

**Building Accountability into
the Approval, Implementation,
and Review of Land Use
Plans:**

*The importance of collaboration,
evaluation, and planning*

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EXECUTIVE SUMMARY

Traditionally, co-management of land and natural resources by Aboriginal and centralized governments has been a contested process. With the signing and ratification of modern land claim agreements in Canada, various institutions of public governance, resource management boards, and implementation committees have been formed and tasked with the management and regulation of natural resources in northern Canadian territories. In order to add further clarity to land use, land use planning boards with representation from the Aboriginal signatory group, the territorial government, and Canada were established to draft and manage land use plans (LUPs). The broad intention of LUPs was to provide a framework for resource management while at the same time act as the principal mechanism to ensure an Aboriginal voice was integrated into resource management decision-making.

In recent years many have questioned the overall effectiveness of LUPs in ensuring Aboriginal input in resource management decisions (Goetze, 2005; Byers, 1999; Banta, 2007; Berks & Henley, 1997). Critics contend that Canada's approach to LUPs merely provides lip-service to Aboriginal communities by consulting with them but fails to adequately integrate their core beliefs and practices into the broader resource management framework (King, 2010).

This report looks at the federal approach to the approval, implementation, and review of land use plans in the Northwest Territories (NWT). It finds that Indian and Northern Affairs (INAC) has significant coordination and consultation responsibilities throughout each stage of the LUP life-cycle, but does not have a policy to formalize its LUP-related responsibilities. Moreover, the two main partners responsible for federal coordination of LUPs in the Northwest Territories, the Conservation and Land Use Planning team within the Northern Affairs Organization (NAO) and the Northwest Territories Treaty Management team at the Implementation Branch (IB), lack a comprehensive or strategic framework to guide their own approach to internal, federal engagement.

The driving focus behind this analysis is the development of a strategic approach to the approval, implementation and review of LUPs under a strong accountability framework. It posits that in order to realize accountable practice throughout the LUP life-cycle, there needs to be a focus on collaboration and strategic engagement, evaluative practices, and a greater emphasis on implementation planning.

The continued emphasis on the realization of these elements in the wider LUP process will ensure a high level of accountability throughout LUP approval, implementation and reviews processes.

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INTRODUCTION

In Canada, co-management and land use planning as a topic of academic and policy inquiry has been on a steady increase throughout recent decades. This is a direct result of Canada's willingness to negotiate and sign comprehensive land claim and self-government agreements (CLCAs and SGAs, respectively).

Within much of the literature, co-management refers broadly to a formalized relationship between Aboriginal communities and nation states. Co-management in a Canadian context usually consists of a tri-partite relationship between three levels of government – Aboriginal, provincial/territorial and federal – formally recognizing the decision-making power of the other two via CLCAs and SGAs.

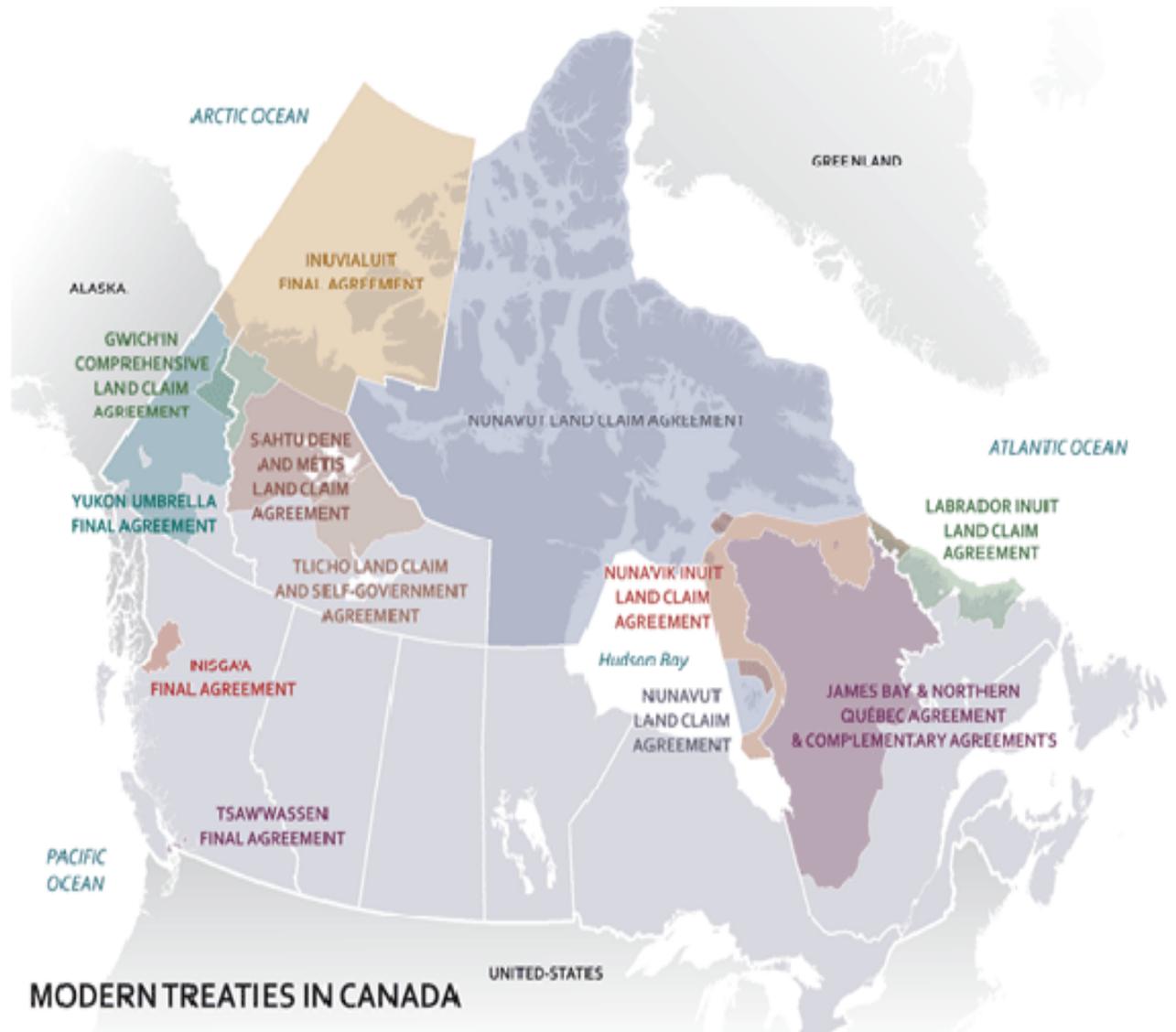
Local Aboriginal communities generally use these agreements as a vehicle for maintaining or increasing local control over natural resource decisions. While national and provincial/territorial-level authorities use them to mitigate conflict between them and the Aboriginal community (Spaeder & Feit, 2005). Land use plans add an additional layer of land use clarity to the overall co-management regime. Essentially, co-management refers to ownership of the land and natural resources, whereas land use plans outlines how the land could and should be used.

Indian and Northern Affairs Canada (INAC) is the main federal government department responsible for meeting the Government of Canada's obligations and commitments to First Nations, Inuit and Métis (including organizing federal participation in land use plans), and plays a major role in fulfilling the federal government's constitutional responsibilities in the North. The Implementation Branch (IB) within INAC is responsible for implementing post-effective date CLCAs and SGAs. These agreements are constitutionally protected under section 35 and constitute Canada's approach to fulfilling its obligations outlined by the Inherent Rights Policy. The primary objectives of negotiating and implementing these agreements are to:

- establish certainty as it relates to land ownership and use;
- encourage economic growth and development on Aboriginal lands;
- provide an opportunity for varying levels of governments to forge new relationships based on mutual respect and trust; and
- enable Aboriginal signatory communities to be economically self-reliant.

The majority of modern land claim agreements have been signed north of the 60th parallel¹ and in the provinces of British Columbia and Quebec. Below, figure 2, displays the location of all signed modern treaties in Canada²:

Figure 1: Geographic Location of Current CLCAs



Source: General Briefing Note on Comprehensive Land Claim Agreements. Retrieved from: <http://www.ainc-inac.gc.ca/al/ldc/ccl/pubs/gbn/gbn-eng.asp>

¹ The 60th parallel refers to the geographic regions below and above the 60th parallel of latitude. In the Canadian context it colloquially refers to the dividing line that geographically separates the provinces from the territories.

² Maps represents *approximate* geographic boundaries of each CLCA

Currently, there are four modern treaties in the Implementation phase in the NWT:

- **Inuvialuit Final Agreement (IFA):** 435,000 square kilometres in the Mackenzie Delta, Beaufort Sea and Amundsen Gulf area of the NWT and the first agreement to be signed in the NWT region.
- **Gwich'in Comprehensive Land Claim Agreement:** 57,000 square kilometres in the Mackenzie Delta Region of the NWT and the second group in the region to settle a land claim agreement with territory and federal signatories.
- **Sahtu Dene and Métis Land Claim Agreement:** 280,278 square kilometres in the Mackenzie Valley and Great Bear Lake region of the NWT and the third group in the region to conclude a comprehensive land claim agreement.
- **Tlicho:** 210,000 square kilometres in the North Slave region of the NWT and the fourth group to settle a regional land claim agreement and the first treaty in the NWT to incorporate land claims and constitutionally protected self-government provisions.

In the NWT there are two regulatory jurisdictions: (1) the Mackenzie Valley; and (2) the Inuvialuit settlement region. According to a 2005 NWT Environmental Assessment Audit, the “legislation, regulatory institutions and practices associated with environmental and resource management differ significantly between these jurisdictions” (p. 5).

Both the Gwich'in and Sahtu Dene agreements fall within the legislative responsibility of the Mackenzie Valley Resource Management Act (MVRMA). Assented to in 1998, the MVRMA implements obligations under land claims agreements between the Crown and the Gwich'in and the Sahtu Dene and Métis. The primary goal of the legislation was to create a comprehensive co-management framework to manage resources in the Mackenzie Valley. The MVRMA provides for the making of regulations governing land use and prescribes lists of developments that are to be included or excluded from the examination of environmental impacts. A main mechanism outlined within the MVRMA and each land claim agreement within the Mackenzie Valley, is the creation of a tripartite (Aboriginal, federal, provincial/territorial) resource management board.

These boards are tasked primarily with regulating natural resource development in modern treaty areas. Within the MVRMA, resource management boards are explicitly designated as “institutions of public governance” and were created to fulfill provisions outlined within the treaty. Northern boards share a great deal of common features, however, they vary in “[...] their structure, legal foundation,

mandates, powers, effectiveness, workload, style of operation and various other ways” (White, 2002, p. 4).

Etched into the regulatory framework outlined in the MVRMA are land use planning boards that manage the drafting, implementation and review of land use plans (LUPs). As approved LUPs are legally enforceable documents governing how the land should be used and developed, LUP clauses within the agreements provide local communities with a legal mechanism to voice their wishes, concerns, and opinions regarding how their lands should be used. As such, prior to the drafting of an LUP a community consultation processes must take place. Essentially, the basic philosophy behind land use planning mechanisms is that “[...] those associated with the land, which is to be impacted by proposals for development, should have significant input into decision-making respecting that proposed development” (McCrank Report, 2008, p. 2).

The McCrank report (2008) provided to the Minister of INAC, Chuck Strahl, was conducted to assess the overall regulatory regime in the NWT. Among other issues, the report found that one of the main weaknesses of the regulatory regime in the region was the lack of land use planning in the NWT. Not only did McCrank identify the importance of LUPs in ensuring local input, but an internal environmental assessment report released in 2005 also found that while the Gwich’in settlement area has developed a land use plan that “[...] is playing an important role in identifying and protecting areas of environmental importance, progress in other parts of the NWT has lagged behind” (Northwest Territories Environmental Audit, 2005, p. 1).

Presently, only the Gwich’in has an approved LUP which is presently at the preliminary stages of its first Five Year Review. However, several draft LUPs (discussed below) are slated for review and approval within the coming fiscal year (2011/12). This has resulted in a bureaucratic interest within INAC to proactively improve its own approach to approving, implementing and reviewing land use plans.

Implementation within INAC is generally understood to refer to actions put forth by the Department to coordinate federal responsibilities to meet Canada’s treaty obligations. As LUP requirements are worked into the land claim agreement they are read as obligations and fall under the umbrella of ‘implementation’ within the department. Although the Gwich’in Land Use Plan, the Sahtu Draft Land Use Plan, and the MVRMA all place the responsibility of leading and monitoring the implementation of LUPs on the respective Land Use Planning Boards, Canada has legal responsibilities throughout the implementation of the agreement – particularly at the approval and review stages.

Prior to delving too deeply into the report, It is important to note the distinction between ‘approval’, ‘implementation’, and ‘review’. As briefly alluded to, because land use planning clauses are outlined within in the agreement, all the

responsibilities associated with them (e.g. approving and reviewing) fall under the broader designation of implementation activities within INAC. That being said, there are specific responsibilities associated with the approval, implementation and review of land use plans:

Approval: Here, INAC must coordinate a federal response to the draft plan and relay feedback to the Planning Board. Ideally, all implicated federal departments should be involved throughout this process.

After their review of the draft LUP they should clearly state their position in regards to possible implications and needed revisions, relaying concerns back to the Planning Board in a timely manner. Following this, all changes resulting from the federal review process must be taken to the communities for approval at the public level. If there are conflicts of interest, INAC must continually negotiate with the Planning Board to develop a final draft of the LUP in a timely manner.

Implementation: At this stage INAC must negotiate federal funding for the respective Planning board and are responsible for coordinating federal and private sector approaches to LUP consultation in regards to resource development and contracting. Additionally, as LUPs often identify outstanding environmental issues, INAC must inform and ensure all federal parties are aware of any obligations that may arise after the approval of the land use plan.

Review: As the Planning Board, the Government of Northwest Territories and INAC are presently in their first Five Year Review of the Gwich'in LUP, federal involvement is relatively new. However, it is clear that INAC must play a key role in indicator development before the commencement of the review and coordinate a federal response to the Planning Board once the review is complete. Additionally, INAC has a role in ensuring federal interests are reflected throughout the review process. Once the review is complete and revisions are made to the LUP, INAC plays role in approving the updated LUP.

As large portions of LUPs are based on opinions, beliefs and experiences unique to the signatory communities within the land claim area, there will be some variation of responsibilities between agreements. However, the general consultation structure will stay the same across all agreements in the Mackenzie Valley.

Currently, INAC does not have either a policy in place to guide its approach to LUP approval, implementation, or reviews. As a result, INAC has been largely reactive in its general approach to land use plans. Based on implementation experience of modern treaties and self-government agreements, such a reactive approach has led to strong criticism of the way in which the Department

coordinates and fulfills federal treaty obligations. Many have argued that a lack of strategic collaboration between stakeholders, consistent monitoring and reporting mechanisms, and proper planning has led to a corresponding lack in smart, accountable practices during crucial phases of implementation. In order to avoid similar criticisms, and ensure land use plans are drafted, implemented and reviewed in an accountable manner, the Conservation and Land Use Planning Division and the Northwest Territories Treaty Management Directorate have each expressed a need in developing a strategy to LUP approval, implementation and reviews.

At the time of writing, priority LUP-related files that will be up for either review or approval within the next six months include:

1. *Nunavut Land Use Planning Process*³

INAC has become significantly engaged in Nunavut Land Use Planning and is leading on a clear process to coordinate department and federal involvement.

2. *Decho Land Use Plan*

The Decho Land Use Planning Committee is expecting to submit its revised Draft Plan to the Decho Process Main Table later this year. The parties involved (including INAC) will review the Draft Plan and provide comments to the negotiators and the Committee. This process requires significant coordination between NAO, the Implementation Branch at IB, the Northern Oil and Gas Branch (NOGB), and the Planning Committee. According to the Conservation and Land Use Planning Division, without an agreed-upon and clear approach to LUPs in the Dehcho, the Dehcho First Nations are likely to continue their opposition to resource development activities in the region.

3. *Gwich'in Land Use Plan*

Currently, the Gwich'in land use planning board is conducting its Five-Year Review for updating and amending the Gwich'in Land Use Plan. Under this exercise, the Government of Northwest Territories (GNWT), INAC, and the Gwich'in Tribal Council (GTC) are required to formally review the existing plan. A key priority is determining how INAC can best represent federal interests to ensure they are fully recognized.

³ In order to control for scope, the focus of this report is on LUPs in the Northwest Territories, however it is hoped the recommendations can be applied to other northern regions as well.

4. *Sahtu Land Use Plan*

In a lead role with the NWT regional office, INAC will lead an internal review of the revised plan. The main priority is to ensure that key department interests are incorporated in the Plan that can then be accepted and implemented.

Although there are challenges unique to each agreement that impede their approval, overall there is a general distrust and misunderstanding among northern Aboriginal communities surrounding the land use planning process. Often Aboriginal communities see drafting of an LUP as a renegotiation tool, consequently stalling the approvals process once INAC receives the Draft Plan. Additionally, as is the case in both the Gwich'in and Sahtu agreements, the LUP is required to reflect not only the interests on the territorial and federal government, but there are a variety of communities within the land claim area who each want the LUP to reflect their own – sometimes conflicting – interests.

Attempting to reconcile interparty conflicts is outside the scope of this report. However, it is hypothesized that increasing the overall organization of the federal system will not only clarify Canada's approach to LUP negotiations to the Aboriginal group(s), but having a clear cut process on how the federal system writ large approaches LUP approval, implementation and review, will draw a policy/process distinction between LUP negotiations and broader claims negotiations. This will help manage expectations of the Aboriginal signatories and help move the overall implementation of the agreement forward.

The argument that a strong focus on accountability will ensure other crucial elements involved throughout each stage of the land use planning process (i.e. strategic collaboration, implementation planning, and evaluation), will also be advanced throughout the report. It should be noted that conceptually these concepts are linked and not necessarily mutually exclusive. However, from an operational perspective, there are unique activities involved throughout each stage of the LUP-cycle that, when realized together, lead to greater accountability throughout the approval, implementation, and review of LUPs.

As the Implementation Branch has invested significant resources to improve how they approach treaty implementation from an operational perspective, and has also made efforts to increase accountability for all involved stakeholders throughout the implementation process, the main goal of the report is to locate smart practice in treaty implementation and suggest ways in which similar practices can be applied to LUPs. It will do this through (1) the review of existing academic and federal literature to demonstrate that the production of land use plans is an efficient mechanism to ensure Aboriginal input in resource development decisions; and (2) the development of recommendations on how Canada (represented by INAC) can improve its approach to approving, reviewing, and implementing LUPs.

To this end, the report will outline how and why LUPs are still a useful mechanism to ensure Aboriginal input, provided the proper administrative policies are in place to guarantee they are efficiently integrated within the broader realm of implementation. It will then evaluate and apply current implementation models to an LUP process and suggest ways both the Northern Affairs Organization and the Implementation Branch can better coordinate their business lines after the plan is signed.

| This report should be seen as a starting point for a more focused policy analysis. It recognizes that each land claim agreement is unique and thus the specific goals and operational requirements throughout the LUP drafting stages need to be tailored to better suit each respective land claim agreement.

METHODOLOGY

This report primarily relies on a targeted literature and document review. The literature is used to support the claim that land use planning is an efficient mechanism to ensure an Aboriginal voice is integrated in resource management in the Northwest Territories. Sources of literature were confined to primarily academic (peer-reviewed) journal articles, literature from internal government sources, and websites from government and non-government bodies.

Currently many stakeholders and observers of the regulatory regime in the north have recognized both the increased complexity of the resource management system and how this complexity further confuses the establishment of a sound investment and development climate in the NWT. McCrank's (2008) report to the Minister of INAC found that increased complexity in the north negatively affects the neutrality, broad mandates, consistency, predictability, and overall accountability and timeliness of decision-making.

Conceptual framework:

Below are four key concepts that will drive the analysis. Through experience identified within academic literature and at the Implementation Branch, these core concepts emerge as key organizing ideas for both understanding the flaws in the LUP process and contemplating improvements in how LUPs are developed, approved and implemented.

Accountability: A driving concept within implementation. This involves clear establishment of the roles and responsibilities of all the parties and the establishment of instruments and forums for reporting on implementation performance. Although an important concept on its own, the realization of the three succeeding concepts often leads to greater accountability within the approval and implementation stages of the agreement.

Collaboration: As virtually all treaty obligations implicate a variety of federal departments and agencies, the importance of developing collaborative techniques and practices to implementation is recognized as a top priority from all stakeholders. Collaboration is the agreement among players of clearly defined roles and responsibilities throughout implementation processes.

Implementation Planning: The importance of planning ensures the effective and smooth implementation of the agreement and LUP. Currently within IB there are a variety of tools that encourage the development of a systematic approach to modern treaty implementation. Effective planning within implementation outlines strategic goals and includes mechanisms (e.g. agreed to work plans timelines) for reaching those goals.

Evaluation: An emphasis on evaluation provides the signatories with the opportunity to take stock of the progress of implementation within a clearly defined time period. That said, from an implementation perspective, evaluative mechanisms come largely in the form of mandated reviews (usually at five or ten year intervals). Ideally, these informal evaluation techniques feedback into the broader accountability cycle outlined above.

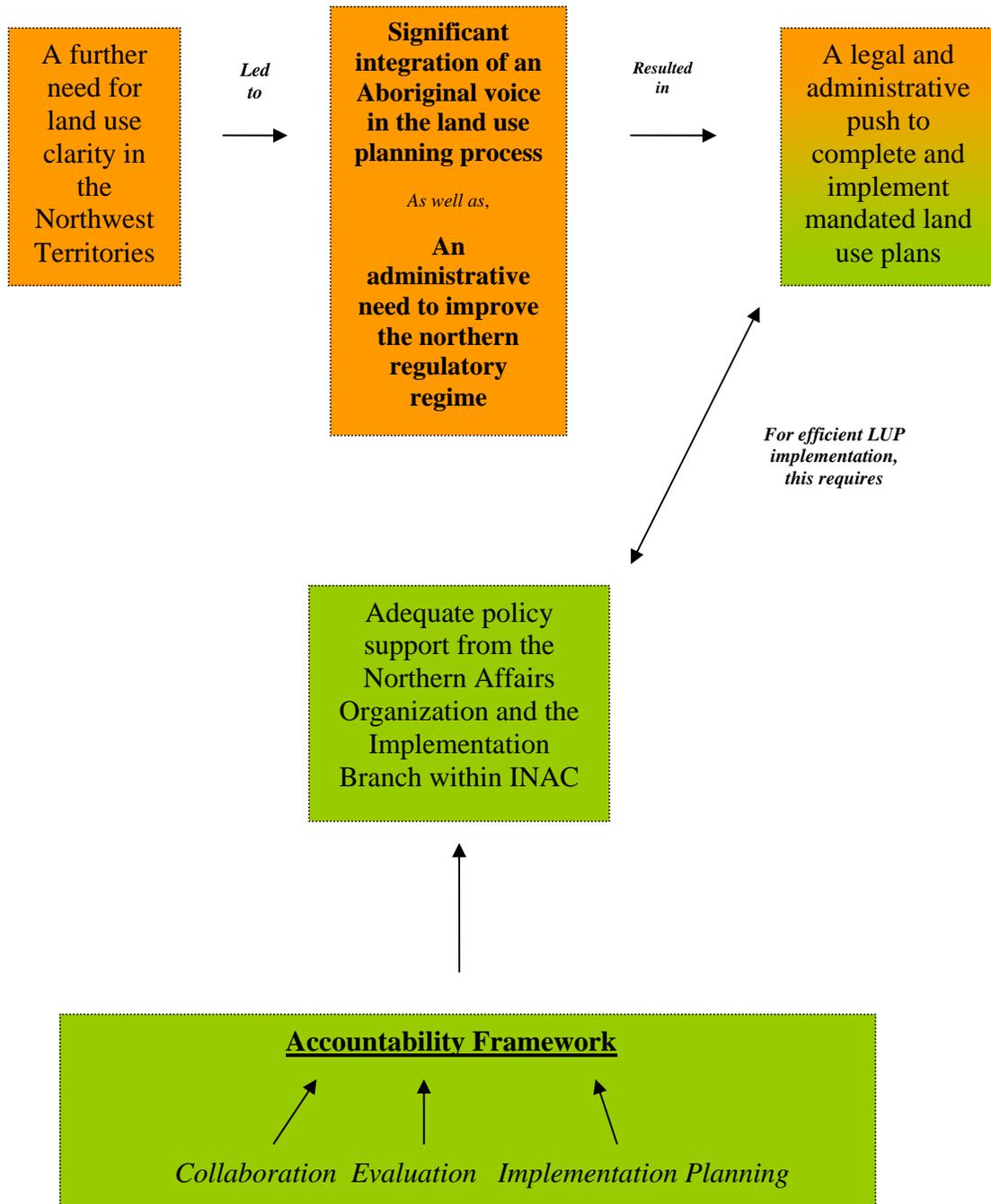
The Implementation Branch has dedicated significant resources to the realization of these key concepts throughout implementation. As such, the main method of analysis was to review implementation smart practices to determine how best to integrate land use plans within the current implementation framework. It was hypothesized that drawing smart practices highlighted in relevant internal branch documents and appropriate academic literature, would provide an effective structure in which to approve, implement, and review LUPs.

The abovementioned core principles were used as conceptual tools to organize the literature and to structure the bulk of the analysis. A variety of key findings became apparent after the analysis was complete:

- 1) *The need for both IB and NAO to develop an engagement strategy prior to LUP approval;*
- 2) *A need to organize and communicate federal interests during mandated Five Year Reviews of LUPs;*
- 3) *The benefit of increasing LUP Implementation planning requirements.*

While the policy options presented at the end of this report are meant to guide next steps in the development of a comprehensive policy framework for LUPs, due to resource limitations it was not possible to systematically survey all parties involved. As a result, the recommendations should be read as a starting point for the development of a comprehensive LUP management policy based on appropriate stakeholder consultations. In addition to this, all recommendations were requested to remain within the current implementation framework, therefore cost efficiency issues were kept in mind throughout the development of recommendations.

Figure 2: A representation of the conceptual framework



The visual representation above displays the general circumstances that led to the need for adequate policy support for LUPs. What should be noted is the colour distinction between two steps of the process. The orange boxes represent an increased emphasis on integrating an Aboriginal perspective in resource

decision-making from both a bureaucratic and legal perspective. The green highlights the policy mechanisms, at present, INAC is lacking to support such an interest. This should not be read, however, as a complete lack or disregard of land use plans by INAC. Indeed, INAC does fulfill its legal obligation to negotiate and approve LUPs. What it points to rather is the lack of a comprehensive policy framework for considering and managing LUPs in the broader land claims implementation framework.

Limitations

While the policy options presented at the end of this research are the result of thoughtful analysis and document review, the range of issues associated within co-management and land use planning arrangements cannot be captured in a study of this scope. The policy options presented in the final section of this report must be considered in light of the following limitations:

- The review of land use plans and their associated land claim agreements does not examine all northern jurisdictions (e.g. the Yukon and Nunavut). Policy options are thus focused on the assessment of challenges associated with the approval and implementation of LUPs in the Mackenzie Valley in the NWT. It is possible that important practices were overlooked.
- INAC has been traditionally reactive in its approach to modern treaty implementation. Although the report and overall analysis would have benefited from a thorough international jurisdictional scan, as the recommendations were requested to fit within the current model of implementation, only an analysis of current implementation smart practices were conducted.
- This study is limited to a qualitative review of documents and is not accompanied by empirical evidence that may further legitimize findings.
- Lastly, as Aboriginal signatory groups were not consulted, community sentiments were not considered outside what was included within finalized and/or drafted LUPs.

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ANALYSIS AND DISCUSSION

In recent years there has been a dramatic increase in available co-management literature. Subsequently the general discourse is shifting from an environment of academic and specialist consensus that southern conceptions of land use planning *should* be applied to the north, to an increasingly contested landscape with some arguing for an overhaul of the entire northern regulatory regime. As the main goal of this report is improve federal involvement within land use planning in the NWT, an in-depth discussion focussing on the legitimacy of co-management is outside the scope of this analysis.

This section uses the four key concepts outlined in the conceptual framework to analyse the challenges and opportunities facing the LUP implementation process. The goal of the analysis is to expand on the importance of accountability within land use planning. That is, all concepts – collaboration, evaluation, and planning – are discussed under a broader accountability discussion. Each section will first highlight the importance of the concept in realizing or contributing to greater accountability, followed by an overview of the Implementation Branches approach to integrating that particular concept within their own implementation of land and self government agreements. This section will then be concluded with an analysis of how the concept can be realized within an LUP context.

Building Accountability into the Approval, Implementation, and Review of Land Use Plans

Within various academic literatures and reports on treaty implementation, having an effective accountability framework was located as a smart practice for implementation. Romzek and Dubnick's (1987) notion of bureaucratic and performance-based accountability provide us with a high level understanding of modern, bureaucratic notions of accountability. For them, bureaucratic accountability is characterised as high internal control over bureaucratic processes. It derives from hierarchical arrangements that are based on supervision and organizational directives. There are many, often complex, layers that contribute to "a web of multiple, overlapping accountability relationships within which public officials must work" (Romzek as cited in Roberts, 2002. p. 10). At the crux of this internal accountability structure is an emphasis on performance-based accountability which "requires the specification of output and outcomes in order to measure results and link them to goals that have been set [...]" (p. 15).

Applied to a regulatory regime specifically, McCrank (2008) stresses that accountability within a regulatory process is the application of "[core] governance principles to the regulatory body and the government, while [still] honouring the principles of quasi-judicial independence. These governance principles require established lines of authority and responsibility" (p. 16). Although McCrank does not highlight 'understandability' as being a crucial element of a broad accountability framework, information also needs to be presented in a clear and understandable way for stakeholders to fully participate in the implementation process and hold individuals accountable for implementation decisions.

Throughout its history, the Implementation Branch has recognized the importance of a sound accountability framework throughout the implementation process. However, the formalization of this framework has only been recently realized within the Branch through the development of a written, policy approach to accountability. Such an approach is largely driven by a culture of accountability within the bureaucratic process itself, but also via clear accountability mechanisms worked into various treaty obligations.

The following analysis and discussion centres on an understanding that successful approval, implementation and review processes should be structured with a focus on accountability. The analysis will use Romzek et al. (1987) notion of bureaucratic and performance-based accountability, as a focus on performance reporting and emphasis on both internal accountability and external answerability are accepted as the most appropriate type of accountability within the Canadian federal system. For additional clarity, an accountability framework

is a consistent approach to internal management of approval, implementation and review activities. It consists of established policy practices to engage both internal and external stakeholders throughout all stages of the process, adequate review exercises to identify areas of improvement, and planning mechanisms to enhance goal-setting and assist in the development of timelines and clear objectives. This will not only result in an increase in overall accountability, but will also help move the implementation of LUPs forward.

Below are organizing concepts that, when realized together, will lead to a sound accountability framework. Each section will be organized by one of the concepts identified as leading to greater accountability within the methods section. In each subsection, how the concept will lead to greater accountability will be explained, followed by a discussion on how the Implementation Branch has and continues to improve its approach to formalizing the concept within its own business line, and finally how IBs approach can be applied to land use planning in the Mackenzie Valley.

Collaboration and Strategic Engagement

Land use planning is a way of framing and operationalizing how the land should be used. Throughout all stages of LUP development and implementation various stakeholders are involved. Implementing and reviewing the LUP ideally relies on the input of local communities, public officials from all three levels of government, and resource/environmental specialists. As such, a formal strategy that engages all stakeholders in a meaningful way throughout these processes would contribute to greater accountability. Not only that, but how the federal family approaches land use planning internally, increases confidence in the system writ large. Better engagement leads to better implementation practices, which in turn enable the realization of the broad goals of the agreement.

Currently, prior to the initial drafting of a land use plan consultation sessions with various communities are held in the settlement region as well as an extensive environmental assessment conducted by the land use planning board. At this stage, significant effort is put forth by parties external to government to ensure collective interests are met. However, once the agreement moves into the implementation stage there is a high level of uncertainty among parties within INAC on how to strategically engage with one another and other Government Departments throughout the implementation and review processes. More specifically, there are notable challenges on how to ensure federal interests are communicated and how to manage unexpected obligations that may flow from the land use plan.

Below key arguments in the legitimacy of land use planning are discussed. Within the literature a main critique of the current system is that land use plans

are too technical and steeped in bureaucratic language for Aboriginal communities to fully engage, this is done to highlight the need for increased collaboration between parties to make various stages in the land use planning process clear and understandable for all stakeholders. The discussion then turns to some challenges and successes to organizational collaboration that may influence how to proceed with an effective engagement strategy.

Prior to delving too deeply into a critique of land use planning in the north, it should be mentioned that under the Mackenzie Valley Resource Management Act, all planning boards in the region must have fifty percent Aboriginal participation and dedicate considerable effort and resources to bring Aboriginal planners up to speed with the planning process. Nevertheless, Aboriginal participants often traverse language barriers, some lack basic organizational and technical resources and are unfamiliar with the planning process (Hibbard, Lane, & Rasmussen, 2008).

This is not to say that Aboriginal participants cannot “catch-up”. In fact, Aboriginal members of the planning boards actively engage and regularly call out government officials for perceived manipulation, however when it comes to land use planning King (2010), Goetze (2005), Usher (1995), Notzke (1994), & Nasady (2003) argue that there is a systemic power imbalance that prevents any real Aboriginal input. For them, this unequal structure is apparent throughout the entire LUP implementation process.

In spite of this however some argue that the land use planning in the north has great potential to realize true land and resource co-management. Kennett (2010) provides a convincing explanation of the need to fix Canada’s approach to co-management in the North:

Land use planning is difficult, primarily because it tries to overcome obstacles to sustainable land and resource management that are deeply rooted in individual and organizational behaviour and in the structure of decision-making. These obstacles are also pervasive, affecting a broad range of policy issues, as illustrated by the financial and environmental crises that have dominated the news over the past year. The fact that planning is rarely easy is as much a symptom of the need to “fix us up” as an indicator of deficiencies in the design and implementation of planning processes (p. 41).

For him, land use planning is an imperative for at least four principal reasons: The first is the need for all Canadians to live within limits especially in the face of increased resource and environmental uncertainty. Land use planning plays a pivotal role in managing cumulative impacts and setting clear and agreed to objectives to respect various limits – environmental, social, and economic. Secondly, LUPs serve as legal contracts that help different parties with conflicting ideas about how their physical, spiritual, and economic environment should be

used. This contract significantly contributes to not only an ongoing relationship between historically conflicting parties, but LUPs ensure disputes are dealt with through peaceful means. Land use plans also “allow communities to define a vision for the future and work together to find ways to make it real” (p. 48). Land use planning is thus integral in ensuring aboriginal communities have a say in the use of traditionally occupied lands. Lastly, he ardently believes that the system needs to be fixed in order to increase the certainty of the regulatory regime in the north.

From these conflicting opinions it becomes clear that the land use planning in the north is in need of repair. Although King (2010) suggests we abandon the current land use planning model, he offers no realistic alternative to effectively integrate various Aboriginal perspectives. That said, accountability to stakeholders is a key theme running throughout much of the land use planning and co-management literature. As the land use planning process hinges on the understanding that all parties work together in a meaningful way, stakeholders and participants throughout the implementation and review processes need to be able to engage and clearly understand all stages involved in land use planning. It is of the opinion here that thoughtful engagement throughout the LUP implementation and review cycles will increase clarity in much of the implementation process – thereby increasing accountability and maintaining continuity of the implementation and review process.

This is not to say that a collaborative approach to implementation does not come without its associated challenges. Indeed, collaborating with various partners presents organizational difficulties and requires more time and resources. However, many authors suggest that an effective collaborative relationship can overcome associated challenges by enforcing “partner accountability”. That is, introducing one another to contribute constructively to planning and implementation through the use of “[...] norms, voice, and threats to exit or withholding key resources” (Bardach, 1996. p. 10). If used properly, the use of such mechanisms can reduce conflict and the cost of coordinating decisions and actions among collaborators. Bardach et al. (1996) argue that to achieve these benefits, mechanisms that enable participants to communicate quickly and easily with one another must be established. Additionally, collaborators need to develop formal ties to one another that enable them to transact business smoothly inside and outside their formal meetings. Knowing whom to contact in other partner organizations for ideas or information enhances individual’s ability to solve problems and improve results (Bardach, 1996).

Collaboration and Strategic Engagement at the Implementation Branch

Federal treaty obligations are the responsibility of a variety of federal departments and agencies. A large part of the Implementation Branch’s mandate is to play a promotional role within the federal system to ensure all departments

are aware of their respective obligations within the treaty. The Branch has invested significant resources to the development of a strategic, collaborative approach to treaty implementation.

That said, this emphasis on a collaborative process to implementation is largely a result of third party criticism of INAC. For instance, a Senate Standing Committee on Aboriginal Peoples found that modern treaty implementation has traditionally fallen behind in tracking, ensuring, and monitoring which federal obligations are met and which are not. That said, the Standing Committee also stressed that an underlying paradox in the implementation process is that INAC is required to coordinate federal treaty obligations and report such matters to Cabinet. However, Parliament has failed to give INAC the appropriate legal means to ensure compliance among the federal family. This points to a structural contradiction in the implementation duties that are expected of INAC and the amount of legal freedom they have to ensure the highest degree of accountability within the implementation process.

In spite of such limitations, IB approaches treaty implementation with an understanding that the fulfillment of federal obligations is the responsibility of the federal system writ large. As many government departments are unaware of their specific role in the implementation process, IB has integrated the following strategies to both encourage active engagement and collaboration of stakeholders and to cultivate a higher degree of accountability within the implementation cycle:

Federal and regional caucus: Held on an ad hoc basis, policy changes, status updates, and sharing of general implementation updates and activities is done at federal caucus meetings. Representatives from departments and agencies are encouraged to attend, provide feedback, question, and suggest ways to improve the implementation process. They are held at both a regional and federal level.

Development of policy guidelines: IB produces a variety of public documents that communicate IBs approach to treaty implementation. The broad goal of these guidelines is to clearly state Canada's own approach to implementation and to inform other federal implementers within and outside INAC on how to approach various aspects of implementation within their respective mandates.

Monitoring and Reporting: Past Auditor General and Senate Committee Reports have criticized INAC for the lack of sufficient monitoring and reporting of treaty obligations. Essentially, during early stages of modern treaty implementation, INAC could not produce data that displayed what the department was responsible for on an ongoing basis, if one-time obligations had been met, and which federal department was responsible for which obligation. The Implementation Branch responded to such

criticism by creating the Treaty Obligations Monitoring System (TOMS). This system tracks, monitors, updates, and reports to all interested parties and stakeholders on the status of each obligations. This not only keeps other government departments aware of their own treaty responsibilities, but it increases overall awareness of modern treaty implementation.

Implementation Planning

Accompanying the signing of a land claim or self-government agreement is an Implementation Plan (IP) which describes and outlines the responsibilities of each signatory party in fulfilling the stipulations in the agreement. Unlike the actual agreement, the plan is not constitutionally protected or legally binding. It merely guides the signatory communities through the implementation process. Ideally, IPs are negotiated and signed at the same time as the actual agreement.

The importance of an IP was realized after the signing of the first modern land claim agreement, the James Bay and Northern Quebec Agreement (JBNQA), between Canada, Quebec, and the Cree. Although signed in 1975, the agreement was ratified without an IP. As the process of signing and implementing a modern land claim was both structurally and legislatively unique from its historic treaty counterpart, there was no clear implementation process to guide the parties. As a result, all signatories to the land claim were extremely reactive in fulfilling their treaty obligations. Consequently the agreement had to be amended in 1978 with the introduction of the Northerneastern Québec Agreement (Spak, 2002). This agreement is a supplementary piece to the JBNQA created to clarify implementation roles and responsibilities. Since then, all CLCAs and SGAs must be accompanied by an IP.

Not only was the implementation experience with JBNQA a catalyst for improved planning, but several years later the OAG released a report acknowledging that IPs are not intended to be contractual obligations. In spite of the need to make Plans flexible to suit the changing needs and circumstances of each individual land claim agreement, the OAG stressed that the lack of comprehensive IPs makes it more difficult to determine progress and to identify problem areas as well as achievements (Office of the Auditor General Report [OAG] on Indian and Northern Affairs [INAC], 1998). Implementation Plans are thus a useful organizational tool to guide the parties in fulfilling their obligations, but they are only one piece a larger accountability framework.

LUP Implementation Planning in the Mackenzie Valley

The Planning Board in the Gwich'in settlement area has included an Implementation Outline within the LUP and has drafted a fairly comprehensive Implementation Strategy. As was mentioned prior, both the plan and outline are

fairly Board specific and lack an outline of federal roles and responsibilities in the implementation of LUPs.

Although still in draft form, the third draft of the Sahtu land use plan contains an Implementation Guide for conformity requirements (CRs) within the settlement area. The intended audience of the Guide are individuals applying for land use permits. As was the case with the Gwich'in Plan, there is minimal reference to federal roles and responsibilities (Draft Conformity Requirement Implementation Guide, Sahtu Land Use Plan, 2010).

Federal Approach to LUP Implementation Planning in the Mackenzie Valley

The importance of clear Implementation Plans cannot be understated. IPs ensure all parties are on the same page when identifying implementation responsibilities and timelines. Although there has been effort put forth to develop clear and understandable strategies to advance the efficient functioning of LUP implementation, NAO and IB are in need of clarification of INACs role throughout the implementation life-cycle of the LUP.

At the federal level, no IP requirement exists within draft or approved LUPs. This is understandable as both the Gwich'in and Sahtu implementation responsibilities are outlined in the MVRMA which place implementation management outside the mandate of the federal or territorial government. However, IPs are useful from a federal perspective as they communicate and clarify what needs to be done throughout treaty implementation across the federal family. Additionally, they are an important accountability tool to ensure all parties participating in the implementation process have agreed-upon documentation that states which obligations they are accountable for and when the obligation should be complete.

A principal problem with the creation of an implementation plan guiding the implementation of the LUP is the lack of a clear idea of the extent in which federal departments will be implicated in the implementation of the LUP. Indeed, as Canada is not legally responsible for implementation per se, and there has been only one approved plan in the Mackenzie Valley, it is difficult to assess where Canada fits in the implementation process. That said, and using the Gwich'in Implementation Plan Outline as an example, the planning board locates areas of cooperation by INAC and suggests ways INAC and the government of the Northwest Territories (GNWT) can help with the implementation of the LUP. Below are a few examples within the Gwich'in Plan Outline that implicate both federal and the GNWT in the implementation process:

29. The Planning Board recommends that the Department of Indian Affairs and Northern Development plan for the clean-up of abandoned and old pits that have not been rehabilitated. This includes the installation of barriers to access.

30. The Department of Indian Affairs and Northern Development shall provide all available information on known waste sites for the Gwich'in Settlement Area and co-management groups.

31. The Planning Board recommends that the Department of Indian Affairs and Northern Development and appropriate industry groups develop strategies for the clean-up of remaining waste sites (Implementation Outline, Gwich'in Land Use Plan, 2003, p. 159)

It is clear that although not legally required to guide and manage the implementation of the LUP, Canada, as well as the territorial government, have responsibilities throughout the implementation of the LUP. It should also be noted that the abovementioned responsibilities are an *example* of various federal responsibilities recommended by the planning board and should not be read as the *only* responsibilities that fall into federal jurisdiction. Often, obligations negotiated within the land claim are left intentionally vague in order to expedite the signing of the final agreement. However, once IB begins its implementation activities, issues pertaining to the interpretation of obligations arise which result in a renegotiations of treaty obligations.

This is a reoccurring problem throughout the negotiations/implementation relationship that can only be resolved by increasing communication throughout both the negotiations and implementation life-cycles. An in-depth discussion of the inter-dynamics between negotiations and implementation is outside the scope of this report. However it is mentioned to highlight the reality of unexpected obligations arising that were previously thought to be outside of Canada's federal jurisdiction, or assumed to be negotiated and agreed to before drafting and signing the land claim. Implementation Plans thus provide a 'second chance for the signatory groups to clarify implementation roles and responsibilities.

Evaluation

Broadly, strategic evaluations give parties involved in the implementation cycle an opportunity to reflect on the progress of an agreement or program. Outcomes often provide stakeholders with the information they need to assess the value add of specific provisions or initiatives, and decide on appropriate next steps. Within implementation, review mechanisms are a form of soft or informal evaluation techniques used to determine areas of progress and weakness. Although technically an "evaluation", such review exercises are opportunities to increase communication between the parties and voice implementation questions and concerns.

As we have seen, a key element in a solid accountability framework is sharing information with collaborators, partners, stakeholders and the public in a timely

manner. In an implementation context reviews give interested parties a chance to examine key policy decisions within a clearly defined time period (often five or ten years) to reflect on success, failures, and possible next steps. An effective review also provides a platform for all parties involved to formally respond to review recommendations and acknowledge and outline their own role in improving and moving the implementation process forward. They are an important element in a wider monitoring and reporting framework, and thus also play a significant role in ensuring a certain level of accountability. That said, for a review to be effective parameters need to be defined and all parties to the review should be actively involved in collection and evaluation of baseline data early in the implementation and review stages of the agreement.

Much literature on performance management recommends organizations do more than simply collect data about their performance. Page (2004) highlights the need “[...] to build robust processes for understanding and using data strategically to improve [the organizations] performance” (p. 592). For him, the growing desire by the general public and elected officials to see quantitative results of expenditures on public programs has led public organizations to collect data without fully thinking about the quality of data being collected. Instead there needs to be a ‘managing for results’ system that links data the organization measures to specific actors and/or stakeholders. This information can then be used to improve its overall operations (Page, 2004, Hatry, 1999, Ingraham and Moynihan, 2001).

Although not the only mechanism in which to track, monitor and report on implementation, reviews play a crucial role in fulfilling these reporting responsibilities. For instance, the Gwich’in Land Use Planning Board (the Planning Board) is responsible for leading and managing each Five Year Review of its LUP. In order to facilitate this process, prior to the implementation of the LUP, the Planning Board sets clear objectives that will be reassessed during its review cycles:

Focus on Data Collection: According to the Planning Board, the current LUP is general in scope and analysis. As a result, during the initial implementation stages of the Plan, a goal will be to focus on detailed monitoring and planning processes to gain further geographic knowledge on key areas of the Gwich’in Settlement Area.

Monitoring and Reporting: The Planning Board is mandated to monitor implementation of the Plan. The board will thus report annually on the monitoring process, and make recommendations deemed necessary with respect to Plan Implementation. The Planning board will make efforts to make sure groups are aware of the Plan, and facilitate its implementation.

Continued Information Gathering: The Planning Board encourages the Gwich’in, government and industry to evaluate non-renewable resource development

potential in the Gwich'in Settlement Area. Specifically, as there are geographic areas with a limited knowledge base identified in the LUP, the following areas are especially of interest:

- i) the Mackenzie Mountains
- ii) the Richardson Mountains; and
- iii) along potential transportation and pipeline corridors.

Focus on Economic Development: Within the first five years the Planning Board has been given the direction by communities to focus on economic development opportunities. Resulting from this, and part of the Planning Boards broad implementation strategy, they will be working with communities to locate target areas for further economic development opportunities. The relative success in this endeavour will not be realized until the Five Year Review is complete (Gwich'in Land Use Plan, Implementation Plan Outline, 2003).

Following this the Board presents fifty recommended actions that will help with the realization of these core implementation areas. While this list of actions is a useful tool to proceed with improved implementation of the LUP, from a federal perspective, the recommendations are fairly Board and Gwich'in Tribal Council specific. There are few recommendations that outline how federal entities should proceed with fulfilling their role throughout the implementation process.

Additionally, there are no clear timelines in which Parties should complete the specified recommendation. Each recommendation stresses what should or needs to be done, but fails to specify how, and under what sort of timeframe the recommendation should be completed within.

So although the list is 'proactive' in terms of identifying key areas at the onset that will be assessed within the first five year review, there are still areas in need of greater clarification.

IBs Approach to Implementation Reviews

Reviews are an important component in the implementation of comprehensive land claim and self-government agreements. They ensure a level of accountability through acting as a feedback mechanism for the signatories to look at the implementation of the agreement to date, to build on its strengths, and to address any potential problems. After much criticism by the OAG, INAC committed to the development of a results-based management framework for the implementation of federal obligations in cooperation with relevant federal institutions. INAC also stated that they would monitor and report on Canada's progress towards the fulfillment of its obligations to other signatories.

This commitment placed an increased emphasis on how INAC organized and conducted mandated implementation reviews. This came in the form of a policy guide documenting the federal position as it relates to the meaning, structure, and format of reviews.

According to the guide, the term 'review' has no defined technical meaning. This has proved useful for various parties to determine methodologies and parameters used within their specific reviews. That said, this generality has also left considerable ambiguity regarding the scope and purpose of reviews, and the relationship of them to other ongoing monitoring and reporting mechanisms built into the treaty implementation process, such as renewals.

There are four kinds of reviews outlined within the guide. The type required to any given treaty is dependent on what was negotiated prior to the final agreement. The four types include:

- 1) *Periodic General Reviews*: an often used general review on the land claim agreement, usually taking place after 5-10 years of initial se implementation.
- 2) *Funding Reviews*: either part of a general review or stand-alone, this review is focused on implementation funding and funding agreements.
- 3) *Reviews of Economic Measures Provisions of Land Claims*: these are designed to assess whether the broad economic goals are set out in the treaties have been met.
- 4) *Comparative Reviews*: These reviews look to the implementation requirements and obligations in other land claim agreements to locate areas of smart practices that could possibly be adapted to the reviewed land claim agreement.

Experience to date demonstrates considerable weaknesses with respect to the planning and the conduct of reviews:

- The linkage of reviews to ongoing monitoring, reporting and implementation management has not been clearly articulated;
- In the past, reviews have been structured less as a management tool than as leverage for renegotiating implementation plans and funding agreements;
- There has been limited success in the development of joint action plan for responding to reviews;
- There is no federal process for coordinating interdepartmental participation or securing mandates for responding to issues identified in reviews;

Although it provides a general framework to address these issues, the Implementation Branch is clear in its position that the guide is not meant to address the specificities of each review process (as these are negotiated into the agreement, making a completely standardized approach impossible), and only meant to address Canada's own position with respect to the fulfillment of its review obligations.

Additionally, IB has located a variety of areas that should be included in CLCA and SGA reviews. These include the development of terms of reference to outline the purpose of the review, define roles and responsibilities of participating groups, determine what sort of resources will be needed and used, document a collective understanding of the review process, set clear timeframes, guide review parameters, and determine specific methodologies. The Implementation Branch is also very clear in its guidelines that reviews carry some sort of recommendations and responses from implicated parties (federal, territorial/provincial, and Aboriginal) are expected.

Reviews within an LUP Implementation Process

Although INAC is not legally responsible for conducting reviews of LUPs, depending on the outcome of the review, INAC will be implicated by either responding to the review itself or approving revisions of the LUP that were deemed necessary within the review.

Land claim reviews are acknowledged by all parties as an efficient tool in discovering which provisions are working and which are impeding the overall outcome of the land claim. In essence they are a component of a broader accountability framework. From lessons learned in reviewing land claims and self government agreements, reviews must include a number of important elements. It is essential that all federal stakeholders are kept adequately informed and involved throughout the review process; from the development of the terms and reference onwards. It should also be noted that all federal and external stakeholders agree on methodologies used throughout the review and are given the chance to review the data collected.

Although the Gwich'in land use plan is the only LUP that has been approved and is presently going through its first Five Year Review, from lessons learned in implementation review cycles, INAC needs to ensure its own interests and position is clearly communicated at the beginning of the review process. Although the specifics of how this could be done will be outlined in the options section of this report, a chief concern for INAC would be to ensure all stakeholders are sufficiently informed of the intentions of the review, how results will be interpreted, and to determine, in consult with the Planning board, what is expected of INAC during the actual review process. In addition to this, to increase the accountability and efficiency of the federal position in relation to the

review, the specific avenues of intergovernmental consultations should be ironed out prior to engaging in the review.

OPTIONS FOR IMPROVEMENT

Within the analysis, implementation smart practices were located that suggest a variety of implementation mechanisms already exist that not only enable the efficient and effective functioning of treaty implementation, but through such mechanisms federal accountability throughout the LUP process can be realized. It was contended that an effective policy on the approval, implementation and review of LUPs should be drafted within a strong accountability framework made up of the following criteria:

- *Collaboration and Engagement Strategies:* A clear and thought out strategy to implementation will help clarify signatory responsibilities and set implementation targets. A key to successful implementation throughout each stage is ensuring sufficient intergovernmental consultation throughout. This can be realized through federal caucus meetings.
- *Effective Evaluative Practices:* Reviews negotiated into land use plans provides the signatories with the opportunity to address concerns and questions within a predetermined period of time. With information gained from a review, key players within the implementation process are able to respond to criticisms and concerns raised at end of the review process.
- *Integrated Planning Requirements:* Through the document review it was found that OAG and Senate Standing Committee reports revealed the importance of implementation planning. Although implementation plans were used prior to heavy criticism of Branch activities, such reports highlighted the importance of proper planning in the Implementation life-cycle.

Overall, these findings indicate that there is presently a solid implementation structure in place to accommodate a policy for the approval, implementation and review of LUPs. For this to occur, however, IB and NAO need to increase communication with one another post LUP-approval and need to consult other government department and the Planning boards early in the approval process in order to achieve a high degree of accountability within the approval, implementation and review of LUPs.

The options for moving forward presented below are viable options both NAO and IB can engage under the current treaty implementation framework. The options lay out realistic implementation guidance throughout the approval, implementation and review of LUPs.

Areas of Improvement

How to increase stakeholder engagement

One of the main issues in managing LUPs at the federal level is recognizing the need for effective coordination and engagement strategies throughout the approval, implementation and review stages. Currently, both NAO and IB work fairly independently in fulfilling their respective roles in approving draft LUPs. When to engage each other and other parties remains in large part, a mystery. The following checklist places an increased emphasis on interdepartmental collaboration and working groups throughout the approval, implementation and review of an LUP.

INAC Headquarters

- ⇒ Both the Implementation Branch and Northern Affairs Organization should work in collaboration with each other to ensure the draft plan is, (a) consistent with obligations and requirements of the land claim agreement and, (b) meets necessary operational and environmental management requirements.

At this stage both NAO and IB should engage other implicated governments departments early in the process to coordinate a strategy of approval or collectively communicate necessary revisions back to the Board. This should be done through an INAC-led working group or through already existing federal caucus meetings.

Other Government Department's (OGDs)

- ⇒ Coordinate input on behalf of their department, provide extensive feedback on drafts and actively participate in working group meetings.

Territorial Governments

- ⇒ Should coordinate a similar process on their end and be consulted at each step of at the federal level. Members of the GNWT should sit on the federal working group and be kept in the loop with federal and Board decision-making processes.

Land Use Planning Board

- ⇒ A member of the Board should be present at working group meetings to voice concerns, communicate Board positions, and provide clarification where needed.

ADMO

- ⇒ Review and approve the LUP. Prior to this stage, the Planning board, the GNWT, and the federal working group should have ironed out all concerns and details in the Plan and have reached consensus on the Draft Plan.

INAC Parliamentary Relations Branch

- ⇒ Reviews the Draft LUP and sends it to the Minister's Office.

Minister's Office

- ⇒ The Ministers office reviews and approves the report prior to submitting the report for tabling in Parliament for final approval.

This checklist is an example how INAC can communicate the approval process in a straightforward and understandable way. Throughout this process as well as throughout the implementation and review cycles, the Northern Affairs Organization should regularly consult and engage caucus meetings at both the regional and federal level. From lessons learned at the Implementation Branch, we see that such meetings provide the opportunity to update federal representatives from each department on how the implementation process is going, communicate any changes, and answer any questions or concerns surrounding implementation. In addition to this, prior to conducting a review terms of reference, review methodologies, and recommendations should be tabled at caucus as information items. This will not only give the rest of the federal system an update of the status of the land use plan, but will also make other parties aware of the importance of the LUP in the wider treaty and implementation processes.

In addition to this, INAC and representatives on the Planning Board should pay particular attention to drafting plans in a clear and understandable manner. Increased effort should be placed on making future draft plans accessible to various stakeholders, including Aboriginal signatory communities. The current plans provide a tremendous amount of useful data and information, but they are not written in a way in which third parties with limited experience in land use planning can easily navigate and understand.

Internal Strategy to Approach Five Year Reviews of Land Use Plans

INAC presently has an in-depth and structured approach to realize the fulfillment of its treaty review requirements; therefore implementing a strategy using a similar framework would be a fairly straightforward process. As was highlighted prior, the Planning Boards in the Mackenzie Valley are responsible for managing their own Five Year review of their respective LUPs. However, as LUP revisions – resulting in ministerial approval – could be the result of a Five Year review, INAC needs to ensure federal interests are clearly communicated to the Planning Board. In order to ensure such interests are properly outlined it would be best for both NAO and IB to approach it using the following mechanisms:

- *Establish an Internal Review Working Group prior to the review:* This would require both IB and NAO to sit on a review panel to clearly communicate INACs own position of what went well within the previous five years and what could be improved. Representatives from the working group would work closely with the Planning Board partners and would be the centralized point of contact to coordinate federal responses to information requests from the Board, answer Board questions and concerns, and would be the responsible body to voice federal concerns.
- *Maintain close relations with the Planning Board and other involved stakeholders throughout the review:* This would necessitate the extended mandate of the internal review working group to collaborate and request regular review updates from the Planning Board. This would ensure federal interests and concerns are reflected in the review and would lead to increased communication between the Planning Board and federal entities throughout the life-cycle of the review.
- *Systematically respond to the review once complete:* After the review is complete, the internal working group would be responsible to respond to the review. It would clearly communicate the federal position and set clear timelines on when review recommendations that implicate federal departments would be complete.

This will require minimal alterations to the existing system. Its intent is to allow the autonomous functioning of the Planning Board while balancing some federal involvement. Through the establishment of an independent review working group, all federal interests can be voiced. Additionally, through this working group the federal government will be taking a proactive stance to ensure its own interests are maintained and acknowledged throughout the review and that the final product of the review is acknowledged at the federal level.

Increase Planning Requirements

As was highlighted in the analysis, the importance of careful and thought out planning is crucial in the realization of implementation accountability throughout the implementation life of the treaty. This is also the case with LUP management. Currently, there is no formal planning requirement attached to LUPs in the north. A proposed planning requirement is outlined below:

Developing an LUP planning process: This policy change would only relate to how INAC approaches its own management of LUPs. This would involve the creation of federal working groups around the implementation of each new LUP to discuss possible federal implications and the development of a comprehensive strategy to approach its implementation. Having an internal federal policy or plan that outlines how to approach possible federal commitments, would add clarity to the process while still maintaining a high degree of flexibility.

Implicated parties to the LUP are likely to be supportive of this option as it would require minimal approval or administrative effort on their part, but would give the impression that INAC is taking a proactive role in LUP implementation and coordination. Furthermore, it would provide INAC with a documented plan on how to approach land use plans after they have been approved – providing much needed clarity surrounding the implementation of land use plans.

The goal of presenting this range of options is not to make one specific recommendation, but instead identify realistic practices for consideration throughout the life cycle of the LUP implementation process. The “options” presented above are intended to improve and encourage collaboration techniques, accountability frameworks, transparency mechanisms, and proper planning throughout the life-cycle of the LUP. These have been informed by the literature review and findings discussed throughout the research, and it is hoped that they can contribute to broader discussions for improved LUP management leading up to the approval of key files at the end of this fiscal year.

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