



***Government Policy Requirements
for Final Establishment of
Protected Areas:
Strengthening Support
Provided by the NWT PAS***

Discussion Paper

November 2007

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LIST OF ACRONYMS

CEAA	Canadian Environmental Assessment Act
CPAWS	Canadian Parks and Wilderness Society
CWS	Canadian Wildlife Service
DIAND	Department of Indian Affairs and Northern Development (also known as INAC)
EC	Environment Canada
ENGOS	Environmental Non-Governmental Organizations
ENR	Environment and Natural Resources
GNWT	Government of the Northwest Territories
HSMBC	Historic Sites and Monuments Board of Canada
IAC	PAS Implementation Advisory Committee (now the PAS Steering Committee)
INAC	Indian and Northern Affairs Canada (also known as DIAND)
IFA	Inuvialuit Final Agreement
ISR	Inuvialuit Settlement Region
ITI	Industry, Tourism and Investment (department of the GNWT)
NWA	National Wildlife Areas
MBCA	Migratory Birds Convention Act
MBS	Migratory Bird Sanctuaries
MERA	Mineral and Energy Resource Assessment
MVEIRB	Mackenzie Valley Environmental Impact Review Board
MVRMA	Mackenzie Valley Resource Management Act
NAP	Northern Affairs Program
NRR	Non-Renewable Resource
NWT	Northwest Territories
OiC	Order in Council
PAS	Protected Areas Strategy
PCA	Parks Canada Agency
RAOIC	Regulatory Affairs and Orders in Council Secretariat (Privy Council Office)
RIA	Regulatory Impact Analysis
RIAS	Regulatory Impact Analysis Statement
SEA	Strategic Environmental Assessment
SEAG	(NWT PAS) Socio-Economic Assessment Guidelines
SEIA	Socio-Economic Impact Assessment
TB	Treasury Board

1.0 BACKGROUND

1.1 Purpose of this Discussion Paper

As part of the NWT Protected Areas Strategy (PAS), a workshop was held December 12, 2006 to determine how organizations can effectively and efficiently meet territorial and federal policy requirements with respect to the final establishment of protected areas in the NWT. In particular, the NWT PAS Socio-Economic Assessment Guidelines (March 2005) were considered in terms of how they may contribute to meeting departmental requirements. The workshop brought together PAS Team members and representatives from sponsoring agencies; departmental experts in strategic environmental assessment may attend to share their expertise. A brief workshop report has been prepared separately. The key outcome of the workshop is this revised discussion paper, which reflects workshop discussions and follow-up on some questions.

This discussion paper was prepared as background material for the workshop, with a focus on requirements that apply in PAS Steps 5 through 7 (Step 8 is post-establishment).

Disclaimer: This discussion paper is a 'working draft' currently under review by various organizations. In addition, policy and legislation related to the establishment of protected areas in the NWT is subject to change.

1.2 December 12, 2006 Workshop Objectives and Outcomes

There were two objectives for the December workshop:

- a) Identifying and understanding federal and territorial government policy requirements with respect to the final establishment of protected areas in the NWT
- b) Finding ways to more effectively and efficiently link or harmonize the government policy requirements with:
 - the NWT PAS Socio-Economic Guidelines (March 2005) (and by implication the other PAS Step 5 guidelines for other assessments that are used as building blocks for the socio-economic assessment)
 - the PAS process itself

The outcome of the workshop was the identification of next steps for how the PAS process or Step 5 guidelines might be modified to minimize potential duplication, to make the guidelines as useful as possible in gathering information, and to ensure effective and efficient linkages between the requirements of the PAS and government departments. A separate workshop report has been prepared (Terriplan Consultants March 2007).

For additional information on the NWT Protected Areas Strategy, or to download the guidelines, go to <http://www.nwtwildlife.com/pas> .

1.3 Methodology

Interviews were conducted with representatives from PAS Sponsoring Agencies (Canadian Wildlife Service (CWS); Parks Canada Agency (PCA); the Department of Industry, Tourism and Investment (ITI), Government of the Northwest Territories (GNWT)) and partners (Indian and Northern Affairs Canada (INAC); Canadian Parks and Wilderness Society, (CPAWS)). Several other organizations were contacted for additional information (e.g., Environment Canada, the Mackenzie Valley Environmental Impact Review Board (MVEIRB)). The interview questions are included as Appendix A; the list of individuals interviewed is provided in Appendix B.

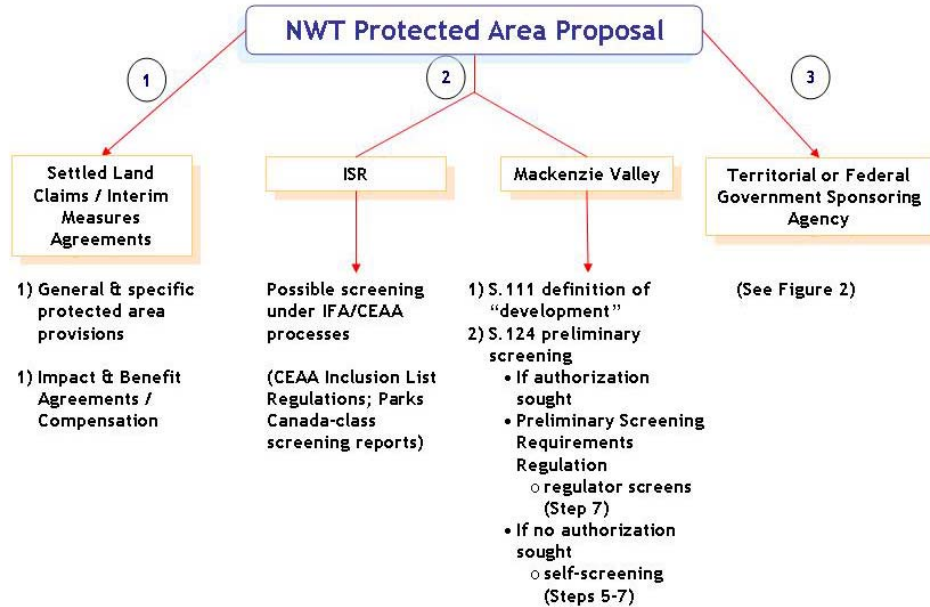
In addition, a number of background documents provided by the NWT PAS Secretariat and the interviewees were reviewed (see the bibliography, below). The findings from the interviews, the document review, and the discussions at the workshop are reported in the following sections.

1.4 Structure of the Discussion Paper

The discussion paper moves from the 'general' to the 'specific' in describing the government policy requirements for final establishment of protected areas. As shown in Figure 1, there are three primary 'Tier 1' considerations when discussing a given PAS proposal:

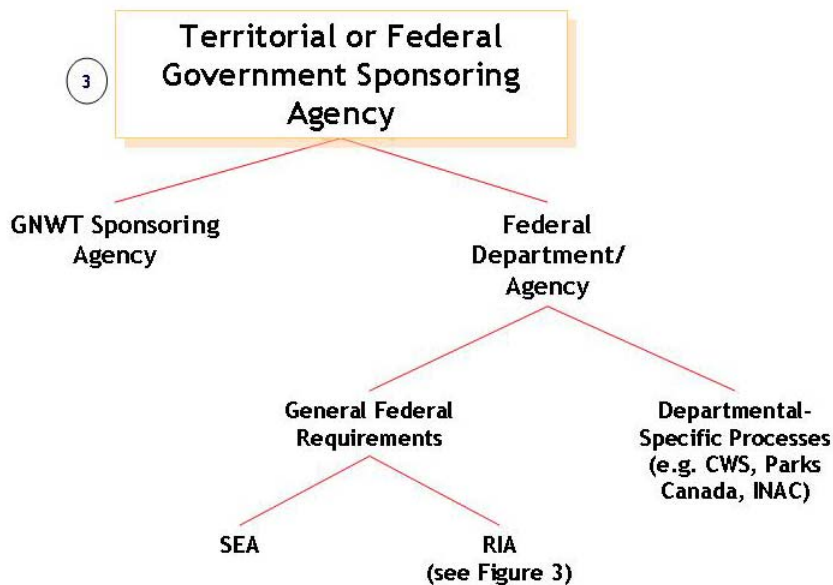
- Provisions of land claims or interim measures agreements
- Location in the Mackenzie Valley or the Inuvialuit Settlement Region
- The specific sponsoring agency (territorial or federal departments)

Figure 1: ‘Tier 1’ Considerations - NWT PAS Final Establishment of Protected Areas



The requirements will vary, depending on whether the sponsoring agency is a territorial or federal government department. There are general requirements for federal departments that need to be met, as well as departmental-specific processes that are followed. These are described in the discussion paper.

Figure 2: ‘Tier 2’ Considerations – NWT PAS Final Establishment of Protected Areas



2.0 SPONSORING AGENCY / INAC ROLES - FINAL ESTABLISHMENT

2.1 Step 5 Candidate Protected Areas

There are currently three Candidate Protected Areas with Interim Protection in Step 5 of the PAS process (http://www.nwtwildlife.com/pas/November_2006/all_areas.pdf):

- Sahoyúé-?ehdacho (a National Historic Site in the Sahtu Region, Sponsoring Agency: Parks Canada, land withdrawal to November 2010);
- Edézhíe (Dehcho Region, Sponsoring Agency: Canadian Wildlife Service, land withdrawal to 2007); and
- Samba K'e (Dehcho Region, Sponsoring Agency: Canadian Wildlife Service, land withdrawal to October 2008 through Dehcho Interim Measures Agreement)

There are other Candidate Protected Areas in the PAS process without interim protection, as well as 'areas of interest'. At this time, there are no PAS Candidate Areas at Steps 6, 7 or 8.

Land-based protected areas in the Inuvialuit Settlement Region were developed before the PAS was established in 1999, and the marine protected area currently under development is outside the PAS process. As such, the possible requirements under the Inuvialuit Final Agreement (IFA) and Canadian Environmental Assessment Act (CEAA) were not reviewed in detail.

2.2 Sponsoring Agencies

Sponsoring Agencies for individual Candidate Protected Areas can include Parks Canada Agency (PCA), Canadian Wildlife Service (CWS), the Department of Industry, Tourism and Investment (ITI) (GNWT), and Aboriginal Organizations. Currently, only PCA and CWS are Sponsoring Agencies. Their functions include the following (NWT PAS Secretariat, January 2006):

- Providing support for development and approval of protected areas proposals.
- Where necessary, requesting that DIAND withdraw the land for the Candidate Protected Area (following established PAS Guidelines for Interim Land Withdrawal, 2001).
- At the Working Group level, participating in and providing feedback for the economic, cultural and ecological research.
- Working to identify funds, or raise funds for, the approved workplan for the Candidate Protected Area.
- Assisting the Working Group in meeting community information and consultation needs.
- With assistance of the Working Group member organizations, coordinating and conducting a public review of the Candidate Area, including discussions of levels of development permitted and related funding requirements.

- *Initiating negotiations of protected areas agreements with the appropriate land claim organizations.*
- *Providing guidance to Working Groups on information needs and legislative requirements for interim and final land withdrawal.*
- *Ensure legislation is available for permanent protection of the Candidate Protected Area.*
- *In partnership, review and accept the Community's final proposal for an official protected area.*
- *In partnership, set up the protected area and manage it over the long term.*

Emphasis has been added above to indicate the functions relevant to government policy requirements for final establishment of protected areas in the NWT.

2.3 INAC/DIAND's Role

As manager of Crown Lands in the NWT, Indian and Northern Affairs Canada (INAC) (also known as DIAND) has the power to permanently withdraw lands using the *Territorial Lands Act*. It is in this capacity that it is involved in the withdrawal and subsequent transfer of lands to sponsoring agencies who have agreed to consider the sponsorship of candidate areas through the Protected Areas Strategy. DIAND is jointly responsible for the implementation of the NWT PAS with the Government of the NWT. The Department supports the initiative by funding the NWT Protected Areas Secretariat, which coordinates work on the strategy. DIAND participates in non-renewable resource assessments of PAS candidate areas and supports the community-based work needed to protect them. DIAND does not act as a Sponsoring Agency itself.

3.0 REQUIREMENTS: LAND CLAIM AGREEMENTS

Land claim agreements are legal arrangements, and aboriginal rights are constitutionally enshrined; as such, their provisions relating to protected areas cannot be considered as 'policy requirements' in the strictest sense. Comprehensive Land Claim agreements in the NWT include provisions for economic development benefits or compensation for Aboriginal people, as well as specific sections related to protected areas (including National Parks). As part of the establishment of a protected area, an Impact and Benefit Plan or other form of compensation may need to be negotiated as required under the terms of land claim agreements in the NWT (e.g., with respect to the Nahanni Park expansion under the Sahtu Final Agreement).

While a detailed review of the relevant provisions in interim measures and land claim agreements for various regions of the NWT was beyond the scope of this discussion paper, Table 1 provides a summary. The reader is referred to the agreements themselves for additional detail.

Table 1: Summary of NWT Land Claim / Interim Measures Agreement Provisions – Protected Areas							
Agreement	Definitions	General Provisions for Protected Areas	General Provisions: National Parks	Impact and Benefit Plans¹	Employment²	Specific Protected Areas	Other
Akaiicho Interim Measures Agreement: June 2001 http://nwt-tno.inac-ainc.gc.ca/pdf/InterimMeasuresFnlDraftMay01.pdf	None	S. 6: Activities covered by this agreement include S.1.1 Canada: No. 8, Parks and Protected Areas and S.1.2 GNWT: No. 13, Parks and Protected Areas.	S. 6: Activities covered by this agreement include S.1.1 Canada: No. 8, Parks and Protected Areas and S.1.2 GNWT: No. 13, Parks and Protected Areas.	None	None	None	
Deh Cho First Nations Framework Agreement: May 2001 http://www.ainc-inac.gc.ca/pr/agr/dcf_e.pdf	None applicable	S. 4, Subject Matters for Negotiation include No. 38 Protected Areas	S. 4, Subject Matters for Negotiation includes No. 37 National Parks	None	None	None	

¹ Impact and benefit provisions relating specifically to protected areas (rather than more generally)

² Employment provisions relating specifically to protected areas (rather than more generally)

Table 1: Summary of NWT Land Claim / Interim Measures Agreement Provisions – Protected Areas							
Agreement	Definitions	General Provisions for Protected Areas	General Provisions: National Parks	Impact and Benefit Plans ¹	Employment ²	Specific Protected Areas	Other
Deh Cho First Nations Interim Measures Agreement: May 2001 http://www.ainc-inac.gc.ca/pr/agr/dci_e.pdf	S. 1, Definitions “National Park”	S. 58 NWT Protected Areas Strategy: Protected areas for land withdrawal or permanent protection may be made using a sponsoring government agency according to the steps approved under the NWT Protected Areas Strategy, in consultation with the Land Use Planning Committee.	S. 59 Nahanni National Park Reserve: Canada and the Deh Cho First Nations will negotiate for the purpose of reaching an interim management arrangement that takes into consideration models found in existing arrangements between Canada and Aboriginal people respecting the management of national parks.				

Table 1: Summary of NWT Land Claim / Interim Measures Agreement Provisions – Protected Areas							
Agreement	Definitions	General Provisions for Protected Areas	General Provisions: National Parks	Impact and Benefit Plans ¹	Employment ²	Specific Protected Areas	Other
Gwich'in Comprehensive Land Claim Agreement: 1992 http://www.gov.nt.ca/MAA/agreements/gwic1_e.pdf	S. 2.1.1 Definitions "national park" "protected area" S. 16.1.1 Definition of "Territorial Park"	S. 16: Protected Areas. S. 16.1 General S. 16.2 Planning and Management	S. 15: National Parks S. 15.1 General S. 15.3 National Park Management S. 15.4 Park Planning and Management S. 15.5 Wildlife S. 15.6 Plants & Trees	S.15.2 Impact and Benefits Plans – National Parks	S. 15.7 Economic and Employment Provisions - National Parks	S. 16.3 Campbell Hills Lake GNWT and GTC have entered into a Memorandum of a Agreement with respect to the proposed territorial park at Campbell Hills Lake	Appendix D S. 1.10 Land Selection Identification of parks and protected areas during land selection negotiations. S 17.1.2 Liability of developers in parks and Protected Areas S. 25.1.-25.18 Heritage Resources (means archeological and historic places, sites and burial sites that shall be protected and preserved pursuant to legislation)

Table 1: Summary of NWT Land Claim / Interim Measures Agreement Provisions – Protected Areas							
Agreement	Definitions	General Provisions for Protected Areas	General Provisions: National Parks	Impact and Benefit Plans¹	Employment²	Specific Protected Areas	Other
Sahtu Dene and Metis Comprehensive Land Claim Agreement: September 1994 http://www.ainc-inac.gc.ca/pr/agr/sahtu/sahmet_e.pdf	S. 2: Definitions None applicable	S 17: Protected Areas S. 17.1 General S. 17.2 Planning and Management	S.16: National Parks S.16.1 General S.16.3 National Parks Management Committees S.16.4 Park planning and Management S.16.5 Wildlife S.16.6 Plants & Trees	S. 16.2 Impact and Benefits Plans - National Parks	S.16.3 Economic and Employment Provisions – National Parks S.17.2.6-17.2.10 Employment provisions - Protected Areas	S. 17: Protected Areas S.17.3 Canol Trail and Dodo Canyon S.17.4 Kelly Lake Protected Area S. 16 National Parks S.16.8 Bluenose National Park	S. 18.1.2 Harvesting Compensation S.26.4 Sahtu Heritage Resources and Sites Appendix C: Land Selection Process and Mapping of parks and protected areas

Table 1: Summary of NWT Land Claim / Interim Measures Agreement Provisions – Protected Areas							
Agreement	Definitions	General Provisions for Protected Areas	General Provisions: National Parks	Impact and Benefit Plans ¹	Employment ²	Specific Protected Areas	Other
Tlicho Land Claims and Self Government Agreement: August 2003 http://www.ainc-inac.gc.ca/pr/agr/nwts/tliagr2_e.pdf	Chapter 1 Interpretation S. 1.1 Definitions 'Protected Area' 'National Park'	Chapter 16 Protected Areas S.16.1 Boundary Changes S.16.2 Territorial Park Management Plan S.16.3 Harvesting Rights S.16.4 Protected Area Agreement S.16.5 Emergencies	Chapter 15 National Parks S.15.1 General S.15.3 National Park Committee S.15.4 Interim Management Guidelines S.15.5 Park Management Plan S.15.6 Wildlife S.15.7 Plants & Trees	S.15.2 Impact and Benefit Plan - National Parks	S.16.6 Economic and Employment Provisions - Protected Areas S.15.8 Economic and Employment Provisions - National Parks	S.15.9 National Park in Vicinity of East of Great Slave Lake	S. 11.2.2 Wildlife Harvesting Compensation S.17.3.6 Regarding public information material concerning protected areas, projects and programs, the Tlicho Government shall be consulted to ensure that appropriate recognition is given to culture and history. S.22.1.2 Legislation requiring coordination of activities between MVEIRB, WLWB, and others with regard to parks and protected areas.

Table 1: Summary of NWT Land Claim / Interim Measures Agreement Provisions – Protected Areas							
Agreement	Definitions	General Provisions for Protected Areas	General Provisions: National Parks	Impact and Benefit Plans ¹	Employment ²	Specific Protected Areas	Other
<p>Inuvialuit Final Agreement: 1984, Amended 1987 http://www.jointsecretariat.ca/JS/pdf/Inuvialuit_Final_Agreement_Jan1997.pdf (note: table only includes NWT provisions, not North Slope Yukon)</p>	None applicable	None	7.(73) The Pingo Canadian Landmark shall be managed under the National Parks Act, in consultation with the Inuvialuit Land Administration and the people of Tuktoyaktuk, as a joint management regime.	<p>None specifically with regard to Impact and Benefit Plans in National Parks & Protected Areas.</p> <p>7.(66) Desalis Bay: The Government shall determine whether any development can be provided for by way of Participation Agreements</p>	<p>S. 7.76 Economic opportunities – Pingo Canadian Landmark</p> <p>S. 7.(80) The management and economic provisions that apply to the Pingo Canadian Landmark also apply to Nelson Head.</p> <p>S.16 Economic measures S. 16.1-16.13</p> <p>S. 16.(11) social and economic interests, including employment, education, training and business opportunities shall favour native rights.</p>	<p>S 7.70-7.76 Pingo Canadian Landmark</p> <p>S. 7.77-7.81 Nelson Head Canadian Landmark</p>	<p>S. 7.65-7.69 Desalis Bay Land Selection</p> <p>S. 8.1-8.7 Husky Lakes/Cape Bathurst Areas</p> <p>S. 9 Selection of Inuvialuit Lands</p>

Table 1: Summary of NWT Land Claim / Interim Measures Agreement Provisions – Protected Areas							
Agreement	Definitions	General Provisions for Protected Areas	General Provisions: National Parks	Impact and Benefit Plans¹	Employment²	Specific Protected Areas	Other
South Slave Metis Interim Measures Agreement: June 2002 http://nwt-tno.inac-ainc.gc.ca/pdf/ssmetis_interimma.pdf	None	S. 1. Activities Covered by the agreement- Protected Areas	S. 1. Activities Covered by the agreement- Parks	None	None	None	S. 4.2 Parks and Protected Areas will be subject to pre-screening process S. 3.1 Pre Screening with regard to Environmental impacts, socio-economic impacts and heritage resources.

Akaiicho Dene First Nations, Government of the Northwest Territories, Government of Canada. June 28, 2001. *Interim Measures Agreement*.

<http://www.gov.nt.ca/MAA/agreements/index.htm>

Committee for Original Peoples' Entitlement (COPE) representing the Inuvialuit of the Inuvialuit Settlement Region and the Government of Canada. 1984 (as amended 1988). *Inuvialuit Final Agreement*.

<http://www.gov.nt.ca/MAA/agreements/index.htm>

Deh Cho First Nations, Government of Canada, Government of the Northwest Territories. May 2001. *The Deh Cho First Nations Interim Measures Agreement*.

<http://www.gov.nt.ca/MAA/agreements/index.htm>

Gwich'in Tribal Council, Government of Canada, Government of the Northwest Territories. 1992. *Comprehensive Land Claim Agreement*.

<http://www.gov.nt.ca/MAA/agreements/index.htm>

Sahtu Dene and Métis, Government of the Northwest Territories, Government of Canada. 1994 (in force 1994, signed 1993). *Comprehensive Land Claim Agreement*. <http://www.gov.nt.ca/MAA/agreements/index.htm>

South Slave Metis Tribal Council, Government of Canada, and the Government of the Northwest Territories. June 2002. *Interim Measures Agreement*.

<http://www.gov.nt.ca/MAA/agreements/index.htm>

Tlicho First Nation (as represented by the Dogrib Treaty 11 Council), Government of the Northwest Territories, and the Government of Canada. August 2003. *Tlicho Agreement*. <http://www.gov.nt.ca/MAA/agreements/index.htm>

4.0 POLICY REQUIREMENTS: MVRMA

4.1 Summary of MVRMA Requirements – Protected Areas

The Mackenzie Valley Resource Management Act (MVRMA) applies to all of the NWT, with the exception of Wood Buffalo National Park and the ISR. Part 5 of the MVRMA establishes the framework for environmental impact assessment (preliminary screening, environmental assessment, and environmental impact review) in the Mackenzie Valley. Once preliminary screening is completed, a decision is made to allow the development to proceed or to refer it for Environmental Assessment. Once a proposal has entered the preliminary screening step, development activities may not proceed until the preliminary screening is completed and the development is allowed to proceed through the regulatory process. If a development proposal is referred to the Review Board, then no aspect of the proposed development may be undertaken until the Environmental Assessment is completed and the development is allowed to proceed through the regulatory process (MVEIRB, 2004).

Section 111 of the Act provides the following definitions:

"impact on the environment" means any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources."

"development" means any undertaking, or any part or extension of an undertaking, that is carried out on land or water and, except where the context otherwise indicates, wholly within the Mackenzie Valley, and includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act* and measures carried out by a department or agency of government leading to the establishment of a park subject to the *Canada National Parks Act* or the establishment of a park under a territorial law."

It should be noted that effects on the economic environment are not specifically defined as 'impacts on the environment' under the MVRMA. However, the MVEIRB has found that economic considerations are closely linked to the social and cultural environments in the Mackenzie Valley (MVEIRB, 2006). Additional information on MVEIRB's socio-economic impact assessment expectations with respect to screening is found in S. 11.4.

Section 124 of the MVRMA addresses preliminary screening. MVEIRB's Environmental Impact Assessment Guidelines (2004) provide additional detail. *Preliminary screenings are usually triggered by an application for an authorization for a development.* The regulator that receives the application usually initiates the preliminary screening. Land and Water Boards conduct most preliminary screenings (because most developments require land use permits or water licenses). Developments that do not require land use permits or water licences are screened by other regulators. Other agencies, such as the Department of Fisheries and Oceans (DFO) or the Department of Environment and

Natural Resources (ENR) may also lead preliminary screenings or conduct simultaneous preliminary screenings.

If a development that does not require a specific authorization is proposed by the Gwich'in or Sahtu First Nations, or the territorial or federal governments, a preliminary screening is required. The body proposing the development is responsible for the preliminary screening (MVEIRB 2004).

The Preliminary Screening Requirements Regulation contains a list of authorizations that require a preliminary screening before they are issued. These include authorizations under federal and territorial acts and regulations, including the:

- *Canada National Parks Act*
 - National Historic Parks General Regulations
 - National Parks Building Regulations
 - National Parks Businesses Regulations
 - National Parks Lease and Licence of Occupation Regulations
 - National Parks Wildlife Regulations
- *Migratory Birds Convention Act*
 - Migratory Bird Regulations
 - Migratory Birds Sanctuary Regulations
- *Canada Wildlife Act*
 - Wildlife Area Regulations

If the development requires one or more of the listed authorizations, then no part of the development may proceed without a preliminary screening.

To date, a protected area proposal has not been screened, let alone undergone environmental assessment under the *MVRMA*; however, screening will likely be required in the future given the definition of 'development' under the Act, and the requirement for screening whether or not an authorization is required.

Preliminary screening typically has taken about six weeks. If screening is required as a result of an authorization being sought, it would occur before or during Step 7 of the PAS process. If screening is being conducted in a case where no authorization is being sought, presumably the Sponsoring Agency could conduct the screening at any time during Steps 5 through 7 of the PAS process.

4.2 Relevant Documents

Government of Canada. June 1998. *Mackenzie Valley Resource Management Act* (MVRMA) <http://laws.justice.gc.ca/en/M-0.2/text.html>

Government of Canada. *Mackenzie Valley Resource Management Act. Preliminary Screening Requirement Regulations* (M-0.2 -- SOR/99-12) <http://laws.justice.gc.ca/en/M-0.2/SOR-99-12/text.html>. Regulation current to September 15, 2006

Mackenzie Valley Environmental Impact Review Board. March 2007. *Final Socio-Economic Impact Assessment Guidelines*.
http://www.mveirb.nt.ca/documents/guidelines/SEIA_Guidelines_Contents_and_Chapter_1.pdf.

Mackenzie Valley Environmental Impact Review Board. March 2004. *Environmental Impact Assessment Guidelines*.
http://www.mveirb.nt.ca/documents/guidelines/MVE_EIA%20Guidelines.pdf

5.0 POLICY REQUIREMENTS: GNWT/ITI

5.1 GNWT / ITI and the NWT PAS

The establishment of Territorial Parks in the Northwest Territories is the responsibility of the Tourism and Parks Division of Industry, Tourism and Investment (ITI), a department of the Government of the Northwest Territories (GNWT). Tourism and Parks is responsible for developing, operating and maintaining facilities that include parks, visitor centres and interpretive displays. The division also provides support for tourism marketing, research, training, planning and product development.

ITI has committed to use the PAS as the process for seeking subsurface protection for two types of Territorial Parks: Wilderness Conservation Areas and Cultural Conservation Areas. Other types of territorial park proposals would probably not go through the PAS process. At this time, the GNWT has not been a Sponsoring Agency within the PAS. However, it has been approached informally to discuss use of territorial legislation to manage surface and sub-surface rights. It is possible that another organization (e.g., an ENGO, Aboriginal organization) could use territorial legislation to establish a protected area, with little or no cost (developmental or operations and maintenance) to the GNWT. The GNWT would like to see consistency in the PAS approach from region to region.

With the exception of Do et'q, the CANOL Heritage Trail Park Reserve (http://www.iti.gov.nt.ca/parks/parks_a_e/canol_trail_park.htm), there are no new territorial parks planned at this time. The CANOL Heritage Trail Park Reserve is a commitment established as a requirement in Chapter 17 of the Sahtu Dene and Métis Comprehensive Land Claim Agreement. Currently, land claim negotiations take precedent, and protected area planning is done in the context of land claim negotiations. All other plans are for the maintenance of the infrastructure in existing parks, such as campgrounds and old buildings.

5.2 Summary of GNWT/ITI Requirements

The Department of Industry, Tourism and Investment (ITI) has the legislative authority to establish parks in the Northwest Territories through the *Territorial Parks Act*. Subsurface protection can be requested in the transfer of land ownership from the Federal Government to the Territorial Government (see S. 7.1 below). The development of a Territorial Park through ITI is directed and restricted according to how it is classified. ITI is more inclined to support the protection of the values of an area rather than to protect areas from certain kinds of activities (i.e. 'protection *for*' rather than 'protection *from*').

At this time, there is no formal policy on the respective ITI/ Environment and Natural Resources (ENR) /GNWT roles and responsibilities in the PAS process, and how a GNWT-sponsored PAS initiative might unfold. This is currently under internal discussion. ENR represents the GNWT on the PAS Steering Committee, serving as the 'window' into the GNWT. If ITI were to become a Sponsoring Agency, it would participate on the individual Candidate Area Working Group. As work progresses on the candidate area, ENR would be less involved, and ITI more involved, until the point of designation, at which time ITI would have the responsibility for long-term management of the park.

Table 2 summarizes discussion by GNWT participants at the December 12 PAS workshop. The table outlines thoughts on the overall GNWT process or related activities that would occur for the establishment of a territorial park under the PAS process.

Table 2: GNWT – Summary of PAS Sponsoring Agency Requirements	
PAS Step	GNWT Process/Related Activity
<i>PAS Step 3: Community Submits Proposal to Sponsoring Agency</i>	<ul style="list-style-type: none"> • Industry, Tourism and Investment (ITI) accepts (identifying conditions) or rejects the community proposal • ITI may to Financial Management Board (FMB) for resources to go through process • Need to consider provisions of land claims/interim measures agreements (See S. 3.0 above)
<i>PAS Step 4: Apply for Short-term Protection/ Interim Land Withdrawal</i>	<ul style="list-style-type: none"> • GNWT review and support of land withdrawal to ITI to attach • Information item to Cabinet
<i>PAS Step 5: Assess Ecological, Cultural and Economic Values / Final Proposal</i>	<ul style="list-style-type: none"> • Undertake Phase-I and Phase-II studies <ul style="list-style-type: none"> ○ Phase-I: Literature review ○ Phase-II: Fieldwork • Establish Working Groups <ul style="list-style-type: none"> ○ Request for participation in WG ○ Sponsoring Agency invites WG participation (who participates)

Table 2: GNWT – Summary of PAS Sponsoring Agency Requirements

PAS Step 6: Apply to Sponsoring Agency to Establish Protected Area	<ul style="list-style-type: none"> • Final Report Review • Additional Resource Requirements (possibility) request • Develop structure, i.e., management plans
PAS Step 7: Sponsoring Agency Approves and Sets up Protected Area	<ul style="list-style-type: none"> • Submission to FMB/Cabinet • MVRMA Screening (Step 7?) <ul style="list-style-type: none"> ○ What kind of proposal is needed? ○ Is management plan required in proposal? ○ When? To who? ○ EA folk to determine appropriate step • Application for transfer of Federal lands (INAC) to Commissioners Lands (see Section 7.1 below) <ul style="list-style-type: none"> ○ Specify if surface only, or also sub-surface • Approval by Aboriginal landowner if private settlement land • Legislative assembly approval/regulation under <i>Territorial Parks Act</i> to establish park
Step 8: Implement, Monitor and Review the Protected Area	<ul style="list-style-type: none"> • Implementation of management plan

The approximate costs of the GNWT process for establishing a protected area are likely at least in the tens of thousands of dollars, as a result of regulatory / legislative activities, surveys, consultation, boundary definition etc. The timeframe might be five years, if there are no complications.

Given that the definition of ‘development’ in the MVRMA includes measures carried out by a department or agency of government leading to the establishment of a park under a territorial law, the establishment of a protected area under the *Territorial Parks Act* would likely require preliminary screening (see S. 4 above).

The relevant land claim agreements or interim measures agreements applicable in the region of a proposed protected area will need to be reviewed in terms of any relevant provisions related to economic development benefits, participation, or compensation for Aboriginal people, as well as specific sections related to the establishment of protected areas (including territorial parks).

5.3 Relevant Documents

Government of Northwest Territories. 2003. *Territorial Parks Act*.
http://www.justice.gov.nt.ca/PDF/ACTS/Territorial_Parks.pdf

6.0 GENERAL POLICY REQUIREMENTS: FEDERAL DEPARTMENTS AND AGENCIES

In preparing regulations or Orders in Council, Federal departments and agencies are expected to apply the *Regulatory Policy* in addition to other Cabinet directives and major policies such as *Cabinet Directive on Law-Making*, the *Treasury Board Cost Recovery and Charging Policy*, and the *Cabinet Directive on Strategic Environmental Assessment of Policy, Plan and Program Proposals* (2004). As a result, Strategic Environmental Assessment (SEA), Regulatory Impact Analysis, and possibly, federal environmental assessment processes might be required for the establishment of protected areas in the NWT if a development is being proposed as part of the protected area designation. Typically, departments will also have developed their own internal approaches/systems for meeting the federal requirements.

Environment Canada has recently finalized an in-house *Protected Areas Manual* (December 2005) that describes its approaches to meeting various requirements related to protected areas. Staff at the CWS and PCA can refer to the manual for direction during PAS processes. The manual was not available for review as part of this research, but became publicly available following the December 2006 workshop.

6.1 Overview of Federal Requirements

6.1.1 Orders in Council

As described by the Privy Council Office (July 2004), an Order in Council is the instrument by which the Governor General, acting on the advice of the Queen's Privy Council for Canada (i.e., the Cabinet), expresses decisions. Orders in Council can be made pursuant to a statute that conveys authority for specific actions to be taken by the Governor in Council (the Governor in Council is the Governor General of Canada acting on advice of the Privy Council)³. An Order in Council is made on the recommendation of a specific Minister of the Privy Council for Canada in respect of his or her portfolio. An example might be an Order in Council to withdraw lands from disposal, or to transfer administration and control of lands.

6.1.2 Treasury Board Approves OiC and Regulations

Traditionally, Treasury Board (TB) has been the Cabinet committee whose recommendation or approval is required for regulations liable to have significant financial implications or those that require Board approval or recommendation. As of 2003, TB's role was expanded to include approving regulation and most Orders in Council requiring

³ Not all orders are made by authority of an Act of Parliament; there are occasional exceptions which are made pursuant to the Royal Prerogative.

Governor in Council approval. Consequently, proposed Orders in Council which previously would have been submitted to the Special Committee of Council, are now considered by the TB.

Government of Canada. Privy Council Office, Regulatory Affairs Division. July 2004.
Governor in Council Process Guide: Developing a Proposal Seeking the Approval of an Order in Council. http://www.tbs-sct.gc.ca/ri-gr/ra-ar/docs/publications/gicguide/gicguide_e.pdf

6.2 Strategic Environmental Assessment

Strategic Environmental Assessment (SEA) involves reviewing policy, plan and program proposals to incorporate environmental considerations into the development of public policies. The objective is to inform decision-making; the SEA itself does not undergo formal approval. The *Cabinet Directive on the Environmental Assessment of Policy, Plans and Program Proposals* was initially issued in 1990; the directive was amended and implementation guidelines (Privy Council Office and Canadian Environmental Assessment Agency, 2004). The *Cabinet Directive* is applied at the federal level only (i.e., the SEA requirement would not apply to the GNWT as a sponsor of a protected area. However, even in that case the SEA requirement could still apply for the interim land withdrawal – see S. 7.1 below).

If the following two conditions are met, an SEA will be conducted:

- The proposal is submitted to an individual federal minister or Cabinet for approval; **and**
- Implementation of the proposal may result in important environmental effects, either positive or negative.

In terms of the first condition, SEA requirements are triggered by a ‘proposal’ requiring approval of a (federal) Minister or Cabinet, including an Order in Council, Memorandum to Cabinet, Treasury Board submissions, land claims, regulatory initiatives whether new or an amendment and for which a regulatory Impact Analysis statement (RIAS) would be prepared (see S. 6.3 below).

In cases of significant public concern, an SEA may be conducted even if the two conditions are not met. SEA may not be required in cases of emergency, urgency, or *when issues have been previously assessed for their environmental impacts* (e.g., as part of a Treasury Board submission, assessment under CEAA etc.) (*emphasis added*). With the release of the Guidelines, there has been increased SEA activity at the federal level, and as time goes by, experience will inform the process. Federal departments have or are developing their own internal guidance for implementing the SEA Directive and Guidelines. Participants in the interviews noted that each department may differ in terms of specific characteristics, e.g., timing of SEA in the planning process, or the nature of the consideration of socio-economic effects. The spirit of the Directive can be met without formally preparing an SEA statement.

The ‘lens’ of SEA is on biophysical aspects of the environment (e.g. air, land, water, wildlife). The Guidelines define ‘environment’ to be biophysical, and ‘environmental

effects' as "any change that the policy, plan or program may cause in the environment, including any effect of such a change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by Aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance" (p. 10). The Guidelines also note that SEA is not an 'add-on' process; it is linked with ongoing social and economic analyses underway on a proposal (p. 5). The timing of SEA is not specified in the Guidelines, but the need for 'early integration' of environmental considerations in planning is one of many guiding principle.

A public statement of environmental effects is prepared for each detailed analysis conducted as part of SEA; a public statement is not required for a preliminary scan. It is expected that these statements should be integrated into existing reporting mechanisms to the extent possible (for example, web sites, communiqués, Sustainable Development Strategy reports, Reports on Plans and Priorities, Regulatory Impact Analysis Statements (RIAS), or Departmental Performance Reports). These could presumably include reporting mechanisms such as Parks Canada's 'Report to Parliament' for establishment of new parks (see S. 9.2.2). Separate reporting of SEA is not required, but may occur in cases of significant adverse effects or serious public concern.

SEA is a 'self-assessment'. The SEA may be prepared in-house within departments or agencies (e.g., by policy and program officers, environmental assessment practitioners, senior managers) responsible for the proposal, or by consultants if a detailed analysis is required for a particularly complex proposal.

Submissions to Cabinet, including Treasury Board, may include or refer to the findings of the SEA and any public concerns. Individual departments may have specific requirements in this regard.

If a RIA (see S. 6.3 below) is also prepared for a proposal, the findings of the SEA should be reflected.

It is important to note that SEA supports decision-making regarding a proposal; however, the SEA itself is not subject to an approval process.

Government of Canada. Privy Council Office and Canadian Environmental Assessment Agency. 2004. *Strategic Environmental Assessment – The Cabinet Directive on the Environmental Assessment of Policy, Plans and Program Proposals: Guidelines for Implementing the Cabinet Directive*.
http://www.ceaa.gc.ca/016/CEAA-StrategicFinal_e.pdf

6.3 Regulatory Impact Analysis

'Regulation' can be defined as "any document made by the authority of an enabling act which provides the power to "make' regulations; and any document that is expressly authorized under an act of Parliament, lays down rules of conduct relating to rights and responsibilities, has binding legal effect, and is of general application." (Privy Council Office, June 2004).

The Regulatory Process Guide (Privy Council Office, June 2004) provides a step-by-step explanation of the federal regulatory process. In May 2006, additional guidance on the 'triage framework' for federal regulatory proposals was provided. Proposals are categorized as 'low', 'medium' or 'high' significance levels. The analytical efforts are to be commensurate with the level of expected impact on Canadians (including the impact of not regulating). The Process Guide states that it may take six to nine months to develop and bring into force a regulatory proposal (from the time the draft regulatory proposal is sent to Justice for legal examination, to the regulation becoming law). Initial conceptualization and drafting of the regulation and a Regulatory Impact Analysis Statement (RIAS) would add to that timeframe.

The RIAS is a public accounting of each regulation according to the government's *Regulatory Policy*. It provides a clear explanation of the regulation, its purpose, the analysis substantiating it and its expected impacts. The RIAS is a key decision-making document for ministers and the public. Before a department decides to regulate, it will carry out a policy analysis (e.g., of benefits and costs) to determine whether regulating is the best way to respond to a certain problem. Treasury Board has prepared cost-benefit analysis guidelines. The RIAS is written at the end of the policy analysis and development process and is a summary of the analysis done. The RIAS is the recommendation of the sponsoring minister(s) to his or her colleagues on the Treasury Board and provides important information for their consideration and decision. Pre-publication in the *Canada Gazette*, Part I, supplements departmental consultation mechanisms contributes to transparency in the regulatory process, and offers a further opportunity for public comment.

Sponsoring departments must ensure that the information in the RIAS is consistent with the requirements of the *Regulatory Policy*. The Sponsoring Minister recommends the regulation and the RIAS. When seeking final approval, the Minister formally communicates support to the TB. The Privy Council Office, Regulatory Affairs and Orders in Council Secretariat (RAOIC) monitors, coordinates and advises on regulatory and Orders in Council issues and policies, and ensures consistency with economic, social and federal-provincial policies. The RAOIC Secretariat supports the TB with regulations and Orders in Council. Treasury Board Secretariat examines draft regulations that require TB approval or recommendation, playing a challenge role with client departments or agencies (Privy Council Office, June 2004).

The RIAS accompanies each proposed regulation, summarizing the information ministers require to decide on proposed regulation. It describes what the government will deliver, the consultation that has taken place, the opinions Canadians expressed during that consultation, and the benefits and costs of the proposal. It will include cost-recovery details if applicable, and alternatives for achieving the proposal's objectives. The assessment of costs and benefits should clearly assess the economic, social, environmental and health impacts of the proposal on Canadian society, distributional impacts (fairness and equity), and impacts that may affect a region. The benefits and costs section of an RIAS should include a summary of the results of the SEA, which will focus on the environmental impact of the proposal.

Figure 3 summarizes the steps of the regulatory impact analysis process.

Figure 3: Regulatory Impact Analysis



An example of an RIAS (June 2003) prepared for the National Wildlife Area (NWA) on a portion of the Canadian Forces Base (CFB) Suffield, near Medicine Hat, Alberta can be found at <http://canadagazette.gc.ca/partII/2003/20030702/html/sor226-e.html> .

Government of Canada. Privy Council Office, Regulatory Affairs Division. May 2006. *Framework for the Triage of Regulatory Submissions*.

Government of Canada. Privy Council Office, Regulatory Affairs Division. July 2004. *Governor in Council Process Guide: Developing a Proposal Seeking the Approval of an Order in Council*. http://www.tbs-sct.gc.ca/ri-gr/ra-ar/docs/publications/gicguide/gicguide_e.pdf

Government of Canada. Privy Council Office, Regulatory Affairs Division. June 2004. *Regulatory Process Guide: Developing a Regulatory Proposal and Seeking its Approval*. http://www.tbs-sct.gc.ca/ri-gr/ra-ar/docs/publications/regguide/regguide_e.pdf

Government of Canada. Privy Council Office. Undated. *Guidelines for Effective Regulatory Consultation*.

Government of Canada. Treasury Board Secretariat. August 1992. *RIAS Writers Guide*. Prepared by Consulting and Audit Canada. http://www.tbs-sct.gc.ca/ri-gr/ra-ar/docs/publications/rias_e.pdf

6.4 Canadian Environmental Assessment Act

The *Canadian Environmental Assessment Act* (CEAA) provides the federal framework for project-specific environmental assessment. The process is to be applied when a federal authority is involved in the project (a physical work or any physical activity set out in the *Inclusion List Regulations*). It should be noted that the *Inclusion List Regulations* do address physical activities undertaken for National Parks and protected areas, and some physical activities under the *Territorial Land Use Regulations*.

With respect to new protected areas in the NWT, CEAA requirements might apply in the ISR, in conjunction with IFA requirements (see S. 3.0 above). The MVRMA process applies in the Mackenzie Valley (see S. 4). Land-based protected areas in the ISR were developed before the PAS was established (1999), and the marine protected area currently under development is outside the PAS process. As such, the possible requirements under the *Inuvialuit Final Agreement* (IFA) and CEAA were not reviewed in detail. It is not known, but unlikely, that the National Parks established in the ISR were screened under CEAA (or predecessor Environmental Assessment and Review Process) or the IFA. Their establishment would have involved negotiations with the Inuvialuit.

Parks Canada has 11 Class Screening Reports in place, with five forthcoming. The Agency will continue to work with the Canadian Environmental Assessment Agency in developing and implementing elements of the federal environmental assessment consolidation direction (Parks Canada, 2006).

Canadian Environmental Assessment Agency. *Canadian Environmental Assessment Act. October 2003. How to Determine if the Act Applies.* <http://www.tc.gc.ca/programs/Environment/environmentalassessment/guide/module2.htm>

Canadian Environmental Assessment Agency. December 2003. *Canadian Environmental Assessment Act- An Overview.* http://www.ceaa-acee.gc.ca/012/002/CEAA-Overview_e.pdf

Government of Canada. 1992. *Canadian Environmental Assessment Act.* <http://laws.justice.gc.ca/en/C-15.2/text.html>

Government of Canada. *Canadian Environmental Assessment Act, Inclusion List Regulations.* SOR/94-637. <http://laws.justice.gc.ca/en/C-15.2/SOR-94-637/text.html>

7.0 POLICY REQUIREMENTS: INAC/DIAND

7.1 DIAND's Role – Land Withdrawal and Transfer

As manager of Crown Lands in the NWT, Indian and Northern Affairs Canada (INAC) (also known as the Department of Indian Affairs and Northern Development (DIAND)) has the power to temporarily or permanently withdraw lands using the *Territorial Lands Act*. It is in this capacity that it is involved in the withdrawal and subsequent transfer of lands to Sponsoring Agencies that have agreed to consider the sponsorship of candidate areas through the Protected Areas Strategy. Land Directive No. B-9 '*Land Withdrawal and Land Transfer Process – Protected Areas Strategy*' (December 2001) describes policies and procedure in this regard.

DIAND has the ability to withdraw land and hold it under interim protection pursuant to Section 23(a) of the *Territorial Lands Act* as an Order-in-Council passed on the recommendation of the Minister of Indian Affairs and Northern Development and the approval of the Governor in Council. An Order in Council approved under section 23 (a) of the *Territorial Lands Act* is considered a Regulatory Order and is considered a Regulation; it may apply to the surface, subsurface and/or beds of bodies of water as specified. The withdrawal has the effect of prohibiting both the disposition of mineral interests and the issuance of oil and gas interests. Existing third-party interests remain unaffected. (additional detail on the land withdrawal process is provided in Terriplan May 2006). These withdrawals occur at Step 4 in the PAS process, and can be for a period of up to five years (see for example the Order in Council for Sahoyúé-?Ehdacho, <http://canadagazette.gc.ca/partII/2005/20051116/html/si113-e.html>). Extensions can be requested, and may take up to one year to process (Terriplan, May 2006).

The final step is when the Sponsoring Agency decides to take a Candidate Protected Area to formal protection status (Step 7). An application for transfer of Crown Land will be made in the Sponsoring Agency's name. Directive B-9 notes that the process would vary depending on the Sponsoring Agency and the final designation of the area; examples relating to Parks Canada and the Government of the Northwest Territories are described and summarized below.

In the case of Parks Canada, acquisition of administration and control of a candidate protected area would be achieved through an amendment to the *Canada National Parks Act*. Parks Canada would complete the administrative processing with the support of DIAND Land Administration. A number of information requirements exist, including a site development/management plan, an updated statement of impacts resulting from the transfer (the initial is version developed for the interim withdrawal), and a list of all third-party interests for sub-surface and surface Crown lands in the candidate protected area (including how they will be managed through this process).

For most other sites, including transfer of a candidate protected area to the GNWT for a territorial park, the process would differ from the above in that DIAND's Land Administration would process the request. Land Administration would either make the

submission for an Order in Council to transfer the administration and control of the land, or enact the appropriate transfer mechanism. Lands would be transferred to the GNWT for a territorial park under the authority of the *Northwest Territories Act*. If lands are transferred to another federal department, this is done under the *Federal Real Property and Federal Immovables Act* and *Federal Real Property Regulations*. Similar information requirements to those described for Parks Canada would have to be met.

7.2 DIAND – SEA Requirements

In December of 2005, INAC developed a strategic environmental assessment (SEA) management system to implement the 2004 Cabinet Directive (INAC, October 2006). The system includes accountabilities for conducting, approving, signing-off and reporting on strategic EAs prepared in all sectors of the department. A Working Group comprised of sector DG-level representatives and Communications has been established to guide the implementation of SEA in the department. Responsibilities for SEA implementation has been delegated to the individual sectors in the department. Each sector has defined its own system to implement the Cabinet directive. To further guide the sectors in the implementation of SEA, a draft departmental guide has been prepared and is being finalized prior to release in the fiscal year 2007-2008.

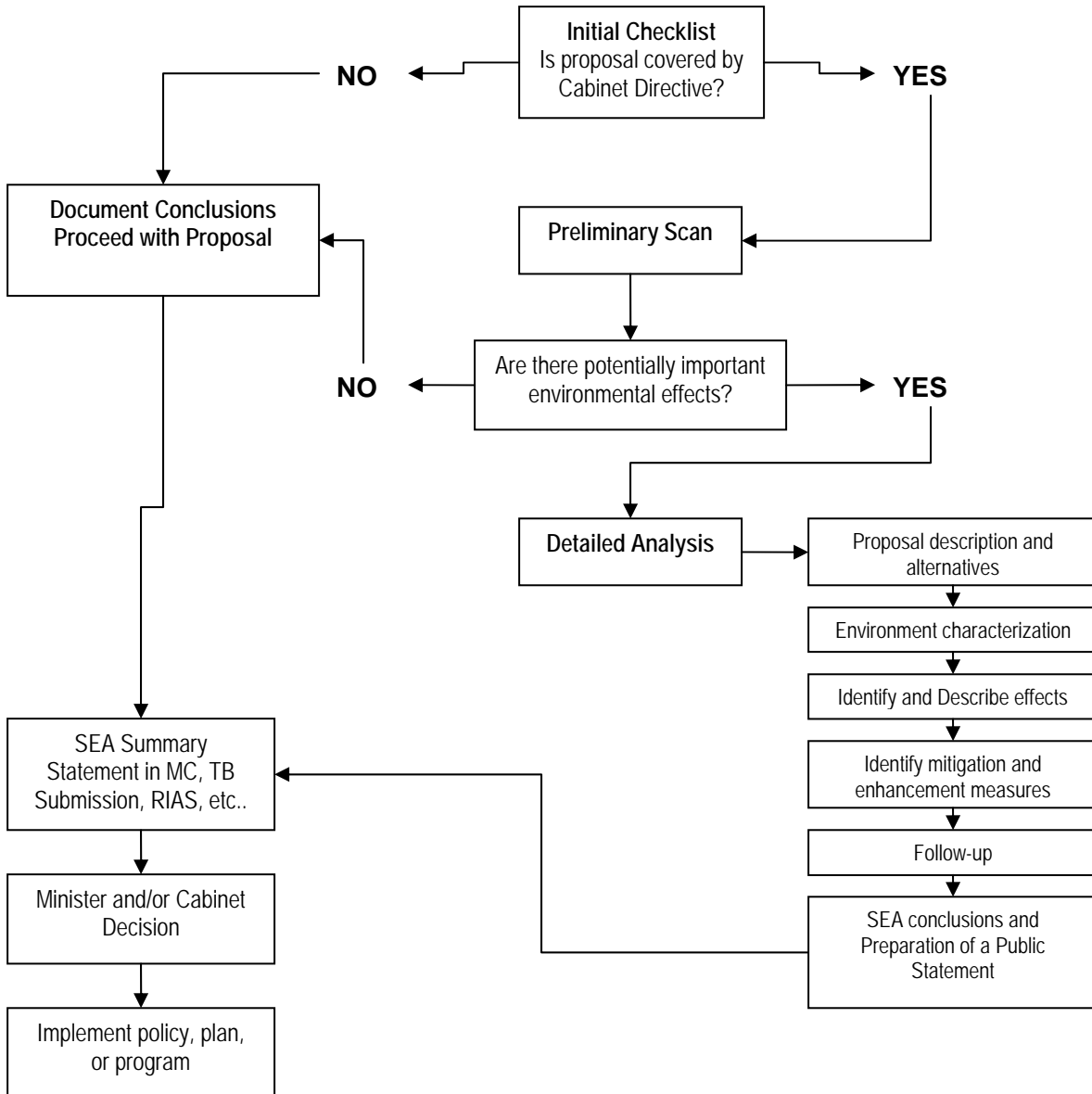
The Northern Affairs Program (NAP) has in the past conducted SEAs on a number of northern initiatives including for example, on the Northern Economic Development Strategy and Calls for nominations/bids for northern oil and gas exploration. However, prior to 2006, SEAs were not conducted systematically. To raise the awareness on the Cabinet Directive requirements within the Northern Affairs Program, training sessions were held in HQ and the regions in early 2007 to further its implementation.

A strategic environmental assessment should be conducted when an Order in Council is sought for the interim land withdrawal for Candidate Protected Areas in Step 4 (see S. 7.1 above). Given that none of the PAS assessments would be conducted prior to the interim land withdrawal, the SEA conducted would likely be high level, taking into account general considerations (positive or negative) on the environment. Based on NAP's SEA management framework and the proposals being put forward, a SEA would be conducted and added to the SEA Registry.

The various assessments done as part of the Protected Area Strategy process would likely provide more detailed information useful for other SEAs conducted later – in Step 7 of the PAS process, the change in federal legislation or regulation required to establish the protected area would require a regulatory impact analysis statement (RIAS), most likely by the federal department seeking to modify its legislation or regulation with the purpose of adding a specific parcel of land under its enabling legislation.

Figure 4 provides an overview of INAC's SEA process.

Figure 4: Strategic Environmental Assessment Process – INAC



7.3 Relevant Documents

DIAND, Land Administration. December 17, 2001. *Land Directive B-9: Land Withdrawal and Land Transfer Process –Protected Areas Strategy*

Government of Canada. *Territorial Lands Act*. (R.S., 1985, c. T-7).
<http://lois.justice.gc.ca/en/T-7/text.html>

NWT PAS Guidelines for Interim Protection of Candidate Protected Areas. September 2001. <http://www.nwtwildlife.com/pas/pdf/interimnov2002.pdf>

DIAND, DG SEA Working Group, February 2007. *Guide to Strategic Environmental Assessment.* Draft.

PCO and CEAA, 2004. *Strategic Environmental Assessment. The Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals. Guidelines for implementing the Cabinet Directive.*

INAC. October 2006. *Background on Strategic Environmental Assessment.* Environmental Policies and Studies, Natural Resources and Environment, Northern Affairs Program. NCR#768633 Q&As on SEA.

8.0 POLICY REQUIREMENTS: CANADIAN WILDLIFE SERVICE

8.1 CWS and the NWT PAS

The Canadian Wildlife Service (CWS) operates under Environment Canada. Either directly or in cooperation with others, CWS protects and manages National Wildlife Areas (NWA), Migratory Bird Sanctuaries (MBS) and Marine Wildlife Areas.

The CWS protected area mandate is primarily driven by:

- *Canada Wildlife Act*. The *Act* was passed in 1973. NWAs established under the *Act* may protect surface and subsurface habitats; offer permits for activities that do not threaten wildlife or habitat; and develop services for research and public education.
- *Migratory Birds Convention Act*. MBS established under the *Act* protect surface or subsurface areas important to migratory birds. Under the *Act*, hunting may be regulated, trafficking and commercialization prevented, and permits offered for industrial activities if they do not threaten migratory birds or their habitat. The *Act* may limit specific activities in sensitive seasons.

Ultimate authority lies with the Minister of the Environment. More recently, Eco-cultural wildlife areas have been added to the draft management plan for CWS (as noted in Terriplan May 2006). In this way the *Canada Wildlife Act* can also be used to designate protected areas that would highlight the long-standing interaction of Aboriginal people with Canada's natural spaces. The primary reason for establishing these areas would be the maintenance of their ecological value and biodiversity. The history of use and cultural value of these areas to Aboriginal peoples and the role that Aboriginal people would play in managing the areas would also be considerations. However, there is little or no experience with this type of designation in the North.

As the Kendall Island Bird Sanctuary was established in 1961, it would not have undergone the type of planning processes applicable today. There are four other MBS in the NWT.

The Canadian Wildlife Service (CWS) of Environment Canada is a Sponsoring Agency for two Candidate Protected Areas in Step 5 of the PAS process:

- Edézhíe (Dehcho Region, land withdrawal to 2007 – proposed as an Eco-Cultural Area under the *Canada Wildlife Act*)
- Sambaa K'e (Dehcho Region, land withdrawal to October 2008 through Dehcho Interim Measures Agreement)

Environment Canada has prepared an in-house *Protected Areas Manual* (Unpublished, December 2005) that describes its approaches to meeting various requirements related to protected areas. Staff at the CWS can refer to the manual for direction during PAS processes. The manual was not available for review as part of this research, but was summarized previously (Terriplan, May 2006). The manual was finalized/approved in its draft form late in 2006.

8.2 Summary of CWS Requirements

During or following Step 5 of the PAS process, Environment Canada/CWS undergoes a series of three activities to meet internal obligations for protection:

- Feasibility Assessment Process
- Securement and Agreement Process, and
- Regulatory Process for Establishment or Modification

These may be conducted concurrent with PAS Step 5 activities, and in some cases are a shared requirement between Environment Canada's Protected Areas process and that of the NWT PAS. This general approach is thought to apply to NWA, MBS, and Eco-cultural wildlife areas.

8.2.1 Feasibility Assessment Process

The Feasibility Assessment Process is comprised of five key activities, which may not be sequential:

- a) Ecosystem Assessment: Develop an ecological baseline data inventory, including a review of socio-economic and non-renewable resource potential.
- b) Strategic Environmental Assessment: Evaluate the environmental effects of the establishment of the candidate protected area; this may include a socio-economic component (see 8.3.3 below).
- c) Public Consultations: Assess other parties and public interest in the candidate protected area by conducting consultations that are consistent with EC policy and guidelines on public consultation and consultation with Aboriginal people.
- d) Boundary Determination: Determine the boundaries of a candidate protected area. A legal description will be needed for new areas, or if the boundaries of an existing protected area change.
- e) Securement Determination: Identify options for optimizing the protection of proposed protected areas. By conducting this assessment, staff analyzes both surface (land and water) and subsurface rights securement options.

Once the above process is complete, staff initiates a securement and agreement process to select the most appropriate options for achieving the protection of a candidate area. Lands and waters are secured consistent with the legislation, departmental policies, and guidelines for the conservation of wildlife and their related habitat, as stated in the *Environment Canada Protected Areas Strategy* (see Chapter 2, Environment Canada Protected Areas Strategic plan for details).

8.2.2 Securement and Agreement Process

The Securement and Agreement Process is comprised of three components:

- a) Securement Instruments: a variety of instruments can be used by EC to secure habitats for wildlife conservation. They are instruments/documents used to transfer property rights between parties.
- b) Securement Methods: This is the method of transferring ownership of the property from a Federal Agency, province or a Territory. A sub-surface land withdrawal will prevent mineral claims and mineral leases from being issued under the *Canada Mining Regulations* or under other provincial mining / natural resource regulations (see S. 7.1, above).
- c) Environment Canada Real Property Division: EC Real Property personnel across Canada are responsible for EC's land acquisition/disposal transactions⁴. This would occur late in the PAS process, e.g., Step 7.

When this is completed, a regulatory process for establishment or modification is initiated. Regulations created or amended for the establishment or modification of all types of EC Protected Areas undergo thorough planning and preparation to ensure better management of the regulations, more effective ministerial control, and public participation in the process.

8.2.3 Regulatory Process for Establishment or Modification

The Regulatory Process for Establishment or Modification is comprised of two steps:

- 1) Planning Process: (1 year prior to preparation process): The planning stage begins one year prior to the regulation proposal being submitted. Regions notify EC's Legislative Services, National Headquarters and the Department of Justice to add it to their respective work plans and allow it to be included in the Annual Federal Regulatory Plan. This includes:
 - The triage process described in S. 6.3 (includes a socio-economic component for more significant proposals)
 - Consultations: regions are expected to consult with all affected parties
 - Regulatory Impact Analysis Statement (RIAS)
 - Communication Plan: must accompany the RIAS

Based on the findings of the regulatory triage, different levels of effort would be expected for the RIA. In the case of CWS proposals for protected areas, it is not clear whether the triage is conducted by headquarters or regional staff, or how long the process might take. The information generated during the triage process is confidential.

- 2) Preparation Process: (minimum 3 to 6 months) The preparation process cannot begin until all of the following have been completed by the region: Regulatory Impact Analysis Statement; Communication Plan; Legal Description (of the land) (See above).

⁴ The Department of Public Works may be involved in securement of third-party, private interests. This would be more likely to occur in southern parts of Canada than in the NWT,

EC's legislative services then complete the following activities:

- a) Draft the regulation (2 months)
- b) Submits the RIAS and Communication Plan for review and approval to the communications directorate (2 weeks)
- c) Prepares the recommendation to the Governor General in Council (French and English) and Memorandum to Minister (one week)
- d) Sends the approved RIAS and Communication Plan for translation (minimum 2 to 3 weeks)
- e) Sends the Memorandum to Minister for the approval of the RIAS and Recommendation. The approval process requires that the package be transmitted through the responsible national headquarters Directors, Director General, Assistant Deputy Minister, and finally the Minister (minimum of one month)
- f) Prepares a notice of pre-publication and submits to the Privy Council office 10 days prior to the Treasury Board Meeting (minimum 2 weeks)
- g) Amends the RIAS and the Memorandum to the Minister to reflect comments received and steps are repeated
- h) Forward, once approvals have been received, the documentation to Privy Council Office for final approval by Treasury Board.

Once the above processes have been completed and the area has received its final approvals and designation, CWS initiates Management Plan Development and the appropriate consultations.

8.2.4 Management Plan Development

Management Plan Development is comprised of five key activities:

- a) Initial Planning: this includes drafting the information requirements of the management plan; determining timelines, participants and resources required; developing a draft outline or template; and consulting with EC region colleagues and additional participants
- b) Information Collection and Development: this includes developing the public and Aboriginal consultation plan and process and incorporating the information into the management plan template
- c) Review Process: It is required to stage an internal as well as an external review, especially if external participants contributed to the development of the plan.
- d) Finalization and Distribution: the Regional Director approves the Protected area Management Plan and the Management Plan is finalized and distributed.
- e) Updates and Revision: Management Plans are revisited five years after initial development and then every ten years following, conditional upon available resources.

While Environment Canada's Protected Areas Manual notes that the management plan is developed 'later' in the process, it can be developed at any time. If it is initiated earlier, it can be useful for the socio-economic assessment and the preparation of the RIAs. Ideally, a draft management plan would be available to accompany the final proposal. Wildlife harvesting rights will be an important component of the management plan. A 'Request for Proposals' has just been issued to develop a management plan for Edézhíe (which is at Step 5 in the PAS process).

8.2.5 Costs /Information Availability

CWS provided the following approximate costs for Edézhíe studies:

- Management plan \$20,000 for the consultant, with additional costs related to in-kind services from CWS and the PAS Secretariat, and costs of Working Group meetings and discussions
- SEA \$30,000
- Ecological Assessment \$100,000
- Cultural Assessment \$20 to \$30,000
- Non-renewable resource assessment \$750,000
- Working Group meetings cost approximately \$15,000 each

As the Sponsoring Agency, CWS pays the costs for the internal approval process. There are participants in the various PAS Step 5 studies that pay part of the costs for them.

CWS indicated that generally, the information they need to fulfill their requirements is available at the community, regional and territorial levels.

8.3 Related Requirements – CWS

8.3.1 MVRMA

It would appear that the establishment of a protected area under the *Canada Wildlife Act* (e.g., National Wildlife Areas) or the *Migratory Birds Convention Act* (e.g., bird sanctuaries) is not considered 'development' under the MVRMA Part 5 definitions. As such, those types of protected area proposals may not be subject to preliminary screening, depending on the potential regulatory authorizations that might be required under those Acts as identified in the *Preliminary Screening Requirements Regulation*, which includes the *Migratory Birds Convention Act* (Migratory Bird Regulations ; Migratory Birds Sanctuary Regulations) and the *Canada Wildlife Act* (Wildlife Area Regulations).

8.3.2 Land Claim Agreements

The relevant land claim agreements or interim measures agreements applicable in the region of a proposed protected area will need to be reviewed in terms of any relevant provisions related to economic development benefits, participation, or compensation for Aboriginal people, as well as specific sections related to the establishment of protected areas (including wildlife areas or migratory bird sanctuaries) (see summary in S. 3.0, above).

8.3.3 Strategic Environmental Assessment

Environment Canada and CWS have an internal departmental approach for implementing the Cabinet Directive on SEA (see 8.2.1 above). Currently, Environment Canada is restructuring its SEA process. In addition, the profile and understanding of SEA is still being raised within the department. At Environment Canada, the approach is to carry out SEA activities as part of planning, rather than as a separate process. An SEA Criteria Form ('checklist'), templates, draft guidance on public SEA statements, and an evaluation form have been developed to assist Environment Canada/CWS with the SEA process for individual proposals. An older SEA manual exists, but is somewhat dated as it precedes the 2004 Guidelines for implementing the Cabinet Directive. Environment Canada is more challenged by the socio-economic aspects of SEA, relative to the biophysical impacts.

Within Environment Canada, the individuals developing the proposal prepare the SEA, with the guidance/assistance from the central Environmental Assessment Division function (deals with project-specific and SEA). Consultants may be used. The department has completed SEAs on the proposed *Species at Risk Act*, the *Great Lakes 2020 Action Plan* and oil and gas development in the Kendall Island Bird Sanctuary in the Arctic, to name a few.

At the December 2006 workshop, it was noted that additional research is needed as to whether / how much a SEA prepared for a protected area proposal could contribute to (or potentially substitute for) the MVRMA preliminary screening of the same proposal.

8.3.4 Regulatory Impact Analysis

To date, there have not been any RIAs (see S. 8.2.3 above) prepared by CWS for Candidate Protected Areas under the NWT PAS. However, the RIAs could be developed, at least in part, using the information provided by other assessments, e.g., the various Step 5 assessments and the SEA.

8.4 Relevant Documents

Environment Canada. December 2005. *Protected Areas Manual*.

Government of Canada. 1985. *Canada Wildlife Act*. <http://laws.justice.gc.ca/en/W-9/265232.html>

Government of Canada. 1994. *Migratory Birds Convention Act*.
<http://laws.justice.gc.ca/en/M-7.01/250946.html>

In addition to federal Cabinet Directive on SEA and implementation guidelines (see S. 6.2 above), Environment Canada has internal guidance on SEA:

- Environment Canada. Undated. *Public Statements of Environmental Effects: Draft Guidance*. Draft – waiting approval by Canadian Environmental Assessment Agency.
- Environment Canada. October 2006. *What is a Strategic Environmental Assessment?* NCR # 768633-v1-SEA.
- Environment Canada. Undated. *Strategic Environmental Assessment (SEA) Decision-Making Criteria for all Boards, Policy and Program Brief*.
- Environment Canada. January 2003. *Strategic Environmental Assessment at Environment Canada: An Integrated Approach to the Environmental Assessment of Policy, Plan and Program Proposals*.
- Environment Canada. Undated. *Strategic Environmental Assessment Rationale Template*.
- Environment Canada. Undated. *Strategic Environmental Assessment Evaluation Form*.
- Environment Canada. Undated. *Strategic Environmental Assessment Public Statement Template*.

9.0 POLICY REQUIREMENTS: PARKS CANADA

9.1 *Parks Canada and the NWT PAS*

The Parks Canada Agency (PCA) works as a guardian of Canada's national parks, historical sites and marine conservation areas. It fulfills its mandate by protecting and managing a network of national heritage protected areas in Canada. It does this through three network systems: System of National Historic Sites of Canada, System of National Parks of Canada and the System of National Marine Conservation Areas of Canada. In this document, only national parks and national historic sites are addressed.

In 2003, a restructuring of several departments and agencies moved responsibility for the PCA from the Minister of Canadian Heritage to the Minister of the Environment. Parks Canada continues to operate as a separate agency, and the Chief Executive Officer reports directly to the Minister of the Environment.

PCA is the Sponsoring Agency for the Sahoyúé-?ehdacho Candidate Protected Area (Sahtu Region, currently a National Historic Site, with land withdrawal to November 2010). Discussions are ongoing as to which legislation (*Canada National Parks Act*, or *Historic Sites and Monuments Act*) will be used to finally establish that protected area. Parks Canada is also involved in the expansion of the Nahanni Park Reserve of Canada. Bégádeh / Nahanni Headwaters in the Sahtu (currently at Step 4) will undergo the PAS process with PCA as the Sponsoring Agency. The portion of the Nahanni expansion in the Dehcho is being addressed through the implementation of a Memorandum of Understanding between the Dehcho First Nations and Parks Canada, outside of the PAS process.

In the *Parks Canada Agency Corporate Plan 2007-2011* (2006), the history of Aboriginal peoples, ethno-cultural communities and women are noted as being insufficiently represented in the system. These are Parks Canada's three strategic priorities for future designations.

9.2 *Summary of Parks Canada Requirements – National Parks*

Parks Canada Agency can establish a park under the *Canada National Parks Act*. The level of protection offered by National Parks status is greater than that of National and Historic Sites. A National Park has protection for surface and subsurface areas, while National and Historic Sites may provide such protection. There is no consistent process for establishing new national parks. Each situation is unique and the steps leading up to the creation of a new national park reflect individual circumstances. The general policies, criteria and process related to park establishment are drawn from the Parks Canada guiding principles and operational policies. There are five steps in park establishment:

Step 1 is the identification of potential park areas within a natural region;
Step 2 is the selection of a park area proposal;
Step 3 is a detailed feasibility assessment of a particular park proposal;
Step 4 is the negotiation of a park establishment agreement; and
Step 5 is the designation of the park or reserve under the *Canada National Parks Act*.

During the initial steps of establishing a national park, a number of studies are required, e.g., economic, wildlife, traditional use, geology (e.g., special features such as karst topography) etc. The Parks Canada process also requires a Mineral and Energy Resource Assessment (MERA; http://www.nrcan.gc.ca/ms/poli/mera_e.htm); the PAS has a similar requirement in Step 5, although less rigorous.

The relevant direction provided under *Part II-Activity Policies: National Parks Policy (1994)* for Steps 3 through 5 is extracted below. For the purposes of final establishment of a protected area in the NWT, the following elements of Part II of the Policy are relevant:

- S. 1.4 Negotiate a National Park Agreement (including interim withdrawals and land transfer)
- S. 1.5 Establish National Parks in Legislation
- S. 2.1 Establish a Management Plan

9.2.1 Negotiate a National Park Agreement

(PAS Steps 4 – 7) New national park agreements will be negotiated between the Government of Canada and the government and/or Aboriginal peoples having constitutional authority regarding the lands (1.4.1). National parks in the territories will be established pursuant to agreements with the territorial government and with relevant Aboriginal organizations (1.4.3). The Crown in Right of Canada will own the land and subsurface rights within the legislated boundaries of national parks (1.4.4). Commercial exploration, extraction or development of natural resources will be terminated before national parks are formally established. Certain traditional subsistence uses of natural resources may be permitted to continue in designated parts of a national park (1.4.5).

Existing Aboriginal and treaty rights of the Aboriginal peoples of Canada will be honoured. These may be defined in treaties and comprehensive claim agreements (1.4.10). In areas subject to existing Aboriginal or treaty rights or to comprehensive land claims by Aboriginal peoples, the terms and conditions of park establishment will include provision for continuation of renewable resource harvesting activities, and the nature and extent of Aboriginal peoples' involvement in park planning and management (1.4.11). In addition to Aboriginal or treaty rights, when new national parks are proposed within areas where local people have traditionally depended on the land for subsistence and no immediate alternative can be found, an agreement may be negotiated regarding the

continuation of specified subsistence resource harvesting activities for a finite period of time, subject to regulation (1.4.12). The relevant land claim agreements or interim measures agreements applicable in the region of a proposed protected area will need to be reviewed in terms of any relevant provisions related to economic development benefits, participation, or compensation for Aboriginal people, as well as specific sections related to the establishment of protected areas (including National Parks) (see summary in S. 3.0, above). An Impact and Benefit Plan may need to be negotiated as required under the terms of settled land claim agreements (e.g., with respect to the Nahanni Park expansion under the Sahtu Final Agreement).

Generally, Parks Canada must establish that it has consulted Aboriginal people, meeting obligations under S. 35 of the *Constitution Act*. This may be documented through the Impact and Benefit Plan, for example.

In the NWT, the support of the GNWT for the National Park agreement is needed. This can be achieved through a letter of support, or through engagement in the Impact and Benefit Plan negotiation (e.g., education).

Parks Canada will negotiate interim measures as part of the park agreement in order to facilitate effective protection and management of the area until the national park is formally established under federal legislation. In the territorial north, one such measure may be withdrawal from further disposition of the lands for a proposed new national park under the Territorial Lands Act (1.4.13). PCA utilizes the Surveyor General (Natural Resources Canada) for the purposes of boundary definitions; the Department of Public Works is involved only in the cases of purchase of third party interests.

9.2.2 Establishing National Parks in Legislation

A national park may be established through amendment to the *Canada National Parks Act*, or by Order in Council. The use of an Order in Council is more complicated in practice than legislative amendment.

(PAS Step 7) National parks will be formally established through an amendment to the *Canada National Parks Act*. The proposed legislation will give effect to the terms of a new park agreement (1.5.1). Where new national parks are established in conjunction with the settlement of land claims of Aboriginal peoples, final boundaries of the national park as well as harvesting rights and involvement of Aboriginal peoples in park planning and management will be proposed in legislation according to the terms of the land claim agreement. In the interim, the area may be set aside as a 'national park reserve' under the Act and traditional hunting, fishing and trapping activities by Aboriginal peoples will continue. Other interim measures may also include local Aboriginal peoples' involvement in park reserve management (1.5.2).

The Governor in Council can add the new park to the *Canada National Parks Act* schedule. Before an amendment is made to Schedule 1 or 2 for such a purpose, the proposed amendment shall be tabled in each House of Parliament, together with a report on the proposed park or park reserve that includes information on consultations undertaken and any agreements reached with respect to its establishment, and an

amendment so tabled stands referred to the standing committee of each House that normally considers matters relating to parks. These detailed reports to Parliament are a legal requirement, and contain information that would be provided by the various studies, including Step 5 assessments, and documented in a strategic environmental assessment.

An addition to an existing National Park can be achieved with an Order in Council.

9.2.3 Cooperative Management Plans

(PAS Step 8) Parks Canada will prepare management plans for the Minister's approval and tabling in Parliament:

- i) Within five years after the proclamation of a park under any Act of Parliament;
- or
- ii) within five years of the transfer of administration and control to Parks Canada of lands proposed for establishment as national parks.
- iii) Management plans will be reviewed every five years for re-tableting with any amendments (2.1.1).

Management plans for national parks which have additional international or national designations, such as World Heritage Site, Biosphere Reserve, Ramsar Site, Canadian Heritage River, or National Historic Site, will include strategies for protection and promotion of the values that resulted in the additional designations (2.1.8).

9.2.4 Related Requirements – National Parks

Given that the definition of 'development' in the MVRMA includes measures carried out by a department or agency of government leading to the establishment of a park subject to the *Canada National Parks Act*, the establishment of a National Park would likely require preliminary screening (see S. 4 above). To date, Parks Canada has no experience in terms of preliminary screening of protected area proposals. The southern portion of Tuktu Nogait National Park was established as part of the Sahtu land claim. It is expected that preliminary screening will be done for the East Arm of Great Slave Lake (outside the PAS process) and the Nahanni headwaters in the Sahtu (within the PAS process, Step 4).

The Ministerial and/or Cabinet approvals required for establishment of the Park (e.g., land transfer, amendments to the *Canada National Parks Act* and regulations, Order in Council for expansion of an existing National Park, management plans) could trigger federal requirements for SEA (see. S. 6.2 above) and possibly RIA (see. S. 6.3 above). At this time, SEA has not been done for new Northern park proposals. Parks Canada has indicated that the Impact and Benefits Agreements and various studies prepared during planning of a national park would provide all and more of the information needed to prepare an SEA. Parks Canada would be responsible for RIAs related to amendment of the *National Parks Act*. Parks Canada legal services may have the responsibility for drafting the RIAs, although this could be a responsibility of the Department of Justice. The role of the Treasury Board Secretariat and Privy Council Office need to be clarified. It is not clear whether INAC would need to prepare a RIA for transfer of land.

9.3 Summary of Parks Canada Requirements – National Historic Sites

Parks Canada's protection of Historic Sites is achieved mainly through the *Historic Sites and Monuments Act*. However, Part II of the *National Parks Act* that contains provisions for historic sites, while providing the tools available under the NPA. An area such as Sahoyúé-?ehdacho (a candidate area under the NWT PAS, currently a National Historic Site in the Sahtu Region) was not contemplated under the *Historic Sites and Monuments Act*; new legislation or an amendment may be required to provide the needed land management tools associated with such a proposal. There are aspects of the *National Parks Act* that limit activities such as carrying ammunition, carrying fuel in boats etc., that have implications for Aboriginal harvesting activities within a protected area.

The Historic Sites and Monuments Board of Canada (HSMBC) was created in 1919 by the federal government in response to public interest in heritage preservation. The level of protection offered by National Parks status is greater than that of National and Historic Sites. A National Park has protection for surface and subsurface areas, while National and Historic Sites may provide such protection.

Under S. 4.4.3 of *Part II-Activity Policies: National Parks Policy (1994)*, if acquisition of a national historic site is warranted, the Minister will seek Treasury Board approval. This would trigger preliminary screening under the MVRMA and a SEA. If a national historic site is already owned by the federal government, but is not under the Minister of the Environment's authority, administration of the site will usually be by agreement between Ministers. A national historic site under the Minister's authority may be set aside in accordance with Part II of the *National Parks Act* so that regulations under that Act may apply to it. Such a setting aside is an administrative rather than a commemorative action, and is treated in the Cultural Resource Management Policy (*Part II-Activity Policies: National Parks Policy (1994)*).

The following is a summary of the process for the designation of a National Historic Site (Parks Canada, 2004; Terriplan, May 2006).

- 1) **Nomination:** Parks Canada plays a role in the nomination process through the development and promotion of the *National Historic Sites of Canada System Plan*, and by publicizing the program of national commemoration and the role of the HSMBC. The Agency also provides support to build the capacity of Aboriginal communities to bring their nominations to the HSMBC. Parks Canada provides the Secretariat for the HSMBC.
- 2) **Screening Nominations:** Parks Canada is directly responsible for screening nominations and preparing submission reports for those nominations that meet the criteria. The reports assist the Board in its deliberations. Alternatively, the applicant may elect to prepare the research paper with the assistance of the Agency.

- 3) **Recommendations for Designation:** Recommendations are made by the HSMBC based on submission reports, its evaluation criteria and its own expert knowledge of Canadian history. The Board meets twice a year (spring and fall) to consider submissions. It may or may not recommend designation, or defer a recommendation by requesting supplementary information and then reconsider the submission at a later meeting. Generally, the Board's agenda is completely engaged approximately six months prior to a meeting. The Board Secretariat will keep applicants apprised of the progress of their application in writing.
- 4) **Review by Minister of the Environment:** Following the Board's meetings, Parks Canada (acting as the Secretariat), prepares minutes outlining the Board's deliberations and recommendations and provides them to the Minister of the Environment. The HSMBC recommendations to the Minister are confidential. The Minister may approve or reject the Board's recommendations. Approximately six months are required between the Board's consideration of a subject and ministerial approval. The Minutes and associated research material are made available to the applicant at that time.

At the December 2006 workshop, it was noted that additional research is needed into the requirements related to the National Historic Sites and their potential use for protected areas in the NWT.

9.3.1 Related Requirements – National and Historic Sites

Given that the definition of 'development' in the MVRMA includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act*, the establishment of a protected area under that legislation would likely require preliminary screening if lands are acquired (see S. 4 above).

The relevant land claim agreements or interim measures agreements applicable in the region of a proposed protected area will need to be reviewed in terms of any relevant provisions related to economic development benefits, participation, or compensation for Aboriginal people, as well as specific sections related to the establishment of protected areas (including National Historic Sites) (see summary in S. 3.0, above). Generally, Parks Canada must establish that it has consulted Aboriginal people, meeting obligations under S. 35 of the *Constitution Act*.

The Ministerial approval of the HSMB's recommendations, Orders in Council for Land Withdrawal or Transfer, or Treasury Board approval needed for acquisition of a national historic site could also trigger a SEA, if the criteria are met (see. S. 6.2 above).

9.4 Relevant Documents

Government of Canada. 2000. *Canada National Parks Act*.
<http://lois.justice.gc.ca/en/N-14.01/text.html>

Government of Canada. [Historic Sites and Monuments Act](http://laws.justice.gc.ca/en/H-4/text.html) (R.S., 1985, c. H-4)
<http://laws.justice.gc.ca/en/H-4/text.html> Act current to September 15, 2006

Parks Canada. 2006. *Parks Canada Agency Corporate Plan 2007-2011*.
http://www.pc.gc.ca/docs/pc/plans/plan2006-2007/cp_0607-E.pdf

Parks Canada. 2004. *State of Protected Heritage Areas 2003 Report*.
http://www.pc.gc.ca/docs/pc/rpts/etat-state-2003/sec14_e.asp

Parks Canada. 1994. *Parks Canada Guiding Principles and Operational Policies, Part II
- Activity Policies: National Parks Policy*.
http://www.pc.gc.ca/docs/pc/poli/princip/sec2/part2a3_E.asp

10.0 RELATING POLICY REQUIREMENTS TO ONE ANOTHER

Tables 3 through 7 provide a summary of the various policy requirements outlined in Sections 4 through 9, above in terms of their approximate timing and general relationship with each other and the various PAS assessments conducted in Step 5. Requirements under relevant Land Claim Agreements relating to compensation, participation, and protected areas (S. 3.0) will apply to every Candidate Area Process, and are not included in Tables 3 through 7. Possible requirements under the *Canadian Environmental Assessment Act* (CEAA) and the *Inuvialuit Final Agreement* processes (e.g., environmental impact screening) have not been included (see S. 6.4, above).

Table 3: Relating Policy Requirements to One Another- ITI GNWT (See S. 5)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS NRR Assessment
Briefing Note to Minister	Step 7	No	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Report to Financial Management Board	Step 7	No	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Establish PA through <i>Territorial Parks Act</i>	Step 7	No					
Transfer of Federal Crown Lands	Step 7	Yes – SEA by INAC (see S. 7.2, and Table 3 below)					
MVRMA Preliminary Screening (See S. 4)	Timing not clear; if territorial government is proposing the development, must do a preliminary screening – likely Step 7		Contributes information	Contributes information	Contributes information	Contributes information	Contributes information

Table 4: Relating Policy Requirements to One Another- INAC (See S. 7)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement ?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
Interim Withdrawal of Lands from Disposal	Step 4	OiC triggers SEA screen by INAC (see S. 6.2 and 7.2)	not available in Step 4	not available in Step 4	not available in Step 4	not available in Step 4	not available in Step 4
Transfer of Administration & Control Federal Crown Lands	Step 7	OiC may trigger SEA screen by INAC (see S. 6.2 and 7.2)	Contributes information (but focus is biophysical)	Contributes information (but focus is biophysical)	Contributes information	Contributes information	Contributes information
	Step 7	Statement of impacts is required to be prepared by Sponsoring Agency to accompany the application package for land transfer (see S. 7.2)	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information

Table 4: Relating Policy Requirements to One Another- INAC (See S. 7)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement ?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
Strategic Environmental Assessment	Step 4, possibly Step 7. If conditions met (see S. 6.2), SEA prepared by INAC as the INAC Minister makes recommendation to Governor in Council and/or Treasury Board regarding interim land withdrawals and final land transfers (see S. 7.1 and Table 4 above)	No	Potentially contributes information if an SEA is conducted after Step 5 (but focus is biophysical) Note: The SEA is focused on potential environmental effects and other environmental considerations (direct and indirect) at the policy level. For example, negative environmental effects through increased tourism and associated recreational and other infrastructures (roads, hydro lines), etc. The SEA does not provide exhaustive environmental information – the focus is on providing information to inform the decision-making process. The various PAS assessments being done would provide additional detailed factual information that would be useful in informing the decision-making.	Potentially contributes information if an SEA is conducted after Step 5 (but focus is biophysical)	Potentially contributes information if an SEA is conducted after Step 5	Potentially contributes information if an SEA is conducted after Step 5	Potentially contributes information if an SEA is conducted after Step 5

Table 5: Relating Policy Requirements to One Another- CWS (Canada Wildlife Act and MBCA (See S. 8.2)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
Feasibility Assessment, including Strategic Environmental Assessment (see S. 8.2.1)	Steps 5 through 7	SEA (see S. 6.2, 8.2.1, 8.3.3)	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Securement and Agreement Process (see S. 8.2.2)	Steps 6 through 7	No					
Regulatory Process for Establishment or Modification (see S. 8.2.3)	Step 6 through 7 (includes transfer of Federal Crown lands, see below)	RIA (triage) by CWS; results of SEA to be incorporated (see S. 8.2.3, 8.3.4)	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Transfer of Federal Crown Lands	Step 7	Yes – SEA screen by INAC (see S. 6.2 and 7.2)	Contributes information (but focus is biophysical)	Contributes information (but focus is biophysical)	Contributes information	Contributes information	Contributes information

Table 5: Relating Policy Requirements to One Another- CWS (Canada Wildlife Act and MBCA (See S. 8.2))							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
	Step 7	Statement of impacts is required to be prepared by CWS as Sponsoring Agency to accompany the application package for land transfer (see S. 7.2)	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Management Plan Development	Typically 'later' in process, but could occur at any time (Steps 5 through 7)	No					

Table 5: Relating Policy Requirements to One Another- CWS (Canada Wildlife Act and MBCA (See S. 8.2)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
MVRMA Preliminary Screening (See S. 4)	If federal government is proposing the development, must do a preliminary screening; may also be triggered by any regulatory approvals that might be needed (see MVRMA Preliminary Screening Requirements Regulation)	No	Potentially contributes information	Potentially contributes information	Potentially contributes information	Potentially contributes information	Potentially contributes information

Table 6: Relating Policy Requirements to One Another – Parks Canada Agency: National Parks (See S. 9.2)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
Various Studies, including Mineral and Energy Resource Assessment	Steps 4 or 5?	No					Would not be done; MERA is at greater level of detail.
Negotiate National Park Agreement (See S. 9.2.1; includes interim withdrawal and land transfer)	Steps 4 through 7	Yes – see transfer of lands, below					
Transfer of Federal Crown Lands	Step 7	Yes – SEA screen by INAC (see S. 6.2 and 7.2)					
	Step 7	Statement of impacts is required to be prepared by Parks Canada as Sponsoring Agency to accompany the application package for land transfer (see S. 7.2)	Additional discussion required amongst Parks Canada, CWS, PAS as to whether PAS socio-economic assessment is needed	N/A, as impact benefit agreement required	N/A, as Parks Canada requirements are more stringent	Contributes information, and to obtaining GNWT support	Would not be done; MERA is at greater level of detail.

Table 6: Relating Policy Requirements to One Another – Parks Canada Agency: National Parks (See S. 9.2)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
Establish National Park in Legislation (See S. 9.2.2)	Step 7	Yes – for new parks: <ul style="list-style-type: none"> • SEA screen by Parks Canada (See S. 6.2) • 'Report to Parliament' by Parks Canada (see S. 9.2.2) • and possibly RIA (triage) by Parks Canada (S.9.2.2) 	Additional discussion required amongst Parks Canada, CWS, PAS as to whether PAS socio-economic assessment is needed	N/A, as impact benefit agreement required	N/A, as Parks Canada requirements are more stringent	Contributes information, and to obtaining GNWT support	Would not be done; MERA is at greater level of detail.
		Order in Council for an expansion of existing park					

Table 6: Relating Policy Requirements to One Another – Parks Canada Agency: National Parks (See S. 9.2)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
MVRMA Preliminary Screening (See S. 4)	If federal government is proposing the development, must do a preliminary screening; may also be triggered by any regulatory approvals that might be needed (see Preliminary Screening Requirements Regulation) – likely Step 7	No	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Establish Management Plan (See S. 9.2.3)	Within 5 years after proclamation of a park – Likely in Step 8 (but can occur earlier)	Must be approved by Minister –SEA screen (See S. 6.2)					

Table 7: Relating Policy Requirements to One Another- Parks Canada Agency: National Historic Sites (See S. 9.3)							
Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
Nomination and Screening	Step 6 or 7	No	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Recommendations for Designation	Step 6 or 7	No					
Review/Approval by Minister of Environment	Step 7	Decision by Minister of Environment may trigger SEA screen by Environment Canada (See S. 6.2)	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information
Transfer of Federal Crown Lands	Step 7	Yes – SEA screen by INAC (see S. 7.2 and 9.3)	Contributes information (but focus is biophysical)	Contributes information (but focus is biophysical)	Contributes information	Contributes information	Contributes information
	Step 7	Statement of impacts is required to be prepared by Parks Canada as Sponsoring Agency to accompany the application package for land transfer (see S. 7.2)	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information

Table 7: Relating Policy Requirements to One Another- Parks Canada Agency: National Historic Sites (See S. 9.3)

Requirement	Timing (PAS Step)	Trigger for Another Requirement?	PAS Socio-Economic Assessment	PAS Cultural Values Assessment	PAS Ecological Assessment	PAS Renewable Resource Assessment	PAS Non-Renewable Resource Assessment
MVRMA Preliminary Screening (See S. 4)	If federal government is proposing the development, must do a preliminary screening even if no specific authorization being sought; although not listed in MVRMA Preliminary Screening Requirements Regulation) – likely Step 7	No	Contributes information	Contributes information	Contributes information	Contributes information	Contributes information

11.0 NWT PAS SOCIO-ECONOMIC ASSESSMENT GUIDELINES

11.1 NWT PAS Socio-Economic Assessment Guidelines

The *NWT PAS Socio-Economic Assessment Guidelines* (SEAG) (March 2005) are intended to contribute to informed decision-making. As noted in the SEAG, “The evaluation of the economic values includes the assessment of the social and economic effects that establishing a protected area might have upon the proposed area as well as the local and nearby communities. These guidelines outline the principles, objectives and process for the assessment of socio-economic effects related to the designation of candidate protected areas. The socio-economic assessment will be carried out separately but will also build on the other cultural, ecological, non-renewable and/or renewable resource assessments as stipulated in Step 5 of the NWT- PAS. Results from Phase 3 of the non-renewable resource assessment will be incorporated into the socio-economic assessment.” The SEAG include a disclaimer: “These guidelines are intended as a planning tool for Candidate Area Working Groups... (and) will be reviewed and revised from time to time.”

The SEAG developed out of the Non-Renewable Resource Assessment Guidelines, as the Steering Committee felt that information on renewable resources, intrinsic cultural values and other socio-economic considerations also needed to be brought to the table.

The socio-economic assessment relies on the other Step 5 assessments for some of its data and analysis. It is carried out later in the sequence of assessments. The socio-economic assessment is carried out by consultants or by team members identified by the Candidate Area Working Group. Funding may come from the Funding Partners, or from other organizations (e.g., ENGOs, industry).

The basic process includes a number of phases, under the direction and review of the Candidate Area Working Group:

- Socio-Economic Assessment Phase 1 - Situation Analysis (Part A)
- Socio-Economic Assessment Phase 1 - New Data Collection (Part B) (if required)
- Socio-Economic Assessment Phase 2 – Assess Socio-Economic Impacts
- Socio-Economic Assessment Phase 3 – Socio-Economic Assessment Reporting, Consultation and Review

The socio-economic assessments that are to be prepared during Step 5 can contribute to meeting the departmental requirements of Sponsoring Agencies and INAC (see sections above), as many have requirements relating to documentation of socio-economic effects of the finalization of a protected area.

11.2 Interview results – Socio-Economic Assessment Guidelines

During the interviews, respondents were asked whether the SEAG had areas of similarity or overlap with their departmental requirements, and if they were helpful to their organization. Suggestions were provided as to how the Guidelines might be improved. Results are summarized in Table 8.

Table 8: Interview Results – PAS Socio-economic Assessment Guidelines	
Little Experience with SEAG To Date	Several of those interviewed noted that only one Step 5 socio-economic assessment has been prepared to date using the SEAG. In that case, the lack of a management plan for the protected area made meaningful assessment of the socio-economic impacts difficult (see S. 11.2, below for an evaluation of the experience with the Sahoyúé-?ehdacho socio-economic assessment).
Still Early in PAS Process – Sponsoring Agencies Not Yet Clear on Internal Requirements	Because the PAS Candidate Areas in Step 5 are only part way through the final establishment process, there is little or no previous experience on the part of Sponsoring Agencies in terms of meeting their own internal requirements for NWT protected areas. The Sponsoring Agencies themselves are sometimes unclear as to the specific details of their requirements and how they might relate to the PAS process.
Timing of Socio-Economic Impact Assessment	Perhaps the socio-economic impact assessment should be conducted later in the process when the needs of the Sponsoring Agency and the Candidate Area Working Group are clearer, and the additional information on the candidate area (e.g., management plan) is available.
'Lessons Learned' from the Sahoyúé-?ehdacho Experience	The experience with the first socio-economic assessment prepared as part of the PAS (for Sahoyúé-?ehdacho, see S. 11.3, below) suggested a number of possible improvements, including: <ul style="list-style-type: none"> • Identification of 'triggers' as to when this assessment should occur • Maintaining a list of consultants familiar with the NWT context and the PAS • Determining how best the Sponsoring Agency can be involved, to ensure that their needs are met • Modifying the SEAG to allow flexibility to reflect the needs/context of specific candidate areas (an area-specific approach may be needed)
SEAG Should Address Needs of Communities	One sponsoring agency noted that the economic impact assessments it conducts for National Parks or Historic Sites respond to the needs of the communities. Socio-economic assessments are conducted as part of PCA's internal assessment, often in response to community requests. The studies are often negotiated through the park establishment process.
Tourism Effects and Opportunities	Communities need information on the economic opportunities, for example those associated with tourism and a protected area. Currently this information may not be a part of the other Step 5 assessments and may not be included in the Step 5 socio-economic assessment under the current SEAG. It is also difficult to assess the tourism impacts in the absence of a management plan.

Table 8: Interview Results – PAS Socio-economic Assessment Guidelines

<i>SEA Focus on Biophysical or Also on Socio-Economic?</i>	One respondent stated that Strategic Environmental Assessment (SEA) is more focused on the biophysical environment, and on mitigation (the latter is not part of the PAS SEAG). Thus, there is a less direct link with the PAS Socio-Economic Assessment. However, other respondents indicated that SEA does have a socio-economic component – at least in terms of ‘costs and benefits’, and thus the information generated in PAS assessments could contribute to the SEA.
<i>Contribution to Departmental Economic Analysis</i>	In the case of a territorial park being established, an economic analysis would be prepared for the Financial Management Board. The socio-economic assessment prepared under the PAS process would contribute to that analysis. FMB is more concerned with ‘actual costs’ related to Operations and Maintenance; would this be in the management plan, rather than the socio-economic assessment? Cabinet is more interested in ‘opportunities lost’, e.g., with respect to resource development.
<i>RIA Has Socio-Economic Component</i>	It was noted that RIA must include a consideration of socio-economic effects, and that the Phase 2 and 3 socio-economic assessment in particular may be helpful.
<i>Cumulative Effects</i>	One respondent noted that the SEAG could perhaps be strengthened by adding an assessment of the cumulative effects of the protected area. This would be helpful in meeting the SEA requirements for example.
<i>Flexibility vs. Need for Consistency</i>	Objective No. 4 in the SEAG seeks to coordinate and standardize the activities of various parties involved in planning and implementing the socio-economic assessment activities for protected areas. Principle No. 3 states that the cost, complexity, and need for fieldwork should be determined on a case-by-case basis by the Candidate Area Working Group and Funding Partners. One respondent suggested that the approach to the socio-economic assessment should be consistent across areas/regions; perhaps the PAS Steering Committee should make the decisions referred to in Principle No. 3. This might ensure that government needs are more likely to be met, and will provide industry with a level of certainty.
<i>Framework for the PAS Socio-Economic Assessment</i>	Page 4 of the SEAG provides a framework for the socio-economic assessment work. Concern was expressed about the capacity of the Candidate Area Working Group to coordinate the work, and the need for consistency across the various candidate areas. Perhaps the coordination role should be delegated to one organization (e.g., a government department, PAS Secretariat).
<i>Use of Consultants</i>	The SEAG should specifically mention the potential use of consultants for the socio-economic assessment.
<i>Mineral and Energy Resource Assessment (MERA)</i>	Parks Canada noted that the MERAs done for National Park studies (http://www.nrcan.gc.ca/ms/poli/mera_e.htm) include socio-economic components.

11.3 The Sahoyúé-?ehdacho Experience

The Step 5 socio-economic assessment prepared for Sahoyúé-?ehdacho was a 'first' in terms of both the NWT PAS process, and using the SEAG. An evaluation of the experience offered several observations and a few 'lessons learned' (Janes, October 2006):

- The assessment took five months to complete, at a cost of approximately \$25,000
- The information needed to fulfill the requirements of the Guidelines was not always available; examples include:
 - Confirmed organizational spending estimates (for Parks Canada as the sponsoring agency)
 - Difficulties contacting a number of the individuals suggested as information sources
 - The impacts identified in the assessment were not reviewed with stakeholders
- In the absence of even a draft management plan for Sahoyúé-?ehdacho, a more thorough socio-economic assessment should be conducted when such a plan has been developed

Earlier in 2006, the Sahoyúé-?ehdacho Working Group met to review the draft socio-economic assessment, and agreed to set it aside until work on a management plan for the area has advanced. At that time, it may be useful to revisit the socio-economic assessment, from the perspective of both Déljine and Parks Canada. Parks Canada's assessment requirements as the Sponsoring Agency are less rigorous for a fully protected National Historic Site designation, which does not require any specific socio-economic or ecological assessments be done. As a member of the SEWG, Parks Canada supports the PAS process and related assessment work. If Sahoyúé-?ehdacho is established under the *Canada National Parks Act*, there are additional requirements. Parks Canada agrees that this Assessment could be useful in the future, especially if there will be infrastructure or service components of managing the protected area.

The evaluation of the Sahoyúé-?ehdacho experience identified a number of considerations that should be taken into account as other candidate protected areas move through their Step 5 assessments. For the PAS in general, these include:

- "Determining **triggers for when this assessment would be useful** to undertake for a given area,
- Possibly **revising the Socio-Economic Assessment Guidelines** to consider the following:
 - Allowing Working Groups the flexibility to focus on what will be most useful for the Sponsoring Agency as they move toward negotiating a management agreement,
 - Focusing on recommendations that ensure that the protected area is managed for the maximum benefit of the community, and
- **Maintaining a list of consultants** familiar with the NWT and the PAS." (p. 7)

For Working Groups in particular, the evaluation suggested that the following should be considered:

- "**When in the in PAS process this assessment should be done** and would be most useful (i.e. Step 5 or later?);

- **Which parts of the Guidelines apply** to the specific candidate protected area, and
- **How can the Sponsoring Agency be most effectively involved** to make the assessment most useful and to coordinate it with some form of a management plan and any other requirements they may have.” (p. 7)

Other general challenges with the Sahoyúé-?ehdacho socio-economic assessment that could also apply to assessments for other PAS Candidate Protected Areas include:

- **“Information availability**, from territorial statistics to traditional knowledge; and
- Determining the need for **adequate consultations and interviews** in communities to generate and/or verify information”. (p. 6)

11.4 MVEIRB Socio-Economic Impact Assessment Guidelines

The Mackenzie Valley Environmental Impact Review Board (MVEIRB) has recently released its final Socio-Economic Impact Assessment Guidelines (December 2006). The Guidelines provide guidance on the MVEIRB's process and expectations for assessing socio-economic and cultural impacts assessment (SEIA).

Section 3.2.2 of the MVEIRB SEIA Guidelines provides direction on expectations regarding the 'level of SEIA' with respect to preliminary screening (See S. 4 above). The 'Level of SEIA Test' identifies assessment variables, questions and example indicators, and ranges of values that can assist a developer (including a PAS Sponsoring Agency) in determining the appropriate level of detail needed.

MVEIRB notes that the level of SEIA that would be appropriate for a preliminary screening is governed by the size, complexity, and the socio-economic environment and context of the proposed development. Generally, developers with smaller proposed developments (those with a small geographic footprint, relatively short timelines, and minimal employment requirements) are expected to fulfill community-engagement responsibilities and land-access agreement obligations, and conduct a 'basic socio-economic impact assessment'. MVEIRB is interested in effects on any sites having spiritual or cultural significance, heritage resources, or importance to the traditional economy. Given that the nature of a protected area and its potential effects are quite different from the industrial developments typically dealt with by MVEIRB, the level of assessment required for preliminary screening may be 'Basic'.

11.5 Future Direction – SEAG

At the December 2006 workshop, the question was raised as to whether the Step 5 SEAG provides the basis for a 'go or no go' decision regarding a protected area proposal, or if it provides information on the predicted socio-economic effects that may occur in the future if the proposed protected area is approved (or not).

Once the socio-economic aspects of various sponsoring agency requirements are better understood, the SEAG could be modified to better reflect those needs.

The experience with the Step 5 socio-economic assessment conducted for Sahoyúé-?ehdacho (see S.11.3, below) suggests that these types of assessment might be more effectively conducted during Step 6, when additional information is available (including negotiated Impact and Benefits Agreements, draft management plans). The Sahoyúé-?ehdacho situation may also be unique, in that the non-renewable resource potential is low relative to other areas of the NWT. It is quite possible that in other areas where the potential economic opportunities lost are too great, a proposed protected area may not maintain the support it might otherwise have. Resource development value will also change over time with market values. The linkage between the SEAG and the Non-Renewable Resource Assessment is all the more important in cases where resource potential is high. Questions to be asked include 'How much will it cost to operate this protected area, and what is the net value of the resources lost vs. the value of protection'?

The SEAG propose that a 'Socio-Economic Team' be developed. To date, this has not occurred. In the Sahoyúé-?ehdacho case, a draft socio-economic assessment was prepared by a consultant for review by the Working Group. An alternative would be to form a Socio-Economic Team with various relevant expertise (including economics, cultural, ecological, renewable and non-renewable resources, etc.). There are a number of options with respect to the membership and relationship of the Team to the Working Group (e.g., could be a sub-committee of the Working Group) and the Sponsoring Agency (would the Sponsoring Agency be part of the Team?). The Team could develop the terms of reference for the socio-economic assessment, and oversee and/or conduct the socio-economic assessment itself. The draft assessment would be reviewed by the Team prior to being sent to the Working Group.

It was suggested that the PAS Steering Committee could provide additional guidance on the options for implementing the 'Socio-Economic Team' with a view to making the socio-economic assessment process more efficient and effective. This might include the development of the terms of reference for the individual assessments, and the review of draft assessments prior to review by working groups or external parties.

11.6 Relevant Documents

Janes, E. October 20, 2005. (Draft) *Protected Areas Strategy Step 5 Socio-Economic Assessments Sponsoring Agency and SEA Workshop*. Canadian Parks and Wilderness Society.

Mackenzie Valley Environmental Impact Review Board. December 2006. *Final Socio Economic Impact Assessment Guidelines*.
http://www.mveirb.nt.ca/documents/guidelines/SEIA_Guidelines_Contents_and_Chapter_1.pdf

NWT PAS Socio-economic Assessment Guidelines. March 2005.
<http://www.nwtwildlife.com/pas/pdf/GuidelinesSocioEcAssessFINALNov05.pdf>

12.0 NWT PAS – OTHER STEP 5 GUIDELINES

12.1 Comments on Other Step 5 Guidelines

At the December 2006 workshop, it was noted that not all environmental values can be monetized or quantified. For example, the Renewable Resource Assessment Guidelines don't provide for a comparison of the ecological value of trees relative to their lumber or fuel value. If monetary values are estimated for meat taken, for example, could this not be done for other environmental components? For example, the value of the cultural aspects of being on the land, hunting etc? the intrinsic value of water?

Those interviewed were also asked about the other Step 5 assessment guidelines (i.e., Renewable Resource, Non-Renewable Resource, Ecological, Cultural Values). Are there areas of similarity or overlap? Are they helpful in meeting your requirements? Do you have suggestions for their improvement? A summary of the comments is provided in Table 9.

Table 9: Interview Results – Other Step 5 Guidelines	
<i>Socio-economic Assessment is More than “Sum of the Parts”</i>	The assessments prepared under the other Step 5 guidelines need to be in place for the socio-economic assessment to build upon. However, the socio-economic assessment is 'more than the sum of the parts'. It may also tend to be an assessment that captures items not included in other assessments.
<i>Timing/Sequence</i>	The timing and sequence of the Step 5 assessments should be flexible to meet the needs of the individual candidate area process
<i>Links to Strategic Environmental Assessment</i>	Several respondents stated that because of SEA's focus on the biophysical environment, the ecological and non-renewable resource assessments conducted as part of the PAS would provide useful information. One respondent stated that SEA includes a mitigation component (the latter is not part of the various PAS guidelines). The respondent noted that the various guidelines could perhaps be strengthened by adding an assessment of the cumulative effects of the protected area.
<i>Cultural Values</i>	It was noted during the interviews that implementation of the cultural assessment guidelines has been/will be difficult, given the inherent difficulty in collecting and assessing such information in the NWT. Some of the difficulties are noted in the Guidelines for Research and Documentation of Cultural Values (2005) themselves (e.g., p. 5). Consultation with the Prince of Wales Northern Heritage Centre should be noted in the SEAG, as the GNWT has jurisdiction and information available.

Table 9: Interview Results – Other Step 5 Guidelines

<i>Ecological Assessment</i>	<p>One respondent stated that the ecological assessment guidelines (October 2002) were somewhat unrealistic. Requiring more than an inventory, the Guidelines were thought to be ‘ambitious’ in terms of requiring an assessment of the ‘ecological functioning’ of the area. Experience has shown that it is very expensive and time consuming to do assessments of the large geographic areas for candidate protected areas. The Guidelines should better reflect the reality of the situation / context of the candidate areas, and the resources (time, funds, people) available to do the assessments.</p> <p>The same respondent noted that it would be helpful to develop a methodology for the ecological assessments; conversely, it is recognized that the guidelines are just that – ‘guidelines’ – and that level of specificity may not be warranted or desirable.</p>
<i>Non-Renewable Resource Assessment</i>	<p>The Guidelines for Non-Renewable Resource Assessment (2001) require an assessment of current market trends in Phase III. The volatility of these conditions may result in the assessment being quickly outdated.</p> <p>In the case of a territorial park being established, an economic analysis would be prepared for the GNWT’s Financial Management Board Secretariat. The non-renewable resource assessments prepared under the PAS process would inform that analysis.</p> <p>In the case of Nahanni expansion (outside the PAS process) two MERA were prepared, at a cost of millions of dollars (two different geographic areas). There is some overlap with the PAS non-renewable resources assessments.</p>
<i>Renewable Resources</i>	<p>The studies of traditional land use and occupancy, and traditional values are essential.</p> <p>In the case of a territorial park being established, an economic analysis would be prepared for the Financial Management Board Secretariat. The renewable resource assessments prepared under the PAS process would inform that analysis.</p> <p>The assessments should include consideration of the potential for hydroelectric power, tourism etc.</p>
<i>Evolving Role of Traditional Knowledge</i>	<p>The original work that was done for the establishment of Sahoyúé-?ehdacho as a National Historic Site was extraordinary, and set a precedent for working with elders and using traditional knowledge. The National Historic Sites & Monuments program was at that time largely focused on ‘European culture’. The traditional knowledge verified the findings of the conventional archaeological work. An elder made the presentation to the NHSMB – a first. Now traditional knowledge is an integral part of protected areas planning.</p>

12.2 Earlier Research – Comments on Step 5 Guidelines

Earlier research has also resulted in comments on the usefulness of the various Step 5 guidelines. Surveys were conducted with PAS Implementation Advisory Committee (now Steering Committee) members in 2005; Table 10 is a summary of comments on the PAS guidelines.

Q. 7 In your opinion, are the Guidelines that have already been established useful? Do they provide the intended practical guidance and information for parties to evaluate a candidate protected area? The PAS IAC has directed that the ecological assessment guidelines be revised. What, if anything else, needs to be improved?

Table 10: Previous Comments on PAS Guidelines (September 2005)	
General Comments - Guidelines	<ul style="list-style-type: none"> • Some of those interviewed were not always certain if the guidelines have been particularly helpful, or if they are indeed used. • The guidelines are good, given their intended purpose. • Many of the guidelines have not been 'tested' / actually used yet. • One interviewee noted they had not reviewed the guidelines, and asked if that was indicative of their relevance. Each area is unique in the way it is brought forward; the guidelines are very general, and open to interpretation. As a 'general explanation' they are useful, but not as a 'how to' tool. • An NWT-wide approach provides some consistency, but with flexibility to reflect regional and community realities.
Specific Comments - Guidelines	<ul style="list-style-type: none"> • A guideline on the PAS schedule/five-year window would be helpful, i.e., when various tasks must be done (e.g. in first three years vs. last two). For example, a geologist needs to understand the process and timeline involved, to set the context for their work. • A guideline on 'plain language' requirements and working with communities could be developed. For example, how might the results of assessments/technical work be better communicated to communities and working groups? • The guidelines may be useful for agencies involved in doing an actual assessment; however, the guidelines are 'lengthy' and 'technically detailed', at odds with a process that is to be community-driven. • While the IAC (now Steering Committee) talked of revising the ecological assessment guidelines, one interviewee noted that he was not sure that would make the process any faster.

Source: Terriplan Consultants. March 2005 (Amended September 2005). Policy Paper on Opportunities for Streamlining the NWT Protected Areas Strategy Process – 'Learning from Experience'. Prepared for NWT PAS Secretariat, INAC.

12.3 Relevant Documents

NWT PAS. *Guidelines for Research and Documentation of Cultural Values* (September 2005)

<http://www.nwtwildlife.com/pas/pdf/GuidelinesCulturalValuesFINALNov05.pdf>

NWT PAS. *Renewable Resource Assessment Guidelines* (September 2005)

<http://www.nwtwildlife.com/pas/pdf/GuidelinesRRAFINALNov05.pdf>

NWT PAS. *Guidelines for Non-Renewable Resource Assessment* (September 2001)

<http://www.nwtwildlife.com/pas/pdf/nraguides01.pdf>

NWT PAS. *Ecological Assessment Guidelines* (October 2002)

<http://www.nwtwildlife.com/pas/pdf/ecoassessment02.pdf>

13.0 STRENGTHENING THE SUPPORT FROM THE NWT PAS PROCESS

Those interviewed were asked about whether the current PAS process meets their organization's needs with respect to their requirements for finalizing the establishment of a protected area. The results are summarized in Table 11.

Table 11: Interview Results – Suitability of PAS Process to Departmental Needs	
PAS Brings Resources to Table	The PAS has useful in bringing resources to bear that might not otherwise be available for protected area planning.
Useful Information Produced	Many of those interviewed noted that the NWT PAS process and the various assessments produced as part of it provide useful information for meeting the policy requirements of Sponsoring Agencies or INAC (e.g., for use in developing SEA, RIAS, etc.), and the decisions that need to be made by Ministers and Cabinet (federal and territorial).
Capacity and Bureaucracy Challenges	The process is 'good on paper', but delays result from capacity issues and bureaucracy.
PAS Steps are not Discrete	The PAS process as presented as eight discreet steps is oversimplified, as steps sometimes are 'blurred' in reality, and Sponsoring Agencies have their own requirements and processes to address.
Community-Based Approach	The PAS process and structure is 'community-based' – this is helpful and appropriate.

Table 11: Interview Results – Suitability of PAS Process to Departmental Needs

Every Candidate Area Process is Unique	One of the Sponsoring Agencies noted that they are involved in three different candidate areas, but the process for each is somewhat different in terms of the administrative structure and progress of various assessments. The steps related to internal requirements may or may not mesh neatly with the PAS steps.
Limited Experience to Date	The PAS can provide the tools that are needed; right now, there is little or no experience in actually applying them.

Respondents had a variety of suggestions for improving efficient and effective linkages between the NWT PAS process and the processes for meeting other requirements of government departments with respect to the final establishment of protected areas in the NWT. These are summarized in Table 12.

Table 12: Interview Results – Suggestions for Improvements to the PAS Process

Clear Understanding of the Specific Approvals Needed	Information outlining the specific approvals needed at various steps of the PAS process, both in terms of the PAS process itself, and the various other organizations that need to make decisions (e.g., Sponsoring Agencies, INAC, GNWT/ITI, others), is needed. Who is accountable for what portion of the PAS process, and who else would be involved?, e.g., INAC is accountable for Orders in Council at various stages, is an SEA needed, or can it be deferred to later stages in the process?
Land Claim Provisions – Protected Areas - Primer	Final Agreements (e.g., Sahtu) include provisions for protected areas; often these are not well understood, although they are very powerful. The challenge is to make the connection between the PAS and the agreements, ensuring they are addressed. As the new generation of people in government and in Aboriginal organizations isn't as familiar with the agreements, the awareness of provisions negotiated years ago diminishes, as does the understanding of why they were included. A 'primer' is needed.
Evolving Relationships	Negotiations for protected areas take time, and relationships change. In the case of the East Arm of Great Slave Lake process (outside the PAS), the relationship between Lutsel K'e Dene First Nation and Environment Canada has evolved over 36 years. ENGOs have become instrumental. Parks Canada is also dealing directly with the Northwest Territory Metis Nation.
Cumulative Impacts	The PAS assessment guidelines should include a cumulative impact component – past, present and future actions might influence the design of a protected area.
'Lessons Learned' from Edézhíe and Sahoyúé-?ehdacho	As the two PAS candidate areas farthest along in the process proceed, there will be 'lessons learned' that can be applied to the other candidate areas as they move forward.
December 12 Workshop	The December 12 workshop will provide an opportunity to discuss ways that the PAS process might be improved in terms of meeting the requirements of Sponsoring Agencies and INAC with respect to finalizing the establishment of protected areas, e.g: <ul style="list-style-type: none"> • Use the information to adapt the various guidelines; • Figure out the needs of the Sponsoring Agencies, and build them into the guidelines to make the assessments more meaningful; • Ensure everyone, including the Sponsoring Agencies, is aware of the various requirements.

Table 12: Interview Results – Suggestions for Improvements to the PAS Process

<i>Flexibility</i>	The PAS Guidelines need to be flexible, for example: <ul style="list-style-type: none"> • Each Candidate Area Working Group should determine what needs to be looked at in light of the information they have, the information they need, and the type of protected area they are proposing. • The community consultation approach needs to reflect local context.
<i>Transparent Decision-Making</i>	The decision-making process must be transparent to all involved.
<i>Maintain Consistent Representation</i>	An ongoing challenge, not only with the PAS but in many NWT processes, is the turnover in representation on Working Groups, within Sponsoring Agencies, the PAS Secretariat etc. There is no easy solution to this issue.
<i>GNWT Representation on the Steering Committee</i>	ENR represents the GNWT on the PAS Steering Committee. The department must continue to ensure that it represents the entire GNWT; this was somewhat easier prior to the split of the former Resources, Wildlife and Environment Department into ENR and ITI.

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APPENDIX A: INTERVIEW QUESTIONS

Government Policy Requirements for Final Establishment of Protected Areas: Strengthening Support Provided by the NWT Protected Areas Strategy

Interviews with Sponsoring Agencies and Partners

Background

A workshop is being held December 12, 2006 to determine how organizations can effectively and efficiently meet territorial and federal policy requirements with respect to the final establishment of protected areas in the NWT. In particular, the NWT PAS Socio-Economic Assessment Guidelines (March 2005) will be considered in terms of how they may contribute to meeting departmental requirements. In advance of the workshop, research is being conducted by Terriplan Consultants to assist in:

- a) Identifying and understanding federal and territorial government policy requirements with respect to the final establishment of protected areas in the NWT
- b) Finding ways to more effectively and efficiently link or harmonize the government policy requirements with:
 - the NWT PAS Socio-Economic Guidelines (March 2005) (and by implication the other PAS Step 5 guidelines for other assessments that are used as building blocks for the socio-economic assessment)
 - the PAS process itself

The workshop will result in the identification of next steps for how the PAS process or Step 5 guidelines might be modified to minimize potential duplication, to make the guidelines as useful as possible in gathering information, and ensure effective and efficient linkages between the requirements of the PAS and government departments.

Confidentiality

The results of the interviews will become part of Terriplan's working papers and will not be subject to the Access to Information and Privacy Acts. With the exceptions of statements of fact, your opinions will be confidential and will not be attributed to individuals or organizations unless we have your specific permission.

Interview Questions

1. *Policy Requirements of Your Department*

Within Step 5 of the NWT PAS there are assessments that must be completed as part of establishing a protected area <http://www.nwtwildlife.com/pas> . Beyond the PAS-specific steps/assessments, as a *sponsoring agency or partner*, your organization has policy requirements with respect to the final establishment of protected areas in the NWT (e.g., Strategic Environmental Assessment; Regulatory Impact Assessment Statement). We've determined some initial information on these requirements, and would like to address gaps with you.

Note to those being interviewed: Please note that these interviews are 1) building upon /following up on previous initial PAS projects to look at requirements (not 'reinventing the wheel') and 2) we are looking at ways to better integrate the requirements of departments with the information generated by PAS Step 5 assessments and with PAS process itself. Terriplan will identify known information with respect to departmental policy requirements and provide to the interviewees in advance of the interview. The interviews will focus on filling the gaps and identifying ways to strengthen links, improve efficiency etc.

Information Category	Requirement A	Requirement B
1. Name of Requirement		
2. Specific Reference/URL		
3 a) Summary of the requirement		
b) Experience /precedent meeting the requirement – NWT or other jurisdictions (i.e., has it been done before?)		
c) Type of Protected Area Requirement Applies to		
4 a) Who leads the activities for the requirement?		
b) What other organizations participate in completing the requirement?		
c) Who conducts the activities (e.g., in-house, consultants)		
5. Brief description of the process to complete the requirement		
6. Who 'approves' the outcome?		
7. What are the 'triggers' for the requirement?		

Information Category	Requirement A	Requirement B
8 a) What information is needed to meet the requirement (i.e., potential overlap with PAS Socio-Economic Assessment Guidelines or other Step 5 guidelines)		
b) To fulfill the requirement, is information needed at the community, regional and territorial levels? Is this information available for the NWT?		
9. What are the approximate costs of meeting the requirement?		
10. What is the approximate length of time needed for review and approval activities related to the requirement?		
11. Who pays the costs of meeting the requirement?		
12. Other comments		

2. **Overlaps - PAS Guidelines and Your Departmental Needs**

The NWT PAS *Socio-Economic Assessment Guidelines* (March 2005) were sent as part of the background material for the interview, or can be downloaded from <http://www.nwtwildlife.com/pas/Guidelines.htm>.

a) Can you identify areas of similarity or overlap with any of the policy requirements described in Q.1 above?

b) Are the PAS *Socio-Economic Assessment Guidelines* and/or the assessments produced useful to your organization in meeting its policy requirements for establishing a protected area in the NWT? Please elaborate.

c) Do you have any suggestions as to how the PAS *Socio-Economic Assessment Guidelines* might be modified to better harmonize with / support the requirements you described in Q.1 above?

3. **Usefulness of Other PAS Assessments**

a) There are other PAS assessment guidelines available for use in Step 5 (i.e., Renewable Resource, Non-renewable Resource, Ecological, Cultural Values <http://www.nwtwildlife.com/pas/Guidelines.htm>). The findings of these assessments are used as building blocks for the socio-economic assessment. Do these other Step 5 guidelines result in the provision of information that assists your organization with meeting any of the requirements you described in Q.1 above?

b) Can you identify areas of linkage, similarity or overlap with any of the requirements described in Q.1 above?

c) Do you have any suggestions as to how the other PAS assessment guidelines available for use in Step 5 (i.e., Renewable Resource, Non-renewable Resource, Ecological, Cultural Values) might be modified to better harmonize with / support the requirements you described in Q.1 above?

4. *Suitability of PAS Process to Departmental Needs*

Other than the Step 5 assessments discussed in questions 2 and 3, does the current NWT PAS process meet your organization's needs with respect to meeting the requirements described in Q. 1 above? Can you suggest ways that the PAS process could better assist your organization in meeting its policy requirements for final establishment of a protected area in the NWT?

5. *Improvement to PAS Process*

Do you have any other suggestions on 'next steps' to ensure the efficient and effective linkages between the NWT PAS process and the processes for meeting the other requirements of government departments with respect to establishing protected areas in the NWT?

APPENDIX B: LIST OF INTERVIEW PARTICIPANTS

The following organizations/individuals were interviewed.

Organization	Name
Canadian Parks and Wilderness Society	Erica Janes
Canadian Wildlife Service	Paul Latour
Environment Canada (Canadian Wildlife Service)	David Farrington
GNWT - Industry, Tourism, Investment	Greg Brady, David Hastings, Gerry LePrieur
INAC	Annick LeHenaff
MVEIRB	Mary Tapsell
PAS Secretariat (INAC)	Shelly Johnson
Parks Canada	Gordon Hamre