

Thaidene Nënë

Interim Tourism Operator Licencing Policy

An Interim Policy for the Thaidene Nënë Territorial Protected Area

APPROVAL DATE: June 20, 2024

EFFECTIVE DATE: June 20, 2024

Term: This Policy will expire on November 1, 2026, unless there is a unanimous decision among all parties to renew.

AMENDMENTS:

CHANGE	DATE	APPROVAL

1. Purpose

- 1.1 The purpose of this policy is to guide decision-making regarding issuance of Tourism Operator Licences within Thaidene Nënë.

2. Application/Scope

- 2.1 Thaidene Nënë Xá Dá Yáłı will adhere to this policy when reviewing and deciding on matters related to Tourism Operator Licences.
- 2.2 The Government of Northwest Territories (GNWT) will adhere to this policy when administering Tourism Operator Licences within the Thaidene Nënë Territorial Protected Area.
- 2.3 Łutsël K'e Dene First Nation and Northwest Territory Métis Nation are guided by this policy when advising and reviewing decisions of the Thaidene Nënë Xá Dá Yáłı.
- 2.4 This policy applies to any pending Tourism Operator Licence applications received by the GNWT.

3. Related Authorities

Protected Areas Act (Northwest Territories)

Tourism Act (Northwest Territories)

Tourism Regulations (Northwest Territories)

Agreement to Establish Thaidene Nënë Indigenous Protected Area, Territorial Protected Area, and Wildlife Conservation Area between Łutsël K'e Dene First Nation and the GNWT

Agreement to Establish Thaidene Nënë Territorial Protected Area between Deninu K'ųé First Nation and the GNWT

Agreement to Establish Thaidene Nënë Territorial Protected Area between Northwest Territory Métis Nation and the GNWT

4. Context

Thaidene Nënë Xá Dá Yáłı is the operational management board for Thaidene Nënë. In accordance with the Establishment Agreements for Thaidene Nënë, Thaidene Nënë Xá Dá Yáłı is responsible for:

- developing and approving policies for the issuance of permits, licences and other authorizations for access to and use of Thaidene Nënë, and
- considering and deciding on proposals to use or occupy land, or any authorization under Territorial Legislation issued by the Government of the Northwest Territories.

A Policy on Tourism Operator Licences is needed for Thaidene Nënë Xá Dá Yáłtı to guide decisions and to communicate the expectations and requirements for operators.

Thaidene Nënë Xá Dá Yáłtı is developing a management plan for Thaidene Nënë. Once complete, the management plan will provide further guidance and requirements with respect to the issuance of Tourism Operator Licences by the GNWT. The management plan may include conservation objectives, management actions, and zoning. This policy will be updated as needed to reflect the guidance and requirements of the management plan.

5. Definitions

Indigenous Parties – include the Indigenous Governments with signed Establishment Agreements related to Thaidene Nënë Territorial Protected Area: Łutsël K'é Dene First Nation, Northwest Territory Métis Nation, and Deninu Kue First Nation

Operational Parties – include the Government of the Northwest Territories, Łutsël K'é Dene First Nation, and Northwest Territory Métis Nation

Establishment Agreements - means any establishment agreement between a Signatory Indigenous Government and the Government of Northwest Territories

6. Expected Results

6.1 The expected results of this policy are that:

- Administration of tourism operator licensing within Thaidene Nënë Territorial Protected Area is consistent and fair.
- Decisions of Thaidene Nënë Xá Dá Yáłtı are based on clear and transparent criteria.
- Aboriginal and treaty rights are protected.
- Tourism operators and businesses from the Indigenous Parties are supported to the greatest extent possible.
- Tourism operations are compatible with maintaining biodiversity, ecological integrity, and cultural continuity within Thaidene Nënë.
- The care, protection, and enjoyment of Thaidene Nënë is provided for.

7. Requirements

7.1 General Direction

- 7.1.1 Thaidene Nënë Xá Dá Yáłtı supports the development of sustainable, high-quality tourism operations within Thaidene Nënë Territorial Protected Area that do not negatively impact the protection of the ecological integrity, biodiversity, and cultural continuity of the area.

- 7.1.2 To the greatest extent possible, Thaidene Nënë Xá Dá Yáłtı supports businesses and operations that contribute to local economic development for the Indigenous Parties and prioritizes tourism operators that consider and develop efforts to provide direct benefits to these Indigenous Parties through employment opportunities, procurement of goods and services, and mentorship/training opportunities.

7.2 New Tourism Operator Licence Applications

- 7.2.1 Tourism Operator Licence application packages will be submitted to the GNWT licence administrator. Application package details and instructions are set out in the *Tourism Regulations* and can be found here:

<https://www.itl.gov.nt.ca/en/services/become-licenced-tourism-operator>

- 7.2.2 The GNWT licence administrator will initially review new applications to ensure clarity and completeness, ensuring the applicant has provided all required information and documentation relevant to the applicant's ability to carry on the business

- 7.2.3 If application is complete, the application package will be submitted to Thaidene Nënë Xá Dá Yáłtı for review and decision. Thaidene Nënë Xá Dá Yáłtı's decision will be provided to GNWT licence administrator within 30 days of Thaidene Nënë Xá Dá Yáłtı's receipt of the application package.

- 7.2.4 Thaidene Nënë Xá Dá Yáłtı will review the application, considering whether:

a) the equipment to be used by the applicant is reasonably safe and adequate for its intended use;

b) the activity to be conducted by the applicant will be reasonably safe to the participants and the public;

c) the activity to be conducted by the applicant will not have a negative impact on the environment;

d) the activity to be conducted by the applicant will not unreasonably conflict or interfere with the activities of other tourism operators; and

e) the activity to be conducted by the applicant will not conflict or interfere with the traditional or current use of the area of operation including but not limited to

- the exercise of Aboriginal or treaty rights protected under section 35 of the *Constitution Act*.
- how Indigenous cultural interpretation or programming, if part of the guided activity, is to be offered.
- how the Licensee and staff will promote respectful visitor-resident interactions that enhance cross-cultural learning without disrupting resident daily routines
- whether the area of intended operations includes any area closures within Thaidene Nënë.

- 7.2.5 A decision by Thaidene Nënë Xá Dá Yáłtı to approve or deny the licence application will be based on the above considerations.
- 7.2.6 A record of Thaidene Nënë Xá Dá Yáłtı's decision to deny a licence application or a request to revise the application to address concerns that outlines the rationale based on the above considerations will be submitted to the Operational Parties in writing and communicated by the GNWT licence administrator to the applicant.
- 7.2.7 The licence applicant may, within 21 days of receiving a Thaidene Nënë Xá Dá Yáłtı decision to deny a licence application, respond in writing to the GNWT licence administrator providing additional rationale to support the application, and requesting reconsideration by the Thaidene Nënë Xá Dá Yáłtı.
- 7.2.8 The licence applicant may, within 21 days of receiving a Thaidene Nënë Xá Dá Yáłtı request to revise an application, respond in writing to the GNWT licence administrator amending the application, providing additional rationale to support a non-amended application, withdrawing the application, or requesting that the Thaidene Nënë Xá Dá yáłtı make a decision on the unamended application.
- 7.2.9 The GNWT licence administrator will consider the decision of Thaidene Nënë Xá Dá Yáłtı and, if applicable, the written response from the applicant before making a determination on the issuance of the licence.
- 7.2.10 If, after requesting reconsideration, either of the Operational Parties other than the GNWT objects to the final decision of Thaidene Nënë Xá Dá Yáłtı, the issue resolution process set out in the Establishment Agreements shall be followed.
- 7.2.11 If, after considering the decision of Thaidene Nënë Xá Dá Yáłtı and any written response by the applicant, and requesting reconsideration by Thaidene Nënë xá dá yáłtı , the GNWT licence administrator disagrees with the final decision of Thaidene Nënë Xá Dá Yáłtı, the issue resolution process set out in the Establishment Agreements shall be followed.
- 7.2.12 If the GNWT licence administrator is satisfied that the criteria set out in subsection 7(4) of the *Tourism Regulations* is met and this determination is in alignment with the decision of Thaidene Nënë Xá Dá Yáłtı or a resolution has been reached through the issue resolution process to issue the licence, the licence administrator shall issue the licence.
- 7.2.13 Licences will be issued with the standard terms and conditions for tourism operators listed in Appendix A. Additional terms and conditions may be imposed on the licence by the GNWT licence administrator, at the GNWT licence administrator's discretion, as proposed by Thaidene Nënë Xá Dá Yáłtı during review of the application or as agreed to through the issue resolution process.

7.3 Amendment of Existing Tourism Operator Licences

- 7.3.1 Upon request of the operator an existing Tourism Operator Licence may be amended to transfer the licence to a new tourism operator, modify the tourism activities or area of operation authorized by the licence, and/or modify or remove terms and conditions imposed or endorsed on the licence in accordance with this section.
- 7.3.2 Amendments to transfer the licence to a new tourism operator will be approved by the licence administrator if they are satisfied that s. 7(4)(a) and 8 (1) of the *Tourism Regulations* (that the new operator is eligible to hold a Tourism Operator Licence and have not been convicted of an offense within the past five years under the applicable legislation) are met. Notice of any amendments transferring a licence will be provided to Thaidene Nënë Xá Dá Yáłtı in an annual report.
- For clarity, ITI does not automatically request criminal record checks from applicants.
 - It is at the GNWT licence administrator's discretion about whether an offence under the list of legislation below is significant enough to refuse to issue a licence.
 - 8(1)(e) of the *Tourism Regulations* list the following legislation that apply to this provision:
 - The *Tourism Act*, the *Public Health Act*, the *Wildlife Act*, the *Forest Protection Act* and the regulations made under those Acts;
 - the *Fisheries Act* (Canada), the *Historic Sites and Monuments Act* (Canada), the *Migratory Birds Convention Act, 1994* (Canada), the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* (Canada) and the regulations made under those Acts;
 - the *Archaeological Sites Act* and the regulations made under that Act;
 - the Criminal Code respecting the use or possession of firearms; or
 - any other law of Canada or another country governing fish, wildlife, the environment or a species at risk.
- 7.3.3 Amendments to significantly amend the tourism activities or area of operation authorized by the licence and/or to modify or remove terms and conditions will be submitted to Thaidene Nënë Xá Dá Yáłtı for review and decision prior to being processed by the GNWT licence administrator. Insignificant amendments will be processed by the GNWT licence administrator and included in an annual report to Thaidene Nënë xá dá yáłtı.
- 7.3.4 Amendment applications will be submitted to the GNWT licence administrator who will initially review new amendment forms to ensure clarity and completeness, ensuring the applicant has provided all required information and documentation relevant to the applicant's ability to carry on the business (section 7.4)
- 7.3.5 If the license administrator is satisfied that the amendment application is complete, and considers the amendment to be significant, it will be submitted

to Thaidene Nënë Xá Dá Yáłtı for review and decision, which will be provided within 30 days.

- 7.3.6 Thaidene Nënë Xá Dá Yáłtı will review the amendment request or proposal, considering whether:
- a) the equipment to be used by the applicant is reasonably safe and adequate for its intended use;
 - b) the activity to be conducted by the applicant will be reasonably safe to the participants and the public;
 - c) the activity to be conducted by the applicant will not have a negative impact on the environment;
 - d) the activity to be conducted by the applicant will not unreasonably conflict or interfere with the activities of other tourism operators; and
 - e) the activity to be conducted by the applicant will not conflict or interfere with the traditional or current use of the area of operation including but not limited to
 - the exercise of Aboriginal or treaty rights protected under section 35 of the *Constitution Act*.
 - how Indigenous cultural interpretation or programming, if part of the guided activity, is to be offered.
 - how the Licensee and staff will promote respectful visitor-resident interactions that enhance cross-cultural learning without disrupting resident daily routines (for example, ensuring all visitors and staff ask permission before taking any person's picture).
 - whether the area of intended operations includes any area closures within Thaidene Nënë.
- 7.3.7 A decision by Thaidene Nënë Xá Dá Yáłtı to approve or deny the licence amendment will be based on the above considerations.
- 7.3.8 A record of Thaidene Nënë Xá Dá Yáłtı's decision to deny a licence application or a request to revise the application to address concerns that outlines the rationale based on the above considerations will be submitted to the Operational Parties in writing and communicated by the GNWT licence administrator to the applicant.
- 7.3.9 The licence applicant may, within 21 days of receiving a Thaidene Nënë Xá Dá Yáłtı decision to deny a licence application, respond in writing to the GNWT licence administrator requesting reconsideration by the Thaidene Nënë Xá Dá Yáłtı.
- 7.3.10 The licence applicant may, within 21 days of receiving a Thaidene Nënë Xá Dá Yáłtı request to revise an application, respond in writing to the GNWT licence

administrator amending the application, providing additional rationale to support the application, withdrawing the application, or requesting that the Thaidene Nënë Xá Dá Yáłtı make a decision on the unamended application.

- 7.3.11 The GNWT licence administrator will consider the decision of Thaidene Nënë Xá Dá Yáłtı and, if applicable, the written response from the applicant before making a determination on the issuance of the licence.
- 7.3.12 If, after requesting reconsideration, either of the Operational Parties other than the GNWT objects to the final decision of Thaidene Nënë Xá Dá Yáłtı, the issue resolution process set out in the Establishment Agreements shall be followed.
- 7.3.13 If, after considering the decision of Thaidene Nënë Xá Dá Yáłtı and any written response by the applicant, and requesting reconsideration by Thaidene Nënë Xá Dá Yáłtı, the GNWT licence administrator disagrees with the final decision of Thaidene Nënë Xá Dá Yáłtı, the issue resolution process set out in the Establishment Agreements shall be followed.
- 7.3.14 If the GNWT licence administrator is satisfied that the criteria set out in subsection 7(4) of the *Tourism Regulations* is met and this determination is in alignment with the decision of Thaidene Nënë Xá Dá Yáłtı or a resolution has been reached through the issue resolution process to issue the licence, the licence administrator shall process the amendment and reissue the license.

7.4 Renewal of Existing Tourism Operator Licences

- 7.4.1 Tourism Operator Licences within Thaidene Nënë Territorial Protected Area that were in effect at the time of establishment (August 2019) will be renewed, provided that the tourism operator:
 - a) remains in good standing;
 - b) is in compliance with NWT Tourism legislation;
 - c) is in compliance with this policy; and
 - d) is in conformity with the Management Plan when complete.
- 7.4.2 Amendments may be made to existing licences to transfer ownership, change the activities or area of operation, or impose or alter the terms and conditions as set out in section 7.3.
- 7.4.3 Notice of licence renewals will be provided to Thaidene Nënë Xá Dá Yáłtı in an annual report.

8. Accountabilities and Responsibilities

- The Thaidene Nënë Regional Management Body provides recommendations and advice to Thaidene Nënë Xá Dá Yáłı on policies for research and monitoring and policies for all authorizations issued by the Government of Northwest Territories or Parks Canada. The Regional Management Body does not review or provide recommendations on individual applications for Tourism Operator Licences.
- Government of Northwest Territories staff who review and process applications for Tourism Operator Licences are responsible for assessing applications against this policy.

Appendix A - Standard Terms and Conditions for Tourism Operator Licences

This tourism operator licence is issued in accordance with section 4 of the *Tourism Act*, S.N.W.T. 2006, c. 26 ("the Act") and is subject to the terms and conditions and Part B of the licence outlined herein.

These terms and conditions are imposed by the licence administrator in accordance with subsection 6(3) of the Act. These terms and conditions shall remain in effect for the term of this licence.

Failure by the tourism operator to comply with any of these terms and conditions may result in the suspension or cancellation of this licence in accordance section 9 of the Act or the refusal to renew this licence in accordance with section 5 of the Act, and may result in a charge being laid against the tourism operator under section 21 of the Act.

1. The tourism operator must only conduct a tourism activity that is endorsed on this licence in the area of operation specified in the endorsement.
2. The tourism operator must comply with the Act, its regulations and any other applicable federal or territorial laws.
3. The tourism operator must maintain any additional licences or permits that the tourism operator requires to conduct a tourism activity in compliance with the Act, its regulations and any other applicable federal or territorial laws.
4. If the tourism operator establishes, conducts or engages in a tourism activity in a Territorial Park, the tourism operator must maintain a Commercial Use Permit authorizing the tourism operator to do so.
5. The tourism operator must maintain public liability insurance coverage in an amount not less than \$1,000,000. If the public liability insurance expires during the term of this licence, the tourism operator must provide the licence administrator with proof of renewal of public liability insurance coverage in an amount not less than \$1,000,000.
6. Any tourism activity conducted by the tourism operator must be conducted in accordance with the safety plan submitted with the application for this licence.
7. Any tourism activity conducted by the tourism operator must be conducted in a manner that is reasonably safe to the participants and the public.
8. The tourism operator must keep the area of operation in which he or she conducts a tourism activity free from papers, rubbish and debris of any kind.
9. If the area of operation is negatively impacted by a tourism activity conducted by the tourism operator, the tourism operator must restore that area to a safe and proper condition to the satisfaction of the licence administrator or any tourism officer. Any action deemed necessary by

the licence administrator or any tourism officer to restore the negatively impacted area to a safe and proper condition must be completed by the tourism operator immediately upon written notice from the licence administrator or tourism officer.

10. Any tourism activity conducted by the tourism operator must not be conducted in a manner that is reasonably likely to disturb the peace, safety or enjoyment of other persons using the area in which the tourism activity is being conducted.
11. The tourism operator and each of his or her employees, representatives, or agents must comply with an order of a tourism officer.
12. The tourism operator and each of his or her employees, representatives, or agents must, while engaged in the business of conducting a tourism activity away from the place of business of the tourism operator, carry on his or her person a certificate of identification certifying that he or she is a tourism operator or an employee, representative, or agent of a tourism operator.
13. The tourism operator and each of his or her employees, representatives, or agents must, at the request of a tourism officer, produce for inspection his or her certificate of identification.
14. The tourism operator must, at his or her main place of business, display proof of his or her licence.
15. The tourism operator must defend, indemnify and hold harmless the Government of the Northwest Territories ("the GNWT"), its Ministers, officers, employees, servants and agents from and against all claims, actions, causes of action, demands, costs, losses, damages, expenses, suits or other proceedings by whomever made, brought or prosecuted in any manner based upon or related wholly or partially to the acts or omissions of the tourism operator while conducting a tourism activity. The obligation to indemnify and hold harmless shall not apply to the extent that a court of competent jurisdiction finally determines that such losses or damages were caused by the intentional or negligent acts or omissions of the GNWT, its Ministers, officers, employees, servants or agents.
16. The TOL holder shall refrain from conducting activities or operations that restrict the access route for members of the Indigenous Parties.
17. The TOL holder must ensure that tourism activities and operations (including transportation) do not interfere with the safety and activities of communities of Indigenous Parties.
18. The TOL holder must avoid sacred or culturally significant areas of Łutsël K'é Dene First Nation, Northwest Territory Métis Nation and Deninu Kue First Nation.