

WHAT WE HEARD

Protected Areas Legislation

Department of Environment and Natural Resources



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Introduction

The Government of the Northwest Territories is developing new protected areas legislation to be used in the establishment of permanent protected areas in the Northwest Territories. The new legislation, being created in collaboration with Indigenous governments, will include the mechanism for shared governance, management and monitoring of protected areas.

As part of this process, the Department of Environment and Natural Resources (ENR) solicited public feedback on the proposed protected areas legislation through its website and social media. During this time ENR received 12 submissions from members of the public, Indigenous governments and organizations, and conservation, social, and industry organizations.

ENR has discussed what we heard during public engagement with the Indigenous governments and organizations with whom ENR has been working in collaboration to develop this legislation.

A summary of the comments received is reflected under the following nine themes:

1. Hunting and harvesting
2. Achieving economic development and environmental protection
3. Time limit on interim protection
4. Public engagement in establishing and managing protected areas
5. Ability to make changes in the future
6. Application to public and private lands
7. Involvement in the development of the legislation
8. Support for the legislation
9. Timeline remaining to enact the legislation

Summary of Comments Received

1. Hunting and harvesting

1.1. What we heard

There were questions from members of the public about whether hunting, trapping and harvesting would be permitted in protected areas established using this legislation.

1.2. ENR response

It is anticipated that the sustainable harvesting of plants and hunting consistent with the *Wildlife Act* and its regulations would typically be compatible with the protection of biodiversity, ecological integrity and cultural continuity within a protected area. However, this may not always be the case. Restrictions on hunting could be necessary in certain locations at certain times within any protected area for public safety or conservation purposes.

The proposed Protected Areas Act would only prohibit the main activities that could have an impact on ecological integrity, biodiversity and cultural continuity, with exceptions made to allow activities that northerners typically partake in when on the land (for example, a prohibition on damaging vegetation may have an exception for personal use to allow berry picking). All other activities will either not be addressed because they are comprehensively covered by other legislation (such as the *Wildlife Act* for

hunting, trapping and harvesting), or will be addressed in the site-specific regulation for each protected area (such as all-terrain vehicle use). The proposed legislation is designed to be flexible to provide for the unique needs and features of individual protected areas. The allowable and prohibited uses of protected areas will be clearly communicated to the public when areas are established.

2. Achieving economic development and environmental protection

2.1. What we heard

An industry organization expressed concern about using the proposed Protected Areas Act to formally protect so much of the NWT that there won't be enough suitable land available for development, especially considering there is existing legislation (such as the *Mackenzie Valley Resource Management Act*) that protects NWT land and resources from significant adverse environmental effects.

2.2. ENR response

The proposed Protected Areas Act will be one of the tools that can be used in pursuit of the balance of economic development and conservation outlined in the *GNWT Land Use and Sustainability Framework*. Similarly, *Healthy Land, Healthy People: GNWT Priorities for Conservation Network Planning 2016-2021* speaks to the development of a process for balanced review and assessments of new protected areas, including ecological, cultural, non-renewable, renewable and socio-economic assessments that provide sufficient data for boundary and management decision making.

Experience around the world has shown that to maintain biodiversity, formal permanent protected areas are necessary along with requirements on development activities that prevent significant adverse environmental effects.

The conservation network in the NWT will include areas protected using the Protected Areas Act, as well as areas protected using other territorial and federal legislation, and conservation areas with less stringent protection that still contribute to the conservation of biodiversity. At present, there are national and international initiatives to conserve at least 17% of terrestrial land and inland water through networks of protected areas and other effective area-based conservation measures. The proposed Protected Areas Act will make reference to protected areas established under the Act contributing to national and international biodiversity initiatives. However, the proposed Act will not specify a numerical value.

3. Time limit on interim protection

3.1. What we heard

An industry organization recommended there should be a five-year maximum time limit for the duration that a candidate area can have interim protection, after which the candidate area would be established as a protected area, or no longer have interim protection.

3.2. ENR response

As has been the practice in conservation planning in the NWT, candidate protected areas will receive interim protection while assessments of the area's values and resources are undertaken and decisions are made regarding the conservation objectives, boundary and management of the future protected area.

The current process for interim protection does not have guidance on length of time nor time limits for interim protection. The proposed Protected Areas Act includes a mandatory five-year review period for

candidate protected areas. If after five years progress is being made, the area would continue to have interim protection and would be re-evaluated in another five years. If progress is not being made after five years, the proposed Act will include ways to ensure that a candidate area does not remain a candidate area long-term—for example, by removing its candidate status if support for the candidate area is withdrawn or if assessments show the area would not protect biodiversity, ecological integrity or cultural continuity.

4. Public engagement in establishing and managing protected areas

4.1. What we heard

Members of the public and non-governmental organizations commented on the Protected Areas Act needing to include opportunities for public engagement throughout the establishment and management of individual protected areas.

4.2. ENR response

The proposed Protected Areas Act includes provisions specifically on public engagement. The Act requires there be opportunities for public engagement before the establishment of protected areas, during the process of preparing a management plan for a protected area, and in the event there is ever a process to reduce the size or de-register a protected area.

5. Ability to make changes in the future

5.1. What we heard

An industry organization recommended that the proposed Protected Areas Act include a way to make changes to established protected areas—for example, changing the boundaries.

5.2. ENR response

The proposed Protected Areas Act includes a way to make changes to the boundaries of established protected areas, or to de-register a protected area, if it's determined in the future that changes need to be made. It's expected that changes to a protected area would only happen in rare circumstances, and if so, the proposed Act requires agreement from applicable Indigenous governments and organizations. There would also be an opportunity for public engagement.

6. Application to public and private lands

6.1. What we heard

An industry organization recommended the proposed Protected Areas Act apply to both public lands and private Indigenous lands, as biodiversity does not conform to political boundaries.

6.2. ENR response

The proposed Protected Areas Act does allow for protected areas to be established on private lands, including settlement lands, if there is consent of the landowner. This could allow protected areas on settlement lands or other private lands to be managed in a cohesive way with an adjacent territorial protected area, sharing of resources to meet common conservation objectives, or protection of the subsurface on private lands where the landowner may only have surface rights.

7. Involvement in the development of the legislation

7.1. What we heard

An Indigenous group based outside of the NWT but with interests in the NWT requested to be involved in development of the legislation.

7.2. ENR response

ENR will respond directly to this request.

8. Support for the legislation

8.1. What we heard

There were comments from members of the public, Indigenous governments and organizations, and conservation, social and industry organizations, which expressed support for protecting land and water in the NWT. Some of those comments specifically supported the proposed Protected Areas Act and the key concepts in the legislation.

9. Timeline remaining to enact the legislation

9.1. What we heard

Comments from Indigenous governments and organizations, and social and conservation organizations, expressed concern about the remaining timeline to enact the Protected Areas Act within the life of the 18th Assembly.

9.2. ENR response

Understanding the importance of enacting this legislation in the life of the 18th Assembly, ENR took the necessary steps for the Bill to be introduced to the Legislative Assembly during the 2019 Winter Session.

Next Steps

The Standing Committee for the Legislative Assembly will conduct their review of the bill following the processes defined by the Committee. That process may involve a further public engagement process.