” The Discussion Paper identified GN’s reservations with NPC’s proposed approach and offered suggestions for a way forward that “endeavours to respond to NPC concerns without abandoning the regional approach and the regional land use plans that have already been prepared and approved” (p.1). GN recommended an accelerated approach to developing three regional plans, followed by a territory-wide plan. It stated that much of the content of these plans could be based on work already completed for approved and draft regional plans. The Discussion Paper also offered recommendations on procedural issues and NPC’s capacity challenges and proposed next steps to address the concerns of both NPC and GN.

We also note the following statement in a letter from the INAC RDG dated December 2007:

We feel that the effort and time we might invest in modifying the 11.4.1(a) document might be more usefully dedicated to collaboratively addressing the small number of trans-regional issues that would effectively form a Territorial Land Use Plan. We would contend that by focusing on the broad, trans-regional issues that should underlie the terms of a territorial plan, the task could be completed in a relatively short period of time. Moreover, many tasks necessary for the development of regional land use plans could be undertaken at the same time. For example, data collection for regional land use planning could be conducted during the development of a territorial plan.

We have briefly outlined this history to show that, in our view, the Parties were well positioned in 2007 to start building the substantive pillar on the foundation established by the NLCA and the 11.4.1(a) document. At that point in time, however, it becomes difficult to track progress through the written record. There may be correspondence and internal documents on these issues, but we are not aware of an authoritative statement that reconciles the views of INAC, NPC and GN as expressed in the material summarized above and sets out a common view on the key substantive issues that had been raised.

Furthermore, it is clear from our interviews that most current participants in the planning process cannot provide an explanation of how, if at all, these issues were resolved among the Parties. It appears that efforts were made to establish a process for collaboration among the Parties, including a proposed Memorandum of Understanding. This process was never approved and implemented. In the meantime, it appears to us that the important substantive issues were left hanging and the implications of doing so were not fully analysed or discussed by the Parties. In our opinion, the collective failure to resolve these fundamental issues about the purpose, scope and structure of the first generation plan for Nunavut and

the relationship of this plan to subsequent planning initiatives constitutes a significant problem that has contributed to the challenges currently facing the Parties.

4.2.2 Identification and Prioritization of Substantive Issues

Since 2007 the Parties also endeavoured to make progress on another aspect of the substantive pillar – the identification and prioritization of issues to be addressed in the first generation plan. Our interviews and review of documents provided us with some information on these efforts.

NPC described this process as follows in the 2011/2012 DNLUP (p.13):

The Commission worked from October 2009 to November 2010 with: Institutions of Public Government, Nunavut Tunngavik and Regional Inuit Associations, Industry, Government of Canada and Government of Nunavut departments and organizations that identified issues and priorities and provided specific information required to support the development of terms required to manage land use. Workshops were hosted with appropriate departments, organizations and industry representatives involved in the technical aspects of land administration in Nunavut. During these workshops technical information was gathered regarding existing regulatory processes and best practices of industry. Participants were able to refine the terms of the land use plan to ensure the plan does not duplicate legislative activities of government as they relate to the management of land, water and marine areas through the issuance of permits, licenses, authorizations and other regulatory mechanisms.

This description is generally consistent with the steps that we would expect to build the substantive pillar for the DNLUP, however as discussed below it does not refer to the important input from Inuit and other residents of Nunavut that is required by the NLCA. We would also expect the results to be well documented in the form of a clear identification and prioritization of issues and the progressive refinement of the content of the plan.

Our understanding, based on our document review and interviews, is that the results of this process are summarized in a document entitled “NLUP Issues and Priorities Compilation”. This document consists of a large table, organized by issue, that includes original responses from the Parties, NPC questions, and follow-up responses. The latest version that we have is a pdf document with Spring 2010 in the file name. The document itself does not include a version number or date and appears to be a cut-and-paste compilation of information submitted to NPC. It consists of an extended table and an Appendix entitled “INAC Northern Affairs Organization List of Interests for Land Use Planning in Nunavut”. The document is 58 pages long. The main table covers 23 main issues and 85 sub-issues; there are 12 main issues and 16 sub-issues in the Appendix. It does not include the questions originally asked of government departments and agencies, but NPC’s questions embedded in the table generally request more details on the reasons for addressing the identified issues, the location of areas of concern, and the regulatory gaps that could be addressed in the DNLUP.

We are not aware of a specific written summary or analysis that explains how the information in the “NLUP Issues and Priorities Compilation” was used by NPC to determine which issues should be addressed in the DNLUP, although some relevant information is included in the Options and Recommendations document accompanying both the July 2011 and 2011/2012 DNLUP. In our opinion, the “NLUP Issues and Priorities Compilation” document reports the ‘data collection’ stage of identifying issues for the DNLUP as a whole. Engaging government departments and agencies in plan development is certainly a positive step and we understand that the NPC was trying to be inclusive and

accommodating by giving respondents an apparently broad invitation to identify issues of importance to them. However, we did not find the written record that we would expect showing that NPC and the other Parties were able to take the next steps of providing systematic answers to the types of questions that we identified above in section 4.1 as being central to building the substantive pillar.

We also understand from our interviews that there were some efforts by government to identify the specific information and suggestions that would assist NPC in developing the DNLUP. For example, we heard from interviewees about a process within GoC to explain to interested departments and agencies the type of input that is appropriate for land use planning. This process was described as working with department and agency subject matter specialists to drill down from their mandates and general issues of concern to identify the specific measures related to land use could usefully be suggested for inclusion in a land use plan for Nunavut. There are different views about the success of this internal process. One perspective is that it eventually stalled, while other interviewees have seen ebbs and flows in its success. We have not seen written material that documents in detail either the process or its outcomes.

It appears that work on issue identification and prioritization advanced from the “NLUP Issues and Priorities Compilation” through bilateral discussions between NPC and various departments and agencies that focused primarily on available information. According to the 2011/2012 DNLUP, many of the policies and objectives identified in the 11.4.1(a) document “were determined to be data deficient” (p.13). As a result: “To further refine and focus research the Commission relied on the formulation of the Issues and Priorities document to identify those land use matters that are data ready.”

We offer more specific observations and analysis below in section 6.3.2 on the relationship between information (including data) and decision making in planning. The important point here, however, is that we would expect to see evidence of a progression of issue identification and prioritization from a broad laundry list of the type found in the “Issues and Priorities” document to the first complete draft of the DNLUP. There is certainly evidence that the Parties were attempting to move forward. As noted in the 2011/2012 DNLUP (p.13, quoted above), in addition to bilateral discussions the NPC hosted several “technical workshops”. However, neither the workshop notes nor other material that we reviewed provide the type of decision record that we would expect to support the draft plan.

The weakness in this written record is grounds for concern about substantive pillar. We therefore used the interviews to test the depth of analysis and level of agreement on important substantive issues. The results, described in the next section, provide further evidence of weakness of the substantive pillar.

4.3 Key Substantive Questions for the DNLUP

Our interviews provided an opportunity to explore questions that, in our opinion, are central to determining the content of the DNLUP. What we heard suggests that in many instances the Parties’ expectations are unclear or do not appear to be based on a rigorous analysis of issues and options. Furthermore, there is less evidence than we would have expected of a collective ‘meeting of the minds’ on the answers to these questions.

4.3.1 What are the Defining Characteristics of a Nunavut-wide Land Use Plan?

The decision to shift from regional planning to a Nunavut-wide plan placed the planning process on a new trajectory. The rationale for this decision and its substantive and procedural implications remain a matter of uncertainty and confusion. Options for Nunavut-wide planning include one territorial plan, a territorial plan with regional chapters, or regional plans that are integrated into an overarching

territorial plan.⁴ All of these approaches have been discussed and promoted by different Parties at different times. The implications of adopting any of these options are far reaching. The strengths and limitations of each approach are not entirely known. All Parties have documented their reasons for preferring one approach over another at different times through letters and information notes. In the end, the final selection not only needs to be made by NPC, but needs to be defended by NPC. As noted above, the documents that we reviewed provide little indication that the Parties have reached a common understanding on the characteristics and implications of a Nunavut-wide plan.

Our interviews told the same story. We asked interviewees to comment on the defining characteristics of a first generation Nunavut-wide plan and how it should differ from regional or sub-regional components. The ensuing discussions highlighted the range of issues and options relating to this topic and the variety of views.

The characteristics of Nunavut-wide planning could relate to the appropriate scale and level of detail and the relationship with regional or local planning decisions. Criteria for identifying priority issues and the appropriate planning tools to address them could include territory-wide importance or applicability. Land use designations might be limited to zones that are sufficiently large to be readily identifiable on a map of the territory. A territory-wide plan might be the first step in a planning hierarchy, dividing landscapes into broad zones based on biophysical or administrative boundaries and providing general regulatory or management direction, leaving more detailed spatial resolution and direction to land users to be filled in through regional, sub-regional or local planning.

Applying these types of general principles to Nunavut, however, creates some challenges. Land use patterns and the resulting actual and potential conflicts differ across Nunavut. Views on how these conflicts should be addressed may also vary by region, reflecting different values, interests and experiences with development. Several interviewees commented that many important land use issues in Nunavut are regional in nature. We also heard that Inuit and other community residents may relate to the land and to land use issues primarily on a regional and local scale, rather than seeing the issues that matter to them reflected on a map of the entire territory or through over-arching planning decisions. For a Nunavut-wide plan to fulfill the requirements for active participation by Inuit and other residents, it must be designed to engage people on issues that are relevant and understandable to them. In other words, the DNLUP must resonate with people's experience with the land and the ongoing and proposed uses of that land that matter to them.

We also observe that practical challenges should be realistically assessed when determining the appropriate scale and level of detail for a Nunavut-wide plan. How much information can be collected and analysed by a small planning team dealing with such a vast territory? How many specific regional or local issues can be addressed? If addressing issues on a micro scale is necessary to provide a meaningful basis for engaging Inuit and residents across communities in Nunavut, what are the implications for the plan's ability to tackle some of the more challenging over-arching land use issues facing the territory? What scale and level of detail is feasible for a participation process that can be completed within reasonable limits on available time and resources?

⁴ We note that section 46(2) of the draft Nunavut Planning and Project Assessment Act states that "For greater certainty, no portion of the designated area may be subject to more than one land use plan." Comments from one of the Parties on our draft report indicated that this provision might be interpreted as prohibiting a planning hierarchy that includes separate territory-wide, regional and sub-regional plans.

Interviewees generally recognized the importance of these questions, but few had definitive answers. Some people suggested that the decision to develop a single Nunavut-wide plan was ill conceived, but there seems to be little appetite to revisit that decision at this stage in the process. Our assumption is that a reversal of this decision would be counter-productive given the work accomplished to date, the public expectations that have been encouraged, and the further loss of momentum that would occur.

Another option raised by interviewees is to include detailed regional chapters in the Nunavut-wide plan, either within the first approved version or added later through amendment. Subsequent regional or sub-regional planning focused on priority areas is also seen by some as a possibility. As noted above, all of these possibilities have been raised, but not resolved, in previous discussions and correspondence among the Parties. This uncertainty appears to us to contribute to unclear and inconsistent expectations about the DNLUP.

The lack of prior agreement on the distinct purpose and attributes of a Nunavut-wide plan, in our opinion, is aggravated by a perception that the DNLUP is not informed by a consistent and well explained vision of what a Nunavut-wide plan should do. NPC has spent considerable time and resources compiling “map biographies” that include data points on individual land use at the local scale, while also soliciting input on a multitude of specific regulatory gaps and on complex and contentious land use issues that affect the territory as a whole. The DNLUP includes land use designations and associated restrictions or recommendations that apply to very large areas, and very specific sites. Land use designations and recommendations are mapped at both territorial and community-use scales. Some of the issues the DNLUP addresses are highly contentious and have implications across the territory and beyond, such as caribou calving grounds and sensitive habitat for migratory birds. Others focus on addressing specific regulatory gaps that, while important to the departments and land users that are directly affected, seem unlikely to figure on a list of the most pressing land use challenges facing Inuit and other residents of Nunavut.

These observations led us to ask two questions:

1. Does relevant planning theory and practice for landscape-scale planning provide clear principles for determining what should and should not be included in a Nunavut-wide plan?
2. What is the appropriate response to the uncertainty about the characteristics that a Nunavut-wide plan should have and the inconsistent expectations for the DNLUP that were evident from our interviews?

On the first question, our view is that planning theory and practice do not provide a single answer. It might be intuitively appealing to conclude that a first generation Nunavut-wide plan should deal with territory-wide issues and land use designations that are scaled to a map of the territory, leaving local land use concerns and management of individual sites to regional or sub-regional components or other to management tools. However, we believe that more detailed consideration of the implications of this choice and the available alternatives is needed before taking this type of analytical short-cut.

It is not, in our view, either illogical in principle or inconsistent with good planning practice for a first generation Nunavut-wide plan to address issues at various scales and levels of detail, which may include drilling down to the micro-level of “community land use”. NPC has adopted this approach on some issues, notably by incorporating “community land” recommendations for areas identified through Use and Occupancy Mapping and focusing on community drinking water supplies. This level of detail is different from a broad-brush or ‘30,000 foot’ approach to a territory-wide plan, but it addresses the

challenge that planning at the territory-wide scale may not be easy to relate to the experience with land use of Inuit and other residents at the community level. Furthermore, some territory-wide issues may require attention in at the local scale across Nunavut through specific use designations and recommendations reflecting circumstances that vary across regions or among communities.

We see no compelling reason to restrict the DNLUP to territory-wide issues and broad planning direction if the result would be a plan that either lacks specific direction or is not meaningful to people in Nunavut. The first generation plan for Nunavut has an opportunity to develop an approach to landscape-scale planning that fits the territory's particular circumstances and reflects an assessment of what is feasible at this stage in the planning process. There is no authoritative pre-existing template dictated by planning theory or practice or by precedent in other jurisdictions.

We have the following observations on the second question.

- Whatever approach is taken, it should be well thought out and explained. Where the DNLUP differs from people's intuitive sense of a territory-wide plan or the approaches used by other approved northern plans, the rationale for the DNLUP should be clear.
- Choices about what to address will be unavoidable. A first generation Nunavut-wide plan cannot address all issues at all scales. Clarity on how those choices are made will help to support the approach adopted, particularly if the DNLUP ranges from territory-wide to local scales depending on the issue.
- The DNLUP should be situated within a longer term planning framework, which will include subsequent iterations of the Nunavut-wide plan, with or without regional chapters, and might also include regional or sub-regional planning initiatives. This context may be important when explaining why some issues are not included in the first generation plan and how they might be addressed in another forum.
- Finally, it will be important for the Parties to reach a common understanding, if not full agreement, on the rationale for developing a Nunavut-wide plan instead of individual regional plans, what a first generation Nunavut-wide plan will and will not do, and the implications of these decisions. As the DNLUP approaches the approval stage, alignment of expectations will become important given the vetoes held by Parties under the NLCA and NUPPAA.

Our recommendations in Section 8 reflect these points.

4.3.2 How Should the DNLUP Contribute to the Integrated Regulatory System in Nunavut?

The role that the DNLUP is expected to play in Nunavut's regulatory system has significant implications for its content. This important issue was discussed by many interviewees. Beyond a general expectation that plans will contribute to better land use decisions, there is a range of views about the functions that planning should play within an integrated system.

Improving efficiency and certainty in project review and regulatory processes is an important objective for government, other decision makers (e.g., NIRB and NWB) and some other stakeholders. Regulatory improvement and streamlining is a priority for GoC and the role of planning in this area was highlighted

in the “Road to Improvement: The Review of the Regulatory Systems Across the North” (May, 2008 – also known as the McCrank Report). One of the GoC’s general comments on the July 2011 DNLUP was that:

The draft plan does not substantially improve an already challenged regulatory process. Instead, of resolving potential land use conflicts, the draft plan returns much of the burden of land use decision-making to the regulatory bodies.⁵

Project proponents may also expect planning to facilitate regulatory decision making, although the desired balance between certainty and flexibility is a perennial issue that we discuss later in this section. Government and some other stakeholders see planning as a way of safeguarding values and achieving objectives that may be overlooked in project-by-project review and regulatory decisions. Public priorities for planning depend on the underlying values and interests – encouraging economic development or protecting potentially competing social, cultural and environmental priorities.

Planning theory and practice provide some insights on this topic. Land use planning has a niche within an integrated system. It allows for spatially explicit decision making based on public and stakeholder participation that is difficult to achieve through legislation and regulations of general application. It also provides a forum for identifying values, setting objectives and dealing proactively with potential land use conflicts that cannot easily be replicated through project-specific review and regulation. For example, environmental assessment is a good process for determining whether a proposed project has adopted appropriate mitigation to address potential environmental risks to directly affected interests, but it is not well suited for a general discussion about the appropriateness of a type of land use in the area where it is proposed or for managing the cumulative impacts of multiple activities in a given area in a way that balances competing interests and achieves desired outcomes in a fair, efficient and effective manner.

Land use planning fulfills these roles particularly well when competing values can be identified and evaluated in advance and it is relatively easy to anticipate patterns of land use and their potential impacts. These features do not ensure that planning decisions will be simple or uncontroversial, but they increase the likelihood that these decisions will achieve the intended results and it makes them easier to understand and defend. For example, planning is taken for granted in urban areas where most land uses are well understood and values can be mapped according to surface features and land uses. There is also a long history of landscape-scale planning in forestry and water management, where the resource is visible and its value relative to competing land uses can be estimated with some accuracy, depending on the time frame for planning and management.

Land use planning is more challenging where resource values and land use patterns are harder to predict in the future. Mining is good illustration, because predicting mineral potential can be difficult, the precise location of economic deposits is not known until exploration has reached a relatively advanced stage, and the attributes and likely impacts of mines and associated infrastructure can vary significantly from project to project depending on a wide range of factors. Planning is further complicated because extensive exploration activity is typically required to yield a small number of economically attractive projects. In addition, exploration is undertaken by the private sector, which requires reasonable certainty that it can take discoveries to production in order to make the up-front investment that exploration requires. From a planning perspective, it is therefore very difficult to determine the relative

⁵ AANDC letter September 28, 2011.

value of mine development compared with other land uses at the outset, but once mineral claims have been staked and exploration has progressed to the stage where the mining side of the equation is clarified the 'no development' option is limited by legal rights and legitimate economic expectations.

The challenges for land use planning when mining is an important land use and economic driver are, of course, directly relevant to planning in Nunavut. They were raised in our interviews through the perennial discussion of regulatory certainty versus flexibility. Typically, development interests in government and industry want planning to enhance certainty while providing appropriate flexibility. Certainty is sometimes characterized as a clear decision about where mining is permitted and where it is not so that exploration effort and investment can be directed appropriately. However, there is also concern that a 'one size fits all' approach to land use designation may end up restricting development in areas where it could be undertaken without significant adverse impacts or unacceptable risks. Furthermore, economics and geology make it desirable from a development perspective to maximize the area open for exploration. A precautionary approach to protecting other land use values that involves setting aside large conservation areas is seen as having potentially high economic costs. Furthermore, the magnitude of these costs is very difficult to calculate in advance. From this perspective, a more flexible approach may be preferable to heavy reliance on conservation zoning.

Some interviewees concerned about the potential adverse impact of the DNLUP on mining development raised particularly concerns about drawing lines on the map in ways that might unduly restrict exploration and could have significant economic costs that cannot accurately be estimated based on currently available information. From their perspective, a preferable approach at this stage is to identify existing land use values through the plan, providing a 'red flag' to individual prospectors and mining companies that mining activities in certain areas are likely to raise concerns and may attract public and regulatory scrutiny. A more informed decision can then be made about whether or not to go ahead with exploration and later stages of project development.

The 'red flag' approach to planning increases certainty when compared with a blank map that, in many areas, conveys little or no useful information to potential land users about other land use values that they should consider. However, it does not identify clearly delineated 'go' and 'no-go' areas, nor does it establish standards or decision-making rules that can simply and predictably inform environmental assessment and regulatory decision making. Using the language of GoC comments quoted above, the 'red flag' approach that was supported by some interviewees we spoke with does not resolve land use conflicts in advance or significantly reduce the "burden" of regulatory decision making. What it does is to increase information for land users while maintaining areas open for exploration and allowing flexibility to project proponents and regulators to consider ways that proposed projects might be designed and implemented to meet public and stakeholder concerns. It also signals to regulators that they may need to apply special scrutiny to proposed land uses in areas identified in the plan as having special values.

We note that comments on our draft report from some Parties questioned whether the 'red flag' approach is consistent with the foundation documents for the DNLUP. This issue may ultimately come down to a formal legal interpretation of provisions in NLCA and the draft NUPPAA, a matter that we leave to the legal experts. However, our reading of these documents from the perspective of planning professionals is that they allow the inclusion of recommendations in the DNLUP, even though these provisions are non-binding, not highly prescriptive, and may not provide the basis for conformity decisions by NPC on specific land use applications. The inclusion of recommendations in land use plans is fully consistent with planning theory and professional practice and is common in landscape-scale plans,

including draft and approved plans elsewhere in the North. In our opinion, it would be surprising if the foundation documents for planning in Nunavut were drafted in a way that would preclude this option. We also note that while the NLCA states that land use plans should “guide and direct” development (11.5.1), it is not obvious that this provision requires that every element of a plan be highly prescriptive. A plan can direct development through land use zoning (e.g., by establishing conservation areas) but also provide less specific guidance and recommendations. Furthermore, the ‘red flag’ approach does guide development, because it provides information that can be expected to influence the decisions by land users and regulators on land use. On this basis, we conclude that the ‘red flag’ approach is a plausible function for the DNLUP within the integrated regulatory system in Nunavut. This conclusion underlies our analysis below in section 7.5 that finds planning decisions in the 2011/2012 DNLUP that use the ‘red flag’ approach to be reasonable.

These observations highlight the types of issues and analysis that, in our view, should inform a discussion of the role of planning within Nunavut’s regulatory system. Nunavut is a vast and sparsely populated area where industrial development to date has a small footprint and relatively limited impacts on the environment. Much of the current industrial activity is mineral exploration, which has the potential to result in more intensive activity in the future. However, the experience with mining industry is that even extensive mineral staking is not necessarily, or even frequently, a precursor to intensive development over a large area. The history of diamond mining in the NWT following the staking rush in the 1990s is one illustration of this general observation.

Furthermore, mines are typically large projects with their own specific design characteristics and potential effects on the surrounding communities and the biophysical environment. Mines will inevitably be subject to detailed environmental assessment and regulatory review. Land use plans may usefully provide direction on recurring issues for mine development, but in our opinion it is difficult to imagine how a Nunavut-wide land use plan could radically simplify the environmental assessment process for major mining projects – at least for the foreseeable future. Even if we are under-estimating the potential gains from planning, the fact remains that a systematic analysis of this question should be done to inform expectations for the DNLUP.

In this context, expectations that land use planning can and should produce significant gains in regulatory efficiency and streamlining should, in our opinion, be treated cautiously. Planning in Nunavut confronts very different circumstances than urban planning, forestry planning, or even planning around intensive resource development of the type found in the Alberta oil sands, typical oil and gas fields, or a transportation corridor. We were struck in our interviews by the apparent lack of evidence of detailed and context-specific analysis to support some expectations about the role of planning within Nunavut’s regulatory system. We also note, but were not surprised by, the tendency of some interviewees to switch rapidly between arguments for certainty and flexibility without much evidence of reflection on the possible tension between these objectives, particularly for land use planning in a large and relatively unexplored landscape where mining is likely to be the major potential land use and economic driver. Finally, we did not see the evidence that we would have expected of the engagement of other institutions of public government, notably the NIRB and NWB, in the discussion of this issue.

The role of planning in Nunavut’s regulatory system requires careful consideration. Planning theory and practice certainly support the use of land use plans to identify and protect areas where very high social, cultural or environmental values are sensitive to competing land uses. The size of those areas relative to the entire land base and the restrictions that are needed to provide the desired level of protection must

be decided through the planning process. In some cases, high competing values are appropriately addressed by putting areas off limits to development.

Beyond that scenario, however, we suggest that planning theory and practice provide a range of options, but no specific standard or direction, for role of planning in the regulatory system. In some circumstances, the best role for planning may be the 'red flag' approach of mapping land use values and signalling to potential land users and regulators that competing interests exist and greater scrutiny of proposed land uses is expected and appropriate. In other circumstances, it may be possible to establish much more precise planning direction in the form of special management areas or minimum standards and mitigation measures that apply across the planning area (e.g., seasonal restrictions, setbacks, impact management measures). Plans may also provide direction on resolving land use conflicts when they occur (e.g., prioritization of land uses or specific steps to take in response to certain types of conflict or levels of activity). We consider some of these options when examining the content of the DNLUP below in Section 7.

Finally, we emphasize the need for analysis, deliberation and alignment of expectations in this area. What we heard in interviews was a range of often generally worded expectations about the role of planning, but little evidence of context-specific analysis or explicit deliberation by the Parties. This combination, in our view, is one factor underlying the current challenges facing the Parties. Our recommendations are directed, in part, to encouraging explicit attention to these issues and an alignment of expectations with what can realistically be expected of a first generation plan.

The need for analytical rigour and clarity also extends to the related issue of conformity decisions by the NPC. This role at the front end of the regulatory process will clearly be influenced by the content of the land use plan for Nunavut. There is something of a chicken-and-egg issue here, however, since the interpretation of the NLCA and NUPPAA (when enacted) and the NPC's general approach to conformity decisions may be relevant to substantive decision making when developing the plan. In this sense, the relationship of the DNLUP to conformity decisions is potentially another substantive issue that should be examined in detail by NPC and the other Parties.

This topic raises some complex questions and the terms of reference for our review did not include a detailed examination of the NPC's role in conformity decisions or its record in this area. Since this issue was raised in comments on our draft report, we elaborate briefly on it here. Conformity decisions are part of the implementation of land use plans and we were directed to consider "the process utilized in preparing the DNLUP", not the implementation process for the plan. However, we were also asked to "analyze the contents" of the DNLUP and, for reasons just noted, it is arguable that the approach to conformity decisions in Nunavut is one factor relevant to some aspects of the DNLUP's contents. As discussed below in section 7, our specific review of the DNLUP was necessarily selective; it was impossible and unnecessary for us to address every aspect of the plan. Conformity determination is dealt with only briefly in the 2011/2012 DNLUP (section 7.1).

In our opinion, a thorough examination of conformity decisions in Nunavut's integrated regulatory system would require a discussion of this function of planning bodies, drawing on planning theory, professional practice and precedents from other jurisdictions. It would also require a careful examination of the NPC's record in this area and the context within which those decisions were made, topics that was not covered in any detail in our interviews or in the documents submitted to us by the Parties. Furthermore, it would require discussions with regulatory bodies, stakeholders and others in order to understand issues and options for the integration of conformity decisions with subsequent

regulatory decision making. In short, it is a topic that was outside of the issues that we could cover in this review. Furthermore, we do not believe that it was necessary to cover this topic in order to support our observations and recommendations. We observe, however, that NPC clearly has an important role in this area as the front end or 'single window' in the regulatory process. There are some brief references in the documents that we reviewed to the nature of this role and how it should be supported and explained in the DNLUP. Some interviewees expressed the view that conformity decisions should not open the door to highly discretionary decision making or a parallel public interest review that could overlap with environmental assessment. As in other areas, however, we did not find evidence of detailed and rigorous examination of this issue in either the written record or in the comments from interviewees. We are not offering specific suggestions relating to conformity decisions, beyond the need to for a well-reasoned and clearly articulated approach to this topic that informs and supports the content of the first generation DNLUP and does not duplicate project review and regulatory functions.

4.3.3 What Role Should the DNLUP Play in Filling Regulatory Gaps?

Filling regulatory gaps was identified as a role for planning in some of the documents that we reviewed and in the interviews. The 2011/2012 DNLUP states that (p.13):

Through the use of expert advice and guidance from planning partners, the Commission was able to refine its research efforts by developing terms that fill specific regulatory gaps and support existing and future public and private initiatives.

The "NLUP Issues and Priorities Compilation" frequently includes requests from the NPC that government "describe how the land use plan will enhance the existing regulatory requirements or address possible regulatory gaps." Our interviews suggest that NPC and other departments and agencies saw regulatory gaps as a central focus of the planning process.

Filling regulatory gaps is, in our opinion, a legitimate role for land use plans. However, it is also a potentially open-ended purpose. Gaps are sometimes in the eye of the beholder. What appears to be a gap may in fact be a conscious decision not to act. As illustrated by the "NLUP Issues and Priorities Compilation", an apparently broad invitation to specialist departments and agencies to identify issues of concern and specific regulatory gaps can lead planners into a multitude of areas, each of which contains potential legal and policy challenges. There has been good collaboration on some of these issues at the technical level between NPC and government departments. These successes should not be discounted; however, there is a risk that this work reflects the specific mandates and expertise of the people involved, rather than an overall game plan. Our review suggests that the search for regulatory gaps is an area where the planning process runs the risk of not seeing the forest for the trees.

This assessment is based on a lack of clarity among interviewees and in the written record on the criteria for determining what regulatory gaps should be tackled by a first generation Nunavut-wide plan. We would expect the identification of regulatory gaps to be related to the priority issues and specific objectives of the plan. Filling these gaps through planning should, in our view, be a means to an end, not an end in itself. We acknowledge that the "NLUP Issues and Priorities Compilation" includes a column that cross-references objectives from the 11.4.1(a) document. However, as discussed in section 3.1.2, we are concerned that the list of issues in the 11.4.1(a) document provides an inadequate basis, by itself, for realistic decisions about the scope of the planning process. Using it as the starting point, without further refinement of priorities, may explain in part why the "NLUP Issues and Priorities

Compilation” reflects a scatter-gun approach to information collection that yields numerous issues, but no clear priorities for the DNLUP as a whole.

We would also expect to see explicit consideration of whether a land use plan is the appropriate vehicle for filling regulatory gaps. When should the NPC devote time and effort to crafting a planning solution to these gaps and when is the appropriate response to change the regulatory regime directly? We do not have a general answer to this question, but we suggest that it should be asked whenever a regulatory gap is identified for attention. Land use plans have certain attributes as regulatory instruments that may be well suited to filling some gaps, but not others. Furthermore, as noted above, planning processes need to focus on planning priorities in order to avoid being overwhelmed. Just because a gap is a priority for a line department does not mean that it should be a priority for planners.

Based on our interviews and our review of the DNLUP and supporting material, we have the impression that the availability of information on regulatory gaps became a major criterion for some decisions about what to include in the plan. This approach may explain why the DNLUP appears to devote disproportionate attention to some issues that, in the grand scheme of things, appear to be relatively minor, while saying little on other topics that may turn out to be more important, once the public and stakeholder input is received. While an argument could be made that there is no harm in picking off some of the low hanging fruit in terms of regulatory gaps, as a major criterion for shaping the content of the plan it risks producing a result that looks somewhat unfocused and perhaps unresponsive to major land use issues where gaps are more difficult to identify and fill.

As noted above, we do not consider it our role to offer recommendations on what issues should and should not be addressed in a first generation Nunavut-wide plan. At a minimum, however, we suggest that the rationale for these choices should be transparent and well supported by explicit criteria, rigorous analysis and input from Inuit, other residents of Nunavut, stakeholders and the Parties. These choices should also be directed to priorities and objectives in the plan and the number and complexity of topics should be limited in order to maintain the planning workload at a manageable level. As with other areas, it is also important that the Parties’ expectations be aligned over time. Our assessment is that these elements of the substantive pillar relating to filling regulatory gaps should be strengthened.

4.3.4 What are the Implications of Including Social Goals such as Reducing Poverty in the DNLUP?

The role within the DNLUP of social goals, such as poverty reduction, is another important substantive question that was raised by interviewees and in the documents that we reviewed. The 2011/2012 DNLUP states that (p.12):

Land use planning in the NSA [Nunavut Settlement Area] is guided by the NLCA, which directs the Commission to give primary consideration to the human community. In the Commission’s view, for the foreseeable future the existing and future well-being of Nunavummiut is dependent on the need to address the social development needs of the residents and communities of the NSA. The preparation of a land use plan with a short and long term focus on social development requires full consideration of the societal needs of Inuit, other Nunavut residents and communities.

It has been the view of the Commission throughout the formulation of the Plan that it is imperative that the Plan supports – and does not impede – opportunities to reduce poverty, encourage community self-reliance, and raise the standard of living for Inuit.

We also heard from at least one interviewee, and noted that in some presentation materials used by NPC, that NPC has been speaking about the goal of reducing poverty in its presentations about the planning process. Concern was expressed by the interviewee that NPC's attention to this goal could result in the DNLUP tackling a range of difficult social problems that, in many cases, are not directly related to the land use issues that should be the focus of the plan. There was also surprise that poverty reduction had been given such prominence in the DNLUP, since this topic had not been discussed with the Parties and was not a major part of the 11.4.1(a) document.

The other opinion we heard was that this goal was a welcome acknowledgement that the need to address social issues, including poverty, should be an important consideration in planning decisions on land use that could affect opportunities for economic development in Nunavut, notably in the mining sector. From this perspective, the goal of poverty reduction does not turn the plan into an instrument of social policy. It simply forms part of the chain of reasoning that links land use decisions on resource development to economic opportunity, the reduction of poverty, and ultimately the improved well-being of residents of Nunavut. We have three observations on this topic.

The first is that this discussion should be framed by the relevant provisions in the NLCA. The "primary purpose" of planning is "to protect and promote the existing and future well being" of residents of Nunavut (11.2.1(b), 11.3.2) and the "social, cultural and economic endeavours of the human community must be central to land use planning and implementation" (11.2.1(a)). Furthermore, "the establishment of objectives and guidelines for short-term and long-term development" in land use plans shall take into account factors such as "demographic characteristics", "economic opportunities and needs", and "community infrastructure requirements, including health, housing, education and other social services" (11.3.1). The NLCA is also very clear, however, that a main objective of the planning process is "to prepare land use plans which guide and direct resource use and development in the Nunavut Settlement Area" (11.2.2(b)) and that "plans shall provide for the conservation, development and utilization of land" (11.2.1(e)). Our reading of these provisions is that issues such as poverty reduction are legitimate subjects for broad planning goals, but that plans are directed to address these (and other) issues by focusing squarely on conservation, development and other aspects of land and resource use.

We also observe that Objective 5E in the 11.4.1(a) document is that land use planning "maximizes economic and social benefits to Nunavut communities and Inuit from development." This objective is consistent with the NLCA provisions quoted above and its overall objective, in the Preamble, "to encourage self-reliance and the cultural and social well-being of Inuit." The connection between land use, development and socio-economic considerations is also supported by other provisions in the NLCA, including sections in Article 12 dealing with Development Impact (e.g., 12.4.2(a)(ii) and (b)(i), 12.5.2(b)) and Article 26 on Inuit Impact and Benefits Agreements.

Second, in our opinion neither the July 2011 nor the 2011/2012 versions of the DNLUP include a broad suite of anti-poverty measures with little connection to land use. Our specific observations on its content are provided below section 7, but we simply note here that its provisions, even under the goals of "building healthier communities" and "encouraging sustainable economic development", are closely linked to land use. The DNLUP therefore appears to be consistent with the direction provided by the NLCA. We see no evidence that the NPC's identification of poverty reduction as an important consideration is leading it away from the core functions of a land use plan under the NLCA.

Third, we observe that the concerns of some interviewees may reflect, once again, a weakness in the substantive pillar that is needed to support the DNLUP and a final approved plan. Our views on planning

theory and our experience with other land use planning processes suggests that a 'sustainable development' approach to considering environmental, economic and social (including cultural) considerations in land use planning is sometimes a source of confusion. In particular, there is sometimes a lack of clarity about the inclusion of economic or social issues, values and objectives within the scope of the planning process.

The problem is that land use planning is not well suited to being the principal instrument for achieving most economic and social objectives. This generalization should immediately be qualified by acknowledging that land use planning can contribute directly or indirectly to establishing conditions for achieving some objectives in these areas. In certain cases, such as maintaining traditional land use and the associated economic, social and cultural values, it may in fact be one of the primary policy tools. Nonetheless, the economic and social determinants of problems such as poverty require a comprehensive policy solution that goes far beyond the scope of land use plans. In contrast, land use planning is a key tool for achieving many environmental management objectives, particularly those that require spatial differentiation of management approaches, cumulative effects management and measures to prevent or mitigate recurring land use conflicts.

This analysis supports the argument that land use planning should not treat most economic and social values, issues and objectives in the same way that it treats environmental ones. In particular, the 'sustainable development' approach and objective-based management should not be combined in a way that leads land use planning to be viewed as a catch-all policy instrument to address a broad range of social and economic issues for which land use is neither a major determinant of what will actually happen (e.g., poverty or the amount and diversification of economic activity) nor the appropriate policy tool for achieving objectives.

Clarification of the role of planning should reduce concern about the identification of poverty reduction in the 2011/2012 DNLUP. Stating that planning will consider the implications of land use decisions for opportunities to alleviate poverty through economic development is perfectly consistent with good planning theory and practice as we understand it. It is also quite different than asserting that land use plans will attempt to set and achieve specific objectives for poverty reduction.

Explaining this component of the substantive pillar should help Parties interpret the DNLUP and improve alignment of their expectations. It is also important to set the stage for public participation. Effective participation requires a basic understanding of what land use planning is intended to achieve and the tools at its disposal. Given the broad wording in some sections of Article 11 about the primacy of individual and community well-being, it may be helpful to underline the focus of planning on objectives and actions related to land use.

4.3.5 What is the Appropriate Balance between Conservation Areas, Special Management Areas and Mixed Use Areas?

The balance between conservation and development as reflected in decisions on land use zoning has been contentious in other northern land use plans. This issue is not addressed directly in either the July 2011 or the 2011/2012 DNLUP and we cannot predict whether it will become a focus for public and stakeholder comments or an issue of concern at the approval stage. However, we note that the GoC's general comments on the July 2011 DNLUP stated that "The draft plan does not guide and direct resource use and development in a balanced manner, taking into consideration economic opportunities and needs, as well as environmental management and protection."

We have three brief observations on the issue of balance. First, our interpretation of the map in Schedule A is that the 2011/2012 DNLUP leaves a substantial majority of Nunavut with the Mixed Use designation where the normal regulatory regime applies. Second, the plan includes relatively large areas with Protecting and Sustaining the Environment (PSE) and Encouraging Conservation Planning (ECP) designations where significant restrictions on land use are proposed. Depending on the other values associated with these areas, notably their potential for economic activity such as mineral exploration and development, these designations may become contentious. Third, the 2011/2012 DNLUP does not discuss the overall 'balance' between strict conservation areas, special management areas where various combinations of land uses are permitted, and the Mixed Use area.

If the overall balance among these areas or the appropriateness of specific designations and associated land use restrictions are raised through public and stakeholder participation or at the political level in the approval stage, more elaboration of this aspect of the substantive pillar may be required. In any event, it might be helpful to include a brief discussion of this topic in the DNLUP or in the Options and Recommendations document, even if the argument is made that the DNLUP has largely avoided the tendency of other planning processes to generate a polarized conservation versus development debate around land use designation or zoning.

4.3.6 What is the Appropriate Template for Structuring the DNLUP?

One important aspect of the content of a land use plan is its form and structure. This issue has already been raised in the development of the DNLUP through comments on an earlier version that relied heavily on a map-based approach. It appears to us that the NPC has responded to these comments with changes in form and structure evident in recent versions of the DNLUP. We are not certain, however, if these changes are fully consistent with the other Parties' expectations, since these expectations have usually been stated in fairly general terms. Furthermore, as discussed below in Section 7 of this report, our analysis of the content of the DNLUP suggests that there is a reasonable basis for many of its differences from other northern plans. Our examination of this topic may be useful to the Parties as they consider the DNLUP's form and structure.

As the DNLUP approaches the approval stage, it is important ensure that the Parties' expectations on the appropriate template for the plan are aligned as much as possible. If this issue is no longer a concern to GoC, GN and NTI, then it is reasonable to conclude that this component of the substantive pillar has been adequately addressed.

4.4 Concluding Observations on the Substantive Pillar

Our analysis identifies significant weakness in the substantive pillar. First, despite the Parties' efforts to align expectations on the substantive implications of a shift from regional planning to a single plan for Nunavut, the exchange of documents and correspondence appears to have been inconclusive and we found no evidence in either the written material that we reviewed or in our interviews that this question was ever formally resolved or that a common set of assumptions and expectations emerged over time through a more organic process. Second, we observe that issue scoping for the plan resulted in a compilation of issues and priorities from the perspectives of government departments and agencies, but we did not find evidence of a systematic and transparent triage to identify priorities for the DNLUP as a whole. Our interviews indicate that these two issues continue to be sources of uncertainty.

We also conducted a more detailed analysis of six questions that we consider to be fundamental to the substantive pillar. Our observations are that, in most cases, the Parties do not appear to have a common

understanding of these questions and how they have been, or should be, addressed in developing the DNLUP. Interviewees generally recognized the importance of these questions and were often prepared to comment on them, usually at the level of general principles or positions. However, we did not find much evidence in either the interviews or the written material of detailed and rigorous analysis of these questions, the options for addressing them, and the implications of these options for development of the DNLUP. Specific and sometimes difficult decisions on these issues will be needed to build the substantive pillar.

The consequences of these weakness in the substantive pillar were evident in the tendency of interviewees to define their expectations for the substance of the DNLUP largely or entirely in terms of the foundation documents, notably the NLCA and the 11.4.1(a) document, rather than beginning with those foundations but then identifying the decision path relating to specific issues and priorities that we would expect to see in the substantive pillar. While many interviewees readily agreed that the first generation plan needs to be more specific than NLCA provisions and more selective than 11.4.1(a) document, collective expectations about what that means in practical terms for developing the DNLUP have yet to be well defined.

5 Observations on the Participation Pillar

5.1 Importance of the Participation Pillar

Active participation by Inuit and other residents of Nunavut in land use planning is central to Article 11 of the NCLA and is affirmed in objectives and policies of the 11.4.1(a) document, as discussed above in section 3.2. Public and stakeholder participation is also a core value of modern planning theory and best practice. The days are long past when land use planning was seen, in some circles at least, as a top-down process where decisions are made behind closed doors and rely primarily on specialized expertise. Public and stakeholder participation is now generally regarded as an integral part of land use planning and nowhere is this value more important than in northern planning processes established through land claims agreements.

The participation pillar consists of the design and implementation of a participation strategy based on these foundations, including an effective and transparent process for incorporating the resulting input into planning decisions. As with the other two pillars, building a solid participation pillar is essential because the foundation documents are insufficiently detailed to provide the necessary operational guidance. There are a multitude of issues and options that must be addressed when designing and delivering an effective, efficient and inclusive strategy for public and stakeholder participation. The following sections highlight some of the most important of these challenges in Nunavut.

Building the participation pillar is also essential because effective public and stakeholder engagement is needed to ensure the legality, public legitimacy and political acceptability of the plan. In addition to clear language in the NLCA, such as the principle that “the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning regions” (11.2.1(c)), the political decisions on plan approval by GoC, GN and NTI (under NUPPAA) will undoubtedly consider the extent to which the proposed plan responds to the aspirations and concerns of Inuit, other residents of Nunavut and stakeholders.

5.1.1 Planning Theory, Professional Practice and Conceptual Clarity

Some of the comments and concerns that were raised in our interviews and in the documents that we reviewed may reflect a lack of clarity about the role of participation in planning and the terms that are often used to describe it. It may be helpful to briefly ground this discussion in planning theory and professional practice.

The planning theory adopted to guide the development of the plan will influence what NPC and the other Parties considers appropriate. Some language in the draft plans suggests that a ‘progressive’ or ‘communicative’ theory is guiding the development of the plan. This theory contends that the public and stakeholders must be closely involved in planning. Other work completed by NPC seems more consistent with a ‘policy analysis’ theory that places the professional planner ‘at the helm’ of decision making. We suggest that the authority given to NPC under the NLCA should be exercised in accordance with best professional practice supported by the theory that ‘encouraging and stimulating input . . . leads to better informed decisions that have fuller understanding’⁶. Although there is no stated requirement that plans developed outside of municipalities be developed by a professional planner, because the development of the plan is being guided by professional planners the professional code of conduct must play a role in

⁶ Witty, D.R. (2002). Professional practice manual. Canadian Institute of Planners p. 73

determining the process used to develop the plan and the content of the plan. In our opinion, the NLCA also indicates that an appropriate theoretical model for the NLUP would be one that encourages participation. The strength of the participation pillar relies on a carefully considered approach. In keeping with best professional practice, the approach would be shared with participants and documented in the DNLUP or supporting documents.

Terminology can also be a source of confusion. In this report we have generally used the term 'participation' for this topic, since it is used in Article 11 and is also common in planning theory and practice. We note the comment of one interviewee that participation is more expansive than at least some interpretations of the term 'consultation'. We have also used the term 'engagement', which we view as a synonym to participation.

Other terms are also used by the Parties to describe interactions with the public, stakeholders and each other. 'Consultation' is frequently used, and also appears in the NLCA (e.g., section 11.5.2). The words 'collaboration' and 'partnership' are used frequently in versions of the DNLUP, the 11.4.1(a) document and much correspondence. A 'co-management relationship' is also referenced in a number of documents. However there are several different understandings of the roles, responsibilities, and authority of participants in planning that clearly underlie many of the problems the Parties have had in working collaboratively.

Each of these terms embodies a cluster of concepts and may not be amendable to a precise and universally applicable, or acceptable, definition. The term consultation has received much attention over the past two to three decades because it can be so widely interpreted. Engagement, consultation, and participation are often used interchangeably in the planning profession. Consultation is not exclusive to planning, but it is the foundation of much planning theory. Despite this overlap and confusion, we suggest that conceptual clarity and a common understanding of what these terms mean in very practical terms are important elements of the participation pillar. For example, if the Parties use words such as 'consultation' in different ways, they may be speaking at cross purposes and have difficulty developing common expectations.

We observe that the term consultation is being used by NPC and others for a variety of types of interaction, including meetings of the Parties, e-mails to regulatory bodies, letters distributed to mailing lists, individual interviews, and public meetings. There are reasons that can be related back to the NLCA why the Parties, the public and stakeholders are being treated differently in terms of their involvement in developing the DNLUP. Using the same term (consultation) to describe different activities with different objectives has created misunderstandings between the Parties.

The root problem, in our opinion, is that the Parties have not developed a common understanding of adequate or appropriate participation or consultation. Even within a single organization, the purpose and methods considered appropriate for participation in developing the DNLUP may have changed over time. That said, all Parties have stated that the plan must represent the values and priorities of Inuit and other residents of Nunavut in accordance with the NLCA. We also note that the NCLA directs land use planning to take into account the "[interests of all Canadians](#)" (section 11.2.1(b)).

Guidelines for participation (or consultation) specifically suited to the development of a land use plan for Nunavut do not exist. There are no 'off the shelf' solutions. The onus is therefore on NPC, with input from the other Parties, to set reasonable guidelines for what can and should be achieved. On this basis,

NPC could develop educational and interpretive materials that explain expectations and define important terminology as support for the participation strategy.

We note that there is a guide to 'the conduct of informal public hearings' available on the NPC website. This document is relevant to participation, but in our opinion does not provide guidance for public participation in the development of the land use plan in accordance with the expectations of the NLCA.

Public participation has been discussed by the Parties throughout the planning process. The GN Discussion Paper dated September 2007 underlined the importance of incorporating strong community involvement and offered some suggestions for addressing NPC's capacity challenges in this area. NPC requested additional funding for public engagement, although these requests were not granted. The topic has also been raised in comments on drafts of the plan. For example, the GoC's comments on the July 2011 DNLUP that are quoted elsewhere in this report note the need for "a process for external communication that sets appropriate and realistic schedules with government, the public and industry" and asks for information on "the results of previous engagement and consultation with the public, government, municipalities and industry, as well as how these consultation have informed the development of the draft plan".

5.2 Progress on the Participation Pillar

NPC has seen Use and Occupancy Mapping as an important way of engaging Inuit and community residents in the planning process. The 2011/2012 DNLUP states that "the Commission has conducted nearly 400 one on one mapping interviews to ensure early and continued participation of local residents in the land use planning process" (p.13). This information has been used to identify areas of traditional land use that are included in Community Maps (Appendix A) in the 2011/2012 DNLUP and are assigned the following recommendation, which raises a general 'red flag' for land users and regulators: "Project proposals located in areas of traditional land use should take into account impacts on the cultural value of the area" (BHC-R2, p.43).

Participation through Use and Occupancy Mapping, however, has primarily consisted of data collection. It appears that this process has not included other key elements of planning, including issue identification and prioritization, objective setting, and the examination and selection of options for achieving these objectives. As NPC notes in its Options and Recommendations report for the 2011/2012 DNLUP (p.32):

At this time, the Use and Occupancy Mapping information identifies areas that are used by community members, but does not include the communities' views on the relative importance of the areas and management direction that may be appropriate.

NPC then notes that specific direction on management options would require additional input from communities. It is evident, therefore, that public participation to date at the community level has not contributed to issue scoping and the core tasks of setting objectives and making trade-off decisions.

The 2011/2012 DNLUP also refers to other initiatives aimed at obtaining public and stakeholder input. For example, it mentions "surveys, interviews and questionnaires with Hunters and Trappers Organizations, Municipalities and Designated Inuit Organizations" (p.13). It also states that (p.13):

During the period between August 2007 and October 2009, the Commission requested the Nunavut Municipalities, Institutions of Public Government, Hunters and Trappers Organizations,

Nunavut Tunngavik and Regional Inuit Associations to identify specific land use issues, vision and goals to be considered during the formulation of the land use plan.

Another initiative noted in the DNLUP is the development of a Priority Areas Map (PAM) based on the Issues and Priorities document (p.13):

The Commission distributed the PAM to households in Nunavut on two occasions: in April and June 2010. A return postage questionnaire was also distributed to encourage planning partner feedback and participation in the planning process. The Commission also requested feedback on PAM from Industry, Non-government organizations, Inuit Organizations and government.

Finally, there has been some stakeholder involvement in work on refining issues and priorities. Industry representatives participated in at least one workshop and the Prospectors and Developers Association of Canada (PDAC) provided written comments on the June 2010 Draft of the DNLUP, although it appears that PDAC received this draft through informal channels as opposed to a request for input from NPC. We also understand that there have been periodic public presentations and meetings involving NPC and stakeholder organizations.

In our opinion, however, efforts to solicit public and stakeholder input do not, by themselves, constitute effective participation. It is not evident to us from our interviews or document review what input was actually received through these initiatives and how that input, if any, was considered when developing the DNLUP. We saw little evidence in the form of meeting minutes, transcripts, or summary documents describing the comments and suggestions obtained from the public and stakeholders.

The section on Consultation in the 2011/2012 DNLUP describes requests for input and opportunities for engagement but does not summarize what the NPC heard from the public and stakeholders or evaluate the success of these initiatives. The rationale behind each of the recommendations of the July 2011 and 2011/2012 DNLUP is provided in Options and Recommendations documents. However, this document provides little information on the results of public and stakeholder participation or how it affected the NPC's identification of options and its decisions on recommendations. A word search for 'Inuit' finds it included in descriptions of goals, but only in two instances is it stated that an Inuit organization's views or directions were considered in making recommendations. The words 'public' or 'resident' do not appear in any of the analysis statements.

Our interviews and document reviews did not reveal much more about the results of public and stakeholder participation than the content of the DNLUP. We did hear, however, concerns from interviewees about the appropriateness of some public engagement techniques that have been used and the effectiveness of these initiatives. For example, we heard there was a very limited response to the public mail-out of the PAM and questionnaire.

5.3 Key Participation Questions

5.3.1 The Roadmap for Participation

Our interviews and document review provide little evidence that the participation pillar for the DNLUP is well developed. We have not seen a strategy or supporting documents that would meet our expectations as outlined in Section 3.2. In the absence of these details, it is difficult for us to assess the appropriateness of public and stakeholder engagement based on the DNLUP.

Considerable effort typically goes into designing a comprehensive participation strategy as part of a land use planning process. Many manuals and guidelines are available describing best practices for a number of different situations. Although a variety of methods for encouraging and inviting participation have been used by NPC, the evidence we reviewed indicates that few have been effective, or considered credible by all Parties.

The limited extent to which the Parties share a common understanding of the roadmap for public and stakeholder engagement is another indication of the deficiencies of the participation pillar. We heard from many interviewees that the overall game plan and specific roadmap for public and stakeholder participation are unclear. This concern has been raised in correspondence and comments over the years. Information about how NPC has undertaken or planned to undertake participation or consultation can be found in various documents produced by NPC. However, there does not seem to be anything made available publicly, or to the other Parties, that delves into the specifics of what participation or consultation mean for the DNLUP: who will participate or be consulted, when it will happen, and why public participation will benefit the plan.

We recognize that the NPC has the authority to determine what consultation is appropriate before preparing and releasing a draft plan (NLCA section 11.5.1), but it has not documented what types of activities constitute 'consultation', when it should occur, or the expected outcomes. In our opinion, good planning practice requires that the design and implementation of public and stakeholder participation should be transparent and promote predictability, not uncertainty. For planning in Nunavut, we believe that this strategy should also include the other institutions of public government, notably the NWB (pursuant to NLCA section 13.4.1) and the NIRB, because it has information directly relevant to the planning process (e.g., public concerns identified during environmental assessment hearings) and is directly affected by the content and implementation of the plan because it is next in line in the integrated regulatory system.

Most recently, questions have arisen about NPC's strategy for community engagement on the DNLUP. We were told that NPC is developing a Community Tour Engagement Strategy but that it is not ready to be released. We recognize that NPC may be reluctant to release the details pending the results of our independent review. We also have some sympathy for NPC's concern that, given the current state of relationships among the Parties, release of this document may not result in a constructive dialogue. Finally, we acknowledge that it is difficult to predict some aspects of public and stakeholder engagement over the longer term, particularly given the very limited participation that has occurred to date. NPC may be reluctant to commit itself in public to a strategy that may need to be modified depending on the results from the community visits. These procedural questions, along with substantive concerns with the draft, explain why the release of the DNLUP for public participation has become contentious.

Nonetheless, in our opinion the atmosphere of uncertainty and mutual suspicion concerning community engagement and other aspects of public and stakeholder engagement needs to be overcome. It is essential to build this aspect of the procedural pillar so that the Parties can have an open discussion of realistic expectations and options for participation and so that they can play their respective roles within this process. As with the other pillars, NPC's role in leading the planning process must be recognized and acknowledged, but effective engagement with the other Parties is essential. In our opinion, all Parties have a role to play in conducting a constructive dialogue aimed at building common expectations of what can and should be accomplished through public and stakeholder participation.

Government and NTI need a reasonable understanding of the participation strategy and how it will be implemented in order to plan their own involvement, including the allocation of time, funding and personnel. They also have a legitimate concern that the strategy be well designed and executed so that it can withstand scrutiny at the approval stage. Deficiencies in public and stakeholder participation may be difficult, perhaps impossible, to fix at the end of the planning process.

Finally, it is important to reiterate the importance of clarity within the procedural pillar about follow-up to public and stakeholder participation. What happens to feedback was a recurring question in correspondence and interviews. While there are comments on this issue scattered through the documents, it should be clearly addressed as part of the procedural pillar. Not only does there need to be a record of proceedings, or comments received, but NPC needs to explain how information will be or has been used to inform the plan. Additionally, there should be some discussion of the approach that will be taken to feedback that is not relevant to the plan, but may be relevant to other processes. This issue is particularly important because the plan will support NPC's role as a 'first window' into an integrated process. Furthermore, the history of NIRB project reviews and the greater familiarity with this process in Nunavut means that members of the public and stakeholders may have a tendency to provide comments to NPC that are more relevant to environmental assessment than to the DNLUP

5.3.2 Public and Stakeholder Participation and Collaboration among the Parties

The appropriate sequencing of public participation and collaboration among the Parties is one aspect of the participation pillar where we observed different views among the interviewees. The key question is how much input the other Parties should provide to NPC about the content of the DNLUP before engaging the public and stakeholders.

One perspective is that the Parties should go quite far in working out what they consider to be achievable and acceptable in the DNLUP before releasing this document for broader participation. The rationale, as we understand it, is that there is no point in going forward with ideas that are unacceptable to one or more of the Parties that must ultimately approve the plan. An argument might also be made that it will be easier for the public to understand and comment on a plan that is well developed. This approach is reflected in the extensive discussions among the Parties that have occurred to date, largely in the absence of public and stakeholder engagement, on issue scoping and subsequent refinement of the DNLUP's content.

We heard from other interviewees, however, that this approach is fundamentally flawed. From this perspective, the planning process to date has inappropriately given the central role to NPC-government discussions while ignoring the need to incorporate meaningful input from Inuit and other residents of Nunavut in the early stages of shaping the DNLUP. This perspective reflects, in large part, the NLCA's emphasis on public participation. It is also based on strong views about appropriate planning practice. Several interviewees told us they felt it would be extremely unwise to go to communities asking for their first meaningful participation in the process on the basis of a complete draft plan that clearly involved a significant amount of work by the planners and government without substantial community input. These people indicated that public participation should begin by introducing the planning process, including the function of land use plans, and inviting comments on vision for land use, issues of concern and priorities. Presentation of a complete draft plan should come at a later stage and would be directly linked to what was heard from initial community engagement.

This debate was played out in reactions to the July 2011 DNLUP. Some interviewees feel that significantly more work by the Parties is needed before a draft plan will be ready for public release. Others argue that public involvement is long overdue and that the planning process has been for far too long been a closed-door discussion between the NPC and government.

In our opinion, a key weakness in the participation pillar is the fact that the Parties have not developed a common understanding of their respective roles and its relationship to public and stakeholder participation in the different stages of planning. Expectations about the type of documentation that is appropriate to put before the public are also out of alignment.

Based on our interviews and document review and our understanding of relevant planning theory, professional practice and specific direction from the foundation documents on land use planning in Nunavut, we offer the following additional observations. First, the process has in our opinion been skewed excessively towards NPC-government interactions and against meaningful public and stakeholder involvement, particularly at the early stages of issue scoping. Second, the current dynamic between NPC and government is not constructive. Third, there is an opportunity both to re-balance the planning process and to break out of the current dynamic among the Parties by shifting the focus to greater public and stakeholder participation, including participation by the NWB and NIRB. However, this opportunity will require attention to framing the invitation for public engagement in light of the work that has already been undertaken on the DNLUP. Fourth, we believe that significant re-engagement of the Parties through a process to align expectations should occur once the public and stakeholders have been heard from. These observations underlie the recommendations for next steps provided in section 8.2.

5.3.3 The Logistics of Public Participation in Nunavut

Engaging the public in developing a first generation Nunavut-wide plan creates some significant practical challenges that, in our opinion, have not been adequately understood or addressed by all of the Parties. In our interviews we heard a range of expectations about meaningful participation, including ideas about the appropriate ways of engaging Inuit and other residents in the planning process. As noted above, several interviewees said that techniques such as a mass mail-out of questionnaires are ineffective in Nunavut. In fact, several interviewees suggested that a variety of techniques should be used to obtain meaningful input from residents, including public meetings, meetings with community representatives (including representatives of municipal government and non-governmental organizations), community open houses, informal conversations at public venues in communities, and 'kitchen table' discussions.

We also heard of the challenges of reaching each community in Nunavut for even a couple of days within a period of less than a year. There is no doubt that public engagement at the community level for a Nunavut-wide plan is vastly more complicated than for the participation processes that have been used for other northern land use plans, notably in the Gwich'in and North Yukon regions.

There has been some awareness of the challenges in Nunavut, although our interviews and document review leave us with the strong impression that the magnitude of this issue was not fully considered by all of the Parties when the decision was made to embark on a Nunavut-wide plan. It is, however, discussed in an NPC information note. We heard that there were concerns about the feasibility of piloting a plan through full community engagement within a year given available staff and resources, the limited months when community visits are appropriate, the difficulty of scheduling meetings around

competing events, and the risks of weather and other disruption to travel schedules. NPC requested additional funding for community participation to assist them with overcoming some of these challenges, but these requests were not successful. We did not explore in detail the reasons for this lack of success, although we heard from several interviewees that NPC's credibility was undermined by some funding requests that were widely seen as extravagant and by a lack of rigour in demonstrating value for money in proposals to government.

We believe that engaging the public and stakeholders is necessary and that it may not be possible, given the current dynamic among the Parties, to delay this process until there is full agreement. The Parties' expectations on what constitutes acceptable participation will need to be clarified at some time, however, to provide reasonable certainty that the final draft plan will be seen as defensible at the approval stage. Those expectations should, in our opinion, be based on a realistic assessment of what type of participation is achievable by NPC, given the human and financial resources available to it, for a first generation Nunavut-wide plan.

In an ideal world, we would expect that development of a land use plan in Nunavut would consist of at least two rounds of public and stakeholder engagement at the community level, one focused broadly on issue identification and other aspects of scoping and the other to obtain comments on a well developed draft plan. The current proposal to engage the public on the DNLUP appears designed to combine elements of information gathering, issue scoping and review of a well developed version of the DNLUP into one round. While this approach is less than optimal, it may be possible. However, reaching a conclusion on that point is complicated by the shortage of information on how the DNLUP will be presented.

5.3.4 The DNLUP, Supporting Material and the Participation Strategy

The final observations that we have on the participation pillar concern the current disagreement among the Parties about the suitability of the DNLUP as the basis for public and stakeholder engagement. Our views on the content of the DNLUP are described below in section 7 of this report. The point here is simply to note that, in our opinion, the appropriateness of that document, excerpts from it or a revised version of it depends in large part on how it is presented and what supporting material accompanies it.

Given the weakness of the participation pillar to date, the proposed community tour will be the first occasion for obtaining meaningful input from Inuit, other residents of Nunavut, community representatives and stakeholders on topics that are central to plan development, from the identification of issues, priorities, objectives and options for land and resource management to the specific structure and components of the DNLUP. Successful participation will therefore depend on the way that issues are framed and input solicited in the documents distributed for public and stakeholder review – both the DNLUP or elements of it and the supporting material.

We cannot offer specific comments on NPC's proposed approach because, as noted above, it remains confidential. However, we believe that there may be opportunities to acknowledge the need for public and stakeholder input on issue identification and prioritization, objective setting and the determination of how to achieve those objectives while also presenting a framework or working model for the plan that helps to focus discussion. While it would be inappropriate and potentially very damaging to the planning process to create the impression that public input is being requested on a 'done deal', soliciting input on a blank page is also an undesirable approach. There is a real need to find an effective and

efficient way to engage the public on the Nunavut-wide plan because multiple rounds of community visits are simply unrealistic if the plan is to be completed within a reasonable time frame and budget.

In our opinion, the Parties all need to show some flexibility in order to enable public participation to begin. Despite reservations the GN and GoC may have about the process or materials developed by NPC for the proposed consultation tour, the people of Nunavut should ultimately be trusted to judge for themselves the work of NPC. Regardless of the specific content of the material used for this public engagement, we believe that success will depend on clarifying the parameters for feedback. In our opinion, these parameters must guide the participation process between the extremes of an open-ended request for information collection and the presentation of what looks like a set of predetermined outcomes.

5.4 Concluding Observations on the Participation Pillar

Land use planning must not only be open to the participation of a wide range of people, but must be designed around it. Participation is central to the foundation for planning in Nunavut, but our review of progress in this area indicates that a strong participation pillar has yet to be built. Our principal observations on the participation pillar focus on six areas.

1. The development of the pillar suffers from a lack of clarity in applying planning theory, professional practice and key concepts.
2. Meaningful public and stakeholder participation in development of the DNLUP has been extremely limited to date. At the community level, it appears largely restricted to data collection in the form of Use and Occupancy Mapping, without progressing to the discussion of issues, priorities and land use options. There has also been little stakeholder input.
3. There is a lack of clarity from NPC and alignment of expectations among all Parties concerning the roadmap for participation.
4. The appropriate relationship between public and stakeholder participation and the discussions between NPC and the other Parties has not been explicitly clarified and, in our opinion, the balance has tilted too far in favour of interaction among NPC and the government Parties.
5. The logistical challenges of public participation in Nunavut have not been addressed adequately by the Parties in order to ensure that expectations, as well as being consistent with appropriate standards for effective participation, also reflect available resources, an appropriate time frame, and a realistic assessment of what can be accomplished.
6. The critical issue of what material should be used for the first meaningful round of public and stakeholder participation has become highly contentious for the Parties, with a lack of clarity around the framing of issues and opportunities for input and the use of the DNLUP, or elements of it, and supporting documents.

The Parties' inability to build a common understanding of what is both necessary and feasible is a major weakness in the participation pillar. While ideas such as a one-time funding allocation and breaking the Nunavut-wide plan into more manageable regional pieces have been proposed, we have not seen evidence of a meeting of minds among the Parties. As noted above, NPC now has a participation

strategy but it is being kept under wraps. At the same time, expectations for public participation are clearly high among the other Parties, but have not been well defined. This situation creates serious risks going forward.

6 Observations on the Procedural Pillar

6.1 Importance of the Procedural Pillar

The procedural pillar builds on direction from the foundation documents through the design and implementation of the planning process. Since this process involves many participants, communication about the procedural pillar is essential for effective and efficient planning.

Topics that need to be addressed in the procedural pillar include:

- The basic components of planning and how they fit together;
- The roles and responsibilities of participants in the process;
- A detailed roadmap that establishes specific tasks, deliverables and timelines;
- A means of sharing information, input from participants in the process, and decisions by the planning body so that the process remains accessible and transparent; and
- The establishment of an effective working relationship among the key participants in the process.

Attention to building the procedural pillar is important for two reasons. First, land use planning in Nunavut is complicated by many factors, including the number and complexity of the issues to be considered and the range of values and interests involved. A well designed, communicated and implemented process is therefore a key part of achieving success in the form of an approved land use plan. Second, the procedural pillar has a key role in justifying substantive planning decisions. Especially when difficult choices and trade-offs are required that inevitably leave some people unhappy, the legality, public legitimacy and political acceptability of the plan may hinge on the quality of the process.

It is also important that the development of a first generation plan be considered in relation to future planning cycles. The process must not only support current planning decisions, but recognize that decisions about some issues may be best made in the future. The procedural pillar must be strong enough to support a plan that is relevant, yet necessarily open to change. Many procedural issues were raised in our interviews and in the documents that we reviewed. The following sections present our observations on the current condition of the procedural pillar and provide the basis for our recommendations to strengthen it.

6.2 Progress on the Procedural Pillar

The starting point for understanding the procedural pillar is the eight step process listed above in section 3.3.1. These steps were identified in a document released by NPC in 2007 and are embedded in the 11.4.1(a) document. It is evident from our interviews and from the exchanges of correspondence and comments among the Parties, however, that there is some disagreement, confusion and frustration about the implementation of these steps and communication on progress. Our assessment of the limitations of the eight step process demonstrates the lack of progress to date in building the procedural pillar.

All Parties are familiar with the eight step process, which is broadly consistent with planning theory and is similar to the processes used to develop other northern land use plans. It is evident, however, that these steps are not serving the intended purpose of enabling the Parties to understand the process and participate effectively in planning. This problem is illustrated by the following observations.

First, there is a lack of clarity about what has been accomplished and what remains to be done. For some participants, release of the DNLUP signifies that the process of developing a plan is nearing completion. Several interviewees indicated that there was considerable anxiety within government that the DNLUP represents the last significant opportunity for meaningful input before NPC finalizes the draft plan and submits it for approval (Steps 5 and 6). This view is supported, in some measure, by the time lines for completing the process that have been presented by NPC and discussed by the Parties at different times. At the same time, there are indications that the process is still at much earlier steps. For example, our interviews with NPC indicate that public and stakeholder engagement on the DNLUP will provide an opportunity for issue identification and information collection, both of which are early in the eight step process. Some participants see the DNLUP as a preliminary document that will allow essential input to be solicited to inform further development of the plan.

Second, some Parties are uncertain whether or not certain steps have been completed and have concerns about attention to detail and issue resolution. For example, some interviewees feel that NPC has declared the information collection step (Step 3) to be over, despite important elements of the information base that they believe are incomplete. Others commented that they are still waiting to get down to the details of considering land use options (Step 4). In their opinion, discussions with NPC and workshops to date have not been effective in resolving important issues. A concern that we heard from several interviewees was that NPC would take their input and then decide unilaterally that important steps are complete without ensuring that other participants were satisfied that issues had been resolved. NPC, in contrast, sees a need to move ahead with the process and has expressed frustration that other Parties have not provided useful input in a timely manner.

Third, there have been recurring concerns that the eight steps do not provide sufficient operational detail for participants in the planning process. Government has requested a more specific procedural roadmap at different times. For example, GoC reiterated these requests in its comments on the July 2011 DNLUP:

- *The timing, purpose and expected outcome of each step or activity in the planning process have not been defined by NPC.*
- *A process for external communication that sets appropriate and realistic schedules with government, the public and industry has never been provided.*

NPC's response to earlier requests of this type was essentially that the eight steps are the procedural roadmap. More detail has been provided recently by NPC, but the other Parties continue to have concerns about procedural certainty. The best that can be said about this dialogue is that the participants seem to be talking at cross-purposes. Several interviewees commented that NPC may not appreciate the type of detail that government needs to participate effectively in the planning process. NPC may be concerned that requests for more information are either unrealistic because of the inherent unpredictability of the process due to factors beyond NPC's control, or are an attempt by government to micro-manage the process in a way that intrudes on its mandate.

Communication on this topic now seems to have virtually stopped. Government has asked for information about NPC's planned public and stakeholder engagement process for the DNLUP and NPC has apparently developed a detailed strategy but was not prepared to release it during the time we conducted our review. One reason for this decision is that NPC believes that describing the process at this time will simply result in more obstacles being thrown up to block progress, rather than a

constructive discussion with the other Parties. The Parties, in turn, lack confidence in NPC's ability to design and implement an effective and efficient process and are therefore reluctant to give it the benefit of the doubt without having seen the details.

Our assessment is that these challenges are the result of a failure to build the substantive pillar on the foundation provided by the eight steps. These steps capture the key elements of the planning process, but they are inadequate as a description of how that process is implemented for the following reasons.

First, the non-linear elements of planning have either been poorly communicated or misunderstood. Although the process is presented as a step-by-step progression, in fact planning more often involves taking steps forward and back. It is generally more iterative than linear, although progress should occur through the refinement achieved by successive iteration. The need for iteration among stages is evident in the development of the DNLUP as well as other northern regional land use plans. Although it is valuable (and possibly essential) to communicate the concept of the planning process using a relatively simple graphic and textual description, the process itself is much more complex. This complexity has not been adequately captured in the eight step framework.

Second, we believe that some of these steps are misleading if viewed as discrete stages within the process. In particular, we have concerns about the identification of "Information and Data Collection and Analysis" and "Decisions" as discrete steps. For reasons that we discuss below, we see these two components as being linked throughout the process, with information collection and analysis serving a decision support function that evolves as the draft plan is developed. There is, in our view, an important difference between recognizing these functions as important parts of planning and characterizing them as sequential steps.

Third, the level of clarity provided by the eight steps and the supporting material that has been available is not sufficient, in our opinion, to provide an effective roadmap for the process. We understand NPC's concern that some comments it has received from the other Parties have been less than helpful. We also recognize that a measure of flexibility to adapt is necessary in a planning process, particularly for a first generation plan in a very complex planning environment. Nonetheless, we believe that the Parties need to reach a common understanding of the process at a level of detail that has not yet been achieved. This understanding is essential to allow participants to play their respective roles and prepare appropriately by allocating appropriate human and financial resources. In addition, ultimate approval of the plan will depend on a solid procedural pillar that the Parties can rely on when justifying planning decisions. Since deficiencies in this respect cannot be corrected at the last minute, it is essential that expectations about the process be aligned as soon as possible.

Fourth, we observe that the eight step process has clearly broken down in practice. One illustration of this problem is the need, for reasons described in our discussion of the participation pillar, to include elements of Steps 1-4 in the proposed public and stakeholder engagement on the DNLUP. We also believe that further iteration among the steps may be needed before the DNLUP enters final Plan Evaluation and Approval (Step 6). Finally, the frustration among all Parties about lack of clarity and understanding of how the process is unfolding is clear evidence that greater procedural clarity is needed.

6.3 Key Procedural Questions

On the basis of our assessment of progress to date on the procedural pillar, we have the following observations the key issues that require attention.

6.3.1 Continuity and Issue Resolution

Lack of continuity within the planning process and the challenges of achieving resolution of outstanding issues and moving forward on that basis were identified in interviews and documents as weaknesses in the procedural pillar. These problems took several forms.

The Parties have had difficulties agreeing on and maintaining a shared set of understandings and expectations according to many people we interviewed. A striking example is the absence of a common understanding of the origins, rationale and implications of the decision to shift from regional planning to the development of a Nunavut-wide plan. As noted above in our discussion of the eight steps, the Parties do not have a shared understanding of when steps are considered complete and how to move the process forward. Unresolved issues include the data sharing arrangement between NPC and GN discussed below in section 6.3.2. Parties tried and failed to develop a Memorandum of Understanding for cooperation and there appear to have been inconclusive discussions about detailed terms of reference for the plan.

Rather than a systematic process of refining and resolving issues that leads to progressive narrowing of focus and building of understanding and agreement, the decision-making pendulum has been swinging between extremes. The difficulty in resolving issues and moving forward in a relatively linear way is felt acutely by all the Parties in the review of different versions of the draft plan.

One problem is that reviewers of the draft plans have had difficulty determining the appropriate level of detail for comments (i.e., fundamental principles and objectives or specific technical and editorial details). We also heard concerns that the process of reviewing plans does not permit adequate attention to resolving important issues because opportunities for comment are focused on the plan as a whole, timelines are too short, the format for commenting and working with NPC is not conducive to detailed discussion of specific issues, there are too many issues on the table, and the issues covered by the plan (and options for addressing them) seem to be very fluid. Finally, many interviewees expressed frustration that comments provided have not been adequately considered in subsequent versions.

NPC is also frustrated with the process. From its perspective, many of the Parties' comments seem focused on identifying what is wrong the drafts of the plan, without providing sufficient information and suggestions on solutions. There is a sense that reviewers are criticizing NPC for missing the target, without saying clearly what that target should be. Some interviewees from the other Parties acknowledged that they could perhaps have done more to clarify expectations. However, many interviewees also expressed frustration that issues that they have raised repeatedly with NPC have not been adequately addressed. It appears that NPC's documents explaining how it has responded to GN and GoC comments have not achieved the intended objective.

NPC views the significant changes in the draft plan since June 2010 as responsive to comments from the Parties, but sometimes these changes have fueled concern about lack of continuity and progress. For example, several interviewees commented that significant changes in the draft plans appeared out of nowhere and that some ideas floated by NPC were dropped, rather than modified, when concerns were raised. These interviewees expected more explanation of the origins of ideas introduced into the drafts

and greater continuity in addressing issues and resolving them. From NPC's perspective, however, taking problematic proposals off the table is seen as being responsive to comments from the Parties, particularly when criticisms of proposals were not accompanied by specific suggestions for improvement. As discussed below, it may also be an inevitable triage process, eliminating sources of contention when the number and complexity of issues threatens to overwhelm the planning team and the process as a whole.

The result of this unsatisfactory back-and-forth between the Parties is a perceived failure to make progress. While some interviewees acknowledged improvements in recent drafts, there is not a strong sense that NPC is making systematic responses to comments that are taking the drafts forward to a satisfactory conclusion. NPC also feels that the interchanges with the Parties are not advancing the process. Diagnosing this problem requires starting with root causes.

One underlying problem is that fundamental substantive issues in the DNLUP have not been clearly settled, so the discussion of details is occurring without a common frame of reference on the bigger picture decisions that are explicit or implicit in the plan. This problem is compounded by procedural problems that make it difficult to work through these decisions in a systematic and transparent manner. Weaknesses in the substantive and procedural pillars are mutually reinforcing.

Staff turnover and the length of time the process has taken have aggravated problems with continuity and issue resolution. Several interviewees argued that staff changes have resulted in significant setbacks for the planning process by derailing progress by the Parties in developing input to NPC, disrupting working relationships and leading to requests to revisit issues. Bringing new participants up to speed on the planning process and the substantive issues evidently takes time and effort. Although professional planners and others familiar with planning must be able to communicate effectively with non-planners, this task is complicated by frequent personnel changes.

Given the time period typically required to develop a northern land use plan, however, staff turnover is to be expected. Regardless of the drawbacks of staff turnover, these changes can also provide an opportunity to test the 'soundness' or effectiveness of completed work. If new staff in any of the authorizing Party organizations cannot 'connect the dots', this problem could also indicate that other participants, including members of the public, will likely have the same difficulty. The process should be designed to accommodate changes in participants and to produce results that are intelligible, both during and after plan development, to people who were not involved in all (or any) stages. Since an approved plan will be in place well into the future, people looking to it for direction in the coming years or decades will benefit from having a record of the thinking behind the plan.

In our opinion, staff turnover has made continuity and issue resolution more difficult, but it is not the root cause of these problems. Changes in personnel are inevitable and can, we suggest, be addressed by strengthening the procedural and substantive pillars. Furthermore, our interviews and review of documents provide evidence that understandings and expectations have changed in organizations regardless of whether staff turnover has been high or not.

We conclude that the keys to continuity and issue resolution are a common understanding of foundational issues and a process for progressively working through substantive issues that includes transparent and well documented decision making, maintains momentum and facilitates collaboration among participants in the planning process, and addresses capacity issues. These issues are covered in the following sections of this report.

6.3.2 Information and Decision Making

Our interviews and review of documents show that information collection has been a central focus of the planning process. In fact, interviewees often described participation in the planning process as relating primarily to information collection. The Issues and Priorities document, which is presented as an important building block in plan development, is the product of a broad ranging request for information. Another example of information collection is the Use and Occupancy Mapping which, as discussed above in section 5.2, has been a principal means to date of engaging Inuit and other residents at the community level in the planning process.

We also observe that information collection has been a source of concern, frustration and tension. Several interviewees from government indicated that they had difficulty responding to requests for information from NPC because they did not understand why the information was needed, how it would be used to make planning decisions, and how much information was enough. In our opinion, based on planning theory and professional practice, the principle that more information is better is not a good guide for planning processes. In land use planning where there is strong agreement about interests and values, data collection may be useful, but not essential, to reaching consensus. When there are conflicting values and interests in the same area of land, additional data may or may not be able to resolve the conflict. Even where data is needed, many planning processes have wasted time and resources on up-front data collection and analysis that has not materially contributed to the planning decisions that were ultimately made.

Another concern is that information provided to NPC about specific interests was incorporated into the DNLUP simply because it was available. While information is certainly needed to support decisions, it does not follow that if data is available then decisions must be made. We found it interesting that some interviewees expressed a concern that NPC had been too quick to accept available information and make decisions on that basis, without sufficient attention to working through the issues, considering implications, and balancing values and interests. It appears that information collection has not only been a driver of the planning process, but has also been a key criterion for determining the content of the plan. As noted earlier, the methodology in the 2011/2012 DNLUP makes a clear distinction between policies and objectives that were “data deficient” and “land use matters that are data ready” (p.13).

Concerns about information are not limited to those who have been asked to contribute it. The NPC also expressed frustration that it has not received the type, amount or quality of information that it needs, particularly on some important issues such as caribou. Information overload may also be a challenge for the NPC. NPC has a small planning staff and a review of the Issues and Priorities document gives a sense of the range of issues that were put on the table. This scope creates a risk of overwhelming the process. In sum, we observe that collecting large amounts of data has likely placed unanticipated demands on the NPC to manage information, created friction between Parties, and obscured the purpose and objectives of the DNLUP.

A particular concern is the dispute over access to raw data that has been at the heart of a longstanding conflict between NPC and GN. From what we heard and read, this issue has contributed to a strained relationship between those Parties. Our observation is that this dispute has been characterized by a hardening of positions over the need for a data sharing agreement rather than a meaningful interest-based dialogue that is grounded in specific decisions that are central to developing the DNLUP and the information that is needed to make and implement those decisions. If this interest-based dialogue has occurred, it is not evident from the documents we reviewed or the interviews we conducted. In

particular, it is unclear to us whether the raw data that is apparently the sticking point between the Parties is even needed for the types of decisions that can realistically be made in the first generation Nunavut-wide plan.

We suggest that this dispute may reflect, at least in part, a reversal of priority between information collection and decision making within the planning process. Rather than risking paralysis over access to raw data, it would seem more logical to us for the NPC, with input from the Parties, the public and other stakeholders, to propose a relatively specific set of priority issues, candidate goals and potential land use options and then work together with government and other organizations to identify, collect and analyse the information that is needed to support decisions on each of these topics. This approach may, indeed, be the outcome of engaging the public and stakeholders in the process. In any event, we suggest re-framing the discussion about information in a way that will allow the Parties to find workable options for providing the specific information needed to support plan development without wasting time and dissipating good will in a dispute about general access to raw data that, in the end, may not even be material to planning decisions.

Our overall assessment is that a fundamental misunderstanding about the role of data and other forms of information in planning has contributed to the problems described above, substantially weakening the procedural pillar. Information and decision making must, of course, go hand in hand throughout the planning process. However, our perspective on planning theory and professional practice is that information should play a subordinate role to decision making. Ultimately, information should be treated as means for supporting decisions, not an end in itself. It should be gathered to answer specific questions that help to advance the planning process, notably by contributing to a progressively clearer and more narrowly focused definition of values, issues, priorities, objectives and options for achieving those objectives. Viewing information in this way has several implications for the procedural pillar,

One implication of this approach to planning is that, as noted above, information collection and analysis is not a discrete stage in planning that is conducted early on and then concluded. Likewise, decisions are not simply made later on in the process when information, including data and analysis on issues and options, has been compiled. Decisions and the information and analysis needed to support them are woven into all stages of planning. Even the collection of baseline information at the outset is directed to specific questions related to issue identification and prioritization. At each stage, information collection and analysis should be tailored as carefully as possible to yield the 'need to know' determinants of decision making, not the 'nice to know' background. Throughout the planning process, decision making should drive the approach to information collection, not the other way around.

There may be instances, of course, where issues are identified but cannot be fully resolved because of a lack of information. The identification of these issues as priorities may become a driver for more focused information collection and analysis. In other cases, the key question is whether a decision can be made in the absence of desirable information. Some issues may be taken off the table because there is too much uncertainty to make even precautionary decisions, particularly if there is a significant risk of unintended consequences. In all of these scenarios, however, we suggest that planning should focus primarily on decision making, with information playing a supporting role.

This perspective underlines the close connections between the pillars that, together, support an approved land use plan. The procedural pillar is primarily the means for making the key decisions that are at the heart of the substantive pillar. In our opinion, the planning process in Nunavut has sometimes put the cart before the horse when looking at information collection and decision making. Our

recommendations should contribute to more focus and discipline in information collection and analysis, hopefully also reducing the uncertainty, frustration and conflict in this area.

6.3.3 The Importance of Documentation and Transparency

Concerns about documentation and transparency in the planning process were frequently raised in our interviews and are recurring themes in the documents that we reviewed. Before turning to our observations on these aspects of the Nunavut planning process, it is important to underline their centrality to the procedural pillar.

Defensible decision making in land use planning relies heavily on documenting process, outcomes, and rationale. One of the most serious concerns raised in interviews and correspondence is that the process of developing the DNLUP may not provide an adequate basis for defensible planning decisions. That process must be, and must be seen to be, inclusive, fair and transparent in order for the DNLUP to be defensible to the public and stakeholders and in the political forums where ultimate decisions on plan approval will be made. These procedural attributes are particularly important for justifying trade-off decisions that will inevitably leave some people (e.g., individuals, communities, stakeholders, governments) unhappy. Procedural deficiencies can prove fatal to a planning process, regardless of the good policy and technical work that may have been done on substantive issues.

Concerns with documentation and transparency are solidly grounded in the foundations of the Nunavut planning process. Section 11.2.1(d) of the NLCA states that the planning process shall promote public participation by various means, *“including ready access to all relevant materials.”* Goal 1F in the 11.4.1(a) document is that the planning process: *“encourages accountability of Government, Inuit organizations, and other public bodies with respect to land use planning.”* The corresponding policies are that the process:

provides products for comment at all steps in the planning process to encourage organizations to actively participate in a collaborative and transparent manner; and

ensures public access to all comments submitted.

This topic is also addressed in Policy 1I that planning: *“requires that records and documents relating to public participation and all other consultation shall be kept and made available.”*

The importance of documentation and transparency is also well recognized in planning theory and professional practice. For example, the *Professional Practice Manual* of the Canadian Institute of Planners states that *“Ensuring openness through a number of techniques and processes ... provides a sense of fair play and meaningful input.”*⁷ This manual also includes the following passages on the importance of decision records, continuity and issue tracking:

Maintaining a record of decisions made during a process is critical, as is conveying those decisions to those involved. Tracking issues is another key aspect of process clarity. By developing and maintaining an Issue Matrix in which all issues raised are tracked according to: issue addressed [green dot] (note: identify how and where); issue still being considered [yellow dot]; and issue not considered further [red dot] (note: identify why not further considered), the participants are able

⁷ Witty, D.R. (2002). Professional practice manual. Canadian Institute of Planners. p. 78.

to see how issues are addressed over the life of the process. Participants often as much as anything, want clarity in how their ideas or concerns have been addressed (p. 77-78).

Maintaining continuity of process provides clarity for those who have continued to participate and for those who are just now participating. At any information sharing stage or point in the process, it is important to continue to build upon the previous products and findings of the process. Participants need to see clearly how the process has moved forward and why certain decisions have been made. This does not mean that every piece of information that was developed needs to be shared again, but it does suggest that key pieces of information and key decision points need to be identified at each stage of the process so that participants see a 'rational' process that builds upon logical steps (p. 78).

Issue tracking. As discussed previously, issue tracking is an important means of maintaining order in processes that can generate a lot of information. But more importantly issue tracking gives participants a sense that they have been heard and how their ideas have been used or not. Issue tracking requires that the issue tracking process be clear and accountable (p. 90).

In addition to being the procedural underpinning of defensible decision making in land use planning (and elsewhere), documentation and transparency serve other key functions within the procedural pillar. For example, they are central to tracking progress and outcomes during the planning process. People measure progress by comparing actual outcomes with identified milestones. To maintain momentum, they also need to be shown evidence of accomplishments from time to time. Disagreements arise when outcomes cannot be readily validated against expectations and when progress is in doubt. If the Parties are to move forward together, they need to come to some agreement on where things currently stand, what has already been accomplished, and what they can expect will be coming up in the future. Frequent and effective progress reporting to participants in any process is necessary to build this agreement. It is also consistent with professional planning practice, good project management, and the intent of the NLCA that the process be inclusive and transparent.

Documentation and transparency are also important for effective planning. Participants need to have a complete and accessible record of the process. Key elements of that record for the Nunavut process would include the foundation documents, important correspondence between the Parties on substantive and procedural issues, the requests for information and comments from NPC, and the responses submitted by the Parties and other participants in the process. Complete and accessible documentation is essential to enable all participants in planning to follow and engage in a multi-party discussion about numerous complex issues that extends over several years. In order to participate effectively, it is essential to know what other participants are putting on the table and to have an opportunity to respond in an open forum. This openness cannot be achieved if important parts of the process are conducted through informal communication and undocumented multi-party or bilateral meetings.

Documentation of decisions and their rationale also provides essential support to the progressive identification and prioritization of issues, setting of objectives, and consideration of options for achieving those objectives that are central to the substantive pillar. Without a clear record of decision making, the process lacks the solid footholds that are essential to making progress. The resulting risks are that participants will be caught in an endless loop of revisiting of fundamental issues or will become lost in the details without having a common understanding of the major objectives and parameters for the process.

Finally, documentation and transparency have a very practical role in ensuring continuity, particularly where staff turnover is high and corporate memory is sometimes short. This function is particularly important in Nunavut and other northern planning processes, for reasons noted above in section 6.3.1.

6.3.4 Adequacy of Documentation

We reviewed a considerable volume of documents submitted by NPC, GoC and GN for this independent review. We found it revealing that each of these Parties undertook considerable effort to compile material and that it was selected and organized primarily to support their positions on the progress, or lack of progress, from their vantage points. The result was an extensive collection of correspondence, yet documents that stand out as milestones in the development of the DNLUP were difficult to identify or find.

When reviewing the material and discussing the planning process with interviewees, it frequently seemed to us that what was missing from the documentary record was more significant than what was included. For example, there is a striking lack of documentation of some public and stakeholder participation. This problem is particularly evident for feedback received in response to requests for information from Inuit. The DNLUP lists several ways that NPC has contacted Inuit and their organizations for input, but neither the plan nor the other documents that we reviewed provided a summary of the information, comments or suggestions, if any, that were received by NPC and how this material was incorporated into planning decisions.

We also note deficiencies in cover letters and similar documents that accompany material distributed among the Parties. Clear and specific letters of transmittal are essential to contextualize documents and identify what actions are being requested. A brief e-mail is generally not sufficient. The Parties have experienced difficulties because of a lack of clarity in this respect. Furthermore, it is essential to properly contextualize important documents using cover letters, lists of frequently asked questions, briefing notes and other supporting material so that these documents can be distributed within large organizations and remain meaningful to readers who have different backgrounds and levels of familiarity with the planning process in Nunavut.

We would also have expected to see more documentation of the results of meetings and workshops where issues, options and trade-offs were discussed. A number of interviewees commented on the poor quality of notes on technical workshop proceedings. Given the time, effort and cost associated with participation in these events, we would expect to see summaries of the discussion that identify the views of participants on the important issues and options that were discussed and enumerate action items. We would also expect to see systematic and comprehensive follow-up correspondence from NPC explaining how input from workshop participants was incorporated into the planning process and what additional steps were planned to address outstanding issues. While some of this follow-up may have been included in correspondence, we did not see minutes or follow-up documents of this type. The material that we reviewed is, in our opinion, inadequate. Workshop reports that are little more than flip chart notes are not sufficient.

A similar approach should be taken for meetings, whether bilateral or multi-party. According to one experienced northern planner who we interviewed, detailed notes should be kept on all meetings, except for informal communication such as brief updates and information requests. Furthermore, all comments at meetings should be considered to be 'on the record' and meeting notes should be available through the public registry to all participants, the public and stakeholders. This approach to

documentation can be seen on the website for the Sahtu Land Use Planning Board. We did not see similar meeting records from the Nunavut process. If they do exist, they do not appear to be well organized and readily accessible in an efficient way.

We would also expect to see better documentation of key decision points in the planning process. One concern raised by several interviewees is that they submitted information and suggestions to NPC but received little or no indication of how that input was considered, whether or not it was incorporated into planning decisions, and what follow-up, if any, was required. Interviewees from NPC said that they did respond consistently to feedback and that their requests for information and meetings with the Parties were often met with little or no response. We offer no specific insights into these different versions of events, except to note that the documentary record of decision making appears to be weak. We did not find the status updates and decision documents that would, in our opinion, have helped to move these issues forward. The absence of well documented and transparent decision making that progressively clarifies and refines the planning process has also, in our opinion, contributed to a loss of corporate memory.

Another area of weakness is the periodic reporting on the planning process as a whole. Activity reporting by NPC has been provided in several different formats: some explicitly identified as progress reports and a number of other 'one-of' documents including letters, emails, tables, charts or summaries. Examples of NPC reporting include:

- A document named "11.4.1a Implementation Record" that is organized by Policy Goals, with the eight step process embedded in Objective B of Goal 1, has been produced intermittently, but we do not know who this report was made available to or how it was distributed.
- NPC Annual Activity Reports (2007 to 2011) are provided as three to four page letters to INAC (now AANDC) Implementation Management Directorate in Ottawa as required by the NLCA (11.4.4(m)). These reports list activities and dates, with no reference to the eight step process and without providing information on results achieved or compliance with the planning schedule.

Each Party is presumably responsible for providing its own internal progress reports. Although these reports were not included in the documents that we reviewed, it is clear from interviews that approaches to internal reporting have varied over the years. Taken as a whole, the periodic reporting on the Nunavut planning process is not at the level that we would have expected. This deficiency, in our opinion, has likely contributed to uncertainty about where the Parties are in the process and frustration about the state of progress.

Finally, we observe that written material is often deficient in terms of consistent naming of documents, including dates on documents and protocols for tracking successive versions. Attention to these housekeeping items is fundamental to establishing the well organized and accessible documentary record that is needed to support a complex and multi-faceted planning process.

6.3.5 Transparency and the Need for an Effective Public Registry

Good documentation is, of course, only effective in contributing to the substantive pillar if it is readily accessible to participants in the planning process. The need for a public registry was raised repeatedly in interviews and has been a recurring concern in the documents that we reviewed. For example, GoC comments on the July 2011 DNLUP included:

- *The results of previous engagement and consultation with the public, government, municipalities and industry, as well as how these consultations have informed the development of the draft plan, have not been made available.*
- *A public registry or some form of depository that provides ready access to all relevant materials to ensure active and informed participation of government and Inuit has not been established.*

Our observations on this point are succinct. We agree that a public registry that meets the reasonable expectations of the Parties and other participants in the planning process is essential. Setting the appropriate standard for this registry is not complicated, because precedents such as the Sahtu Land Use Planning Board's Public Registry are well established in northern planning and many interviewees who commented on this issue said that this model is appropriate.

We also observe that this type of registry has not been established by NPC for the Nunavut planning process, despite repeated requests from the other Parties. Many interviewees commented that discussions among the Parties had been adversely affected by the lack of a comprehensive registry. While we understand that NPC has made some progress in this area over the past year, material currently available on the NPC website does not meet the standard that we would expect based on registries for other northern planning processes. We acknowledge that there may be issues related to translation and other logistics, but the NPC in consultation with the Parties needs to find a workable and affordable solution that enables material to be readily accessible through a common web-based registry. Furthermore, we observe that the selective transparency of the NPC "public registry" is providing more information about meeting dates and the Parties' positions than about their interests and the discussion of values, issues, priorities and objectives that need to be shared as part of an open and transparent decision making process.

In conclusion, we note that comments from several interviewees indicated that one of the positive outcomes of this independent review is that they have taken the time to compile and organize information relating to the planning process. This effort provides a good starting point for improving documentation and transparency in the process going forward. We offer specific recommendations below in Section 8 for strengthening this important part of the procedural pillar.

6.3.6 Timing

The time frame for completing a plan is an important part of the procedural pillar. We asked interviewees about their sense of urgency to complete a land use plan for Nunavut. A few interviewees said that the possibility of significant mineral development in parts of Nunavut over the coming years made it essential to have a plan in place before land use patterns are set through project-by-project decision making. Other interviewees pointed to decisions by NIRB that would have benefitted from a planning context. Several interviewees said that there is growing impatience within GoC about the ongoing expenditure on planning in Nunavut that has yet to produce a territory-wide plan. The vast majority of interviewees who addressed this issue, however, said that a plan should be in place as soon as possible as long as it is a 'good' plan.

One interpretation of this perspective is that Parties still want to take time to do a good job, rather than rushing to complete the process because of the considerable time and money already spent on planning in Nunavut. In fact, some interviewees expressed concern that NPC's time lines for the final stages of planning may be too aggressive. Our interviews with NPC suggest a desire to bring closure on the first

generation Nunavut-wide plan, recognizing that some issues will inevitably be left to subsequent revisions and perhaps regional planning initiatives. NPC expressed frustration with what it sees as a lack of cooperation from some other Parties to move the process forward. We also heard suggestions that some participants in the process may not be enthusiastic about seeing the plan completed.

Our principal observation on this topic is a cautionary note about the risks of further delays in the process. We agree that it would be unwise to rush completion of a draft plan that will not be approved, may create serious unintended consequences, or could end up discrediting the planning process. However, the perspective that the process should run as long as it takes to develop a 'good' plan is potentially problematic because, as noted in our discussion of the substantive pillar, the Parties do not have a common understanding of 'good' in this context. In our opinion, the combination of unclear and sometimes unrealistic expectations is a recipe for a protracted and frustrating planning process.

Delay also has significant risks. Maintaining momentum is important and challenging for any long range planning process. Without evidence of reasonably steady progress, participants lose interest and drive, which can only exacerbate the problems related to staffing turnover and the perception that the process is not yielding value for money spent. Stretching a single planning cycle over too many years also increases the likelihood that initial issue identification, baseline data and other key elements of building the plan will become outdated. While planning must ultimately extend over many cycles of plan development, implementation, monitoring and revision, each cycle is inevitably something of a snapshot and it must be completed quickly enough that key assumptions remain valid. Otherwise, there may be pressure to keep looping back to the beginning.

We also note that a time frame can be helpful in aligning expectations. Rather than suggesting that the process should run until a 'good' plan emerges, it might be more helpful to have a reasonable time frame in mind and then determine what will be 'good enough' as a function of how priorities are set and what can realistically be accomplished within the allotted time frame.

We recognize that NPC has proposed time lines in the past. Deadlines have been missed for various reasons. In fact, this independent review has delayed the proposed public release of the DNLUP. We are not able to suggest a target date for completing the plan, in part because of uncertainty about the nature and implications of the significant public and stakeholder participation that is still needed. However, our recommendations are based on the assumption that timing is of the essence for completion of the first generation plan.

6.3.7 Working Together

Building the procedural pillar requires attention to establishing productive and mutually respectful working relationships among the participants in planning. These relationships are particularly important in a context like Nunavut where interdependencies among the Parties are unavoidable and the number of individuals directly involved in the planning process at any given time is relatively small.

The web of interdependencies is particularly striking. NPC has clear authority to develop the plan, but cannot realistically do so in a satisfactory manner without information, analysis and policy advice from the Parties. The need for the plan to complete the integrated regulatory system and provide direction on land use conflicts is recognized by government, NTI, institutions of public government and others, but they are all dependent on NPC to write the plan and direct the planning process. NPC operates at arm's length from government and this autonomy is rooted in law through the NLCA and is strongly defended by NTI and NPC itself, but NPC's budget is ultimately in the hands of GoC. The GoC, GN and NTI, once

NUPPAA is passed, all have vetoes over plan approval. Each of these Parties could ultimately block approval if it is unhappy with the plan's content or the planning process, or if it decides to exercise its veto as a means of promoting another objective. In the event of a firm veto, the NLCA provides no mechanism to break the impasse. If all Parties are not on the same page at the end of the process, there will be no plan.

Throughout our interviews we heard many comments and concerns about the difficult relationships among the Parties. These strains are also clearly evident in many of the documents that we reviewed. We are also aware of the broader context of NLCA implementation in Nunavut, which has been challenging for everyone involved.⁸ It is possible that unresolved issues and an erosion of trust and mutual respect on other files may spill into the planning context.

The interviews that we conducted showed clearly that all Parties are unsatisfied with their current working relationships. While we heard plenty of finger pointing, we also heard representatives of each Party acknowledge that their own organizations bear some responsibility for the deterioration that has occurred in recent years. The experience to date has clearly demonstrated how poor relationships at the organizational level inhibit progress towards a common goal. Interpersonal issues may also be impeding planning and affecting the ability of organizations to work together. A loss of trust, confidence and respect has resulted in participants becoming more focussed on defending positions instead of working together to identify and accommodate their respective interests. It will be difficult to make good progress on a plan which is intended to reflect a broad range of interests without the Parties establishing an adequate level of trust in the future.

Continuous reference to the NLCA and the 11.4.4(a) document when there are disagreements about roles, responsibilities, and mandates has not helped to resolve these problems, since these foundation documents do not provide the kind of detail needed to guide working relationships. There is no alternative, in our opinion, to a concerted effort by all Parties to repair working relationships within the procedural pillar. Achieving this result will require attention to root causes, incremental yet tangible progress, a willingness to step back from entrenched positions and rethink familiar narratives about planning in Nunavut, greater attention to professional standards of inter-organizational and interpersonal conduct, more effort to understand the challenges and constraints affecting other Parties, and a genuine commitment to working together in good faith to achieve a common objective. The following observations and our recommendations in the final sections of this report are intended to add substance to these general comments.

Our starting point is to underline the fundamentals of negotiation theory that we alluded to above. The Parties need to consciously shift the focus of their dialogue from positions to interests. Communication as a series of challenges and rebuttals is not an effective way of making interests known or identifying options for mutual accommodation. Based on our interviews and review of documents, we believe that the Parties do share common interests on many key points. Where their interests differ, or appear to differ, we remind the Parties of the common sense principle of interpersonal (and inter-organizational) effectiveness that was popularized by Stephen Covey in his well-known book: "Seek first to understand, then to be understood."⁹ In areas such as the alignment of expectations and capacity, communication

⁸ See, for example: PricewaterhouseCoopers, *Second Independent Five Year Review of Implementation of the Nunavut Land Claims Agreement, Final Report* (May 11, 2006).

⁹ Stephen R. Covey, *The 7 Habits of Highly Effective People* (New York: Free Press, 1989), p. 234.

styles and the setting of time lines, we believe that the Parties have made insufficient efforts to understand and respect each other's perspectives.

Our second observation, building on our earlier comments on documentation and transparency, is that the Parties need to make the effort to establish a more formal communication style. We recognize that Nunavut is a territory of small communities and that many aspects of government and business may be conducted on a more informal basis than in other parts of Canada. Many issues may be resolved simply by people who know each other getting together for a frank discussion, without the bureaucracy and formality typical of organizations in other places. Nonetheless, for a complex planning process covering a vast area that involves NPC, many departments and agencies in GoC and GN, NTI, numerous other stakeholder organizations and the public, a measure of formality in communication and decision making is essential.

An informal and ad hoc style of consultation and decision making, without adequate documentation of decisions and the reasons for them, makes the process vulnerable to miscommunication, misunderstandings, and interpersonal problems. Bilateral telephone conversations between NPC staff and individuals from the other Parties will not be sufficient to resolve challenging procedural and substantive issues and can actually lead to less transparency and more confusion, particularly in a climate of mistrust. Formality may look like more work in the short term, but it will avoid major problems down the road. In our opinion, the Parties should establish a structured process for identifying and resolving important issues. We offer a specific recommendation on this topic below in Section 8.

Our third observation is that the forums used to date for discussing policy and technical issues do not seem to be working well. In particular, we heard concerns from all Parties about various aspects of the workshops: organization, advance notice, timing, agendas, background material, facilitation, participation, documentation of proceedings and decisions, and follow-up. As with other aspects of the relations among the Parties, we heard very different interpretations of the same events; nonetheless, it appears likely that there is room for improvement all around.

We believe that the Parties would benefit from specialist assistance in the mechanics of workshop and meeting organization, facilitation, documentation and follow-up. These matters are too important to be left to chance. We have not examined the workload and skill sets of NPC's planning and administrative staff, but we infer that they may have capacity challenges based on our examination of background material, agendas and written proceedings from planning workshops. Furthermore, having a neutral and specialist intermediary to handle the organization and mechanics of these events could be very helpful given the current climate of mistrust. We are not convinced that NPC has the capacity and credibility with the other Parties to play this role at this point of time.

Our fourth observation concerns information exchange. Determining the appropriate level of detail for information was identified as a recurring challenge by several interviewees. In many instances, government feels that the information provided by NPC is too general, whether on big picture issues or on the detailed procedural roadmap. NPC also feels that it is not receiving the specific information that it needs from the other Parties. In other instances, it appears that too much detail is provided (e.g., when a Party asks a specific question and receives a lot of sometimes unrelated information in response). This issue is further complicated because information often needs to be presented at multiple levels of detail to meet the needs of different audiences.

Improving this aspect of communication is not easy. Governments are large bodies to work with. There are many different voices being 'consolidated' to provide one response. And yet, the type of expertise is not the same for all of the questions that need to be explored. Coordinators from all Parties have an important role to play in working together to support the planning process and providing a bridge to the rest of their organizations. The Parties need to clarify the issues to be addressed and identify the right people to do so. Line staff requires assistance to work at the right level of generality and specificity.

It may also be helpful to establish separate mechanisms for dealing with matters at different levels of detail. Subject matter specialists have important knowledge of technical issues, but they may not be able to see the big picture. We talked to a number of big picture thinkers through our interviews who would be excellent people to have in a room to hash out the broader questions relating to core interests, issue prioritization, objectives and planning options. They could also provide greater clarity on foundational issues such as the distinction between Nunavut-wide and regional planning and how the two should fit together within the planning process as a whole. These individuals could then go back to their organizations and test their findings.

Our fifth observation is that the process for soliciting and submitting comments on draft plans (and their components) could be improved. Several interviewees commented on the difficulty of tackling issues in the context of a single review of a complete draft plan. As illustrated by the comments, reviewing a draft plan often leads to a 'soup to nuts' approach that ranges from broad issues of principle to editorial minutia. Separating out these questions would be more effective and efficient. In particular, it appears to us that issue scoping has not been particularly effective in the planning process.

The challenge of focusing comments at the appropriate level to move the process forward efficiently is also illustrated by confusion about the first draft plan in 2010. Despite the immediate reaction that the draft provided was incomplete, GoC and GN took months to review it and provide extensive comments. In hindsight their response could have simply been that the plan was incomplete and did not warrant an extensive review yet.

Some interviewees also commented on the difficulty of drilling into complex issues within the time frame that has been provided for reviewing draft plans. The GN and GoC could consider options for a more flexible approach to the coordinated 'one voice response' approach to working with NPC. Coordinators could help to identify the right people to do different things and then provide support to keep the discussion on track, in addition to sieving the information. Issue 'think tanks' or focus groups could be a better approach than conducting discussions at a general level. The number of these issues, however, needs to be limited to keep the workload manageable, particularly for the small planning staff at NPC that is the hub of the planning wheel. These options all focus on the mechanics of building the substantive pillar.

Communication style could also be improved when commenting on drafts. The GoC, GN, and NTI could begin by re-framing the comments they have provided as a critique to NPC, 'turning around' the many comments they have already made about what is *not* acceptable to state what will be acceptable. This exercise could help them to differentiate between the two approaches, contributing to a more constructive working relationship.

Our sixth observation concerns input from other institutions of public government, notably NIRB and NWB, in the planning process. Although interviewees were not entirely consistent on this point, our sense from most interviews and from the documents that we reviewed is that these two bodies have

not had the level of input that we would expect. Their experience with issues directly relevant to planning, the potential implications of a land use plan for their roles, and the specific references in the NLCA to their connection with planning all suggest that they should be active participants. We address this issue in our recommendations for next steps below in section 8.

Finally, our seventh observation is that interviewees from all Parties mentioned interactions that, in their view, have fallen short of the standard of acceptable professional conduct. Reference was made to issues of communications style and personality conflicts. We did not delve into these comments and our mandate certainly does not extend to an examination of personal work styles, professional backgrounds or personalities. Our only comment on this topic is that senior leadership in each of the Parties should provide oversight and assume ultimate responsibility for ensuring that their staff can conduct themselves with appropriate professionalism. Participants in the process will need to break out of the narratives that they have been involved in constructing that have contributed to the current breakdown of normal professional relationships.

The idea of 'working together' raises numerous intangible factors in addition to questions of process, structure and respectful professional conduct. We acknowledge that it may be unrealistic to expect that the poor working relationships can be mended quickly, or perhaps fully. Several interviewees stated that while they believed the planning process could be put on track and substantive issues were manageable, they were unsure how the rupture in professional working relationships and trust could be repaired.

In our opinion, a significant 're-set' in the Parties' relations is long overdue. To be clear, we are not suggesting new roles that would lead to a joint planning exercise or the erosion of NPC's mandate. We do believe, however, that a degree of professional interaction consistent with the reality of interdependences outlined at the start of this section is essential. This shift will require flexibility and a willingness to reconsider positions that have become entrenched and self-fulfilling narratives of conflict that now appear to guide the Parties' interactions. We offer specific recommendations about changing the planning dynamic later in this report.

We have two concluding comments on this topic. First, our interviews showed clearly that the knowledge and commitment of people within all of the Parties and their willingness to contribute to the Nunavut land use plan are not being harnessed to their full potential. Efforts by all Parties to improve working relationships could produce significant benefits, even in the short term.

Second, the relationships among the Parties will not end with the completion of the first Nunavut land use plan. In fact, these relationships and others with organizations such as NIRB and NWB will become more formalized once the plan is in place and other regulators and decision makers rely on NPC to forward project proposals to them from the single window to the regulatory process. Furthermore, planning must be an ongoing process to remain relevant. Improving relationships is important for more reasons than just to complete the first Nunavut-wide land use plan.

6.3.8 Capacity and Resources

Capacity and resource allocation may, in our opinion, be at the root of some of the major challenges facing planning in Nunavut. This is also a topic where there the procedural and substantive pillars are closely connected.

Concerns with capacity were raised in many interviews, often in terms of global budgets, requests for additional funding for specific elements of the planning process, and the allocation of time, money and

personnel within organizations. Personnel in GoC and GN face significant capacity challenges, not simply in allocating time to planning in Nunavut among the other files on their desks but also in generating timely responses to planning issues within large and complex organizations. NPC needs to be sensitive to these constraints. However, we believe that the key challenge is the capacity imbalance between NPC and the combined forces of the two governments that places a huge burden on a few people to respond to concerns of many. Building the procedural pillar requires attention to this issue.

Our review has not included an examination of funding envelopes, budgets, specific staffing levels and allocation, project priorities, or the skill sets of individuals within NPC or the other Parties. Funding levels were discussed in some interviews, including comments on the quality of NPC's funding requests, the amounts requested, and the likelihood of securing additional resources if a strong business case could be made for more money. We are not in a position to assess these comments, other than to note that there seems to be a fairly broad consensus that significant new funding is unlikely to be forthcoming for planning in Nunavut, at least until it demonstrates more success. To be clear from the outset, we are not suggesting that simply throwing more money at the problems will fix what is wrong with the planning process in Nunavut.

In our opinion, regardless of how funding and resource allocation discussions play out, there is value in re-framing this issue to explicitly consider priorities and expectations. The scope of planning that can be effectively completed needs to take capacity limitations into consideration. This evaluation needs to recognize the different kinds of capacity problems; simply reducing the scope of issues to those that can be managed by current NPC staff is probably not the right, or complete, answer. Nonetheless, there is a strong argument that capacity issues have been significantly aggravated, if not created, by a serious misalignment between expectations and the realities of planning in Nunavut and by the collective failure of the Parties to set clear and explicit priorities and accept the corollary that other issues must be put aside, at least for now.

For example, we suspect that inadequate capacity – by which we mean the number of people and their skill sets – may have at least contributed to a perception of lack of continuity in the process. Some interviewees criticized NPC for withdrawing issues from earlier drafts of the plan when they encountered comments that were intended as constructive criticism. However, this type of triage may be explained, and justified, by NPC's need to allocate scarce resources. It would be literally impossible for a few planners and policy generalists in a planning agency to deal simultaneously with detailed discussions to resolve a large number of often complex and contentious issues with subject matter specialists in different departments.

Another area where capacity may be an issue is the documentary record discussed above. As we noted, a key element of the procedural pillar that needs strengthening is transparency of decision making and the documentation of key aspects of the process, including decision points, information collection and analysis, and the exchange of comments and responses among the Parties in meetings, workshops and other forums. However, proper documentation requires resources – people with the time and skills to do these tasks properly. These important tasks may fall through the cracks in a small organization where existing capacity is stretched thin.

Similarly, we heard comments that important planning issues, both procedural and substantive, have not received sufficient thought. On the other hand, NPC is concerned about what it sees as requests to produce discussion papers and procedural guidelines on a broad range of topics. We agree that process design and planning decisions should be based on solid analysis, but are also struck by the magnitude of

the tasks being undertaken by what we understand to be a core staff of only a few people at NPC. It is not evident to us that NPC has the capacity to undertake this type of analysis along with everything else that it needs to do to keep the planning process moving.

From what we have seen, the capacity challenge is not simply the result of other Parties piling unrealistic expectations on NPC. We have come to the conclusion that NPC has also contributed this problem. Two examples illustrate the problem.

An example of external expectations is the GN commentary on the 2010 drafts of the DNLUP. In our opinion, the 53-page document entitled “Government of Nunavut Submission Draft Nunavut Land Use Plan Review Report” (February 11, 2011), based in part on the use of the 11.4.4(a) document as a checklist of mandatory items to be covered in the plan, sets out an ambitious set of expectations and suggestions. The magnitude and complexity of what GN appears to be asking for is well beyond what government could reasonably be expected to achieve, let alone a small planning group in NPC. This comment should not be interpreted as suggesting that the content of the GN review is not valuable. However, it is hard to see how setting the bar for NPC at this level contributes to productive working relationships and moving the process forward.

On the other hand, NPC has also created problems for itself by not conducting appropriate scoping to focus information collection and narrow the range of issues. As noted above, the NPC’s “DNLUP Issues and Priorities Compilation” produced by canvassing subject matter specialists across government with an apparently open-ended request, seems to us to have produced an unmanageable set of substantive issues. Dealing in a satisfactory way with even a small subset of the issues identified in this document, each which has its own policy and sometimes legal complexities, would rapidly strain the capacity of NPC’s planning team. Furthermore, as discussed elsewhere in this report, there are significant risks if a planning team finds itself unable to build a solid procedural pillar as it struggles to manage too large a set of substantive issues.

Aligning expectations and capacity also requires responsiveness to the distinctive capacity challenges confronting each of the Parties. The combined capacity of the Parties involved in developing the Nunavut Land Use Plan is considerable, but the relative capacity among them is very unbalanced. Where NPC and NTI have comparatively fewer resources in terms of staff and funding, the capacity limitations of the GoC and GN relate to the rate at which they are able to react and respond. As a smaller organization, NPC can produce documents requesting information, or submissions for review fairly quickly, and can also make any changes quite quickly if needed. Governments tend to be slower to respond to information requests or to review submissions, as many people need to be involved and different interests coordinated. Sufficient advance notice and response time is essential. Government expectations, however, tend to be quite high and their responses thorough. In our opinion, each Party needs to be more sensitive to these differences and how they affect the others.

Two general responses are possible to a capacity crunch: increase capacity or reduce workload. We recommend that the Parties consider action in both areas. NPC’s planning team is, in our opinion, disproportionately small given the challenges of planning in Nunavut. It would benefit, we believe, from new ideas as well as new capacity. Reallocating existing resources within NPC and attracting new resources for targeted purposes are options. We also note that capacity could be enhanced by reallocating existing staff, new hires, retaining external expertise on a project-by-project basis, or drawing on in kind support from other Parties. We offer some suggestions on options for specific tasks,

but the information available through our review is insufficient for us to recommend a comprehensive solution.

There also needs to be a collective realignment of expectations to fit with the realities of limited time and resources. We have the clear impression from some interviews and documents that there are individuals in the other Parties who have visions of a Cadillac plan and are looking to NPC to provide solutions to some very difficult problems that governments themselves have been unable to resolve, without thinking closely about what can realistically be expected from a planning team consisting of a handful of people at most. As one interviewee commented, unless other Parties are willing to make significant contributions to plan development and share the political heat on contentious issues, NPC finds itself in a very lonely position. Government must either step forward with more solutions or accept a more modest vision for the plan.

6.4 Concluding Observations on the Procedural Pillar

Our assessment of this pillar points to significant weaknesses in the following areas:

1. The eight steps have not been adequately refined and explained to provide an effective and well accepted procedural roadmap for the Parties.
2. Difficulties relating to continuity and issue resolution have been evident throughout the process and have contributed to a range of other problems for the Parties.
3. Information exchange rather than decision making has too often been a driver of the planning process.
4. Documentation and transparency have both been inadequate. We offer specific observations on opportunities for improvement in these areas, including the establishment of an effective public registry.
5. The Parties have not developed common expectations on the time frame for the planning process and its implications for expectations of what can and should be accomplished.
6. The working relationships among the Parties are clearly not satisfactory and we offer several observations on how they might be improved.
7. Capacity and resources need to be realistically assessed and expectations adjusted accordingly.

Land use planning can never be a simple set of steps that unfold in a linear and entirely predictable manner, but a well designed and clearly communicated structure for planning is essential so that Parties understand where they are in the process and how they can make progress. Our recommendations below in Section 8 are intended to assist the NPC and the other Parties in defining the planning process with more precision and navigating through it. Strengthening important elements of the procedural pillar is essential. We also suggest that expectations for the plan need to be adjusted to reflect a reasonable time frame and a realistic assessment of resources and capacity. To quote a familiar adage, the Parties should resist allowing the perfect to become the enemy of the good.

7 Observations on the Draft Nunavut Land Use Plan

The objectives for this independent review, summarized above in section 2.1, include an assessment of the DNLUP. Some important issues relating to the plan's content were discussed in our observations on the substantive pillar. This section presents our specific observations on the content of the DNLUP.

We examined four versions of the DNLUP that were included in the documents provided by NPC. These included Drafts dated June 2010, December 2010, July 2011, and one identified as 2011/2012 that was issued in March, 2012. Some of our observations are broadly applicable across more than one version. However, we decided to focus this part of our review particularly on the 2011/2012 DNLUP (referred to in this section as the DNLUP). This version represented NPC's current thinking on important planning issues and on the appropriate basis for further engagement of the public, stakeholders and the Parties. It also captured the changes to earlier versions that NPC had made to reflect comments from the Parties and others. Since the primary purpose of our review is to assist the Parties in finding a path forward, it made sense to us to review the most recent version of the DNLUP. The July 2011 version of the DNLUP was also important to our review and will be referred to in relation to some of our observations..

Since questions about the decision to focus on the 2011/2012 version were raised during the Parties' review of our draft report, we note that the terms of reference for our independent review directed us to "analyze the contents of and provide options and recommendations for improving the DNLUP, if any" but did not specify a particular version. We also note that the 2011/2012 version of the DNLUP was posted to the secure web site established for this independent review. While one of the Parties expressed surprise that NPC had revised the July 2011 version, NPC stated that it made sense for it to continue work on the plan during the time period when the Parties negotiated the terms of reference for our review and during the time it took for us to complete this work. NPC stated that the decision to produce a revised draft was directed by the NPC Commissioners. In any event, it is our opinion that the interests of the Parties are best served by a report from us that includes a careful analysis of the most recent version of the draft plan, recognizing that the GoC, GN and NTI did not provide comments on this particular version in either written form or through their interviews with us. Finally, we note that many of the comments and concerns regarding the July 2011 version of the DNLUP remain relevant to our discussion of the 2011/2012 version

The observations that follow reflect our professional judgment on matters that we consider appropriate for an independent review. The criteria that we applied include:

- the rationale supporting the DNLUP's provisions;
- the ease of interpretation and implementation of these provisions; and
- the appropriateness of the document as a basis for engaging the public, stakeholders and the Parties in the next stages of the planning process.

These criteria led us to pay particular attention to the structure of the DNLUP and the transparency and logic of the decision making underlying its provisions.

We emphasize again that we do not see an independent review as an appropriate vehicle for making recommendations in the form of value judgements on the choice of which land use issues to address in the plan, the prioritization of these issues, the goals or objectives (if any) relating to these issues, and the policy and management tools selected to achieve those goals or objectives. These decisions must be made by NPC and the final decision makers on plan approval, based on the input that they receive and

their own analysis of issues and options. Our approach to reviewing the plan means that our observations on provisions relating to caribou calving grounds, for example, focus on the criteria noted above but do not comment on whether caribou is the appropriate species to address or offer an opinion on the best policy option to ensure sustainability of this species or balance impacts on it against other land uses.

The standard that we used when applying our criteria is the reasonableness of the DNLUP's provisions and the underlying planning decisions. This standard is not one of perfection; reasonable people may disagree on the best approach to a given issue. Furthermore, people's judgements may change based on additional information, analysis and suggestions from others. We believe that the appropriate standard for our review is whether the approach proposed by NPC in the DNLUP is a reasonable basis for moving forward with the planning process. Where we identify deficiencies, we endeavour to suggest options or a path forward. Our specific recommendations for next steps in section 8 of this report consolidate and build on suggestions outlined below and in previous sections of our report.

It is important to understand that we see the current version of the DNLUP as one step in a process that will, we anticipate, include significant public and stakeholder participation and further engagement by the Parties before a final draft plan is prepared by the NPC and submitted for approval. It is impossible to predict what changes to the current draft may be proposed as a result of further participation in the planning process. However, our perspective is that the planning process is moving towards meaningful participation that will include input on fundamental planning decisions. Consequently, the most recent DNLUP and the supporting documents should not, in our view, be viewed as necessarily close-to-final versions that have already been tested through a full round of review by the public, stakeholders and the Parties. This perspective is based on our assessment of weaknesses in the three pillars and is reflected in our recommendations for next steps.

Our review of the DNLUP is necessarily selective. There are obviously many components of this draft and many underlying decisions that reflect the foundation documents, available information, input from the Parties and others, and decisions by NPC throughout the planning process. The objectives and time constraints for our review mean that it was neither necessary nor possible to attempt a comprehensive review of all aspects of the plan or a detailed audit of decision making in the planning process.

We have therefore focused on issues that, in our view, provide useful insights into important planning decisions and elements of the plan and that have significant implications for the path forward for planning in Nunavut. Our identification of the issues to focus on is based on our professional judgement as informed by relevant planning practice and theory, our consideration of issues raised in the documents that we examined and by interviewees, and our analysis of the structure and content of the DNLUP.

In particular, we are not providing a line-by-line commentary on the DNLUP. To do so, in our view, would not be useful at this stage. In fact, it would fall into the trap of combining comments that range from fundamental issues of principle to specific technical details and editorial minutia in a single review cycle. This problem, as noted above, is evident in some of the comments submitted on earlier versions of the plan. Good planning practice, as outlined in our discussion of the three pillars, involves dealing first with the big picture and then engaging in fine tuning once the major issues are settled. We have endeavoured to apply this approach in reviewing the DNLUP. In some instances, however, we have selected specific aspects of the plan for attention as a way of gaining insights on broader issues.

7.1 The Design of the DNLUP

The DNLUP is designed differently than recent approved and draft regional plans in the NWT and Yukon. The plan itself is succinct, providing bare bones information and explanation in the introductory chapter, the body of the plan that covers land use designations and recommendations, and the final chapter on implementation. The DNLUP also relies on the maps and summary tables to communicate important information to its intended audiences, which include Inuit and other residents who may prefer a visual presentation to a lengthy written document. We interpret this approach as a conscious effort to restrict the plan to 'need to know' information, a response to capacity challenges by limiting the amount of material that needs to be assembled and verified for inclusion in the plan, and a recognition of logistical and practical challenges associated with translation and engaging the public in Nunavut through a long and complex document.

One implication of this design is that some information that is essential for understanding the DNLUP must be included in supporting material. The Options and Recommendations documents that accompanied both the July 2011 and the 2011/2012 versions of the DNLUP are therefore key components of the package that must be read together with the DNLUP. We reviewed these documents and an Information Note from NPC dated January 2012 that summarises the principal land use designations and recommendations in the plan. However, we have not seen the whole package that we expect will be developed to support the release of a DNLUP suitable for public and stakeholder participation. Clearly, that package should contribute significantly to providing any necessary background information, explaining the plan and the planning process, and framing of the issues and options for input.

Provided that this type of information is clearly presented in the package, we find the design of the DNLUP to be reasonable and consistent with good planning practice. There is no single acceptable template for land use plans in general, or landscape-scale plans in particular. A northern land use plan, particularly a first generation plan for an area the size of Nunavut, need not be a massive and densely written document. There is no need to follow the precedent of other regional plans that are sometimes several hundred pages long. The DNLUP as currently structured can provide the key information on what the plan does and how it should be used, while including more detailed background information and explanation in supporting material such as the Options and Recommendations document, information notes and issue summaries for public and stakeholder participation.

In our opinion, however, there are some areas that the DNLUP could be enhanced in order to make it more understandable and easier to apply. In particular, a roadmap to supporting documents should be provided so that the reader knows where to find additional information and explanations. We recommend that this roadmap be inserted once a background report is developed. The next two sections provide some more specific observations on the introductory and concluding chapters of the DNLUP, and elaborate on the need and format for contextual information.

7.2 Context and Purpose of the DNLUP

The introductory sections of a land use plan typically orient the reader to the context for planning and the plan itself. There is no standard template for these sections. An article provided to us by NPC on

“General Plan Evaluation Criteria” listed the following questions for assessing the adequacy of contextual information – defined as “the what and the why of the document”:¹⁰

1. Is the political/legal context of the plan explained?
2. Is the administrative authority for preparation indicated?
3. Is the role of the preparing agency ... adequately explained?
4. Is background information presented (e.g., reasons for the plan’s presentation)?
5. Is it clear who the plan is for?
6. Is the purpose of the plan explained?
7. Is the type of plan and its scope reported early on, to alert the reader about what to expect?
8. Is an overview/summary provided (e.g., an “Executive Summary”)?

The amount of detail on each of these topics is a matter of judgment, as is the division of this material between the plan and supporting material. However, it is reasonable in our view to expect that these issues are at least touched on in the plan itself in order to make it intelligible.

7.2.1 Contextual Information

The appropriate amount and type of contextual information for inclusion in the plan has been raised in comments on successive versions of the DNLUP. The earlier December 2010 version included more contextual information, which attracted a range of comments including concerns about accuracy and level of detail, suggestions that either more or less information should be included, and the specific recommendation that information that is likely to become outdated during the life of the plan would be best located in a companion document. We heard a similar range of views from interviewees. Our assessment of these comments leads us to conclude that embarking down the road of an extensive context section would be perilous for NPC because of the amount of additional work that would be needed to satisfy the critiques of these sections by technical experts from a wide variety of disciplines and perspectives. It may also become challenging to limit suggestions from subject matter experts to address their priority topics once the door is opened to a substantial context section. Once this route is taken, it is difficult to tell where it will lead and when it will end. For a small planning staff, significant effort may be expended to identify, verify and incorporate ‘nice to know’ information that may not have a material impact on the interpretation and implementation of the plan.

The decision to limit contextual information to a minimum in the DNLUP may have been a response to these considerations. The approach taken in the DNLUP has not, however, resolved the question for all of the Parties. The GoC broad comments on the July 2011 DNLUP, state that “the draft does not provide the reader with Nunavut-specific background information relevant to areas such as demographic trends, the renewable and non-renewable resource base, economic opportunities, needs and (sic) etc.” Our assessment is that this comment is difficult to reconcile with advice on the December 2010 draft to avoid including information that is expected to change over time. It appears to reflect the factors listed in section 11.3.1 of the NLCA that, as discussed above, we view as providing an illustrative list of factors to be taken into account when establishing the plan’s objectives and guidelines for development, rather than a mandatory checklist of topics to be covered in each plan. Even if this provision is interpreted as requiring that the NPC turn its attention to each of these factors when developing the plan, it would be a further logical leap to suggest that the plan itself should contain background information on each of

¹⁰ William C. Baer, “General Plan Evaluation Criteria: An Approach to Making Better Plans”, Journal of the American Planning Association, vol. 63, Issue 3: 1997, p.339.

these topics regardless of whether or not they are directly relevant to the interpretation and implementation of specific objectives and actions in the plan. If that leap is taken, we are unsure what criteria would be used for identifying ‘need to know’ as opposed to ‘nice to know’ contextual information.

We therefore recommend, as a general criterion, that contextual information should only be provided in the plan if it is essential to understand and implement important provisions. We suggest that NPC and the Parties apply this criterion to determine what additional contextual information, if any, should be included in the plan only after the important planning decisions on land use designation and recommendations have been taken. Contextual information could then be tailored to these decisions. In order to keep the plan itself succinct, detailed contextual information should be combined with the information in the Options and Recommendations document as a companion document. This companion document would assist users of the DNLUP when a more detailed understanding of the provisions is required and would assemble base-line information that could be referenced when future plan revisions are undertaken.

7.2.2 Purpose, Objectives and Effect of the Plan

Introductory sections should also provide a clear explanation of the overall purpose, specific objectives and principal accomplishments of the plan. These provisions should include not only a vision and broad goals, but also a summary of the issues or problems that the plan is designed to address. In other words, the reader should understand why the plan is needed, what it intends to accomplish, and how it will make a difference. This discussion could also include some information on prioritization of issues and trade-off decisions, including the relationship of planning decisions to the views of the public, stakeholders and other participants in the process. For a draft plan intended as the basis for engaging the public, stakeholders and the Parties, the plan or supporting material should also frame these issues in a way that invites focused and constructive comments.

The purpose of the DNLUP is summarized in section 1.3.1, which quotes section 11.3.2 of the NLCA and lists five elements of a long-term vision for Nunavut:

- *Residents are employed at all levels of a long-term, healthy, sustainable renewable and non-renewable resource economy that brings financial and social benefits to the communities.*
- *Healthy communities maintain strong connections to Inuit culture and heritage.*
- *A network of Parks and Conservation Areas protects sensitive habitat and important areas.*
- *The integrity of the natural environment is preserved and the disruption of ecosystems has been avoided.*
- *Decisions are made through discussion and consensus, with the informed involvement of all land use planning partners in the region.*

Further information on the DNLUP’s general purpose is included in the first three paragraphs of the methodology section (1.3.2). These paragraphs refer to the NLCA direction to give primary consideration to the human community, the NPC’s view that “it is imperative that the Plan supports – and does not impede – opportunities to reduce poverty, encourage community self-reliance, and raise the standard of

living for Inuit”, and the goals and objectives in the 11.4.1(a) document. We suggest that these three paragraphs be included in a single section on vision and purpose.

Our assessment of these provisions is that they are consistent with reasonable expectations for a broad vision based on planning theory and practice. We would not expect the NPC to pretend that it has a crystal ball for producing a much more specific vision of all aspects of the future of land use in Nunavut in the coming decades, particularly given the highly dynamic social and economic context that includes a rapidly growing and young population, significant pressures for social change, and the likelihood that the mining sector, well known for its unpredictability and ‘boom and bust’ cycles, will be a principal economic driver of land use.

In our opinion, however, the DNLUP should provide more information on the specific purpose of this first generation Nunavut-wide plan. The reader should understand the key land use issues, priorities and real or potential land use conflicts that the plan is intended to address. In other words, it should be clear what the plan sets out to do and why it is important. In our view, a succinct statement of this type is missing from the DNLUP. Additional information and analysis on issues, land use conflicts and associated trade-offs could be included in the Options and Recommendations document.

The North Yukon Land Use Plan provides an example of setting the stage at the start of a plan. A brief summary of plan highlights states that: “The Plan addresses two key issues: 1) oil and gas development in a significant portion of the annual range of the Porcupine Caribou Herd; 2) management of development impacts in wetlands outside of Protected Areas” (p.x). The plan’s introductory chapter also includes brief descriptions of six major planning issues that were identified by planning partners and stakeholders as having both short-term and long-term importance to the planning region: oil and gas exploration and development in Eagle Plains; land management and the Porcupine Caribou Herd; future development impacts on water, wetlands and riparian habitat; opportunities to access land and resources; transportation; and climate change. These brief sections orient the reader to the rest of the plan.

Developing a defensible list of priority issues for the DNLUP is the principal role of the substantive pillar. Choices of this type are already implicit in the DNLUP. In our view the introductory chapter of the plan would be strengthened by an explicit discussion of the specific purposes and priority issues for the plan, summarizing the big picture and setting the stage for the following chapters. As with the North Yukon example, this discussion should refer to input from the public, stakeholders and the Parties.

Finally, a summary of the overall effect of the plan would help orient the reader at the outset. Since the body of the DNLUP consists of succinct sections dealing with specific topics, it is difficult to get a sense of how the plan as a whole alters the status quo and how it lays the groundwork for future planning.

7.3 Methodology, Consultation and Implementation of the Plan

The DNLUP includes important information in Chapters 1 and 7 to orient the reader on the methodology used by NPC, including consultation, the key tools used in the plan and the strategy and mechanisms for plan implementation. We have five observations on these elements of the DNLUP.

First, the Methodology section could be strengthened by providing a clearer overall summary of the planning process before dealing with the specific limitations relating to data and the details of consultation. This outline would briefly describe the planning process for the non-specialist reader, including key elements such as the identification of values and interests related to land use, issue

identification and prioritization, objective setting, and the identification, evaluation and selection of planning tools to achieve those objectives. Some of this information is included in the Methodology section, but it is mixed in with the more detailed examination of data and consultation. For example, the statement that “The identification of regulatory gaps and opportunities for the land use plan to support public and private initiatives forms the foundation of the land use plan” is found half way through the discussion of consultation. We suggest that this type of statement could be part of an initial overview of the process, followed by the more detailed discussion of how issues relating to data and consultation were addressed.

Our second observation is that the introductory chapter could usefully provide information on the issues that we discussed above under the substantive pillar. A brief explanation of NPC’s views on topics such as the defining characteristics of a Nunavut-wide plan, its relationship to other levels of planning, the plan’s role in the integrated regulatory system, the approach taken to identifying the regulatory gaps that are addressed in the plan, and the relationship between the land use plan and socio-economic and cultural values and objectives would help to orient the reader. This section could also describe briefly the NPC’s approach to determining the scope and level of detail of the plan and how these decisions affected the plan’s content.

Third, we observe that the discussion of consultation lists numerous opportunities and requests for participation but says virtually nothing about the quantity or quality of input that was received or how it informed the plan. Without this additional information, this section seems to us to be deficient. For example, the value to the planning process of a mail-out of a Priority Areas Map to residents of Nunavut is dependent on the responses received, not the mere fact that the material was distributed. The reader of the plan should have a sense of the extent of public and stakeholder engagement that actually occurred and the type of input provided. To keep the plan succinct, a brief summary of these aspects of public participation may be sufficient in the DNLUP. However, it would be useful in future versions of the DNLUP to cross-reference the Options and Recommendations report, any summary reports documenting public and stakeholder participation, and the complete participation record in the public registry.

Our fourth observation is that some material currently located in Chapter 7 should be moved to Chapter 1 because it is necessary to understand the structure and content of the plan. In particular, we suggest that the reader needs to understand the plan’s approach to Permitted and Prohibited Uses (7.8), Land Use Designations and Recommendations (7.10) and Generally Permitted Uses (7.11) at the outset. A brief explanation of the relationship between the Mixed Use area and the other land use designations and how they collectively contribute to achieving the plan’s broad objectives would also be useful, particularly since so much of Nunavut is zoned for Mixed Use.

Fifth, we observe that the DNLUP provides little information on the processes to be used for plan implementation and periodic review. The decision not to include this information presumably reflects comments from the GoC on the December 2020 version of the DNLUP that these types of processes should be described in other documents that can be modified without a formal plan amendment. This approach makes sense to us, but it would be helpful to cross-reference these other documents in the DNLUP. The processes and substantive criteria for conformity determination, minor variance and plan amendment, for example, are central to implementation of the plan and we expect that the public, stakeholders and government will all be interested in these details when reviewing the DNLUP.

7.4 Land Use Designation and Spatially-Referenced Recommendations

Land use designation, also referred to as zoning, is used in most land use plans and is an important component of the DNLUP. Our review of this topic briefly describes the land use designation system in the DNLUP. We then summarize the general purpose and structure of land use designation in planning. Finally, we assess the structure of these provisions in the DNLUP and the proposed approach to identifying permitted and prohibited uses, including the use of plan amendment as a flexibility mechanism.

7.4.1 Land Use Designation in the DNLUP

The DNLUP has five categories for land use designation. Four of these categories correspond to general goals identified in the 11.4.1(a) document: Protecting and Sustaining the Environment (PSE), Encouraging Conservation Planning (ECP), Building Healthy Communities (BHC) and Encouraging Sustainable Economic Development (ESED). The fifth category is a Mixed Use (MU) designation for which zone-specific restrictions on land use are not provided. The DNLUP acknowledges that some areas designated Mixed Use contain values that contribute to the goals identified for specific attention in the other four categories (p.33). These areas are identified on the map of Nunavut in Schedule A and on the more detailed community maps in Appendix A.

All of the categories except for MU include between two and ten specific designations, each of which is defined by the permitted land uses and, in some cases, prohibited uses. Some permitted uses are briefly described in the plan's Definitions section. For land use designations with explicitly prohibited uses, section 7.8 of the DNLUP explains that the NPC will not support plan amendments to allow these uses, although they may be considered through a Ministerial Exemption or during a Periodic Review of a plan (DNLUP section 7.6). Uses that are neither explicitly permitted nor prohibited may be allowed within a land use designation following an amendment of the plan. Minor variances are also permitted in some circumstances (DNLUP section 7.3). The DNLUP also includes recommendations directed to project proposals within these land use designations identified above.

The DNLUP uses an overlay system for specifying the spatial application of recommendations. Many of the plan's recommendations apply to areas identified on Schedule B or in the community maps in Appendix A that do not have corresponding restrictions on land use. These recommendations are to be implemented by Regulatory Authorities, Designated Inuit Organizations, Municipalities and Proponents (all defined terms in the DNLUP).

The basic rationale for land use designation or zoning in regional planning is to provide spatially explicit management direction that contributes to achieving a plan's goals or objectives. Simply described, land use designations are used to specify what can and cannot happen in particular areas of the planning region and to provide regulators, managers of land and resources and land users with direction or recommendations that are geographically specific.

Looking at a plan as a whole, land use designation can provide a spatially explicit representation of broad priorities and associated trade-offs for land use within the planning region. The determination of how land should be designated to support different goals reflects a judgment about the appropriate balance among different types of land uses and associated management intents across the land base. Land use planning in the North and elsewhere frequently focuses on the appropriate allocation of land between conservation or special management areas where industrial development is prohibited or restricted and mixed use areas where development is allowed, subject to normal regulatory

requirements. It should be noted that although the zones defined by lines on a map and the associated management intents will likely convey something important about the vision and high level outcomes for the region, they will not tell the whole story since many important objectives for the region can be achieved through tools that are not dependent on zoning.

Land use designation is particularly important as a tool for supporting objectives in land use plans that can only be achieved by prohibiting certain land uses in specified areas. For example, in some cases certain types of industrial activity may be incompatible with important environmental, social or cultural values. Land use designation may also be an appropriate planning tool when the separation of incompatible land uses provides greater regulatory effectiveness, efficiency and certainty than other available options, such as project-specific environmental assessment, for resolving land use conflicts and managing cumulative impacts.

As a practical matter, decisions about land use designation can provide a starting point for determining the combination of policy tools to be deployed within a planning region to achieve the plan's broad outcomes and specific objectives. For example, there is likely to be a wide range of options for combining various sizes and locations of conservation areas with different management rules on non-conservation lands in order to achieve biodiversity objectives. Once a decision is made on the size and location of conservation areas for the region through land use designation, it is possible to identify the particular management options for surrounding land that can be used to support biodiversity (and other) objectives for the region as a whole.

To achieve these purposes, land use designation and zoning should be used to identify areas in a planning region that are intended to have one or both of the following characteristics:

1. The suite of allowable land uses within each designated area is limited in specific ways when compared with other parts of the planning region;
2. A particular management or regulatory approach is required or recommended for land uses within the designated area.

7.4.2 Typical Structure for Land Use Designation in Landscape-scale Planning

A basic three-part structure for land use designation has been used with some variations in most landscape-scale or regional land use plans.¹¹ The three elements are: (1) mixed use or general management area or zone; (2) conservation or protected area zone; (3) special management areas (SMAs) or zones (each supporting specific objectives, values or land use priorities). The line between conservation areas and SMAs is sometimes blurred because of the significant restrictions on land use in some SMAs. In some plans these basic elements are supplemented by sub-categories that define more precisely the allowable activities and applicable management regimes.

The mixed use area can be considered the 'base layer' of the map of land use designations from the perspective of restrictions on land use. It is the default position from a classification and zoning perspective, representing the working landscape where the complete suite of land uses is generally permitted, subject to the standard management and regulatory regime and any applicable provisions implemented by or pursuant to the regional plan. It is important to emphasize that the mixed use area is

¹¹ For example: Final Recommended North Yukon Land Use Plan (January 2009); Gwich'in Land Use Plan (August 2003); Sahtu Land Use Plan Draft 3 (July 2010); Dehcho Land Use Plan Final Draft (May 2006); Vancouver Island Summary Land Use Plan (February 2000).

not a designation where all uses are permitted everywhere as of right or where land uses are exempted from the generally applicable regulatory regime. For example, development in the mixed use resource area must comply with the regular environmental assessment, project review and regulatory processes which can result in specific proposals being rejected or constrained in various ways. Some plans also include required or recommended actions by regulatory and management authorities that apply to all or part of the mixed use area.

Mixed use areas within a planning region typically include areas where the potential for resource development and a range of other land uses is high and where conflict between development and conservation values is low, can be managed through existing regulatory processes and provisions in the plan, or results in losses of conservation values that are acceptable from regional and provincial perspectives given the associated economic and other benefits. This designation may also cover areas where information on land use values or objectives is limited and levels of activity are low enough that there is no need for precautionary restrictions beyond the standard regulatory regime.

Conservation areas and SMAs are typically used to protect ecological, heritage, cultural and recreational values that are incompatible with some other land uses. Features of the enhanced management regime in SMAs when compared with mixed use resource areas may include outright prohibition of some land uses, a more detailed prioritization of land uses, more rigorous application requirements and project review processes, stricter limits on impacts (e.g., lower density, higher set-back requirements, reduced emissions or discharges, limits on timing of activities), and increased monitoring and reporting. Conservation areas often conform to widely-recognized standards for protected areas, including legal designation and formal prohibition of intensive industrial activity and commercial and recreational activities that are inconsistent with their management intents. SMAs may also be used for areas where intensive development is permitted and the standard regulatory regime that applies in the mixed use resource area is modified accordingly to establish special rules, avoid or limit conflicts with other uses, and manage the increased impacts associated with this development.¹²

7.4.3 Assessment of DNLUP Structure

The land use designation in the DNLUP is a variation on the basic template for landscape-scale planning. It includes a Mixed Use (MU) designation (DNLUP Chapter 6) that covers most of the planning region. Land use in this designation is governed by the standard regulatory regime and no land uses are prohibited by the plan. The DNLUP does, however, include recommendations (Table 1, Appendix A and Schedule B) that apply to land uses within the MU designation.

The other four land use designations reflect the broad goals of the plan and correspond to conservation areas and SMAs within the general planning approach. Information on these designations is found in the chapters of the plan dealing with each of the four broad goals, the list of land use designations and recommendations in Tables 1 and 2, and the maps Appendix A and in Schedules A and B. The Options and Recommendations document for the DNLUP provides additional information on the values associated with designated areas and the rationale for the NPC's proposed designations and recommendations.

Our assessment of the use of land use designations in combination with spatially-referenced recommendation overlays in the DNLUP applies the following criteria:

¹² For example, the Vancouver Island Summary Land Use Plan establishes an "Enhanced Forestry Zone" on lands suitable from increased timber production using special harvesting and silviculture practices.

1. Is the structure for land use designation reasonable in terms of its rationale and logic?
2. Is it reasonably easy to understand and apply to proposed land uses?
3. Does it provide a reasonable basis for participation of the public, stakeholders and the Parties in the planning process?

Our application of these criteria to the DNLUP reflects our views on relevant planning theory and practice, including reference to land use classification in other landscape-scale plans. We are also conscious of the importance of offering specific suggestions to address perceived deficiencies in the DNLUP's approach. As we will show below, it is much easier to criticize land use designations than to offer solutions that balance the competing considerations when designing these components of land use plans. Finally, our focus on the reasonableness of the approach to land use designation in the DNLUP recognizes that there are alternative approaches that could also be used, each of which has its own advantages and disadvantages.

Our evaluation of land use designation in the DNLUP also takes into account written comments from the Parties on earlier drafts and concerns raised by interviewees, recognizing that they generally did not review the 2011/2012 version before we spoke with them. In general, these comments and concerns have focused on the logic, clarity, internal consistency and applicability of the draft plans' provisions. While these comments were not directed to the 2011/2012 version, they identify recurring themes that have been raised throughout the planning process. We therefore consider them relevant to our review.

For example, the GoC's general comments on the July 2011 DNLUP stated that:

Land use designations are not easily understood. For example, the difference between the conservation designation and the environmental protection designation is not clear, especially considering that permitted and / or prohibited uses are generally the same in both and the fact that there are some inconsistencies within the designations.¹³

The GoC also stated its view that:

There are significant structural and coherence problems with the document. The need to continually cross-reference between text, maps, schedules, tables and recommendations, which at times are inconsistent, and confusing.

The starting point for applying our criteria and considering these specific concerns is a reality check on the complexity of designing a clear, logical and easily implementable system for land use designation in the DNLUP, given its the geographical scope and range of goals and issues. SMAs and conservation areas inevitably add some complexity to land use plans. As with other aspects of planning, the challenge is to design a system that is as simple as possible, but not too simple to achieve the intended purposes and convey the information that is needed to make the rationale for planning decisions understandable and provide useful guidance for the implementation of the plan. The basic information that a plan needs to convey about these land use designations is:

1. The specific location covered by the land use designation;
2. The goal (or goals) that the designation supports; and

¹³ GoC letter September 28, 2011.

3. The restrictions on land use (type, intensity, terms and conditions) and the recommendations to regulators, land and resource managers, and land users that apply within the designation.

The challenge is that there is not necessarily a 1:1 correlation between goals and the specific restrictions or recommendations that apply to land use within designated areas. The categorization of land use designations by goal or by land use characteristics can both create complications. A single broad goal may be supported by several designations with different combinations of land use restrictions and direction or recommendations on regulation or management. Equally, a given package of land use restrictions and direction or recommendations may support more than one goal. Furthermore, there may be good arguments to tailor restrictions and recommendations to the specific features of individual areas. Each geographic area could have its own list of permitted and prohibited activities and specific directions or recommendations for regulatory and management authorities. The risk, however, is that the proliferation of SMAs across the planning region could be a patchwork quilt of land use classifications that increases regulatory complexity, uncertainty and costs.

There is no simple way to address this complexity in a landscape-scale plan. It is easier to point to apparent overlap, cross-referencing among goals and designations, or excessive length and complexity than it is to suggest an elegant solution. Several principles for organization are possible. One option is to organize land use designations by type or intensity of land use (e.g., specifying various types of land use or categorizing designations from most restrictive to least restrictive of land uses) and then describe within each designation or particular area the land use values and goals that are supported. Another option is to categorize land use designations by broad or specific purposes. In some cases there are numerous specific categories for particular purposes. Land uses for each category would then be specified along with other direction or recommendations. It is also possible to include a broad catch-all SMA category that includes individual descriptions of each designated area, including the distinctive package of land use restrictions and that support the goal (or goals) to be achieved in the area. This approach is one reason why landscape-scale plans are sometimes hundreds of pages long.

Criterion 1: Rationale and Logic

Our first criterion for evaluating the proposed structure for land use designation in the DNLUP focuses on its rationale and logic. The rationale is clearly driven by the general principle that land use plans should be structured around goals or objectives and the means to achieve them. This approach is standard to planning theory and professional practice. The justification and implementation of planning decisions are supported by clarity about the goals that these decisions are intended to support. The DNLUP approach conveys this information by identifying four general categories of land use designations, each linked to a broad goal in the plan.

This structure is also a direct response to comments submitted to NPC on earlier drafts. In particular, the GN has repeatedly underlined the importance of the 11.4.1(a) document as a foundation for planning and specifically suggested that the plan's structure should follow the goals specified in that document. The body of the DNLUP and its broad categorization of land use classifications and recommendations reflect this input.

This structure supports a second level of specific land use designations under each goal. These specific designations are based on lists of permitted and, in some cases, prohibited land uses. Recommendations, including those not linked to areas designated according to restrictions on types of land use, are treated separately. These designations and recommendations are summarized in Tables A and B and spatially referenced in the maps in Appendix A and in Schedules A and B.

In our view, this approach is reasonable in terms of logic and internal consistency. It aligns land use designations and recommendations with the four goals that are appropriately used to structure the plan as a whole. Defining specific designations within each of these goals in terms of permitted and prohibited uses is logical and is consistent with standard planning practice.

Another way to assess the reasonableness of this approach in the DNLUP is to consider whether there is a readily identifiable alternative that has a stronger rationale or is more logical. For example, could land use designations be organized through a simpler structure? The GoC's comment on an earlier draft quoted above noted the overlap in permitted and prohibited land uses between designations. In the 2011/2012 DNLUP, overlap occurs between the Protecting and Sustaining the Environment (PSE) and Encouraging Conservation Planning (ECP) goals. The PSE-1 and PSE-2 designations are identical in terms of permitted and prohibited land uses as the ECP-1 and ECP-2 designations.

Applying the first criterion, the question is whether this structure is reasonable given the purpose of land use designation and the information that should be communicated. The PSE designation supports the goal of protecting important environmental values outside of existing and proposed parks and conservation areas. The ECP designations are designed as a means of providing interim protection to areas currently proposed as parks or conservation areas and to provide support in plan for the management of existing conservation areas. These objectives are distinct within the 11.4.1(a) document and provide different rationales for restricting land use, although there is an underlying connection to environmental values. The difference is particularly important in relation to the 'interim measures' function of ECP designations, since these designations would need to be reconsidered after a decision is made on the establishment of a park or conservation area. In our view it is reasonable to distinguish land use designations for this purpose from other designations intended to protect environmental values. This type of designation is also illustrated by the Proposed Conservation Initiatives zone in the Draft 3 Sahtu Land Use Plan (p.78).

Combining the PSE and ECP designations that have identical land use restrictions would reduce the number of classifications, which at first glance looks like a simplification of the system. However, the consequence of simply collapsing these designations would be to obscure the different goals that they are achieving. The differences in rationale underlying the PSE and ECP designations could only be maintained by re-creating these categories under the general designation or by including that information in separate descriptions linked to individual areas. Neither of these structures seems to us to be clearly more logical than the approach in the DNLUP.

Furthermore, the overlap between two pairs of PSE and ECP designations in terms of permitted and prohibited land uses is the only example of this duplication in the DNLUP. The third PSE designation and the other 12 designations under the Building Healthy Communities (BHC) and Encouraging Sustainable Economic Development (ESED) each have distinctive combinations of permitted and prohibited uses. The decisions on these uses, in each case, reflect a judgment on how the broad goal can most appropriately be achieved in the area or areas to which the designation applies. Given these differences among specific designations, we do not see how the structure of land use designation in the DNLUP can logically be simplified by combining existing designations based on permitted and prohibited uses. We therefore conclude that the approach in the DNLUP is reasonable in terms of both its rationale and logic.

Another possible concern with the DNLUP structure is that some land use designations may serve two or more of the broad goals and this relationship would not be captured in the brief descriptions of designations in the body of the plan or the tables. However, we find that it is reasonable to categorize

land use designations according to the main goal that they support. More detail on how particular designations may also support other goals could be included in the Options and Recommendations document if that information would be helpful to understand the rationale for the designation or to guide the interpretation and application of the plan.

Applying this criterion to the spatially defined recommendations in the DNLUP yields, in our view, the same conclusion. It is reasonable to categorize these recommendations according to the four broad goals of the plan and the specific recommendations within each category are focused on separate issues.

Criterion 2: Easy to Understand and Apply

The second criterion is whether the structure for land use designation and spatially-referenced recommendations is reasonably easy to understand and apply to proposed land uses. In particular, we consider the comments made on earlier versions of the draft plan by some interviewees and in the GoC's letter quoted above that the need to cross-reference text, maps, schedules, tables, recommendations and the Options and Recommendations document is confusing and could be avoided.

Our starting point for applying this criterion is the guidance on using the plan in section 1.3.5 of the DNLUP:

Step 1: Determine Land Use Designation for Project Proposal location

- *Refer to Schedule A: Land Use Designations*

Step 2: Determine if proposed use is permitted under applicable Land Use Designation

- *Refer to Schedule A: Land Use Designations*

Step 3: Determine if Recommendations apply to location of Project Proposal

- *Refer to Schedule B: Recommendations*

Step 4: Review the intent of applicable Land Use Designation or Recommendation

- *Refer to Chapters 2 through 6*
- *Refer to Chapter 7, Table 1 for individual site identification using ID number, if appropriate.*

In our view, this section of the DNLUP provides reasonable guidance on how to apply the system for land use designation and recommendations. It could be enhanced by referring to the community maps in Appendix A and by cross-referencing supporting documents for additional information on the intent of land use designations and recommendations, important land use values, potentially conflicting land uses, and other considerations that informed the decision on the land use designation or recommendation. We expect that this guidance will be improved to reflect comments and experience gained through public and stakeholder engagement.

Our application of this criterion also considered the advantages and disadvantage of systems for land use designation from other plans. In comparing alternatives, it is important to keep in mind the type of information to be communicated, noted above:

1. The specific location covered by the land use designation;
2. The goal (or goals) that the designation supports; and

3. The restrictions on land use (type, intensity, terms and conditions) and the recommendations to regulators, land and resource managers, and land users that apply within the designation.

Communicating information on location requires reference to a map. Given the area covered by the DNLUP and the different sizes of areas used to support the goals identified in the plan – from large areas clearly visible on the map of Nunavut to much smaller areas in and around communities – the use of territory-wide maps in Schedules A and B and community maps in Appendix 1 is a reasonable way to communicate the location of land use designations and spatially-referenced recommendations. Assuming that the final plan has precise mapping supported by accurate GIS work, we conclude that the mapping of land use designations and recommendations in the DNLUP is a reasonable basis for determining whether or not these provisions apply to proposed land uses. The listing of land use designations and recommendations in Tables 1 and 2, including specific ID numbers in Table 1, facilitates this task.

We recognize that connecting land use designations and recommendations to the DNLUP's goals and the more detailed context and rationale for these planning decisions requires some cross-referencing between the text in the plan and the Options and Recommendations document. The alternative used in some plans is to include directly in the body of the plan the descriptions of each designated area, including information such as the goal or purpose supported by the designation, the specific land use values and uses in the area, the restrictions on land uses, and the direction or recommendations for regulators, land and resource managers and land users. This approach clearly reduces the need for cross-referencing by consolidating information in one place. The cost, however, is to significantly increase the length of the plan.

For example, the North Yukon Land Use Plan includes 35 pages of detailed descriptions. It covers a smaller area than the DNLUP and applies a system of thirteen landscape management units (i.e., zones) and a number of sub-units. In the DNLUP, the number of individual areas identified for land use designations or spatially-referenced recommendations is considerably larger and their range of size and characteristics is greater. The chapter in the Gwich'in Land Use Plan that describes the zoning system and the individual areas is 83 pages. The primary reasons for the designation, the conditions that apply to land use, and a map are included for each area. The Draft Sahtu Land Use Plan includes a chapter of 186 pages devoted entirely to zone descriptions. Some of these descriptions incorporate cross-references to Conformity Requirements described in another chapter of the plan.

The DNLUP adopts a different approach from these plans, keeping the plan itself much shorter and using standard categories (summarized in Tables A and B) and cross references to provide more detailed information on some land use designations. We believe that the DNLUP approach is a reasonable alternative to a comprehensive listing and description of each land use designation. For reasons described above, it makes sense to propose a first-generation plan for Nunavut that does not follow the approach that has produced very lengthy and detailed plans in the NWT, Yukon and some other jurisdictions. In our view, the structure of the DNLUP and the additional information provided in the Options and Recommendations document, that deals individually with some of the areas covered by land use designations, is an efficient and effective way of making available the information on land use designations and spatially-referenced recommendations that users of the plan need to know while keeping the plan itself relatively short and easy to use. If additional information is required based on comments received on the DNLUP, we believe that it can be accommodated within the existing structure. In particular, the Options and Recommendations document could be used for more detailed descriptions of the rationale for decisions on specific land use designations and recommendations.

Another measure for applying this criterion is to compare the guidance for using the DNLUP with equivalent provisions in other plans. Even plans that include detailed descriptions of individual designated or zoned areas require a certain amount of cross referencing to fully convey relevant information. For example, the North Yukon Land Use Plan includes the following guide to using the plan (p.xvii):

Step 1: Determine project location or area of interest

Refer to Map 1, Appendix 1

- *Is the project location or area of interest in the planning region?*
- *If in region, what landscape management unit does it occur within?*

Step 2: Determine broad management intent for landscape management unit

- *Refer to Map 1, Appendix 1 for land use categories and zones (land use designation).*
- *Refer to Section 3 for description of land use categories and zones (land use designation).*

Step 3: Determine what values might be affected

- *Refer to Maps 2-4, Appendix 1 for locations of identified values.*
- *Refer to Section 6 for descriptions of identified values and special considerations.*

Step 4: Determine management direction for identified values or issues

- *Refer to Section 5 for management direction regarding identified values or issues.*
- *Refer to Section 6 for specific management issues and considerations within the area of interest (landscape management unit).*

Step 5: Determine other management direction, if required

- *Refer to Appendix 3 for other management plans.*

The graphic describing how to use the Gwich'in Land Use Plan (p.43) begins with locating the proposed land use on the zoning map. For land uses in Special Management Zones, reference to the specific zone's description provides details on applicable conditions. Conservation and Heritage Conservation zones are described in other sections of the plan. A similar approach is needed to use the Draft Sahtu Land Use Plan, which includes a detailed description of each land use designation and a separate chapter describing conformity requirements that apply in some zones.

The directions for using the North Yukon, Gwich'in and Draft Sahtu Land Use Plans show, in our view, that the provisions relevant to land use designations and spatially-referenced recommendations in these documents inevitably involve some complexity given the amount and type of information to be conveyed. In our opinion, the DNLUP's guidance on using the plan (quoted above) is comparable to that provided for the other plans, particularly if reference were made to the Options and Recommendations document. This finding further supports our conclusion that the DNLUP's structure is reasonable.

To summarize, we find that the structure for land use designation and spatially-referenced recommendations in the DNLUP is reasonable and, in fact, offers a good alternative to the very lengthy and detailed enumeration and descriptions of individual land use zones that are found in some landscape-scale plans. While there is inevitably a level of complexity in this type of planning, we believe that this structure conveys important information in a succinct manner and does not create unreasonable challenges for a project proponent or other land user to determine how the plan would

apply to a proposed land use. Furthermore, our consideration of written comments on previous drafts of the plan, concerns and suggestions made by interviews, and approaches taken in other land use plans has not convinced us that other alternatives for structuring land use designations and spatially-referenced recommendations are clearly superior to the DNLUP.

Criterion 3: Basis for Participation

The third criterion is whether the approach in the DNLUP provides a reasonable basis for participation in planning by the public, stakeholders and the Parties. One of the challenges of a first generation Nunavut-wide plan is engaging Inuit and other residents in planning decisions at a scale that is meaningful to them. The DNLUP addresses a wide range of issues that require different types of land use designations and spatially-referenced recommendations and that apply these planning decisions to areas that differ significantly in size. Some land use designations and areas for recommendations are clearly visible on the maps of Nunavut in Schedules A and B, while others address important local values and issues for communities or territory-wide issues (e.g., contaminated sites) that cannot easily be captured on a single map of the entire territory. Participation of Inuit and other residents at the community level should be designed to convey information about the plan and solicit input in a way that is relevant both to large land use designations at the territorial scale as well as issues and designations that reflect the specific concerns, priorities and experience with the land of individuals and organizations at the community level.

This challenge should not be underestimated. Successful community-level participation will depend in part on the overall communications strategy, the opportunities for different types of participation, the way that issues and options for the plan are described, and the package of material used to support public engagement. These topics are discussed elsewhere in this report. Focusing solely on the structure for land use designations and spatially-referenced recommendations in the DNLUP, we conclude that it provides a reasonable basis for this type of participation provided that the other elements of engagement are properly addressed. In particular, the succinct communication of information in the body of the plan and the opportunity to refer to territory-wide and community maps provide a good basis for focusing participation by the public, stakeholders and the Parties on key issues that are addressed in the DNLUP in different ways and at different scales.

The DNLUP and supporting documents provide a basis for obtaining input on the boundaries of the areas identified for land use designations and spatially-referenced recommendations. Depending on the audience, the focus could be on the fine detail of the community maps, the large areas captured on the maps of Nunavut, or both. We would also expect comments from the public, stakeholders and the Parties on the lists of permitted and prohibited activities and the recommendations.

We recommend, however, that public and stakeholder engagement include an opportunity to offer specific suggestions for improving the approach to land use designation and spatially-referenced recommendations. The other Parties may also have suggestions for NPC. NPC should then consider whether the proposed approach could be modified to simplify the categories, communicate relevant information more clearly and facilitate its application.

7.4.4 Permitted and Prohibited Uses

We also considered two other important aspects of the land use designation system in the DNLUP. The first is the specification of permitted and prohibited uses. Second, we examined the rationale for

distinguishing between land use designations that list prohibited uses and those that do not as the basis for adjusting designations through plan amendment.

Concerns with the lists of permitted and prohibited uses have been included in written comments on earlier versions of the draft plan and were raised by some interviewees. Our review of these concerns is not directed to second-guessing specific planning decisions embedded in the plan. Rather, we apply the same general criteria that look to the rationale and logic used to identify specific land uses, ease of understanding and application, and usefulness for engaging others in the planning process.

For reasons discussed earlier, we find the succinct design of the DNLUP to be reasonable and therefore would expect to see only a general rationale for land use designations in the plan itself. The DNLUP does provide some information on the reasons for designation, but generally does not provide much detail on the selection of specific permitted and prohibited uses. The Options and Recommendations document provides more detail on some land use designations. However, for some land uses this document does not explain how the attributes or impacts of land uses that are permitted or prohibited in particular land use designations are linked to the goals for which the designations were created. For example, we did not find the rationale for listing tourism, recreation and research as the permitted activities in a variety of land use designations. Identifying the specific attributes of these activities that are important for the underlying goals would be useful to justify these planning decisions, guide the interpretation of these categories, and inform any judgements that might be made on the suitability of other land uses that might be proposed for these areas on the grounds that they are also consistent with the specified goals.

A related concern is the lack of precision in defining some of these land uses. This deficiency raises questions about the effectiveness of the specification of land uses in achieving the goals underlying land use designations. It may also create uncertainty about the interpretation of these terms, which are critically important when determining whether proposed land uses conform to the plan.

For example, the GoC's comments on the July 2011 DNLUP (which also apply to the 2011/2012 version) state that:

While the draft plan does identify the permitted and prohibited uses associated with the land use designations they are either too broad or too restrictive. For example, tourism within both the protection and conservation designation has no restrictions and therefore could range from limited infrastructure for wilderness camping to full-blown commercial installations, i.e., lodges, docking facilities for cruise ships... etc.

Clarity on this issue is not helped by the circular definition of tourism in the DNLUP: "Tourism means all land uses related to tourism facilities or outfitting" (p.8). Other identified land uses, such as recreation and research, are not defined at all.

In our opinion, good planning practice requires both a transparent rationale for important planning decisions and clarity about terminology, particularly terms that determine what land uses are and are not permitted under a plan. These two issues are related, because a well described rationale for identifying land uses can be an important aid to interpretation. For example, research and recreation may be permitted in environmentally or culturally important areas because they generally have low impacts on wildlife, impacts can be mitigated by attaching terms and conditions specifying temporal (e.g., seasonal) or other limitations, and they leave no permanent footprint. This rationale, however, would suggest that research activities or recreation facilities that do not have these attributes should

either be excluded from these areas or subject to additional scrutiny. We recommend that the DNLUP and supporting documents be revised to provide a more complete rationale for permitted and prohibited uses and that these terms be clearly defined in the plan.

The second issue related to permitted and prohibited uses is their relationship to flexibility within the plan for accommodating non-permitted uses within land use designations. As described in section 7.8 of the DNLUP, each land use designation has a list of permitted uses that are considered appropriate “because they support the qualities of that particular area.” Some land use designations also have prohibited uses, described as follows (p.36):

A Prohibited Use is not allowed in the designated area and the Commission will not support requests for Plan Amendments. A Prohibited Use may be considered through a Ministerial Exemption or during Periodic Review

Plan amendment is described in section 7.4 as a “major change to the Terms in the Plan” such as “a change to the permitted uses identified in the Land Use Designation to allow a use that is not anticipated in a particular area, or to include additional Recommendations.” This section states that the Commission will consider all applications for amendment, except for applications to allow uses that are explicitly prohibited by the plan. The process is briefly noted, which culminates in decisions by the appropriate ministers in the GN and GoC. The draft NUPPAA would also require approval from NTI for plan amendments. The plan also provides for minor variance in section 7.3, but specifies that these changes do not include permitting additional uses.

We did not find a detailed description of the rationale or logic supporting this approach to considering changes to permitted land uses in either the DNLUP or in supporting documents. The structure suggests the intent to distinguish between a higher threshold for changes to the plan that would allow land uses that are listed as prohibited and a lower threshold to add non-prohibited land uses to the permitted uses. It is not clear to us, however, what scenarios the NPC anticipates for the addition of non-prohibited uses and how flexible it intends the plan to be in practice.

Concerns about this mechanism for considering additional uses have been raised in written comments on earlier versions and were identified by some interviewees. For example, the GoC’s general comments on the July 2011 DNLUP characterize it as “onerous”.

Including flexibility mechanisms in land use plans is, in our view, consistent with good planning practice. These mechanisms are particularly useful when plans include land use restrictions based on categories or specific types of land uses, as opposed to specifying the type or intensity of impacts that are considered to be inappropriate. It is sometimes difficult to categorize all existing and potential activities in ways that correspond exactly with the underlying purposes of land use designations. Changes to the plan may be appropriate to permit additional uses that were not anticipated when it was developed and that are consistent with the values and goals of a land use designation. In addition, there may be occasions when activities that are not permitted (or that are prohibited) can be undertaken in ways that eliminate or mitigate undesirable impacts.

We believe that including a flexibility mechanism in the DNLUP is reasonable, particularly to address concerns that the proposed lists of permitted activities may be overly restrictive. However, we have some questions about the reliance on plan amendment as a flexibility mechanism and the distinction

between explicitly prohibited uses that will not be considered by the NPC for amendments and other uses that are not explicitly prohibited and that therefore will be considered.

First, plan amendment requiring approval at the ministerial level and by NTI (under NUPPAA) will likely be a difficult and time-consuming process. As a practical matter, we are uncertain whether the amendment process anticipated to permit land uses that are not explicitly prohibited is significantly easier than reliance on a Ministerial Exemption for prohibited uses. The barriers to flexibility in both cases may be quite high.

Second, the substantive criteria that NPC will use to review proposed amendments are unclear, particularly given the lack of detail (as noted above) in the plan and supporting documents on the rationale for identifying permitted uses and the assessment of their potential impacts on the values or goals that land use designations are supposed to achieve.

Third, the process for amendment applications is uncertain. The lack of detail on process in the DNLUP is understandable given comments from the Parties on previous drafts that procedural details should be kept out of the plan and included in companion documents that could be modified more easily. However, without having seen this material it is difficult to assess how easy it will be in practice to add new permitted land uses.

A process for obtaining approval for a proposed land use that requires ministerial approval from two governments and potentially NTI approval for the first step, followed by the standard regulatory review that may include review by NIRB and NWB, seems likely to be quite challenging for individual land users or project proponents. It is also possible that the Parties or stakeholder groups will propose plan amendments, but even then the process could be challenging.

Finally, we are not sure that it is wise for NPC to effectively pre-determine its decision making on proposed amendments by stating in the plan that it will not consider applications to permit explicitly prohibited uses. We understand that this direction in the plan is intended to promote greater certainty, so that project proponents do not waste time on amendment applications that will be unsuccessful. While it is reasonable to signal that amendments to approve these types of uses would be subject to intense scrutiny for consistency with the goals supported by the land use designation, amendment is by definition a means of making significant changes in a plan. A categorical rejection of certain types of amendments may be unduly restrictive because it is sometimes difficult to predict in advance the circumstances that could support a decision to permit a previously prohibited land use.

We are unsure whether other options for flexibility mechanisms were considered in detail. If there are legitimate concerns that proposed lists of permitted uses may be overly restrictive for some land use designations, particularly in the context of a first generation plan, it may be possible to include a flexibility mechanism that would be easier to implement than plan amendment. For example, the list of permitted uses could include a more open-ended category that would allow other land uses where it can be shown that their impacts are consistent with the values and goals of a land use designation. This criterion could be made more precise by including specific limitations on impacts (e.g., no permanent footprint, no impact on seasonal use of wildlife habitat, no adverse effect on traditional land use). The NPC's authority to make conformity decisions could then be used to determine whether specific proposals for land uses in this category are acceptable. Coordination with NIRB review might be appropriate, to avoid the risk that proposed projects would be subject to overlapping review processes by NPC and NIRB.

We are not offering this example as a firm and fully developed recommendation for an alternative flexibility mechanism. A thorough identification and consideration of options is beyond the scope of our review. However, we recommend that the public, stakeholders and the Parties be invited to comment on the flexibility mechanism proposed in the DNLUP and offer specific suggestions for alternatives. On that basis, NPC could make revisions that it considers appropriate.

7.5 Assessment of Selected Planning Decisions

An important part of our review of the DNLUP was to consider the reasonableness of the planning decisions that are reflected in proposed land use designations and recommendations. The criteria that we used for assessing reasonableness are:¹⁴

1. Is the decision consistent with the fulfillment of obligations for planning in Nunavut and the goals and other guidance established by foundation documents?
2. Is the decision consistent with a plausible understanding, based on planning theory and best practice, of the role of land use planning in Nunavut?
3. Is the rationale for the decision evident and supported by information, analysis and a reasonable exercise of judgment?
4. Does the decision provide a basis for engaging the public, stakeholders, and the Parties through the proposed review of the DNLUP?

It is important to emphasize that our review of the reasonableness of decisions in the DNLUP focuses on the basis and rationale for these decisions. We relied on the material available to us, primarily the plan and supporting documents, other documents provided for this review, and information obtained from interviews. Our review is from the perspective of planning professionals, not subject matter specialists. The test of reasonableness focuses on whether the decisions are defensible from the perspective of good planning practice, not whether they are the 'right' or 'best' decisions in terms of all possible alternatives. A decision may be reasonable even if other decision makers, in the same circumstances, might decide differently.

Assessing all of the planning decisions reflected in the DNLUP is not feasible for this review, nor is it necessary in our view to gain insight into the NPC's approach to developing the draft. We therefore selected five elements of the plan for special attention:

1. The PSE Recommendation for caribou calving grounds;
2. The BHC Recommendation for areas of community land use;
3. The BHC Land Use Designation for community drinking water supplies;
4. The PSE Land Use Designation for key bird habitat sites; and
5. The references in the DNLUP to cumulative impacts.

These elements were identified because they address a range of issues that in our opinion, based on our review of written material and interviews, are likely to be seen as important by the public, stakeholders and the Parties. These issues also illustrate how the DNLUP deals with land use issues at different scales and they include two land use designations, two recommendations and one general planning issue. We thus view our assessment of these elements as providing reasonably representative insights into

¹⁴ These criteria are consistent with the initial criteria for reviewing the content of the DNLP that we identified in the Final Work Plan for the independent review dated March 9, 2012.

decision making in the DNLUP from a professional planning perspective, recognizing that our conclusions on these elements are not necessarily applicable to other planning decisions.

We have dealt with the DNLUP decision on caribou calving grounds in some detail, reflecting the amount of information on this topic from our interviews and review of documents and the fact that it clearly is and will remain the focus of particular interest for land use planning in Nunavut. Decisions in the other areas are dealt with more briefly.

7.5.1 Caribou Calving Grounds

The DNLUP deals with caribou habitat in section 2.2.2 of Chapter 2: Protecting and Sustaining the Environment. This section provides a brief overview of the importance of caribou to northern ecosystems and cultural heritage, the importance of calving grounds and the sensitivity of caribou to disturbance during the calving season. The NPC's recommended approach is as follows. Historic caribou calving grounds are identified on the map in Schedule B: Nunavut Land Use Plan Recommendations, based on the best information currently available to NPC. The DNLUP assigns the following recommendation to these areas: "[Project Proposals located in historic caribou calving grounds should take into account impacts on caribou calving, post calving areas and migration routes](#)" (PSE-R1). In addition, certain caribou calving grounds are included within other land use designations under the DNLUP (Options and Recommendations document, p.18).

Our interviews and the documents that we examined suggest that management of land use within caribou calving grounds is generally recognized as an important issue in Nunavut because of the potential for land uses, such as mineral exploration and development and transportation infrastructure, to adversely affect caribou populations. Furthermore the DNLUP's treatment of this issue was raised in several interviews. Concerns were expressed that the DNLUP should have done more to address this issue, that it simply confirmed the status quo, and that the NPC should be exercising its authority to provide clearer direction for addressing land use issues related to caribou. For example, one interviewee suggested that caribou management was an example of the important and difficult planning issues that NPC should be tackling more directly. On this basis, we looked more closely at the NPC's recommendation on this topic.

The first criterion for assessing this element of the DNLUP is whether the decision is consistent with the fulfillment of obligations for planning in Nunavut and the goals and other guidance established by foundation documents. There is no doubt, in our view, that caribou habitat in general and the importance of calving grounds in particular are appropriate topics for the DNLUP. Attention to them is consistent with the principles and factors to consider in the NLCA and the broad goals and policies in the 11.4.1(a) document. The existing regional plans in Nunavut address caribou habitat and concerns about caribou have been raised in comments on previous versions of the DNLUP. The direction for land use planning provided by the foundation documents supports the use of the DNLUP to identify important habitat areas, such as calving grounds, and to provide recommendations or direction for the management of land uses within these areas. We therefore conclude that this element of the plan meets the first criterion identified above.

The second criterion is whether this topic is addressed in the DNLUP in a way that is consistent with a plausible understanding, based on planning theory and best practice, of the role of land use planning in Nunavut. The DNLUP provision on caribou calving grounds is consistent with what we identified earlier as the 'red flag' role of a land use plan: identifying important values on the landscape that may give rise

to land use conflicts and signaling to land users, including project proponents, and to project review and regulatory authorities that projects in these areas that may adversely affect these values should be subject to increased scrutiny. In particular, the 'red flag' indicates that project design and the carrying out of activities, including associated mitigation measures, should take into account potential adverse impacts. Calving grounds can be spatially identified and there is a potential for land use conflicts to occur. The task of identifying these areas is better suited to land use planning than to project-specific review or regulatory processes. Identifying these areas and signaling the possibility that some proposed land uses in these areas may conflict with values related to caribou is an appropriate planning function, consistent with the place of planning within an integrated regulatory system.

As we acknowledged above, this approach constitutes a relatively light touch for planning direction. It certainly is less prescriptive than establishing specific terms and conditions for development in calving grounds or an outright prohibition of activities within these areas. Nonetheless, the 'red flag' approach is consistent with planning theory and practice and was explicitly endorsed by some interviewees as an appropriate planning response to some land use issues, including caribou habitat protection, in Nunavut. It also provides a spatial context through planning for the development and application of regulatory restrictions on land use in calving grounds by NIRB or government departments involved in land use management. Ultimately, these restrictions could be incorporated into the plan as general terms and conditions for activities in calving grounds. We therefore conclude that the DNLUP approach to caribou calving grounds satisfies the reasonableness standard for our second criterion.

We note, however, that we offer no opinion on whether or not this planning tool is the appropriate one from the perspective of competing values, interests, and policy options. The determination of whether or not this choice is appropriate for Nunavut must be made in the first instance by NPC as it prepares the final draft plan based on input from Inuit, the public, stakeholders and the Parties. The ultimate decision rests with the Parties who must decide whether or not to approve the plan submitted by NPC.

The third criterion is whether the rationale for the decision is evident and supported by information, analysis and a reasonable exercise of judgment by the NPC. The NPC's Options and Recommendations document summarizes the information and analysis that support this recommendation. Several interviewees also commented on this issue. A detailed analysis of the current state of caribou science, traditional knowledge (IQ) and management best practices is beyond the scope of our review, but it is sufficient for our purposes to highlight several of the key factors that we identified from our interviews and review of documents that believe are relevant to a planning decision on this issue in the current circumstances in Nunavut:

- Historic caribou calving grounds cover large areas of Nunavut;
- The specific parts of historic calving grounds used by caribou vary from year to year;
- Calving generally occurs between May 15 and July 15;
- There is some mineral activity within historic calving grounds;
- Historic calving grounds have qualities that may also contribute to achieving other goals for land use planning in Nunavut;
- There are differing views among Inuit, other residents of Nunavut, stakeholder groups and government about the type and the spatial and temporal extent of restrictions on land use that are appropriate for caribou calving grounds, ranging from a prohibition of all development within these areas to the imposition of best practices and seasonal mitigation measures, as needed, when caribou calving may be disturbed by other land uses;

- Existing regional land use plans in Nunavut include prohibitions in development in caribou calving areas during calving seasons and we heard from interviewees that there is some evidence of support for restrictions on development in these areas from some Inuit, but NTI indicated to NPC (as noted in both the July 2011 and 2011/2012 Options and Recommendations document¹⁵) that in its view the DNLUP should not restrict land use on Inuit owned land, some of which is located within historic caribou calving grounds; and
- There does not appear to be a well developed policy or management approach for caribou calving grounds that could be readily incorporated into or complemented by the DNLUP at this time.

The last point warrants a brief discussion. The current policy and management framework for caribou was raised in several interviews and the GN referred us to the Draft Nunavut Caribou Management Strategy Framework (March 2010 – henceforth ‘Draft Strategy’). Section 3 of the Draft Strategy deals with Avatittinnik Kamatsiarniq (Environmental Stewardship) and states that “land use planning and environmental impact assessment processes are the primary mechanisms for managing development within caribou habitat” (p.14). The Draft Strategy affirms GN’s commitment to working with NPC in developing a Nunavut-wide land use plan. It states that this plan should address caribou habitat and that “there is a need to clearly identify sensitive habitat, determine the types of activities which should be permitted in these areas and establish strong protection and mitigation measures necessary to preserve ecosystem integrity and herd health” (p.14). The Draft Strategy also states GN’s view that existing caribou protection measures in Nunavut are outdated.

The Draft Strategy then identifies numerous actions to be taken, including (pp.15-16):

- Action 3.1a: Increase capacity to proactively collect and analyze data and compile information useful for land use planning and environmental assessment.
- Action 3.1c: Invest in research and monitoring to meet information needs identified through land use planning, environmental assessment and the Nunavut General Monitoring Program.
- Action 3.1e: Develop a set of general guidelines for mitigating development impacts on caribou.
- Action 3.1f: Develop recommendations on the methods and standards of research required to adequately monitor and mitigate impacts on caribou around sites of development.
- Action 3.1g: Work with industry to integrate short-term, local monitoring and mitigation activities into long-term, herd-level research programs the results of which will support future sustainable development and the management of caribou.
- Action 3.2b: Working with other governments, co-management partners, and other stakeholders, develop and adopt a set of revised caribou protection and mitigation measures to manage human activities in sensitive habitat for application in land use planning and environmental assessment.

¹⁵ The July 2011, and 2011/2012 Options and Recommendations documents refer to NTI’s direction to NPC in several places. NTI’s position on this issue at the time we conducted this review was also confirmed by some interviewees.

- Action 3.2c: Invest in research focussing on (a) increasing understanding of the distribution of sensitive habitat, (b) studying the interactions between existing human activities and caribou in order to explore the connection between caribou persistence and industrial development over short and long-term temporal scales and over fine and coarse spatial scales, and (c) determine the effectiveness of protection and mitigations measures.
- Action 3.2d: Place priority on research in areas of habitat that are of mutual interest with respect to caribou and resource potential.
- Action 3.2e: Develop and test new and flexible management tools, including mobile protection measures based on satellite telemetry (e.g., short term area closures when caribou are in the vicinity).
- Action 3.2f: Utilize the results of new research to update caribou protection and mitigation measures.
- Action 3.2g: Working with regulatory authorities, co-management partners, and other stakeholders, explore options for preserving calving and post-calving habitat.

Finally, the Draft Strategy includes proposed actions to improve the ability to identify, assess and monitor cumulative impacts on caribou, including the identification of “options and methods for delineating thresholds for human activity” (p.16.).

This excerpt from the substantial ‘to do’ list in the Draft Strategy suggests to us that very significant work remains to be done to develop the types of information, policies and management tools that could be incorporated into a land use plan to provide more specific guidance and direction on land use in caribou calving grounds. If the GN, which has primary jurisdiction and presumably substantial capacity to address these issues, is at the stage of identifying these actions items in its Draft Strategy, it seems unreasonable to expect a small team of land use planners at NPC, who are not caribou management specialists, to provide a detailed and prescriptive solution to the issue in the first generation DNLUP.

In assessing the reasonableness of the DNLUP’s approach to this topic, we also noted the exchange of correspondence between GN and the NPC on the Draft Strategy. In a letter dated November 15, 2010, GN offered NPC the opportunity to participate in the consultation process on the Draft Strategy by providing input by a deadline of December 3, 2010. NPC responded to this request in a letter dated December 27, 2010. It identified the following types of information that it could use to inform planning decisions about terms and conditions for land use within sensitive caribou habitat:

- Are there specific geographic areas or caribou herds that require special management?
- Describe the purpose of the special management.
- Identify the location (spatial) and / or time of year (temporal) where the special management should apply.
- What criteria, beyond existing regulatory and management processes, would be required to manage land use to maintain the calving grounds or herds?

- Are there opportunities to enhance the management or regulatory processes or address possible regulatory gaps related to the management of land uses that may impact caribou and calving grounds?

In our view, these questions and direction are consistent with the approach that we would expect a planner to take in soliciting input and exploring options for addressing this complex issue.

Based on the information available to us, as summarized above, we find that the approach to caribou calving grounds adopted by NPC in the DNLUP and described in the Options and Recommendations document is consistent with good planning practice and is a reasonable decision. It seems unrealistic to us to expect NPC to provide a more detailed planning response to this issue in the absence of additional input from GN and others who have the specialized expertise and capacity to address the issues, either based on their existing information and analysis or through actions of the type enumerated in the Draft Strategy.

The fourth criterion for considering the reasonableness of the DNLUP decision on this topic is whether it provides a basis for engaging the public, stakeholders and the Parties through the proposed review of the DNLUP. In our view, both the identification of historic calving grounds and the proposed 'red flag' approach are reasonable starting points for this participation. Engagement could be structured around the types of questions and requests for input, quoted above, that NPC included in its letter to GN on the Draft Strategy. We would also expect Inuit, other residents of Nunavut, stakeholders and the other Parties to offer their views on issues such as:

- The relative importance of potentially competing values and land uses in caribou calving grounds;
- The type and severity of adverse effects on caribou that may result from land uses within calving grounds and the options for eliminating or mitigating these effects or reducing the risk that they will occur;
- The differing positions and interests that have been expressed in relation to restrictions on land use within caribou calving grounds (including the appropriateness of land use restrictions on Inuit owned land within calving grounds); and
- The direction on land use in caribou calving grounds that it is reasonable to expect from a first generation Nunavut-wide land use plan at this time and, in particular, whether the plan should provide more specific guidance for NIRB and other regulatory decision makers.

On the basis of participation focusing on these types of issues, we expect that NPC will be in a good position to determine what changes, if any, should be made to its approach to caribou calving grounds.

In summary, we conclude that the planning decision on land use within caribou calving grounds in the DNLUP is reasonable when assessed using criteria based on planning theory and professional practice. The approach proposed by NPC is consistent with obligations and direction in foundation documents and with a plausible understanding of the role that a land use plan can play in this area. The rationale for this decision is also reasonable given the information, policy and management context and different positions and interests that have been expressed on this topic. Finally, this decision provides a reasonable basis for engaging Inuit, other residents of Nunavut, stakeholders and the Parties in a meaningful discussion of what guidance and direction on this issue should be included in a first generation territory-wide plan.

7.5.2 Community Land Use

The DNLUP addresses “Community Land Use”, which it implies are lands that lie outside the municipal boundaries that are used by communities, in section 4.2.1 of Chapter 4: Building Healthier Communities. This section briefly notes that “Nunavummiut rely on migrating species for subsistence, and as a result, have a long established history of land use across much of the NSA [Nunavut Settlement Area]” (p.25). The NPC has conducted over 400 interviews to identify areas of traditional land use and occupancy and areas of importance to communities are identified on community maps included in the DNLUP. These areas are assigned Recommendation BCH-R2: “Project Proposals located in areas of traditional land use should take into account impacts on the cultural value of the area.”

The decision to address areas of community land use in the DNLUP is consistent with planning obligations and direction established by foundation documents. For example, as noted in the NPC’s Options and Recommendations document, section 11.2.1(a) of the NLUP states that “people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation.” Engaging residents through Use and Occupancy Mapping is also consistent with the obligation under section 11.2.1(d) to provide an opportunity for the “active and informed participation and support of Inuit and other residents” in the planning process. Finally, addressing this issue is consistent with the goal of Building Healthier Communities in the 11.4.1(a) document. The DNLUP decision to address this issue therefore meets the test of reasonableness under the first criterion.

The second criterion concerns its consistency with a plausible understanding of the role of land use planning in Nunavut. As with caribou calving grounds, the DNLUP proposes the ‘red flag’ approach to areas of community land use. The value added by the plan is the identification of these areas on local maps so that land users, NIRB and other regulatory authorities have advance notice that projects in these areas should consider impacts on cultural values. As a result, project proponents are on notice that they should proactively identify and address specific community concerns and that they can expect scrutiny on these issues in regulatory hearings.

One question that could be asked is whether mapping areas of interest at this fine scale is appropriate for a first generation Nunavut-wide plan. As discussed above, however, it is our view that there is no standard template for this type of plan based on planning theory or professional practice. It is perfectly reasonable for the NPC to identify the initial mapping of culturally important community land use areas across Nunavut as a priority for the first generation plan. In fact, this approach has the advantage of bringing the planning process, which covers a vast area, down to a scale that is meaningful for many Inuit and other residents.

One observation on the utility of this approach is that the DNLUP does not provide specific information on the types of land uses or their distribution that were identified through Use and Occupancy Mapping within the community land use areas. We recognize the reasons why specific information on culturally important sites should not be included in the plan. However, it might be possible to provide land users, such as project proponents, with an indication of the values, land uses and occupancy patterns within these areas. This information might be provided in the DNLUP or users of the plan could be directed to other sources for this information.

The third criterion concerns the rationale for the DNLUP decision. The NPC's Options and Recommendations document explains the decision to adopt the 'red flag' approach as opposed to a more restrictive land use designation on the grounds that Use and Occupancy Mapping has not yet provided information on communities' views on "the relative importance of the areas and the management direction that may be appropriate" (p. 32). The NPC also notes that many of these areas include Inuit owned land. NTI's position is that the DNLUP should not restrict the use of this land. Finally, the DNLUP does not include information on other ongoing or proposed land uses in these areas or the nature of competing values or land use conflicts. On this basis, the decision to identify these areas and include Recommendation BHC-R2 is, in our view, reasonable.

One observation that we note is that the DNLUP and the supporting material that we reviewed provide little information on the Use and Occupancy Mapping that was used to delineate community land use areas. While we do not think that this information needs to be included in the DNLUP, it should be provided in background material to explain this aspect of participation in the planning process and as part of the justification for this component of the plan.

The final criterion is whether this decision provides a basis for participation in further development of the DNLUP. In our view, community input on the delineation of these areas would be an appropriate focus for engaging Inuit and other residents at the public participation stage. In addition, comments at the community level might be directed to providing greater guidance in the plan on the values and the patterns of land use and occupancy in these areas, their relative importance, and proposed direction on appropriate land use. Stakeholders may also want to comment on values and land uses within these areas. Given the broad scale of a Nunavut-wide planning exercise, focusing one part of that process on community land use areas seems to us to be a reasonable approach to engaging the public and stakeholders in meaningful participation.

7.5.3 Community Drinking Water Supplies

This topic is addressed in section 4.4.1 of Chapter 4: Building Healthier Communities. The DNLUP summarizes the importance of clean drinking water to communities in Nunavut and the potential for land uses to affect water quality and quantity. Watersheds for currently identified community water sources are identified on community maps. These areas are assigned Recommendation BHC-R3: "Project Proposals located in a community water supply watershed should take into account impacts on the quality and quantity of community drinking water" (p.43). Some of these areas are also assigned land use designations (GHC-5, BHC-6, BHC-7) which identify permitted uses. BHC-6 also prohibits all other uses.

The decision to address this issue in the DNLUP is consistent with the principle in section 11.2.1(b) of the NLCA that "the primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote the existing and future well being of those persons ordinarily resident and communities" in the NSA. It also addresses the provision in section 11.2.3 that the development of planning policies, priorities and objectives shall taken into account factors such as "community infrastructural requirements [and] ...health." This topic is also addressed in a policy under the Building Healthy Communities goal in the 11.4.1(a) document. We therefore conclude that it meets the test of reasonableness under the first criterion.

The approach taken to community drinking water supplies includes both the 'red flag' approach of Recommendation BHC-R3 and more prescriptive land use designations for certain community

watersheds. Both approaches are consistent with planning theory and professional practice. Since these areas have a specific and very important value associated with them and many of them are small enough to be included on community maps, it makes good sense from a planning perspective to use a land use plan to signal their importance to land users and regulators and to impose restrictions on land uses where appropriate. We find this approach reasonable under the second criterion.

The third criterion focuses on the rationale for these decisions. The NPC's Options and Recommendations document identifies the information considered, including comments from the Parties about the importance of addressing this issue and the appropriateness of land use restrictions to protect drinking water sources. We also note that several interviewees identified the protection of community drinking water as a high priority for a first generation territory-wide plan. For example, one interviewee stated that this issue is very important for many residents and the need to regulate land use to protect the quality and quantity of drinking water is relatively uncontroversial. As a result, this interviewee suggested that action on drinking water protection was an opportunity to demonstrate significant progress on a key issue in the first generation plan.

The NPC's Options and Recommendations document identifies eight options for protecting drinking water supplies, including combinations of land use designations and recommendations. It then outlines the analysis supporting its planning decisions. The NPC recommends at the outset that directions provided in Community Plans, that have been developed through extensive community consultation, should be reflected to the full extent possible in the DNLUP. However, the NPC also notes that in some cases there is a conflict between the direction contained in Community Plans, the position of NTI that the DNLUP should not restrict land uses on Inuit owned lands, and comments from the GoC.

The Options and Recommendations document shows that NPC then examined the circumstances of each community drinking water supply in turn and tailored the specific approach accordingly. Factors considered include: the direction in the applicable Community Plan; the size and characteristics of the watershed; whether the watershed extends outside of community boundaries; whether there is Inuit owned land within the watershed; and other existing land uses (e.g., prospecting permits) within the watershed. This analysis of individual areas is consistent with the approach typically taken to land use designation (e.g., Special Management Areas) in landscape-scale planning. Measured against our third criterion, we conclude that this approach represents good planning practice and provides a reasonable rationale for the decisions on community drinking water in the DNLUP.

The final criterion considers these decisions as the basis for participation. We expect that residents will be able to comment on the drinking water watersheds identified on the community maps and the associated recommendations and land use restrictions in the DNLUP. As with areas of community land use, this topic is addressed at a scale that appears to us to facilitate meaningful participation at the community level. It also provides an opportunity for community members and stakeholders to provide their views on competing values in these areas, the extent to which other land uses may adversely affect water quality and quantity, and the appropriate response to these issues in the DNLUP. For these reasons, we conclude that the decisions in the DNLUP on this topic are a reasonable basis for public and stakeholder participation.

7.5.4 Key Bird Habitat Sites

This topic is addressed in section 2.1.1 of the DNLUP's chapter on Protecting and Sustaining the Environment, which briefly notes the importance of Key Bird Habitat Sites and the basic criterion for

identifying them. These areas are identified on the maps in Schedules A and B and are either assigned a land use designation (PSE-1, PSE-2 or PSE-3) that restricts land use or a recommendation (PSE-R1) that uses the 'red flag' approach to signal the value of these areas to potential land users and to regulatory decision makers. Much more detail on the rationale for identifying these sites and the planning decisions leading to the land use designation or recommendation is provided in the Options and Recommendations document.

Our first criterion is whether the DNLUP's provisions on this topic are consistent with obligations and guidance from the NLCA and the 11.4.1(a) document. We note that the NLCA states that land use plans shall provide for the conservation of land (11.2.1(e)) and shall take into account "environmental considerations, including ... wildlife habitat" (11.3.1(g)). We also think that it is reasonable to assume that protecting important bird habitat and the bird populations that depend upon it would, at least in principle, be consistent with the values and priorities of Inuit and other residents of Nunavut (11.2.1(c)). Since these areas are breeding grounds for migratory birds, we also observe that their protection is consistent with direction in the NLCA that planning should take into account "the interests of all Canadians" (11.2.1(b)). Finally, we note that Objective 2D in the 11.4.1(a) document is that planning "manages land use in and around areas of biological importance" and that the corresponding Policy 2D states that planning "respects and considers 'natural capital' sites (sites of ecological significance) that are not officially protected, such as: polynyas, key migratory bird sites, Ramsar sites, critical habitat that has been identified but not yet declared." We therefore conclude that the decision to address Key Bird Habitat Sites in the NLCA meets the first criterion.

The second criterion is whether this decision is consistent with a plausible understanding of the role of land use planning in Nunavut, based on planning theory and best practice. On this question we note simply that the DNLUP uses both land use designations that restrict activity in specified areas and a spatially-referenced recommendation, both of which are appropriate planning tools. Many of the Key Bird Habitat Sites are relatively large areas that are clearly visible on the maps of Nunavut in Schedules A and B. Assuming appropriate mapping precision on more detailed maps, it appears to us that these areas are sufficiently clearly delineated.

The third criterion focuses on the information, analysis and judgement underlying the planning decisions on Key Bird Habitat Sites. Both the general criteria and rationale for including these sites in the DNLUP and the site-specific considerations that guided the choice among the PSE land use designations and recommendation are discussed in some detail in the Options and Recommendations document. We note that site selection is based on locations and categories provided by the Canadian Wildlife Service (CWS) and that NPC has relied on recommendations from CWS regarding the two categories (Red and Yellow Sites) when making its site-specific planning decisions. In addition, the Options and Recommendations document lists other general factors that NPC has considered, including the presence of Inuit owned land within some sites, overlap with marine areas identified by the Department of Fisheries and Oceans as having High Biological Importance, and relevant guidance from the existing regional plans. The Options and Recommendations document lays out four options and explains, in general terms, how they were applied to sites having different attributes and combinations of land use values. Finally, the planning decisions are explained for each site, including the specific factors considered and the rationale for the option selected. In our opinion, this material provides a reasonable and transparent basis for the decisions on Key Bird Habitat Sites in the DNLUP.

Our final criterion is whether the DNLUP provides a reasonable basis for engaging the public, stakeholders and the Parties on this topic. In our opinion, the key issues on which comments could be

expected include: (1) whether the boundaries of these sites in the DNLUP are appropriate; (2) whether any important areas of bird habitat have been missed; and (3) whether the land use designations or recommendation for this topic as a whole and for each individual site are appropriate (e.g., whether they are sufficiently protective of the important environmental values, or too restrictive of other potential land uses for these areas). In our view, the DNLUP provides a good basis for soliciting input on these questions.

7.5.5 Cumulative Impacts

The DNLUP refers to cumulative impacts in two places. Section 2.2 quotes the objective and policy from the 11.4.1(a) document and summarizes the NPC's authority to refer projects to screening under NLCA sections 12.3.3 and 13.4.4. Section 7.2 refers again to the referral power. Both of these provisions are purely descriptive. The question of what, if anything, the DNLUP should say about cumulative impacts was raised in some interviews and has been considered in comments on earlier drafts of the plan. Some interviewees suggested that the DNLUP should demonstrate more progress in addressing cumulative effects and provide clearer direction regarding NPC's referral authority.

The first criterion is whether the DNLUP's provisions on cumulative impacts are consistent with the NLCA and guidance in foundation documents. Cumulative impacts are not referred to in Article 11, so there is no specific direction to address this issue in land use plans. There is, however, ample authority under Article 11 to include provisions on this topic in land use plans if cumulative effects are identified as a problem that should be managed and if an appropriate planning solution can be identified.

Cumulative impacts are referred to in the 11.4.1(a) document. Objective 2K is that land use planning:

addresses the cumulative social, cultural, economic and environmental impacts of a broad range of land use activities (including transboundary impacts) on the environment, wildlife and wildlife habitat.

The corresponding Policy 2K is that land use planning:

considers implementing thresholds for cumulative impacts, or levels of acceptable change, of land use activities on the ecosystemic and socio-economic environment, that are supported by Government, Inuit, the Nunavut Wildlife Management Board, the Nunavut Impact Review Board and/or the Nunavut Water Board.

This policy clearly envisages a collaborative process for identify thresholds or acceptable levels of change, both of which are well recognized tools for cumulative effects management.

It is important to note that cumulative impacts are referred to directly in section 12.3.3 of the NLCA, which gives NPC the discretion to refer project proposals that are normally exempt from screening and Schedule 12-1 of the NLCA to NIRB for screening *"where the NPC has concerns respecting the cumulative impact of that project proposal in relation to other development activities in a planning region."* Similar discretion for water applications is included in section 13.4.4. NPC's role in this area is part of its single window function within the regulatory system, which also includes the review of project proposals for conformity determination. As noted above, a review of this role in plan implementation is not within the scope of our review of the plan development process and the DNLUP. While there are clearly important ways that the content of a land use plan could affect these NPC roles in reviewing

individual project proposals, we do not see anything in the foundation documents that requires that this issue be resolved in the DNLUP.

Our conclusion on the first criterion is that the decision in the DNLUP to refer to cumulative impacts simply by identifying the general objective and policy in this area and describing the NPC's referral authority is reasonable, given the absence of explicit direction on this topic in the NLCA and the 11.4.1(a) document.

The second criterion is whether the decision on this issue is consistent with a plausible understanding of the role of land use planning in Nunavut, based on planning theory and practice. As a general comment, we note that cumulative impacts are a challenge for land and resource management because they are difficult to identify and address through project-specific environmental assessment and regulatory decisions. Land use planning provides a means of dealing proactively with this issue at the landscape scale, giving context and direction for project-specific decision making and contributing to a broader framework for cumulative effects assessment and management. Designing and implementing this type of framework and determining how land use plans should deal with cumulative impacts has been challenging in the North and elsewhere. There are no easy solutions to this problem.

A more specific approach to cumulative impact referrals was included in an earlier draft of the DNLUP. However, it was removed in subsequent drafts following concerns raised in comments.

We also note that NPC commissioned a consultant report on "Cumulative Effects Referral Criteria" (May 2009). That report discussed the general challenges of cumulative impact management and specific issues related to project referral based on concerns about cumulative impacts. The report concluded, based on a review of the relevant literature and the consultants' professional experience, that "a universally applicable solution for the assessment and management of cumulative effects does not exist and no single referral solution for the NPC is apparent" (p.5-2). The report then proposed referral criteria, but added the following important caveats (p.5-3):

This report presents a set of referral criteria for consideration during the development of the NLUP. It must be acknowledged that the authors consider the criteria presented to be an interim measure to be applied in the absence of thresholds. Additionally, the criteria proposed were developed to address NPC's cumulative effects referral responsibility under the NLCA and should not be considered as a cumulative effects assessment and management system, rather they could be part of a larger management system that may be developed by other Parties.

Finally, it recommended that NPC and government continue to work towards the establishment of cumulative impact thresholds over the longer term and that:

NPC and its planning partners, consider the applicability, practicality and potential implications of implementing the proposed referral criteria. Such review should consider the simulated application of the criteria to a range of previously completed Schedule 12-1 projects which were exempt from screening.

This analysis confirms that managing cumulative impacts is a major challenge in every jurisdiction and Nunavut will be no exception, particularly given the current level of understanding of this issue and the available information and capacity to address it. The solution will require the active involvement of NPC, government and other organizations such as NIRB and NWB. In our opinion, it is not realistic to expect the NPC to pull the cumulative impact management rabbit out of the hat in the DNLUP. Our conclusion

on the second criterion is therefore that the lack of progress on this topic in the DNLUP is not surprising in light of the current state of development of cumulative impact management and the challenges to addressing it effectively through a combination of land use planning and other policy instruments.

The third criterion concerns the rationale for the decision on this topic. The Options and Recommendations document identifies two options for addressing cumulative impacts and recommends that NPC “develop a directive in consultation with the NIRB with regard to referring project proposals with potential cumulative impacts for review” (p.21). It also notes that there is no agreement on cumulative impact thresholds for Nunavut at the present time. Cumulative impacts is one topic, therefore, that the plan could identify for further study.

As noted above, NPC’s direct cumulative impact authority relates to its role at the front end of the project review process. While this role could and perhaps should ideally be informed by the content of land use plans, it is also reasonable to develop guidance on this role outside of DNLUP. Furthermore, it is clear that NIRB should be involved in this process, since it is directly implicated by an NPC decision to refer an otherwise exempt project proposal for screening.

We therefore conclude that the rationale for the approach to cumulative impacts in the DNLUP is reasonable, despite the fact that it does not offer a substantive solution to this issue. Since the topic is mentioned in the DNLUP, we suggest that NPC include the recommendation from the Options and Recommendations document that it work with NIRB to develop a directive on cumulative impact referrals.

The final criterion is the reasonableness of the provision as a basis for participation by the public, stakeholders and the Parties. In our opinion, mentioning cumulative impacts in the DNLUP opens the door for additional input on this topic. If public and stakeholder engagement identifies significant concerns in this area and provides further information on the nature of cumulative impact issues in Nunavut and potential solutions, that would provide a clear signal to NPC, the Parties and other organizations such as NIRB and the NWB to devote more effort to this topic. Collaboration with NIRB on a referral directive seems to us to be a reasonable way forward, but additional options may emerge from public and stakeholder comments and the Parties may also be able to offer more specific suggestions. We also note the reference to the identification, assessment and monitoring of cumulative impacts and the development of thresholds for human activity in the GN’s Draft Nunavut Caribou Management Strategy Framework (p.16), quoted above. Implementation of this strategy may therefore enable GN to provide NPC with specific recommendations for addressing cumulative impacts on caribou in future versions of the Nunavut Land Use Plan and through its referral authority.

7.6 Concluding Observations on the DNLUP

Our observations on the content of the 2011/2012 DNLUP apply a reasonableness standard to various aspects of the plan. This analysis delves into the details of the document, assessing:

- Overall design;
- The context and purpose sections;
- The descriptions of methodology, consultation and implementation;
- Land use designation and spatially-referenced recommendations; and
- Planning decisions in five important areas.

We conclude that the basic structure of the plan and its key components are reasonable when evaluated in terms of consistency with the foundation documents for planning in Nunavut and a plausible understanding of the role of planning based on theory and best practice. In addition, NPC has provided a reasonable rationale for these components of the plan and they provide a basis for engaging the public, stakeholders and the Parties. We also offer some observations on how these aspects of the DNLUP could be improved.

8 Recommendations for a Path Forward

The terms of reference for our independent review stated that “a key result of the Review will be to recommend how best to bring about a successful conclusion to the NLUP planning process.” The Parties are well aware of the complexity of the issues that they must address and the poor working relationships and loss of trust that now constitute significant obstacles to moving forward. Our observations on these challenges and our analysis of the underlying issues leave no doubt, in our minds, that significant effort by all Parties will be needed to achieve a successful outcome. Our terms of reference also stated that “The recommendations, if any, are expected to lead to a shared set of understandings and expectations, better informed decision-making, a more collaborative working environment among the planning partners and the promotion of a more efficient and effective process for all participants.” The preceding pages of our report confirm that this statement is both an accurate assessment of what is needed and a very ambitious set of expectations for our review.

The following sections describe our recommendations. We have identified a set of principles and practical guidelines and a discrete series of steps that, in our opinion, offer the Parties a path forward.

8.1 Guiding Principles

The following principles emerge from our observations and analysis in previous sections of this report:

1. Strengthen the Pillars;
2. Build on Significant Progress to Date;
3. Align Expectations, Workload and Capacity;
4. Focus on Interests rather than Positions;
5. Change the Dynamic among the Parties;
6. Distinguish Responsibilities for Process and Substance;
7. Ensure Timely Completion of the First Generation Plan; and
8. Formalize Communication and Improve Documentation.

We describe each of these principles below.

8.1.1 Strengthen the Pillars

The overall strategic priority for the Parties should, in our opinion, be a collective effort to strengthen the substantive, participation and procedural pillars that are essential to support an approved land use plan for Nunavut. We have offered our views on what these pillars need to include, why they are important, and their current condition. We have also shown how they are interconnected, forming an integrated structure. The specific steps that are needed to strengthen the pillars should contribute to ensuring that the both the plan and the planning process comply fully with the letter and intent of the NLCA, meet reasonable expectations of the Parties, and can be explained and justified when they come under public, stakeholder and political scrutiny.

8.1.2 Build on Significant Progress to Date

Although we heard opinions to the contrary during some of our interviews, our assessment is that significant progress has been made by the NPC and the other Parties in developing a first generation plan. Some of that progress consists of baseline information, including the Use and Occupancy Mapping and other spatial data relating to values and land uses in Nunavut. Discussions involving NPC and the

other Parties have produced some tangible results that are reflected in the DNLUP. They have also produced shared knowledge and provide important lessons for all Parties about the challenges of land use planning in Nunavut. Nothing that we have seen convinces us that the planning process should go back to the beginning and start again. In our view, the Parties' achievements to date can be built on if overall expectations are tempered by pragmatism, a willingness to compromise, and a longer term perspective that recognizes land use planning as an ongoing activity that is never fully completed. Completion of the first generation Nunavut-wide plan will inevitably leave some unresolved issues on the agenda for subsequent iterations of the plan or to be addressed through other levels of planning (e.g., regional, sub-regional, local) or in other forums.

8.1.3 Align Expectations, Workload and Capacity

The importance of aligning the Parties' expectations is a recurring theme in our report. In our opinion, all of the Parties need to be more realistic about what can be achieved in this first iteration of the Nunavut land use plan. Developing common expectations does not mean engaging in a collective planning process. NPC needs latitude to discharge its responsibilities under the NLCA. The reality, however, is that NPC's responsibilities for planning do not come with sufficient authority to unilaterally bring the process to a successful completion. We described the web of interdependencies earlier in our report. Not only does NPC require input and assistance from others throughout the process, but it is not the ultimate decision maker. Ultimately, GoC, GN and NTI (under NUPPAA) will decide whether or not to approve the plan. Each will presumably measure the final product and the process used to develop it against their expectations. Furthermore, since each of these Parties has a veto it is essential that their expectations be reasonably well aligned. If they are different on important issues, a draft plan that is acceptable to one or more may be blocked by another.

In our opinion, all too often the expectations identified by interviewees and in the documents that we reviewed demonstrated a lack of pragmatism, insensitivity to the constraints and capacity limitations that are realities for other Parties, and an unwillingness to acknowledge the collective responsibilities of all Parties to focus on achievable outcomes for the planning process. To use a common analogy, too many people involved in the process seem to be looking for a home run, rather than seeing the value of hitting a single.

We suggest that aligning expectations, workload and capacity should also include consideration of where additional capacity is needed within the process. In particular, we are concerned with the capacity of the small planning team at NPC to cover the range of issues that need attention in the substantive, procedural and participation pillars. Our review did not include an assessment of budgetary issues, staffing levels and skill sets, or the use to date of external expertise. However, we have a sense of the magnitude of the tasks facing NPC and we doubt that it is reasonable to expect a small team to have both the expertise and the time to keep on top of everything.

We therefore suggest that NPC consider drawing on specialized expertise to assist in areas such as public participation, documentation, research and analysis, report writing, and communications. NPC would benefit from the new ideas and perspectives that would come from working with experts in these areas. Assistance from experts should also enhance the ability of the core NCP planning team to focus on priority strategic issues, management of the overall planning process and delivery of the draft plan. Finally, assistance from recognized external experts on contentious issues could contribute to changing the dynamic among the Parties, an issue returned to below.

8.1.4 Focus on Interests Rather than Positions

One of the main challenges for all Parties is to overcome the legacy of disappointments, misunderstanding and mistrust that has accumulated over the past several years. Part of that legacy has been an emphasis on positions, rather than interests, in the interactions among the Parties. We heard many positions stated during our interviews, but fewer thoughtful reflections on the underlying individual and common interests of the Parties. Focusing on positions rather than interests is a well recognized obstacle to successful negotiation – and negotiation is an inextricable part of land use planning because of the need to reconcile different values, objectives and priorities.

We suggest that each of the Parties should consciously shift from stating positions to exploring interests when interacting with each other. Flexibility on some previously firm positions will also be necessary. Furthermore, we strongly recommend that the Parties engage specialized experts in structured decision making to assist them in making the transition from positional to interest-based interaction. This recommendation is elaborated on below in the discussion of Step 3 in our proposed path forward.

8.1.5 Change the Dynamic among the Parties

All Parties recognize that the current state of relationships among them is not conducive to successful completion of the planning process. Mistrust, lack of openness and an adversarial approach to communication have contributed to a self-reinforcing pattern of negative interaction. As noted earlier in our report, several interviewees were pessimistic about the prospects for repairing the inter-organizational and interpersonal relationships. Clearly, simply recommending that the Parties work harder to ‘get along’ will not be sufficient to break this dynamic.

We recommend significant changes to the structure and content of interaction among the Parties in order to drive the transition to more a positive dynamic. To begin with, we agree with the suggestion made by several interviewees that the planning process has become too focused on interaction between NPC and government and not sufficiently inclusive of public and stakeholder engagement. Steps 1 and 2 in our recommended path forward are intended to allow government to disengage somewhat in the short term and then re-engage later in the more structured forum for clarifying expectations that is proposed for Step 3. In our opinion, meaningful public and stakeholder participation could change the dynamic among the Parties by focusing more explicitly, as directed by the NLCA, on “the priorities and values of the residents of the planning regions” (section 11.2.1(c)).

As noted above, we also believe that engagement of independent expertise to assist the NPC and the other Parties in completing important tasks and resolving contentious issues would contribute to changing the dynamic. Unfortunately, the current level of mistrust may make it difficult for proposals generated within each of the Parties to find acceptance among the others. Independent advice and non-Party perspectives may be helpful in finding common ground.

Finally, we suggest that the best way to build trust and re-establish confidence will be for the Parties to take meaningful but incremental steps that demonstrate success. We have heard about successful interactions, including collaboration on the 11.4.1(a) document and work on NUPPAA. However, it appears to us that these discussions may not have involved the types of difficult decisions on priorities and trade-offs that are at the heart of land use planning. Our recommendations for next steps are intended to enable the Parties to assemble the building blocks of success that could, over time, renew trust in relationships and confidence that land use planning in Nunavut can be successful.

8.1.6 Distinguish Responsibilities for Process and Substance

Greater clarity about roles and responsibilities would, in our opinion, help to resolve some contentious issues. In particular, we observed a tendency for confusion about the respective roles of NPC and the government Parties in relation to the planning process and content of the plan. Our interviews and our review of planning theory and practice provided important insights on this topic. One way of stating the distinction is that the planner 'owns' the planning process, but not the ultimate content of the plan. The key message is that the planning body focuses on process management and integrating suggestions from the public, government and stakeholder organizations into a coherent whole.

Of course, a planning board or commission also makes important decisions about the content of the draft plan and may be called upon to arbitrate among competing positions, suggest compromises, and make difficult trade-off decisions. However, all of these functions occur in a context where much of the raw material for planning in the form of information, issue identification and prioritization, objective setting and the analysis and selection of options are driven in large measure from outside the planning body. There are real limits on how far the planner can and should exceed the parameters defined by this input. Perhaps the clearest of those limits is that, to be successful, a planning body must come up with a product that is acceptable to the approving Parties.

We also note the criticism made in several interviews that the DNLUP does not advance sufficiently far beyond the status quo on important issues and that NPC was not delivering on expectations that it would develop solutions to some of the most challenging and contentious land use issues in Nunavut. However, specific suggestions about how to address these issues, including evidence of consensus among government, NTI, stakeholders and the public appear remarkably scarce. Furthermore, interviewees readily acknowledged that some issues create challenges for government and NTI, either internally or with their important external constituencies. Government departments with different mandates often have inconsistent views on contentious issues. NTI is also not immune to these challenges, as illustrated by the tension between its position that the plan should not restrict land use on Inuit owned land and the views of some Inuit organizations. As noted at several points in our report, NPC's responsibility under the NLCA to prepare the plan does not logically lead to the conclusion that it can or should come up with solutions to a multitude of complex issues.

For reasons discussed in previous sections of this report, improvements can be made to elements of the procedural and participation pillars that fall squarely within the responsibility and authority of NPC. However, we believe that the substantive content of the plan must reflect a collective effort and that government and NTI must assume their responsibility for offering solutions for NPC to consider, including options for identifying and addressing conflicting views within their organizations, among them, and with the views of the public and stakeholders. At the end of the day, 'ownership' of the plan's content must be shared and the other Parties must step up to the plate to take more responsibility for proposing content and clarifying expectations.

8.1.7 Ensure Timely Completion of the First Generation Plan

The arguments for drawing closure on the first generation plan were discussed above and we will not repeat them here. Ensuring that the recommended next steps can be completed within a reasonable time frame is, however, an important consideration in our recommendations that warrants inclusion as a guiding principle. We are concerned about the stamina of NPC and the fatigue with the process among the other Parties. As noted earlier, we believe that expectations for the plan may need to be trimmed in order to align with reasonable timelines for completion. Priority setting will contribute to this process as

will greater clarity on how issues that cannot be addressed or fully resolved in the first generation plan will be dealt with in subsequent planning or other forums.

In particular, we observe that the urgency of planning is not uniform across Nunavut. It appears from our interviews that there are concerns about potential development pressure in some areas related to mineral exploration and possible mine development, infrastructure and other activities. There may also be other regional and local issues requiring planning attention in various parts of Nunavut. In our opinion, timely completion of a first generation Nunavut-wide plan is essential to enable the planning process to focus efforts, as needed, on more detailed regional or even sub-regional components to address development pressures in certain areas.

8.1.8 Formalize Communication and Improve Documentation

The importance of formalizing communication and improving documentation throughout the process was discussed in some detail above. We simply emphasize here that attention to these issues is a key principle that applies to all of our recommendations. In particular, each of the steps that we are recommending below must be communicated clearly and accompanied by proper documentation of inputs, deliberation, analysis and conclusions (including implications for subsequent steps).

As noted earlier in section 6.3.5, we recommend that a fully functional public registry along the lines of those used by other northern planning processes be operational before proceeding with public and stakeholder engagement. The standard of documentation should also be enhanced. NPC should consider contracting out work in these areas if it lacks staff with the required skill sets or time to ensure that these tasks can be properly and consistently completed. Reliance on specialized expertise may also help to ensure that these elements of the process meet the needs and expectations of the other Parties.

We also recommend that NPC consider other measures to improve documentation and support greater continuity and transparency in the process. For example, it could:

- Assemble a comprehensive background report, to answer key questions using available information, including:
 - Categorizing information to support analysis and decision making; and
 - Identifying and separating out key information documents from those providing a record of communication, or using a system that allows for different sorting options.
- Document and organize information gaps and prepare for new documents in areas such as:
 - Record of public consultation;
 - Description of the options and recommendations decision making process; and
 - Adoption of a naming convention for those documents when it is known that they will be modified over time (i.e., version control).
- Create a background document explicitly as a tool for bringing new 'players' on board, regardless of which Party they are or will be with, including:
 - Structuring the information to demonstrate systematic progress in resolving issues; and
 - Providing adequate detail on development of the three pillars well beyond what is contained in the 11.4.1(a) document.

This document could also serve as a repository of information that will be available to support future revisions to the plan and as a source of guidance for future implementation.

8.2 Next Steps

This section presents recommendations for next steps that are intended as practical ways for moving the planning process forward, rebuilding trust and resolving outstanding issues among the Parties.

These steps are:

1. Engagement with other institutions of public government;
2. Public and stakeholder participation;
3. Structured process for clarifying specific expectations by the Parties; and
4. Preparation of a revised DNLUP by NPC.

We conclude the section with some suggestions on possible subsequent steps.

8.2.1 Step 1: Engagement with other Institutions of Public Government

The first step that we recommend is a facilitated dialogue involving NPC, NIRB and NWB for two principal purposes:

1. to assemble information from regulatory hearings and decisions on the concerns with land use issues that have been identified by the public and stakeholders; and
2. to more carefully consider how and to what extent a first generation Nunavut-wide plan could contribute to improved decision making within Nunavut's integrated regulatory system.

Experience with regulatory hearings should provide valuable insights into the types of land use issues that are arising in Nunavut and the concerns and priorities of Inuit and other residents. It should therefore help with issue scoping, providing a source of input that appears to be largely missing from development of the plan so far. Furthermore, documenting concerns raised in the regulatory system will provide a good starting point for engaging the public and stakeholders in the planning process at the community level. Showing that NPC has identified and considered the views that people have already expressed about land use issues will show responsiveness and provide a basis for a discussion of how the DNLUP can and should address these concerns. We recognize that the views expressed in project-specific regulatory hearings may not translate directly into input on issues, objectives, priorities and actions for the planning process, but we believe they are one useful source of input.

Engaging with the other institutions of public government will also be helpful because it would focus attention on another key issue for the substantive pillar: the role of the first generation Nunavut-wide plan in the integrated regulatory system. As discussed above, this issue was raised in interviews and in the documents that we reviewed, but always in fairly general terms and without evidence of much underlying analysis of what can be reasonably expected from the plan. Furthermore, we observe that engagement of NIRB and NWB in the planning process to date has, for whatever reasons, been inadequate. This step would provide a structured forum and specific focus for that engagement, strengthening a key element of the procedural pillar and hopefully improving the communication and collaboration between NPC and these bodies.

In our opinion, a discussion among these organizations of the land use issues that are recurring in project review and regulatory processes and the extent to which they could be addressed in a proactive way through planning tools would be useful. The specific question is how a Nunavut-wide plan could assist land users, residents and decision makers who are contemplating or undertaking land uses or who may be affected by land uses that, if formally proposed, will be dealt with through project review and

regulatory processes. Opportunities for planning to improve regulatory efficiency and effectiveness would of course be part of the discussion.

Responsibilities

This step should assist NPC and the Parties in issue scoping and in achieving greater clarity on the realistic role that a first generation land use plan for Nunavut can play within the integrated regulatory regime. It has the advantage of moving the planning process forward and hopefully contributing to a new dynamic by allowing government and NTI to step back and giving other voices an opportunity to be heard. GN, GoC and NTI may be able to contribute to this process, perhaps by offering research and analysis, but they would not be the key players in this step.

To complete this work, it may be helpful to obtain additional capacity to identify, compile and analyse the relevant information, prepare the report and other documentation, and facilitate meetings and other discussions involving NPC and the other bodies. The credibility of the results from the perspectives of government and NTI might also be enhanced if this work were undertaken with outside expert assistance, rather than produced in house by NPC. We are also unsure if the NPC planning team has the capacity to complete this work in a timely manner given its workload on other issues

Timelines and Logistics

We believe that the review of regulatory material and an initial discussion with NIRB and NWB on issues, priorities and options for the role of the first generation plan in the integrated regulatory system could be achieved over a period of a few months at most. While full discussion of the latter issue will be an ongoing process, we expect that some progress could be made to at least clarify the issues and options and make a reasonable assessment of what is feasible to achieve in this version of the plan.

8.2.2 Step 2: Public and Stakeholder Participation

The second step that we recommend is to use a tour of communities in Nunavut to engage the public and stakeholders in development of the DNLUP as soon as possible following the completion of Step 1 and once the conditions for successful participation are in place. For reasons discussed above in section 5, strengthening the participation pillar is a high priority. In our opinion, the alternative of delaying public consultation for another year risks exacerbating the problems the Parties have working together in an already fragile relationship. We have also concluded that another year of acrimony will do more harm than good in terms of advancing the DNLUP even if it could result in producing documents more acceptable to the GN and GoC. Furthermore, we suggest that direct information about the values, issues, priorities and objectives that the public and stakeholders would like to see addressed in the DNLUP could contribute to changing the current dynamic among the Parties.

- a) We recognize that the use of either the July 2011 version of the DNLUP or the more recent 2011/2012 version as the basis of public and stakeholder participation has been a source of contention among the Parties. Nonetheless, we feel that it is important to recommend a path forward that will engage the public and stakeholders as soon as possible. We therefore offer the following recommendations for launching a community tour and associated engagement of stakeholders: There is an urgent need for a public and stakeholder participation strategy that describes what 'participation' means in the development of the DNLUP in order to provide context and direction for public and stakeholder engagement. This strategy should articulate goals, expectations and activities, as well as providing a

- means of evaluating feedback and determining how to incorporate it into the plan. It should provide a clear roadmap for participation, with some options for subsequent modifications as needed over the course of plan development. Creative approaches to public participation should be explored, such as running newspaper columns, radio spots, newsletters and kitchen table meetings sponsored by community organizations.
- b) The participation strategy needs to include an educational component. For example, NPC should explain to the public and stakeholders how a land use plan manages land use issues as compared to the environmental assessment process and other policy and regulatory instruments. This explanation should situate land use planning within the broader regulatory context and explain what a plan can and cannot do.
 - c) Public and stakeholder participation must include an opportunity for input on values, issues, priorities and objectives – essentially the scoping phase of the planning process – regardless of the current state of work on the DNLUP. The NLCA directs that the planning process must “provide an opportunity for the active and informed participation and support of Inuit and other residents (11.2.1(c)) and that it must “ensure land use plans reflect the priorities and values of the residents of the planning region” (11.2.1(c)).
 - d) Our preference would be to have at least two stages of public engagement, one focusing on issue scoping broadly defined and the other addressing a draft plan at a greater level of detail. However, if one round of community tours will attempt to solicit input at both levels, material will have to be presented and discussions facilitated in ways that support meaningful input at both levels, without allowing a debate about fine details to obscure the more important general questions relating to issues, priorities, objectives and options.
 - e) Elements of the latest version of the DNLUP, or perhaps the DNLUP as a whole, could provide a basis for participation if they are presented to illustrate both how the plan could be structured and the types of provisions that could be included. This approach could support the educational component of the participation strategy (i.e., providing information on planning and the potential roles of plans) and be used to test specific proposals with the public and stakeholders. Using a well developed draft as the basis for public and stakeholder participation, however, creates a significant risk of confusion and lack of focus, as people try to address everything from the big picture issues to the drafting details at one time. As noted earlier in this report, this problem is evident from comments submitted by GoC and GN on earlier drafts of the DNLUP. The written material included in the package to be released to the public and the supporting communications strategy should not convey the impression that participation is limited to commenting on a nearly-final draft that has been developed by NPC and government behind closed doors. The risk of presenting this material as a complete draft is that it may convey the impression that public and stakeholder input is only being solicited at the tail end of the process. The advantage is that the draft gives a sense of how a plan can be written and organized. One option would be for the draft plan to include some embedded questions or notes to signal important issues on which public and stakeholders may wish to comment.
 - f) NPC needs to develop an explicit and transparent procedure for documenting what it hears from the public and stakeholders and how this input is considered in developing the DNLUP. This information should be publically available and cross referenced with subsequent

versions of the DNLUP. A means of producing effective and transparent documentation needs to be fully operational from the start of public and stakeholder participation.

- g) NPC must commit to objectively assessing feedback and releasing its assessment to the other Parties and the public. It should also be prepared to make substantial revisions and additions to the DNLUP in response to input from the public and stakeholders. Meaningful public participation cannot be undertaken with a predetermined outcome. Given the limited public and stakeholder input to date, it is difficult to predict the type or magnitude of changes in the DNLUP that may be appropriate in light of the input received and how the GoC, GN and NTI will react to these proposed changes. For this reason, we also recommend that the option of further public and stakeholder engagement be kept open at this time.
- h) As noted above in section 6.3.5, public participation should not proceed until a fully operational public registry along the lines of those developed for other northern planning processes is in place.
- i) NPC should organize and consolidate a complete record of public consultation that has occurred to date and that occurs through the community tour and other initiatives, separated from discussions and correspondence among the Parties. This record needs to provide dates, locations, names of attendees, purpose, materials presented, and documentation of all feedback.

Responsibilities

Developing and implementing the public and stakeholder participation strategy (including determining what is appropriate) are clearly within NPC's mandate, although we suggest that it may want to retain expert advice and assistance in order to facilitate the completion of these tasks in a timely manner and provide a source of new ideas. We recommend that NPC retain external assistance from recognized experts in public and stakeholder participation in northern Canada to contribute to designing and implementing all aspects of the engagement strategy, including overall strategy development, preparation of background and communications material, organization of events with the public and stakeholder organizations, facilitation of these events, recording of detailed minutes, and preparation of summary reports that identify issues, concerns, suggestions and action items. With this assistance, NPC staff could focus on describing the purpose of land use planning and their role in leading the plan development process, explaining the DNLUP and supporting documents, listening to input, answering questions, and participating in the discussions. This type of support might also shorten the timelines for the community tour if the visits could be divided among more people. Finally, we note the potential value of external expertise as a means of increasing the credibility of the process with the other Parties and changing the current dynamic which makes it difficult for the Parties to engage in constructive dialogue.

The three authorizing Parties (GoC, GN and NTI [under NUPPAA]) should each have a representative present at most if not all public events. The role of the representatives will need to be carefully considered, so that the selection is consistent with the participation strategy developed by NPC, as well as the goal of allowing the interests of residents to be heard. Technical specialists may not be appropriate if there is a chance that they will unduly influence the identification of issues at public workshops. Costs could be minimized by making use of local staff or staff that can combine these events with other activities in the area. It will ultimately be necessary for each of the Parties to provide

briefings to senior decision makers in their organizations that describe and analyze the input received from public and stakeholder engagement and evaluate the quality of the participation process.

Timelines and Logistics

We note that an NPC document called “Timelines and Milestones” created in approximately May 2010 (undated, but inferred) allowed five months for community tours. Without more information on NPC’s Consultation Strategy, we cannot comment on the specific timelines and logistics for this step.

8.2.3 Step 3: Structured Process for Clarifying Specific Expectations by the Parties

The third step that we recommended is re-engagement of the Parties through a focused and well managed formal process of structured decision making aimed at clarifying specific substantive and procedural expectations for the first generation Nunavut-wide land use plan. This process is intended to provide the Parties with an opportunity to press the ‘re-set’ button in their relationships, after the break provided by Steps 1 and 2. It is important to be very clear about what we have in mind for this process.

First, this step is not an invitation to engage in planning by committee. NPC needs to remain at arm’s length from the other Parties as it develops the DNLUP. It will make the final decisions on the content of the DNLUP that will be submitted for approval. However, the reality of planning in Nunavut is that the GoC, GN, and NTI (under NUPPAA) all need to approve the plan. They each have a veto. While they have each offered comments on previous drafts, we have not seen evidence of the type of detailed analysis and pragmatic discussion of priorities and trade-offs that is ultimately needed to fashion realistic and specific expectations for the first generation plan. Furthermore, none of them (as far as we can tell) has clearly identified the conditions for approval or their ‘bottom lines’ on important substantive and procedural issues. Equally important, it is not known whether there are any conflicting expectations. Given the multiple vetoes, there is a real potential for delay or even impasse at the approval stage if the Parties are not forthcoming with their expectations and willing to seek mutually acceptable compromises. This process is an opportunity to clarify and align expectations so that NPC can make informed decisions on key issues for approval when developing the final draft plan.

Second, this process is intended to establish a new dynamic among the Parties. It therefore needs to be focused on a very specific set of decisions related to core expectations for approval and it must be conducted in a disciplined and transparent manner. Given the current state of relations among the Parties and the types of interaction that they have had on important issues, we believe that expert process management is essential for this step. We recommend that external experts in structured decision making be retained to guide the Parties through this process. These experts should have experience using a well established methodology for complex decision making that involves multiple Parties, contentious issues and the need for explicit identification and evaluation of trade-offs. This methodology should focus on clarifying issues and options and moving participants from positional to interest-based discussions.

To be clear, we are not talking about retaining a standard facilitator to set a rudimentary agenda, chair a meeting so that everyone around the table gets an opportunity to speak, and take notes on a flip chart. In our opinion, the Parties need a firm guiding hand to take them through a rigorous process of identifying and aligning key expectations. We have seen examples of these processes in other contexts and firmly believe that they have the potential to produce very impressive outcomes on contentious issues and dramatically improve relationships among organizations that were previously locked in unproductive or adversarial patterns of interaction.

Finally, achieving a consensus among GoC, GN and NTI is a desirable outcome but is not essential for this process to add value to plan development. Even if consensus is not reached, the result will be greater clarity about the different perspectives of the Parties and the interests and priorities that underlie those differences. Clarity about expectations of the Parties will also be useful as NPC considers other input to plan development from the public and stakeholders. For example, there may be examples where expectations of a Party differ from those of important elements of the public or stakeholder organizations. Exposing those differences will be useful as NPC develops a draft plan that will ultimately be scrutinized in the communities of Nunavut as well as in the offices of senior officials and politicians.

Responsibilities

We recommend that NPC be part of this process, although its role should be somewhat different from that of the other Parties. In our opinion, it would be useful for NPC to be at the table to offer its perspectives on substantive and procedural issues and to hear the dialogue among the other Parties. As the planning experts, NPC may be best positioned to help identify ways that the plan can address the other Parties' expectations and respond to their underlying interests. In particular, extensive GIS mapping information compiled by NPC can be used as an analytical tool to identify different types of land use conflicts. However, the focus is on clarifying the core interests and expectations of the Parties that have ultimate authority to approve or reject the draft plan. The results of this step are input to NPC as it exercises its responsibility to develop the plan.

Effective participation and continuity is important for the success of this process. The Parties will need to identify participants with the appropriate knowledge, experience and ability to speak with some authority on behalf of their respective organizations. It is likely unrealistic to expect executive-level decision makers to participate in this type of intensive process. However, progress will be difficult if the participants are unable to engage effectively because they are too junior within their organizations. Continuity of participation is also essential. Progress will be difficult if Parties put forward an ever-changing set of representatives. While there should of course be flexibility to accommodate scheduling issues and potential staff turnover, representatives of the Parties need to make the commitment to be active and regulator participants.

Timelines

We believe that this process should be informed by the results of Steps 1 and 2. The dialogue among the Parties requires new oxygen in the form of input from NIRB, NWB, Inuit, other residents of Nunavut and stakeholders. Issue identification and priority setting need to move beyond the discussion of regulatory and data gaps between NPC and government. While it is possible and desirable to retain the external process experts and start laying the groundwork for this step in parallel with Step 2, we recommend that the results of public and stakeholder participation be available before the Parties get involved in detailed discussion of substantive issues.

We anticipate a relatively intensive process that would extend over several months, but not protracted negotiations over a year or more. The discussion must be focused and pragmatic, firmly grounded in the realities of developing a first generation plan in the near future. If the Parties cannot make reasonably rapid progress in defining specific expectations and bottom lines at this stage in plan development through a structured and expertly led process, then they may have little option but to consider whether it is possible for NPC to come up with a draft plan that will survive the multiple veto points established by the NLCA and NUPPAA.

8.2.4 Step 4: Preparation of a Revised DNLUP by NPC

The fourth step is the revision of the DNLUP by NPC based on the input received from Steps 1-3 and any additional information or analysis that is generated by NPC or elsewhere. We believe that successful completion of the previous steps will put NPC in a good position to propose a well substantiated draft plan that should move the planning process significantly closer to final approval. We cannot estimate how long this revision will take without knowing the outcomes of Steps 1-3. However, we expect NPC would develop options for revisions in parallel with the preceding steps. The speed of revisions could also be enhanced by increasing capacity, either within NPC or by retaining outside expertise for this purpose.

8.3 Subsequent Steps

We are not in a position to offer specific recommendations for subsequent steps without knowing the outcomes of Steps 1-4. From our current vantage point, a few options are possible.

At one end of the spectrum, a high degree of convergence among the information and input from NIRB and NWB, the results of public and stakeholder participation and the specific 'bottom line' expectations of the Parties could result in a draft plan from Step 4 that is ready for any final public hearings that NPC may conduct and submission for approval. The other extreme would be a significant re-orientation of the draft plan in response to diverse and possibly conflicting input, perhaps making it desirable to conduct another full round of community-level participation to obtain additional input and confirm that, as required by the NLCA, the plan reflects "the priorities and values of the residents of the planning region" (section 11.2.1(c)). Between these extremes, it may be appropriate to undertake a more selective round of engagement involving community and stakeholder representatives but not including public events in every community. Another option is simply to set aside contentious issues for the next iteration of the plan and proceed expeditiously, with limited additional public and stakeholder engagement, towards approval of a first generation plan that addresses a restricted set of issues and establishes a framework for further planning.

We are uncertain exactly what will be involved in the "public hearings" required by sections 11.4.4(g) and 11.5.4(a) of the NLCA and how these hearings will relate to other aspects of public and stakeholder participation. Greater clarity on this issue will also inform subsequent steps of the process.

If a decision is made that a further round of community-level participation is needed to produce a defensible draft plan that is ready for approval, we recognize that the time lines for completing the planning could be extended significantly. There are also significant cost implications for all Parties of undertaking this type of intensive engagement at the community level. During our interviews we heard various estimates of the time required to conduct one round of community visits in Nunavut and the total delay that an additional round would mean for completion of the plan. It appears that, based on current assumptions, the delay would be at least a year. We offer three suggestions for shortening that delay:

1. Increasing the personnel and financial resources allocated by the Parties to the participation process and relying on external expertise might make it possible to compress the schedule by conducting visits in two or more communities simultaneously and producing the documentation more quickly.
2. Given the cost and logistical challenges of a full community tour, opportunities could be explored to obtain input from Inuit, residents and community-level stakeholder organizations in

other ways (e.g., through meetings at central locations with leaders from communities and organizations).

3. The Nunavut-wide plan could be divided into three regional chapters, each with the same basic structure and substantive content but allowing for some regional variation. Community-level participation could then be done sequentially, with the first chapter being submitted for approval while the other chapters are at the stages of public and stakeholder engagement and finalization.

These initial suggestions would obviously require more elaboration before a final decision could be made. Ultimately, the Parties involved in the design, implementation and funding of land use planning in Nunavut will have to develop an approach to public and stakeholder participation that meets legal requirements and reasonable expectations, is realistic given logistical challenges and limited financial and human resources, and is consistent with completing land use plans within an appropriate time frame.

The table on the next page shows the general order of the Steps and individual tasks described above, with notes indicating tasks where the sequence of work is dependent on the completion of previous tasks. This table should not be interpreted as a complete workplan or schedule, but may provide some guidance for the necessary further development.

<i>Recommended Steps and Tasks</i>	<i>Description and Sequence</i>	<i>Notes on sequence</i>
Step One Tasks	<i>Engagement with other IPGs: facilitated dialogue to assemble information and more carefully consider role of LUP in integrated regulatory</i>	
1.1	engage NIRB, NWB (and possibly NWMB) in a structured and focussed forum to consider the role of the NLUP in an integrated regulatory system	
1.2	assemble and organize concerns previously identified by public at regulatory hearings	
Step Two Tasks	<i>Public and Stakeholder Participation: engage public and stakeholders in the development of the NLUP by providing opportunities for meaningful input on values, issues, priorities and objectives (and also structure of the plan and use of designations/recommendations system)</i>	
2.1	public registry set up and operational that organizes and consolidates record of all previous public participation	must be completed prior to 2.6
2.2	design explicit and transparent procedures for documenting feedback	
2.3	develop comprehensive participation strategy	
2.4	prepare supporting materials	
2.5	organize community tours	
2.6	communicate strategy and schedule to Parties and Public	
2.7	conduct community tours	
2.8	add documentation of public feedback to public registry	must be completed prior to 3.4
Step Three Tasks	<i>Structured Process for Clarifying Specific Expectations: a rigorous process of identifying and aligning key substantive and procedural expectations to support development of the first generation Nunavut-wide land use plan</i>	
3.1	Develop RFP for consulting services	should commence while Step Two is underway
3.2	Solicit proposals and award contract	
3.3	Identify participants and background materials	should be done with selected consultant
3.4	Conduct focussed sessions	should not commence until documentation of public feedback from Step Two is available
3.5	Document and share results	
3.6	Consider results with NPC and determine if further clarification of expectations is needed	
Step Four Tasks	<i>Prepare Revised Draft Nunavut Land Use Plan: produce a well substantiated Draft Plan on the basis of progress made in Steps 1 to 3</i>	
4.1	Determine how significant the re-orientation of the previous draft needs to be (ie. scope, approach used to direct and guide land use, and structure of the document) based on results of Steps One to Three	
4.2	Additional data gathering or engagement as needed to analyze and substantiate options and decisions	this may be minimal or extensive depending on outcome of Task 4.1
4.3	Compile background supporting document and make available for review	compilation may begin as early as Step One
4.4	Prepare Draft Plan for submission for approval including formal public hearings	

9 Conclusion

This independent review of the Nunavut land use planning process and the DNLUP has attempted to identify and evaluate the challenges facing the Parties by looking beneath the symptoms to identify root causes. Our analytical framework indicates that planning in Nunavut rests on a solid foundation, but that significant work remains to build the substantive, participation and procedural pillars that are needed to support a final plan that will withstand the scrutiny that it will inevitably and quite properly receive from Inuit, other residents of Nunavut, stakeholders, and the Parties who ultimately will have to decide at the highest political levels whether or not to approve the draft plan submitted by NPC. This work should focus on aligning expectations and then delivering the appropriate results in relation to:

- the specific content of the plan that focuses on priority issues, objectives and actions;
- the design and implementation of a participation strategy that provides meaningful opportunities for Inuit, other residents of Nunavut and stakeholders to provide input at the appropriate points in development of the plan; and
- a detailed procedural roadmap with corresponding roles and responsibilities.

Our analysis of the DNLUP shows that significant progress has been made in developing and applying a vision and structure to developing a first generation plan. Furthermore, the specific planning decisions embodied in the draft that we examined are consistent with our evaluation criteria for reasonableness. We also identified opportunities to improve the DNLUP.

We have also proposed a path forward, including guiding principles and four clearly defined next steps that are intended to strengthen the three pillars and move the DNLUP significantly closer to the point where it could be submitted for final approval. In our opinion, there are no insurmountable obstacles to bringing the development of a first generation Nunavut-wide land use plan to a successful completion within a reasonable time frame.

It must be acknowledged, however, that planning in Nunavut inevitably creates complex interdependencies among the Parties in terms of roles, responsibilities, capacity and decision making. The NLCA and NUPPAA create a regime where successful completion of the process requires that NPC put forward a draft plan that GoC, GN and NTI are willing to approve. Each of the approving Parties has a veto.

The difficult state of relationships among the Parties therefore creates significant risk for the success of our recommendations. All Parties recognize that these relationships need to be improved, which will require effort from everyone involved. In our opinion, each of the Parties has the ability, within the coming months and years, to make decisions that at the very least could seriously compromise the chances of success for the planning initiative that has been ongoing since 2007. In fact, the Parties' positions to date and the mistrust and lack of mutual respect that was evident from some of our interviews suggest to us that, unfortunately, these decisions would be very easy to make.

It will be more difficult for the Parties to find the wisdom, discipline and foresight to break from the current patterns of interaction and make the decisions that are needed to put land use planning in Nunavut back on track. These decisions will, in some cases, require a rethinking of entrenched positions and a renewed effort to identify and further individual and collective interests. They will also require a willingness to rewrite the adversarial narratives and look beyond the past frustrations and disappointments that currently define relationships among some of the Parties.

There is no silver bullet for resolving the multitude of interrelated issues that currently affect the planning process and the relationships among the Parties. We are convinced, however, that significant progress has in fact been made by the Parties and that pragmatism and a renewed focus on the common goal of completing and approving a first generation Nunavut-wide land use plan can lead to success.

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