

Review of Bill 38: the Northwest Territories *Protected Areas Act*

Submission to the
Standing Committee on Economic Development and Environment

Canadian Parks and Wilderness Society – Northwest Territories
Chapter

May 3, 2019

CPAWS-NWT strongly supports that The Protected Areas Act be passed in the spring session of this 18th Legislative Assembly. The Protected Areas Act is a necessary piece of legislation that will allow the GNWT to meet its responsibility of protecting, conserving, and maintaining biodiversity and cultural continuity in the territory. Protected areas are a core component of any land management regime; they contribute to land-use certainty, stimulate economic diversification and give future generations a greater chance to benefit from the water, fish, plants and wildlife that provide for many people in the NWT today. Protected areas buffer the impacts of climate change by storing carbon and can provide connections across landscapes that allow plants and animals to move and adapt in response to a changing climate.

The PAA is an important mandate commitment of this 18th legislative assembly; it stems from before devolution when the GNWT requested time to develop a “northern tool” for the establishment of candidate protected areas. This followed fifteen years of commitment and substantial investment from government, communities, and organizations to advance the candidate areas that are on our NWT map today. We are excited that the Lutsel’ke Dene First Nation has forged ahead with Thaidene Nene; the K’asho Got’ine government continues progress for their area – Ts’ude Niline Tu’eyeta the Ramparts, and the Tłı̄chǫ continue work on Dinaga Wek’ ehodi along the North Arm of Great Slave Lake. The Protected Areas Act will enable the GNWT to promptly support outcomes for these areas and others in the future.

It is important to also consider that a significant opportunity exists through the Government of Canada Nature Fund. This is a time limited source of new money that is available to the GNWT and Indigenous governments for supporting land protection. All of the candidate areas in the NWT are eligible for this fund, we are aware that many funding proposals have been submitted by communities and by the territorial government. There is much low hanging fruit in play now that allows for outcomes to be achieved in the very near future. The protected areas act is an important piece of what will be accomplished.

We are grateful for the progress that has brought us to this submission. CPAWS-NWT has participated in stakeholder working group sessions and is aware of the work invested by Environment and Natural Resources and the Indigenous Technical Working Group to build an Act that encompasses important principles that allow for the protection and persistence of biodiversity and ecosystems. The Act should be recognized as being progressive for its inclusion of an establishment agreement section requiring the opportunity for Indigenous governments to enter into a nation to nation agreement structure with the GNWT. We are aware that this section has earned positive notice and acknowledgement from other jurisdictions in Canada.

We have reviewed the Protected Areas Act with national and international protected areas standards in mind while also considering the unique requirements for legislation in a Northwest Territories context.

The following are our specific comments and recommendations:

Preamble:

The preamble of the Protected Areas Act sets a good tone. We appreciate that most of the important principles are also included within sections of the Act. However, “for the benefit of future Generations” and “climate change considerations” are not.

“The benefit of future generations” is integral to the purpose of a protected area, references to this can be found in other similar legislation such as the Canada National Parks Act.

Add to 2. Purpose -

... intended to be permanent **“for the benefit of future generations”**

We agree that “Climate change considerations must be factored into protected areas planning and management” this would fit nicely in Section 24(2) Contents of Management Plan -

Add: (f) climate change considerations

Section 9 - Protected Areas Registry:

This section should ensure that information is available to allow for public participation and in a timely manner, it falls short. At a minimum the protected areas registry should also require the following information:

Add to 9. (2) **(a) a listing of all nominated protected areas as required by section 10;**

(b) information pertaining to approval of a nominated protected area as a candidate protected area as required by section 11;

(3) ...should be available to the public **“in a timely manner”**

Section 10 Nomination of an Area:

There is no timeline for the nomination process, this could cause land disposition disputes where nominated areas are left in the limbo of a lengthy decision making process. A timeline could be agreed on by parties at the time of acceptance of the nomination by the Minister

10(5) should include, as subsection 10(5)(e), **a timeline of Ministers decision on moving a nominated area to candidate status**

Section 14(3) Establishment Agreements:

Section 14(3) is use oriented and could be brought more in line with the purposes of the act. This could include “restoration” which is an activity that maybe identified as an objective of a protected area and could be provisioned for in an establishment agreement.

To strengthen this section, “restoration” or “conservation” or “protection” could be added to subsections (e) and (z.5)

Section 26 Changes to Protected Areas:

We recommend changing the language from “reduce” to “change” in sections 26(2) and 26(3). Sections 26(4), (5), and (6) already use the ‘change’ language. This language gives the opportunity for changes to a protected area that aren’t necessarily reductions.

The language pertaining to the circumstances under which a change or delisting can occur should also be strengthened. **Section 26(2) a. should include “in accordance with the purposes of the Act.”**

Section 36(1) Transportation or Transmission Corridors:

Providing a right of way for a transmission or transportation corridor will likely create new access into a protected area and in the process will change its boundaries. It is inappropriate to exclude an opportunity for public engagement where a boundary is changed. There is also no incentive for other alignment options to be considered outside of the protected area boundary. Requiring an assessment of options for alternative means outside of the boundary is good practice and should be included. Only “considering” alternatives and impacts to protection is not sufficient language.

We recommend that this section is amended:

Section 36(1)(a) should read “...the Minister may only identify an area within a protected area where a right to occupy land may be granted for the purposes of establishing a transportation or transmission corridor within the protected area if, (i) no alternative means are available outside the boundaries of the area; and (ii) there will be minimal impacts to the biodiversity, ecological integrity and cultural continuity of the area...”

36(1)(c) A Ministers reasons for decision will be recorded in the public registry

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