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2 February 2018

**Re: Kashechewan First Nation Community Based Land Use Plan Terms of Reference December 2017
(EBR Registry Number: 013-1991)**

Dear Ms. Lalonde,

Thank you for the opportunity to provide comments on Kashechewan First Nation (KFN) Community Based Land Use Plan Terms of Reference (TOR) (December 2017).

I am submitting this feedback in my capacity as a Wildlife Conservation Society (WCS) Canada scientist specializing in wildlife ecology, conservation biology, cumulative effects, and landscape ecology in northern Ontario. WCS Canada is a national organization and our research and conservation priorities in Ontario are largely focused on the Far North. WCS Canada has provided comments on community based land use plans including: Pikangikum, Marten Falls, Constance Lake, Cat Lake and Slate Falls, and Webequie. WCS Canada staff have also provided public comments and met with MNRF staff managing the Far North Land Use Strategy.

My comments are organized to support community- and regional-scale planning efforts in the Far North. I provide our comments in two sections. The first section addresses implementation of Ontario's *Far North Act, 2010* (Act) being led by Ontario Ministry of Natural Resources and Forestry (MNRF), including the Far North Land Use Strategy. My comments are broadly relevant to the TOR as well as the community based land use planning process. The second section includes specific comments on the current policy proposal.

Section 1. Comments on processes created by MNRF to meet the Objectives of the *Far North Act, 2010*

1.1. Community Based Land Use Planning

Recommendation 1. Make the link between individual plans and ecological objectives in the Act more explicit and measurable.

Recommendation 2. Planning processes must consider cumulative effects on social and ecological values at relevant scales e.g., traditional territory, watersheds, ecoregions.

Community based land use planning has an important role to play in the Far North given that First Nations are the main population and enjoy Aboriginal and Treaty rights. The approach developed by MNRF addresses Objective 1 of the Act by supporting and creating a significant role for First Nations in

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planning. This approach is a significant advance when compared to other government-led land use planning processes such as "Lands for Life" where First Nations withdrew because they were not treated as rights-holders. I respect the need for a distinct relationship between First Nations and the Government of Ontario based on government-to-government relations and commitments and expect the Government to act on our interests in conservation of the region and addressing reconciliation with First Nations across Treaty No. 9. In addition, this approach to planning also affords First Nations communities some economic benefits in the process. However, I have the following concerns about this planning approach.

There are concerns about the ability of MNRF, through the land use planning process, to deliver on conservation objectives mandated in the Act. Although the Act does not specifically mandate regional-scale planning, three of its four objectives are really only measurable at broad scales. For example, Objective 3 requires thresholds around ecological integrity in the Far North given the emphasis on the maintenance of biological diversity, ecological processes and ecological functions, including the storage and sequestration of carbon in the Far North. Yet, the main mechanism for implementation remains piecemeal community based land use planning. However well the community based land use planning process is being implemented by MNRF, reliance on zoned plans that emerge at different spatial and temporal scales to deliver ambitious broad-scale ecological and socio-economic objectives is insufficient. More importantly, current land use planning approaches cannot consider the rate or intensity of land use – decisions which have important implications for the location, size and value of protected areas. In addition, environmental assessment processes, particularly around new roads in the Ring of Fire and new transmission into the Far North, are being made concurrently and the direct and cumulative impacts of these developments also affect the planning area of interest.

To date, none of the boundaries for land use plans that we've either reviewed or provided commentary on have any obvious relationships to ecological boundaries. This makes it difficult to proactively consider freshwater conservation (quality, quantity, fisheries, protected areas), integration with marine ecosystems, cumulative effects, and other ecological processes such as fire at scales beyond the arbitrary boundaries making up the planning area of interest.

From a social perspective, we appreciate the attention to overlap issues in creating these boundaries, but remain concerned about the plan-by-plan approach for the Far North and the lack of decision-support tools and mechanisms for communities downstream. For example, how does land use planning occurring in the Matawa territory, particularly in the "Ring of Fire" affect communities engaged in planning in Mushkegowuk territory.

Ultimately, it is difficult to determine how effective MNRF will be in meeting Objective 3 of the Act. By encouraging a piecemeal approach to planning in this largely intact and ecologically significant region of Ontario, it remains to be seen how relevant the conservation target of 50% protection (i.e., Objective 2) will actually be.

Recommendation 3. State explicitly how community based land use planning will address Objective 4 (sensu sustainability) under the Act.

Zoning for potential industrial and economic development does not provide the necessary context or framework for addressing sustainable development in the Far North. More attention at the planning stage should include a discussion of the legacy effects of mines, the boom-bust nature of mineral exploration and mining, the implications of developing and maintaining new infrastructure on

communities given a changing northern climate, and the implicit reliance on a single-sector industrial economic model. Environmental planning in the Far North should address sustainability more explicitly through assessments in planning of local and regionally relevant social, ecological, and economic criteria.

Planning should also consider, more explicitly, the implications of the intensity and rate of land use development under different scenarios (e.g., climate, high-growth, low-growth) rather than rely on Ontario and Federal environmental assessment processes at the project-level that also fail to consider sustainability (but see Gibson 2006).

Finally, the Act includes provisions for Ontario to exempt development activities from community based land use plans if they are considered to be "in the social and economic interests of Ontario" (Section 12(4)). As such, it is difficult not to be skeptical of the ability of the MNRF to deliver positive conservation outcomes for the sustainability of First Nations and the environment through this planning process. As both the manager of Crown lands and the lead on Far North land use planning process, it is not clear how MNRF also assesses the impact of this planning process on Aboriginal and Treaty rights. WCS Canada scientists have recommended that a regional-scale framework is needed in order to support community based land use plans.

1.2. Regional Scale Issues in the Far North

Recommendation 4. The Far North Land Use Strategy, while limited in its ability to address how regional-scale issues will be considered in planning, should be finalized and released for public review.

I am very concerned that the first land use plan emerging in the globally significant and largely intact Hudson Bay Lowlands is proceeding without a Far North Land Use Strategy (or any regional scale policy direction) that offers enforceable direction on how to conserve peatlands, wetlands, and the cumulative effects of climate change and land use on ecosystem services associated with these ecosystems.

The Ministry of Natural Resources and Forestry is mandated, by the Act, to develop the Far North Land Use Strategy. This Strategy is supposed to address the "big-picture, broad-scale interests" at community planning tables. The Far North Land Use Strategy should address Objective 2 and Objective 3 of the Act explicitly by offering measurable indicators as well as pathways for *how* to address key broad-scale interests such as climate change and cumulative effects. To date, the advice and guidance has been insufficient and we have provided substantive and critical feedback on this document since it was first introduced for public input in 2014. While we appreciate the opportunities we've had to express these concerns in MNRF staff, we remain concerned about how this advice is being provided to community planning tables in the absence of any strategic or regional framework or assessment of MNRF commitments under existing policy and legislation such as the Ontario Biodiversity Strategy and the *Endangered Species Act*.

Finally, we have provided comments to MNRF on Ontario's emerging "forest carbon policy" (EBR Registry No.: 012-8685). We have significant concerns about the limited scope of this policy, which is restricted to forests that are managed for timber production. At present, the approach ignores both the positive and negative contributions of unmanaged forest, including carbon-rich ecosystems such as wetlands and peatlands, particularly in the Far North. This is also problematic given the planning processes in the Far North which remain focused at rather arbitrary (compared to ecological processes and functions) scale and the advice in the Far North Land Use Strategy is weak with respect to

protection of carbon. Planning processes in the Far North need to consider more directly Ontario's existing and emerging policies, including the forest carbon policy as well as the limitations of Ontario's Wetlands Conservation Strategy which ignores the Far North. The protection of wetlands and peatlands in Ontario's Far North should have a more prominent and significant role in Ontario's actions to address adaptation and mitigation of climate change.

1.3. Protected Area Planning in Ontario, particularly the Far North

Recommendation 5. Develop a plan for expanding the protected areas system to meet the 2020 international goal including a systematic and robust assessment of the current status of the protected areas system, key opportunities for expansion, and a provide a public commitment to achieving, and eventually exceeding, the 17% conservation target in Ontario's Biodiversity Strategy¹.

Recommendation 6. Bring protected area planning in Ontario, including the Far North, into the 21st century.

MNRF continues to focus on conservation principles in protected area planning in the Far North that are fundamentally suited to fragmented and degraded landscapes typical of southern Ontario. There is no regional perspective to protected area planning for freshwater, wetlands and peatlands and only limited attention to conservation of wide-ranging mammals, particularly those that are at risk - caribou remain an important exception on this front. A systematic protected areas planning approach to meet commitments to protection under the Ontario Biodiversity Strategy and under the Act should be considered.

One emerging area that needs more explicit consideration in protected area planning in Ontario is Key Biodiversity Areas (KBAs). The Key Biodiversity Areas standard² was developed by the IUCN to provide a rigorous and standardized approach to identifying these areas of particular importance to biodiversity, and is now being implemented around the world by the Key Biodiversity Areas Partnership³, a formal partnership of 12 of the world's largest conservation organizations. This new standard aims to identify areas important for the global persistence of biodiversity. It applies to all taxa (mammals, birds, plants etc.) and all levels of biodiversity (species, ecosystems and genes). The standard also provides for the adaptation of the global standard to the Canadian context; WCS Canada's Dr. Justina Ray is a Canadian member of task force. Advice and guidance on the standard has been provided to the National Advisory Panel as part of the Federal Pathway to Target 1 process and the standard should be considered more explicitly within Ontario's planning processes.

In addition to science-based approaches such as KBAs, Ontario's Far North Science Advisory Panel recommended MNRF consider a "conservation matrix model approach" to land use planning in the Far North because of the intact and globally significant nature of the ecological systems in the region. This approach requires landscape-scale planning, identification of "benchmark" areas with no development, and a proactive approach to development planning to support adaptive management. On the latter, monitoring and the collection of scientific and traditional knowledge are essential to support decision making. Decision-support tools such as Marxan and Prioritizr could also be considered to understand

¹ <http://docs.assets.eco.on.ca/reports/environmental-protection/2017/Good-Choices-Bad-Choices-06.pdf>

² <https://portals.iucn.org/library/node/46259>

³ <http://www.keybiodiversityareas.org/what-are-kbas>

where and how to protect 50% based on various values, including biodiversity, to both assess current protected areas and identify new areas for consideration in planning.

Protected area planning at a regional scale could also support Ontario's interests in addressing climate change mitigation and adaptation and could provide an important vehicle for addressing ecosystem services which is missing in much of the policy and planning processes affecting Ontario's Far North.

Recommendation 7. Acknowledge ongoing efforts, particularly the Pathway to Target 1, to address identification and governance of protected areas in Ontario's Far North by First Nations.

Under the Biodiversity Strategy, Ontario is committed to protecting at least 17 per cent of terrestrial and aquatic systems through protected area networks and other effective area-based conservation measures (OECM). Similarly, at the Federal level, an important step for Canada in achieving Target 1 by 2020 will be determine how Ontario (and other provinces and territories) should encourage and recognize Indigenous-led protection and conservation, particularly in the Far North where MNRF is leading planning with First Nations regarding protection. There are good examples of these approaches in Canada (e.g., "Tribal parks"⁴).

We have recommended that MNRF take up the International Union for the Conservation of Nature (IUCN) recognition of Indigenous Peoples and Community Conserved Territories and Areas (ICCAs), the IUCN UNESCO guidelines for Sacred Natural Sites, and IUCN UNESCO World Heritage Sites. These designations go beyond the Dedicated Protected Area mechanism available in the Act, designation under Ontario's *Protected Area and Conservation Reserves Act*, or withdrawal mechanisms for site-based values (e.g., bones, artifacts, burial sites) under section 35 of the *Mining Act* which have tended to be small in extent. In addition, the Federal commitments to Indigenous Circle of Experts (ICE) creates an important precedent that Ontario should consider in its commitments to protected area targets, particularly in the Far North.

The planning process with First Nations in the Far North could be an important vehicle for enabling "co-management" and addressing jurisdiction more equitably while supporting Ontario's commitment to reconciliation with First Nations. There is nothing that limits MNRF ability to consider and support the identification and implementation of Indigenous Protected and Conserved Areas (IPCAs). Finally, MNRF should focus on elevating the role of First Nations in protecting and monitoring change in the Far North, supporting their Indigenous knowledge systems and legal traditions, and enabling alternative governance models to the Band Council (imposed under *The Indian Act*) in conservation and protection.

1.4. Lack of Integration between Land Use Planning under the *Far North Act, 2010* and project-level environmental assessment

Recommendation 8. Create and invest in a regional environmental approach in the Far North that can assess and monitor the direct and cumulative effects of industrial development and climate change in order to better inform land use planning.

The concurrent approach for two significant environmental planning regimes - land use planning and environmental impact assessment - puts First Nations, the environment, and Ontario's public interest at significant risk because neither planning process addresses sustainability, downstream impacts, and

⁴ See <http://www.tribalparks.ca/>

cumulative effects of industrial development and climate change at relevant scales. Infrastructure planning, in particular, needs to be considered at a regional scale with more comprehensive assessment of the ecological and social direct, indirect, and cumulative impacts than Ontario's current planning approach allows. While land use planning currently enables First Nations to identify their interests in all-weather roads, new transmission, etc. and can help create an approved zone for this use, these needs have been well known for a number of decades and did not require community planning to make happen. Planning processes in such an intact region and where communities are vulnerable to both land use and climate change, should be informed by a cumulative effects framework.

We have recommended previously that MNRF consider, with relevant ministries such as the Ministry of Environment and Climate Change and the Ministry of Northern Development and Mines, the creation of a **regional environmental approach** for the Far North that can consider future scenario planning for industrial development in watersheds, infrastructure planning and climate change (see for example the Northern Ontario Multimodal Transportation Strategy⁵), and the legacy impacts of mining with its associated boom-bust economic models under business as usual approaches to approvals and project-based assessments. This approach also supports the Environmental Commissioner of Ontario's recommendation that the Government of Ontario "establish a strategic environmental review and permitting process for the Ring of Fire that expressly addresses cumulative impacts" (ECO 2013:75). This recommendation recognizes that development proposals and infrastructure plans in the Ring of Fire continue apace regardless of the proponent engaged, the status of land use planning with communities, and the capacity of First Nations to engage in both processes.

Section 2. Comments on the TOR

Vision Statement, Elder Acknowledge, and Principles:

- WCS Canada is supportive of the vision statement and the underlying *Anishnabek* principles, including the responsibilities of KFN to take care of the land and the importance of Elders in the planning process.
- I recommend MNRF provide their Statement of Environmental Values in the draft CBLUP plan to communicate their principles and commitment to the public interest in planning.

Planning Area

- The inclusion of marine elements in the KFN plan is important and represents as a more integrated approach to planning for cultural and ecological integrity. I acknowledge the inherent limitation in Ontario's planning approach, including under Ontario's *Protected Areas and Conservation Reserves Act*. The split in organizational jurisdiction between terrestrial, freshwater, and marine management as well as land use (e.g., protected vs. not) is rarely aligned with Indigenous Peoples' worldviews, which understand land and water as indivisible, whether in terms of planning or stewardship. In general, this "splitting up" of management and ecosystems contributes to the current challenges human societies face in conserving species and ecosystem conservation and the societies that depend on them.

⁵ <https://nomts.ca/>

Planning Subjects and Outcomes

Protected Areas

- KFN is encouraged to consider the limitation of designated protected areas as the sole mechanism for addressing industrial development in intact regions like the planning area of interest and explore Indigenous Protected and Conservation Areas (IPCAs) and other effective area-based measures that enable First Nation governance.

Climate Change

- MNRF should identify explicitly *how* the CBLUP contributes to Ontario's commitments to mitigation (e.g., GHG emissions targets) and adaptation goals and objectives.

Peat/Carbon Sequestration

- MNRF should identify explicitly *how* the CBLUP contributes to Ontario's commitments to mitigation (e.g., GHG emissions targets) and adaptation goals and objectives as well as Objective 3 under the Act on "carbon storage and sequestration."
- Identify and delineate RAMSAR sites and consider protection for these wetlands.

Wildlife and Plants

- Include Important Birds and Biodiversity Areas and identify KBAs (see above).

Planning Outcomes

- Rather than simply "[consider] how the land use direction of the Final Plan can support species at risk concerns, and biodiversity", we recommend the CBLUP make explicit how it is contributing to meeting Ontario's commitments to protection and other targets identified in support of *Ontario Biodiversity Strategy*⁶.

Planning Stages and Intended Timelines (Draft Community Based Land Use Plan)

- It appears there is a typo and the text should read "staking".

Thank you for this opportunity to provide feedback. As always, we would be pleased to engage in any discussions regarding our recommendations and comments and you may contact Cheryl Chetkiewicz at 807-472-1440 or cchetkiewicz@wcs.org to do so.

Yours sincerely,



Cheryl Chetkiewicz, PhD
Conservation Scientist

⁶ http://sobr.ca/_biosite/wp-content/uploads/OBS_Targets.pdf

References

- Environmental Commissioner of Ontario (ECO). 2013. *Serving the Public*. Annual Report 2012–2013. Environmental Commissioner of Ontario, Toronto. Available online at: <https://eco.on.ca/reports/201213-annual-report-serving-the-public/>
- Gibson, R. B. 2006. Sustainability assessment: basic components of a practical approach. *Impact Assessment and Project Appraisal* **24**:170-182.