



Northwest Territories Protected Areas Strategy

Guidelines for Interim Protection of Candidate Protected Areas

I. INTRODUCTION

The Guidelines for Interim Protection define the context in which interim protection measures are applied to candidate protected areas being advanced through the NWT Protected Areas Strategy (NWT PAS), and are intended to provide certainty and clarity to the process.

The Guidelines for Interim Protection are intended for use by community and regional organizations, land claim bodies, sponsoring agencies, the Department of Indian Affairs and Northern Development (DIAND), and the Government of the Northwest Territories (GNWT) in the implementation of the NWT PAS.

The Guidelines for Interim Protection are intended to be consistent with all land claims agreements, Aboriginal and treaty rights, self government agreements and overlap agreements, and apply only to federal Crown lands. In the event of any unforeseen conflicts between these guidelines and such agreements, the latter takes precedence.¹

II. OBJECTIVES OF THE GUIDELINES FOR INTERIM PROTECTION

The objectives of the Guidelines for Interim Protection of Candidate Protected Areas are:

1. To define the context in which interim protection measures are applied to federal Crown land under the NWT PAS, through the identification of principles.
2. To provide certainty and clarity to the application of interim protection to candidate protected areas on federal Crown land.

III. PRINCIPLES FOR INTERIM PROTECTION

The following principles present the basis for the application of interim protection measures to federal Crown land under the NWT PAS:

1. The application of interim protection will be carried out in a fair, timely and consistent manner.
1. Interim protection will normally be sought after a commitment has been made by a sponsoring agency to work with the proponent community, regional organization or land claim body to advance the site through Steps 4-8 of the NWT PAS process. The sponsoring agency must have legislation and capacity to manage the lands in question.
3. Interim protection of candidate protected areas will be applied for a period of up to five years. Extensions may be requested by the sponsoring agency and are subject to the same review and approval process as the original request for interim protection. Extensions should only be requested if significant progress has been made on the Step 5 evaluation and assessment of the candidate protected area.

IV. INTERIM PROTECTION OF FEDERAL CROWN LAND

As outlined in the NWT PAS, interim protection refers to a time-limited withdrawal of lands within a candidate protected area from new surface and/or subsurface interests. Interim protection may be used to ensure that the natural and cultural values of a candidate protected area are not compromised by the establishment of new surface and/or subsurface interests during the protected area planning process.

A land withdrawal is enacted pursuant to Section 23(a) of the *Territorial Lands Act* as an Order-in-Council and may apply to the surface, subsurface and/or beds of bodies of water as specified, for a period of up to five years. This has the effect of prohibiting both the disposition of mineral interests and the issuance of oil and gas interests.

A land withdrawal is applicable to federal Crown land only and does not preclude any activity from occurring which does not require a land use permit or water license, such as hunting, trapping, fishing or other traditional uses. Nor does a land withdrawal affect existing third-party interests in the land or the issuance of land use permits by regulatory agencies.²

Regional land use plans should be recognized and considered as potential tools to ensure the establishment of new interests and/or developments are conducted in such

a way so as not to compromise areas with significant natural and cultural values. Upon approval of a land use plan, authorities with the jurisdiction to grant licences, permits, leases or interests relating to the use of land and water in the settlement area must conduct their activities in accordance with the land use plan. In areas with significant conservation values, implementation of the provisions of an approved land use plan may effectively restrict the issuance of new interest in the land. Land use plans are reviewed, usually every five years, which ensures they are flexible and responsive to changes in information and values. Unlike land withdrawals, provisions in regional land use plans may be applied equally to both federal Crown land and settlement land.

Community conservation plans identify important land use areas, make recommendations for the management of land use areas of importance and provide a basis for land use decision making in the Inuvialuit Settlement Region. There is a community based conservation plan for each of the six Inuvialuit communities, and each plan is supported by the Wildlife Management Advisory Council and the Fisheries Joint Management Committee.

Timely notification of regulatory agencies and third-party interest holders of the intent to establish a protected area through information sharing and map notation, may complement the interim protection measures established for a candidate protected area.

V. THE PROCESS OF ESTABLISHING INTERIM PROTECTION

The NWT PAS outlines a planning process for establishing protected areas in a series of 8 Steps which define the roles, responsibilities and commitments of communities, regional organizations and land claim bodies, stakeholders, and government.³

General Steps of the NWT PAS:

1. Identify priority areas of interest
2. Prepare and review protected area proposal at a regional level
3. Review and submit proposal for candidate protected area status
4. Consider and where necessary apply interim protection for candidate area
5. Evaluate candidate area's ecological, cultural and economic values
6. Seek formal establishment of protected area
7. Approval and designation of protected area
8. Implement, monitor and review protected area

Step 4 calls for partners in the planning process to consider, and where necessary apply, interim protection measures. The support of communities, regional organizations and/or land claim bodies, and an established partnership with a sponsoring agency is required prior to the implementation of interim protection.

The following outlines the process for establishing interim protection on federal Crown land using the NWT PAS Steps to support the coordination and collection of information.

Protected Area Proposal	<p>During Steps 2 and 3, a protected area proposal is developed by the proponent community, regional organizations and/or land claim bodies, in partnership with government, the sponsoring agency and other stakeholders.</p> <p>The protected area proposal may vary in structure, but will provide a description of the area's known natural and cultural values, economic and resource development values, the value of the area to the community, discussion of interim protection measures and an identification of how the proposed protected area meets the goals of the NWT PAS.</p>
Communication	<p>At various points throughout Steps 2 and 3 there are opportunities for public notification, information sharing and consultation with affected communities, regional organizations and/or land claim bodies, and other stakeholders. Methods of consultation and dissemination of information will vary.</p>
Interim Protection	<p>A decision to implement interim protection is made in Step 4. At this point the sponsoring agency has agreed to take a lead role in the advancement of the candidate protected area through the NWT PAS.</p>
Land Withdrawal Application	<p>A complete land withdrawal application would be developed by the proponent community, regional organizations and/or land claim bodies, in partnership with the sponsoring agency, and would include the following:</p> <ol style="list-style-type: none"><li data-bbox="495 1480 1416 1648">a. A completed federal Crown land application form submitted by the sponsoring agency, who may eventually be responsible for management of the lands. This form is available on the DIAND Land Administration's website: http://www.ainc-inac.gc.ca/nt/lad/index_e.html<li data-bbox="495 1680 1416 1774">b. A description of the proposed interim land withdrawal area, by geographic coordinates and maps at scales of 1:50,000 and 1:250,000.<li data-bbox="495 1806 1416 1837">c. A statement of rationale for the interim land withdrawal.

Land Withdrawal Application

- d. A description of the consultation process of Steps 2 and 3, results and copies of correspondence from the review of the candidate protected area proposal by affected communities, regional organizations and/or land claim bodies, as well as industry and resource managers throughout Steps 1-3 of the NWT PAS. Support for the interim land withdrawal by affected communities, regional organizations and/or land claim bodies should be demonstrated in this description.
- e. A work plan outlining what will occur during the proposed withdrawal period. This should include a proposed timeline, list of activities and actions, and a listing of resources, including funding necessary and available, to complete Steps 5-6 of the NWT PAS (evaluation of candidate protected area and formal establishment of a protected area).
- f. A Statement of Impacts (regarding industry, public, First Nations, and government) resulting from the withdrawal of land.
- g. A final listing of all third-party interests for sub-surface and surface Crown lands in the proposed interim land withdrawal area.
- h. Confirmation from DIAND-NWT region and GNWT that the candidate protected area meets and fulfills the principles and procedures of the NWT PAS.

An application for land withdrawal is submitted to the DIAND Land Administration Division in Yellowknife by the sponsoring agency. Many elements of the application for land withdrawal may have been developed or identified through the preparation of the protected area proposal.

Land Withdrawal

The Land Administration Division reviews the land withdrawal application for completeness. If the application is complete, it is then forwarded to the Land Management Division of DIAND in Ottawa.

The Order-in-Council submission is sent to the Privy Council Office with a recommendation from the Minister of Indian Affairs and Northern Development, for approval by the Governor in Council.

Notification

The DIAND Land Administration Division in Yellowknife will provide a copy of the Order-in-Council to the appropriate DIAND District office(s), the Mining Recorder's office, the PAS Secretariat and the sponsoring agency.

The proponent organization and sponsoring agency, in cooperation with the PAS Secretariat, will provide notification of the Order-in-Council to the appropriate regulatory agencies, government agencies and identified third party interest holders.

Endnotes:

1. NWT Protected Areas Strategy, September 27, 1999, page 1. This document is intended to provide guidance to those parties involved in the NWT PAS. It is not intended to restrict the scope of any discretionary power conferred by law.

2. Regulatory processes and agencies in the NWT:

Sahtu Settlement Region

- Sahtu Land and Water Board, Water Licence Process, and Land Use Permit Process, Fort Good Hope, (867) 598-2413 <http://www.slwb.com/>
- Sahtu Land Use Planning Board, Fort Good Hope, (867) 598-2055 <http://www.sahtulanduseplan.com/>
- Sahtu Secretariat Incorporated, Deline, (867) 589-4719

Gwich'in Settlement Region

- Gwich'in Land and Water Board, Land Use Permit and Water Licencing Process Guide, Inuvik, (867) 777-4954 <http://www.glwb.com/>
- Gwich'in Land Use Planning Board, Inuvik, (867) 777-3506 <http://www.gwichinplanning.nt.ca><http://www.bmmda.nt.ca/downloads.htm>
- Gwich'in Land Administration, Gwich'in Tribal Council, Inuvik, (867) 777-4869 <http://www.gwichin.nt.ca/>

Inuvialuit Settlement Region

- Inuvialuit Environmental Impact Review Board, Environmental Screening Committee Operational Guidelines and Procedures, and Inuvialuit Settlement Region Community Conservation Plans, Inuvik, (876) 777-2828, <http://www.bmmda.nt.ca/downloads.htm>
- Inuvialuit Land Administration, Tuktoyaktuk, (876) 977-2202 <http://www.inuvialuit.com/irc/ilandad.html>

Mackenzie Valley Boards

- Mackenzie Valley Land and Water Board, Land Use Permit and Water Licencing Process, Yellowknife, (867) 669-0506 <http://www.mvlwb.com/>
- Mackenzie Valley Environmental Impact Review Board, Yellowknife, (867) 873-9636 <http://www.mveirb.nt.ca/>

Department of Indian Affairs and Northern Development

- Regulations related to Northern Oil and Gas under the Canada Oil and Gas Operations Act, Canada Petroleum Resources Act, NWT Waters Act and Territorial Lands Act, Yellowknife Regional Office, (876) 669-2618 http://www.ainc-inac.gc.ca/oil/roy/regul_e.html
- DIAND Land Administration Division administers the Territorial Land Use Regulations, Yellowknife, (876) 669-2671 http://www.ainc-inac.gc.ca/nt/lad/crw_e.html

Department of Fisheries and Oceans

- Fisheries Act and the NWT Fisheries Regulations, Fisheries Management, Yellowknife Area Office, (867) 669-4900 http://www.dfo-mpo.gc.ca/communic/policy/dnload_e.htm

Government of the Northwest Territories, Department of Resources, Wildlife and Economic Development

- Forest Management Division issues timber permits under the Forest Management Act and the Forest Management Regulations of the NWT, Fort Smith, (867) 872-7700 <http://216.108.146.3/Forest%20Info/forestinfo.htm>

National Energy Board of Canada

- Promoting safety, environmental protection and economic efficiency through regulating the construction and operation of pipelines and powerlines under the National Energy Board Act, Calgary, 1800-899-1265 <http://maat.neb.gc.ca/pubs/nebact.htm>

3. Refer to the NWT Protected Areas Strategy section 3, September 27, 1999 and the NWT Protected Areas Strategy Implementation Steps Flow Chart, September 2000