



# WHAT WE HEARD

Statement of Environmental Values

March | Mars | 2022

# CE QUE NOUS AVONS ÉTENDU

Énoncé de valeurs environnementales

Le présent document contient la traduction française du sommaire

Government of  
Northwest Territories



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English

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French

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Kīspin ki nitawih̄tīn ē nīhīyawihk ōma ācimōwin, tipwāsinān.

Cree

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Tłıchq̄ yatı k'èè. Dı wegodi newq̄ dè, gots'ō gonede.

Tłıchq̄

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ʔerih̄t'is Dēne Sų́nė yatı t'a huts'elkēr xa beyáyatı theᓯᓯ ᓯat'e, nuwe ts'ēn yóttı.

Chipewyan

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Edı gondı dehgháh got'je zhatıé k'éé edat'éh enahddhę nıde naxets'é edahí.

South Slavey

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K'áhshó got'jne xədə k'é hederı ʔedjht'é yerııwę nıde dúle.

North Slavey

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Jii gwandak izhii ginjik vat'atr'ijáhch'uu zhit yınohthan jı', diıts'at ginohkhii.

Gwich'in

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Uvanittuaq ilitchurisukupku Inuvialuktun, ququaqłuta.

Inuvialuktun

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Ć<sup>b</sup>đ< ǀǀ<sup>sb</sup>Δ<sup>c</sup> ǀǀLJΔ<sup>rc</sup> Δ<sup>sb</sup>ǀǀǀǀǀ<sup>c</sup> ǀǀǀǀǀ<sup>b</sup>, ǀǀ<sup>c</sup>ǀǀǀǀǀ<sup>c</sup> ǀǀǀǀǀǀǀ<sup>c</sup>ǀǀǀǀǀ<sup>c</sup>.

Inuktitut

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Hapkua titiqqat pijumagupkit Inuinnaqtun, uvaptinnut hivajarlutit.

Inuinnaqtun

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# Executive Summary

When the *Environmental Rights Act* (ERA) was amended in 2019, provisions were added, including requiring the development of a government-wide Statement of Environmental Values (SEV). The SEV is a means for the Government of the Northwest Territories (GNWT) to record its commitment to carry out its responsibilities in a manner that protects the environmental rights of Northwest Territories (NWT) residents.

The SEV explains how environmental considerations, including the right to a healthy environment, will be integrated into those GNWT decisions that might have a significant impact on the environment. Once approved, the SEV will apply to all government departments, as well as to Aurora College, Northwest Territories Business Development and Investment Corporation (BDIC), Housing NWT, and the Northwest Territories Power Corporation (NTPC).

A draft SEV was developed by the GNWT and released for public review and comment, in accordance with requirements set out in the ERA. Overall the response to the SEV was favourable, although there are some who feel it doesn't go far enough to protect the environment. The SEV is only one part of a suite of tools that the GNWT uses to make decisions that balance the need for sustainable economic development today with the need to protect the environment for future generations.

It is intended that the SEV be amended from time to time as environmental best practices and government priorities evolve. Whenever amendments are being considered, there will be other opportunities for public engagement and input before the SEV is revised.

## Sommaire

En 2019, lorsque la Loi sur les droits environnementaux a été modifiée, des dispositions exigeant la préparation d'un énoncé de valeurs environnementales pangouvernemental ont été ajoutées. Cet énoncé est une façon, pour le gouvernement des Territoires du Nord-Ouest (GTNO), de mettre par écrit son engagement à assumer ses responsabilités tout en respectant les droits environnementaux des résidents des Territoires du Nord-Ouest (TNO).

Cet énoncé explique comment les dimensions environnementales, par exemple le droit à un environnement sain, seront prises en compte dans toutes les décisions du GTNO qui pourraient entraîner des répercussions importantes sur l'environnement. Une fois approuvé, l'énoncé s'appliquera à tous les ministères du GTNO ainsi qu'au Collège Aurora, à la Société d'investissement et de développement des Territoires du Nord-Ouest (SID), à la Société d'habitation des Territoires du Nord-Ouest (SHTNO) et à la Société d'énergie des Territoires du Nord-Ouest (SETNO).

Une première version de l'énoncé de valeurs environnementales a été produite par le GTNO et soumise à l'avis de la population, conformément aux exigences définies dans la Loi sur les droits environnementaux. Les commentaires sont globalement favorables même si, selon certains, l'énoncé

n'apporte pas une protection environnementale suffisamment forte. Ce dernier constitue néanmoins un premier outil parmi d'autres qui suivront pour aider le GTNO à prendre des décisions qui établissent un équilibre entre le besoin actuel de développement économique durable et le besoin de protéger l'environnement pour les générations à venir.

Il est prévu que l'énoncé de valeurs environnementales soit modifié occasionnellement, suivant l'évolution des pratiques environnementales exemplaires et des priorités gouvernementales. Si des modifications sont envisagées, on offrira d'autres occasions d'échanger avec le public avant la révision de l'énoncé.

## Introduction

The *Environmental Rights Act* (ERA) recognizes the right of residents of the Northwest Territories (NWT) to a healthy environment and provides residents with tools to protect the integrity, biological diversity, and productivity of the NWT's ecosystems.

In 2019, the ERA was amended to include provisions for the development of a Statement of Environmental Values – a Government of the Northwest Territories (GNWT) commitment to carry out its responsibilities in a manner that protects the environmental rights of NWT residents. The SEV explains how environmental considerations, including the right to a healthy environment, will be integrated into those GNWT decisions that might have a significant impact on the environment. The SEV applies to all government departments, as well as to Aurora College, Northwest Territories Business Development and Investment Corporation (BDIC), Housing NWT, and the Northwest Territories Power Corporation (NTPC).

A draft SEV was developed by the GNWT and released for public review and comment. The final SEV includes input and feedback from Indigenous governments, Indigenous organizations, community leaders, and stakeholders from the public and private sector.

## What is the commitment for public review of the Statement of Environmental Values in the ERA?

Section 17(2) of the ERA requires that the Executive Council provide residents of the NWT with 90 days to review a draft SEV and offer comments and ask questions, prior to finalizing the SEV.

# How did we gather information?

The Department of Environment and Natural Resources (ENR) solicited feedback from Indigenous governments, Indigenous organizations and the public on the draft SEV through targeted stakeholder letters, its website, social media and paid advertisements. ENR received a total of five submissions in response to its request for comments.

## Summary of what we heard:

### 1. Statement of Policy

#### 1.1 WHAT WE HEARD

Reword the Statement of Policy to say “The Statement of Environmental Values is a substantive framework for government decision-making. As required by s. 17 of the NWT ERA, this SEV explains how environmental considerations, including the right to a healthy environment, will be integrated by the GNWT into actions, decisions, recommendations and submissions to Boards (such as the Mackenzie Valley Boards) and decision-making instruments that might have a significant effect on any part of the environment including the species that inhabit it as well as its ecological features and processes.”

#### 1.1 ENR RESPONSE

The SEV is just one of many tools that the GNWT uses to protect the environment. There are several regulatory processes through Boards such as the Land and Water Boards and the Mackenzie Valley Environmental Impact Review Board that will provide environmental oversight. The SEV is intended to fill a gap. It applies to decisions made by GNWT departments and applicable agencies set out in the ERA that might have a significant impact on the environment.

### 2. Principles

#### 2.1 WHAT WE HEARD

Reword SEV Principle 1: “If there is a threat of significant harm to the environment, lack of complete scientific certainty is not to be a reason for postponing reasonable measures to prevent that harm (Precautionary Principle).”

#### 2.1 ENR RESPONSE

The GNWT will amend the principles set out in the SEV to ensure consistency with the ERA.

#### 2.2 WHAT WE HEARD

Reword SEV Principle 2: “Polluters must bear the costs of their pollution, including the cost of measures taken to prevent, control and remedy pollution and the costs it imposes on society. (polluter pays principle)”

Reword SEV Principle 4: “Development of resources in the NWT shall only occur in a manner that supports the long-term environmental, economic, cultural and social well-being of the human residents of the NWT, together with the well-being of all other species and the ecosystems with which we co-exist and on which we mutually depend. Intergenerational equity requires conservation of options (defined as conserving the diversity of the natural and cultural resources base), conservation of quality (defined as leaving the planet no worse off than received), and conservation of access (defined as equitable access to the use and benefits of the legacy). (intergenerational equity principle)”.

Reword SEV Principle 5: “There is to be a just distribution of environmental benefits and burdens among all those living in the NWT environmental justice principle).”

Reword SEV Principle 6: “Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Development of resources should occur in a manner that supports long-term economic, environmental, cultural, and social well-being of residents of the NWT (sustainable development principle).”

Reword SEV Principle 7: “Decisions that may have a significant impact on the environment shall be made in compliance with UNDRIP (particularly Article 26) and the rights of Indigenous Peoples.”

## 2.2 ENR RESPONSE

The GNWT will amend the principles set out in the SEV to ensure consistency with the ERA.

## 2.3 WHAT WE HEARD

Article 32 of the United Nations Declaration on the Rights of Indigenous Peoples, should be explicitly included as an 8th Principle of the Statement.

“States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”

The addition of Article 32 is consistent with the GNWT’s commitment to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, as described under Provision 4 in the Statement. Decisions made by the Crown should not only respect the principles of UNDRIP, but also Crown commitments made through treaties, settlement agreements, and the Devolution Agreement. Principle #7 or the newly created Principle #8 should be expanded to reaffirm these commitments made by the Crown to Indigenous Nations.

## 2.3 ENR RESPONSE

The GNWT is committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples within the Canadian Constitutional Framework and is actively working with Indigenous governments and Indigenous organizations through a working group in accordance with Article 37 to advance this work. The SEV does make reference to the recognition of the United Nations Declaration

on the Rights of Indigenous Peoples, which includes not only Article 32 but also Article 37, reinforcing the importance of existing treaty rights.

## 2.4 WHAT WE HEARD

Build other UN information into the document, similar to Principle 7 (“Decisions that may have a significant impact on the environment should recognize the rights of Indigenous peoples (United Nations Declaration on the Rights of Indigenous Peoples, Article 26).”)

The “UN Environment Assembly 5.2: Nature at the Heart of Sustainable Development” (January 2022) notes “There are unique windows of opportunity to pass critical thresholds for change resulting in real and rapid progress to address the triple threats of climate change, biodiversity loss and pollution.” The UN notes that transformative changes are needed to restore and protect nature.

The specific acknowledgment of these triple crises would provide important context to the SEV. We suggest that these could be included as an addition to the opening statement, such as “The GNWT recognizes we are part of the global environment and global social system.

As such, we acknowledge the triple threats of climate change, biodiversity loss, and waste and pollution as identified by the United Nations. We are committed to our role in the actions to reduce the impacts of climate change; conserve and restore our biodiversity, and reduce waste and pollution.”

These triple threats could also be acknowledged in the principles.

## 2.4 ENR RESPONSE

The United Nations Environment Assembly 5.2: Nature at the Heart of Sustainable Development: A Contribution to the High-Level Segment of the Resumed Session of the 5th UN Environment Assembly is just one of many informative documents prepared for the United Nations Environment Assembly, February 28 -March 2, 2022. The GNWT will review these resources, along with material prepared for the United Nations Framework Convention on Climate Change Conference of the Parties (COP), as part of this government's commitment to strengthen its leadership and authority on climate change. These materials can be used to inform GNWT decision-making that may have significant impacts on the environment. However, the GNWT prefers to not specifically cite particular references in the SEV to ensure the Statement does not become dated once newer reference materials become available.

## 2.5 WHAT WE HEARD

The issue of cumulative effects is not noted in the SEV. Given that projects can sometimes be evaluated piece-meal, and it is the interaction of various developments that can impact sustainability, this omission should be addressed. We recommend that Principle 3 be enhanced by adding:

“Environmental decisions shall be made according to the ecosystem approach, which includes assessment of cumulative effects of decisions upon ecosystems.” Alternatively, a separate principle could be added, such as: “The cumulative effects on the environment; the interdependence of air, land,



water and living organisms; and the relationships among the environment, the economy and society will be considered (cumulative effects principle).”

## 2.5 ENR RESPONSE

The GNWT recognizes the significance of cumulative effects, especially as we are experiencing a period of dynamic change. For this reason, ENR has highlighted cumulative effects as an overarching consideration in its 2022-2026 Strategic Plan.

The GNWT will address the importance of recognizing cumulative effects by amending provision 5(6) of the SEV as follows:

Departments and agencies shall integrate the principles of this Statement and consider environmental impacts, including the changing NWT climate, risks to biodiversity and cumulative effects, with other considerations, such as social, political, legal, economic and knowledge considerations, when making decisions that might significantly affect the environment.

## 3. Scope

### 3.1 WHAT WE HEARD

The SEV should state at the outset the “This SEV shall be applied consistently with the Purposes in Section 2.2 of the *Environmental Rights Act*”.

### 3.1 ENR RESPONSE

The GNWT will amend paragraph 1 of part 3 of the Statement of Environmental Values, Scope as follows:

“The Statement of Environmental Values will be applied consistently with section 2 of the *Environmental Rights Act*. If there is a conflict or inconsistency between a provision of this Statement of Environmental Values and a provision of the *Environmental Rights Act*, the provision of the Act prevails to the extent of the conflict or inconsistency.”

### 3.2 WHAT WE HEARD

Renumber “Scope” to be section 3 and amend to read as follows:

“This Statement applies to all actions, decisions, recommendations and submissions to Boards (such as the Mackenzie Valley Boards) and decision-making instruments made or used by the GNWT, its departments and the above-mentioned agencies that may have significant impact on the environment.”

### 3.2 ENR RESPONSE

The SEV is just one of many tools that the GNWT uses to protect the environment. There are several regulatory processes through Boards such as the Land and Water Boards and the Mackenzie Valley Environmental Impact Review Board that will provide environmental oversight. The SEV is intended to

fill a gap. It applies to decisions made by GNWT departments and applicable agencies set out in the ERA that might have a significant impact on the environment.

## 4. Authority and Accountability

### 4.1 WHAT WE HEARD

Section 3(1) should adopt wording similar to that in s. 2.01 of the NWT *Environmental Protection Act*:

“(1) This Statement is issued under the Authority of the Executive Council. The authority to make exceptions and approve revisions to this Statement rests with the Executive Council in accordance with the Environmental Rights Act.

(2) If the Commissioner in Executive Council intends to exempt any person or class of persons, equipment or contaminant from all or any provision of this SEV, the Commissioner in Executive Council shall

- (a) make notice of the proposed exemption publicly available;
- (b) provide the public with a reasonable opportunity to make representations with respect to the proposed exemption, and make these representations public;
- (c) provide the public with written reasons for its decision; and
- (d) allow for appeals of that decision.

(3) Where Cabinet is of the view that actions, decisions, recommendations and submissions to Boards (such as the Mackenzie Valley Boards) and decision-making instruments made or used by the GNWT may have significant impact on the environment but does not apply or use the SEV, it shall provide written reasons and provide notice of these to the public as soon as reasonably possible.

(4) Notwithstanding subsections (1) and (2), if an emergency threatens public safety, life, property or the environment, or if the Commissioner of the Executive Council is of the opinion that an emergency situation requires an immediate response:

- (a) the Commissioner in Executive Council may exempt any person or class of persons, equipment or contaminant from all or any provision of this Statement to the extent and for as long as necessary to cope with the emergency, without providing either notice of the proposed exemption or an opportunity to make representations with respect to it.
- (b) The Executive Council shall send a written report to the Legislative Assembly describing the duration, nature and extent of the activities, and what restorative measures are planned, within a reasonable time.

#### 4.1 ENR RESPONSE

The SEV follows the standard structure of GNWT policy framework documents. 4(1) of the SEV sets out that the Statement is issued under the Authority of the Executive Council. The authority to set out exemptions of persons or classes of persons must be set out in the foundational legislation giving authority to the SEV, in this case the ERA, which does not allow for exemptions. Therefore it would be beyond the scope of authorities under the SEV to have the Executive Council exempt persons or classes of persons from the SEV.

Where GNWT departments and applicable agencies are making decisions that might have a significant impact on the environment, the ERA and SEV set out that integration of environmental considerations and the provisions of the SEV must be considered. Therefore, the SEV must always be reasonably applied, and there is no need, nor legislative basis, to require the addition of provisions such as subsections 2.01(3) and (4) of the *Environmental Protection Act*.

#### 4.2 WHAT WE HEARD

Mandate letters issued by the Premier to Cabinet Ministers in the GNWT should include an obligation for office holders to integrate the SEV in all actions, decisions, recommendations and submissions to Boards (such as the Mackenzie Valley Boards) and decision-making instruments.

#### 4.2 ENR RESPONSE

The SEV applies to all decisions that may have a significant impact on the environment, made by GNWT departments and applicable agencies.

Under Authority and Accountability, Ministers are accountable to the Premier for the implementation of this Statement.

Committing to add reference to the SEV in Mandate letters fetters the discretion of future Premiers to set the structure and content of Mandate letters.

#### 4.3 WHAT WE HEARD

Amend s. 3(2)(a) as follows:

“(i) The Executive Council is accountable for the application of this Statement, including the principles and provisions within, to all actions, decisions, recommendations and submissions to Boards (such as the Mackenzie Valley Boards) and decision-making instruments that might significantly affect the environment.

(ii) The Executive Council may, in accordance with the Environmental Rights Act, amend this Statement from time to time. If the Executive Council proposes amendments to the Statement, it shall comply with the process set out in s. 17 (2), (3) and (4) of the Environmental Rights Act.

(iii) The Executive Council shall review the SEV within 5 years of its start date, and every 5 years after that, and may suggest amendments to the SEV at that time. If the Executive Council proposes amendments to the Statement, it shall comply with the process set out in s. 17 (2), (3) and (4) of the Environmental Rights Act.

#### 4.3 ENR RESPONSE

The ERA sets out that Ministers and Deputy Heads shall take every reasonable step to consider the SEV when making decisions that might significantly affect the environment. The ERA does not address actions, recommendations or submissions to Boards. This is considered outside the scope, therefore, of the application of the SEV in accordance with the ERA.

The ERA does include provisions for Executive Council to amend the SEV, from time to time, and further requires that when doing so, subsections 17(1) to (4) of the ERA apply. The GNWT will amend the SEV to include reference to these provisions.

#### 4.4 WHAT WE HEARD

Amend section 3: Wherever it currently says, “take reasonable measures”, change this to “shall take every reasonable step” (s. 3(2)(b), (c), (d)(i) & (ii), (e)(iii) & (iv)).

#### 4.4 ENR RESPONSE

Provisions 3(2)(b), (c), (d), and (e) of the SEV will be amended to indicate Ministers, Boards, and Deputy Heads shall take "every reasonable step", rather than reasonable measures, to carry out the duties set out in those respective provisions.

#### 4.5 WHAT WE HEARD

The draft SEV does not go far enough to articulate the ideals of the Act and its integration into authorities’ decisions. For instance, there are few details on accountability regarding the application of the SEV. One form of increasing accountability would be to include the implementation of the SEV into mandate letters for Ministers and Deputy Ministers. For example, we recommend 3.1 (b) to be worded as:

“Ministers are accountable to the Premier for the implementation of this Statement. Their role will be detailed in the Premier’s mandate letter to each Minister.” and 3.1 (d) as:

“Deputy Heads of GNWT departments are accountable to their respective Minister and the Premier for the implementation of this Statement. The letter of appointment for each Deputy Head would detail their particular role in implementing the Statement. Realistic and achievable mission statements in each departmental strategic plan, business plan, and annual budget is required. Similar to how the GNWT has a guide to implementing their climate change plan, we recommend the SEV include:

“The Minister of Environment and Natural Resources will draft a ‘Guide to Integrating the Statement of Environmental Values into Government of the Northwest Territories Decisions and Actions’, to be considered by the public in the same means as the requirements for the SEV.”

#### 4.5 ENR RESPONSE

The SEV applies to all decisions that may have a significant impact on the environment, made by GNWT departments and applicable agencies. It is the responsibility of Ministers and Deputy Heads to take every reasonable step to adhere to the principles and provisions set out in the SEV when making decisions that might significantly affect the environment.

Under Authority and Accountability, Ministers are accountable to the Premier for the implementation of this Statement.

Committing to add reference to the SEV in Mandate letters of Ministers and Deputy Head letters of appointment fetters the discretion of future Premiers to set the structure and content of these letters.

The GNWT recognizes that it has already created the Guide to Integrating Climate Change Considerations into GNWT Decision-Making Instruments, and does not have plans to develop a Guide specific to the SEV at this time.

## 5. Provisions - General

### 5.1 WHAT WE HEARD

Change to S. 4(1) General , first paragraph to stay: “The GNWT and the residents of the NWT have a shared responsibility and goal to ensure the wise use and management of the environment on behalf of present and future generations of all species in the North.

Change s. 4(1) General, second paragraph to read “The GNWT shall enact public policy that reflects a desire for environmental protection at the territorial, regional and local levels, and the promotion of related internationally recognized best practices.”

### 5.1 ENR RESPONSE

Amendment of the SEV to include reference to all species in the North is inconsistent with language from the ERA, specifically paragraph 17(1.1)(d), which sets out the concept of intergenerational equity, referencing future generations, but not so specifically as to cite "of all species".

The GNWT will amend provision 4(1) paragraph 2 of the SEV to state that the GNWT shall make best efforts to enact public policy that reflects a desire for environmental protection at the territorial, regional and local levels, and the promotion of related internationally recognized best practices.

## 6. Provisions - Recognizing Indigenous Knowledge and the Rights of Indigenous Peoples

### 6.1 WHAT WE HEARD

Provision 4 states that “the GNWT will provide opportunities for the involvement of Indigenous peoples, whose interests may be affected, in applicable GNWT decision-making to ensure Indigenous interests are appropriately considered.” An opportunity for involvement alone does not constitute meaningful consultation with Indigenous Nations or adequate discharge of the Crown’s Duty to Consult for decisions that impacts our rights and interests. The language in this provision must be strengthened to capture the GNWT’s commitment to obtaining Free, Prior, and Informed consent from potentially impacted Indigenous Nations for all decisions related to resource development or environmental management.

### 6.1 ENR RESPONSE

Paragraph 1 of provision 4(4) of the SEV will be amended as follows:

“The GNWT recognizes that respect for Indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment. Decisions and actions that might have a significant impact on the environment should use the best available information, including Indigenous traditional knowledge and values, local and community knowledge, and scientific knowledge. These sources of knowledge and ways of understanding should be continually sought, compiled and used in GNWT decision-making.”

Paragraph 2 of provision 4(4) of the SEV will be amended as follows:

"... the GNWT will provide opportunities for the meaningful involvement of Indigenous peoples, whose interests may be affected, in applicable GNWT decision-making to ensure Indigenous interests are appropriately considered. This includes carrying out targeted Indigenous government and Indigenous organization engagement and fulfilling the duty of the Crown to consult when applicable."

### 6.2 WHAT WE HEARD

Section 4 (4) of the SEV is “Recognizing Indigenous Knowledge and the Rights of Indigenous Peoples”. This is absolutely important, and stated in Principle 7 regarding UNDRIP. However, this point also states we “should use the best information available”. This does not go far enough. We have huge data gaps in the NWT. Part of our NWTALA values is “to exert every effort...toward understanding the interaction of human economic and social systems with the environment.” We need much more than ‘best available information’, but strive for increasing our knowledge and understanding.

We recommend that issues related to Indigenous rights and knowledge be placed with Principle 7. Then point four should be “Improve our understanding of the environment”. Under this, a statement such as:

“The GNWT and the public require good information to make good decisions. Our understanding of our environment, our connections with the global environment, the interaction of the human economic and social systems with the environment, needs continually to be improved. Various ways of understanding,

including Indigenous traditional knowledge and values, local and community knowledge, and scientific knowledge need to be continually sought, compiled and used in our decision making.”

## 6.2 ENR RESPONSE

Paragraph 1 of provision 4(4) of the SEV will be amended as follows:

“The GNWT recognizes that respect for Indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment. Decisions and actions that might have a significant impact on the environment should use the best available information, including Indigenous traditional knowledge and values, local and community knowledge, and scientific knowledge. These sources of knowledge and ways of understanding should be continually sought, compiled and used in GNWT decision-making.”

## 6.3 WHAT WE HEARD

Acho Dene Koe First Nation would also like to voice our support for the GNWT’s commitment to using “the best available information, including Indigenous traditional knowledge and values, local and community knowledge, and scientific knowledge.”

## 6.3 ENR RESPONSE

The GNWT would like to thank Acho Dene Koe First Nation for this support.

# 7. Provisions - Public Engagement and Open Government

## 7.1 WHAT WE HEARD

After the second paragraph in s 4(5), add: “Meaningful involvement and appropriate consideration of interests means:

- (i) people have an opportunity to participate in decisions about activities that may affect their environment and/or health;
- (ii) the public’s contributions can influence the decision;
- (iii) community concerns will be considered in the decision-making process; and
- (iv) decision makers will seek out and facilitate the involvement of those potentially affected by or genuinely interested in by a proposed action or decision.

Change the last paragraph of s. 4(5) to read “Whereas the GNWT and Northwest Territories residents have a shared responsibility and goal to ensure the wise management of the environment, including all species and ecosystems, on behalf of present and future generations, the GNWT will provide...”

### 7.1 ENR RESPONSE

The intent and concepts set out in the suggested edit are addressed in 5(5) paragraph 2, with the exception of a specific acknowledgement of targeted stakeholder engagement. The GNWT will amend 5(5) paragraph 2 of the SEV as follows:

When making decisions that might significantly affect the environment, the GNWT will provide opportunities for meaningful public engagement in GNWT decision-making to ensure residents' interests are appropriately considered. This includes carrying out targeted stakeholder and partner engagement.

### 7.2 WHAT WE HEARD

We appreciate the inclusion of the need for information to be shared with the public, and for the GNWT to actively seek the input of the public in decision-making. As such, Section 4 (5) could be strengthened by including progress on implementing the SEV. An annual report or similar could be included in this section. Including public education about the ERA and SEV would also be worthwhile. Furthermore, when the GNWT publishes strategic plans and frameworks, how the SEV is addressed should be explicitly stated to the public. This would then be a standard part of reporting to the public. Thus 'Public Engagement and Open Government' could include: "Whenever the GNWT publishes a strategic plan or framework, it will include how the SEV has been integrated."

### 7.2 ENR RESPONSE

The SEV will set out specific responsibilities of the Deputy Minister of ENR to coordinate the administration and implementation of the SEV, monitor advancements in best practices, and periodically review the SEV.

The GNWT does not have the capacity to coordinate and carry out annual reporting at this time or create and support administrative processes to ensure every GNWT strategic plan or framework explicitly includes reference to how the SEV is addressed by the document. It remains the responsibility of Ministers and Deputy Heads to take every reasonable step to adhere to the principles and provisions set out in the SEV when making decisions that might significantly affect the environment.

### 7.3 WHAT WE HEARD

Add a new Section to s 4 after "Public Engagement and Open Government: "PUBLIC EDUCATION: The Minister of Environment and Natural Resources shall undertake a public awareness campaign of the Environmental Rights Act and this Statement, including plain language materials on how the public can avail themselves of the various protections and provisions of the Act."

### 7.3 ENR RESPONSE

A public awareness campaign has been initiated to inform residents of their rights under the ERA. This includes plain language materials to support the campaign, audience-specific communications planning tactics, and key messages.



## 8. Prerogative of the Executive Council

### 8.1 WHAT WE HEARD

Delete section 5.

### 8.1 ENR RESPONSE

This language is standard across GNWT policies and is there to ensure nothing fetters Executive Council in carrying out its legislated roles and responsibilities.

## 9. Additions to the SEV

### 9.1 WHAT WE HEARD

Create an Environmental registry for the NWT.

### 9.1 ENR RESPONSE

Environmental information is currently available on several platforms including land and water board websites and the ENR website.. Existing registries and the GNWT Open Government Policy address concerns regarding transparency and sharing of information on environment related items.

There is currently no provision in the ERA that would provide the legal authority to create an Environmental Registry for the Northwest Territories. This is also outside the scope of the authorities or intended applicability of the SEV.

### 9.2 WHAT WE HEARD

Establish an Environmental Commissioner of the NWT.

### 9.2 ENR RESPONSE

There is currently no provision in the ERA that would provide the legal authority to create an Environmental Commissioner for the Northwest Territories. This is also outside the scope of the authorities or intended applicability of the SEV.

### 9.3 WHAT WE HEARD

After the Principles, add a new section 3 called “Tools for Applying the SEV”. Below that, add the following: “The GNWT shall work to protect, restore and enhance the natural environment by:

- developing policies, legislation, regulations and standards to protect the environment and human health;

- using science and research to support policy development, environmental solutions and reporting;
- ensuring that planning, which aims to identify and evaluate environmental benefits and risks, takes place at the earliest stages in the decision-making process;
- adopting an ecosystem approach to environmental protection and resource management; this approach views the ecosystem as composed of air, land, water and living organisms, including humans, and the interactions among them;
- considering the cumulative effects on the environment; the interdependence of air, land, water and living organisms; and the relationships among the environment, the economy and society;
- prioritizing preventing pollution and minimizing the creation of pollutants that can adversely affect the environment;
- supporting and promoting a range of tools that encourage environmental protection and sustainability (e.g. stewardship, outreach, education);
- undertaking compliance and enforcement actions to ensure consistency with the Act, the SEV and environmental laws;
- undertaking environmental monitoring and reporting to track progress over time and inform the public on environmental quality.

In addition, the GNWT shall use a range of innovative programs and initiatives, including strong partnerships, public engagement, strategic knowledge management, and economic incentives and disincentives to carry out its responsibilities under the Environmental Rights Act, and through integrating the SEV into its work.

### 9.3 ENR RESPONSE

The SEV provides that it is the responsibility of each Minister to take reasonable steps to ensure departments adhere to the principles and provisions of the SEV when making decisions that might significantly affect the environment.

A section on "Tools for Applying the SEV" would not follow standard structure for GNWT policies and statements of policy. Several of the suggestions identify work already being carried out by ENR, or already covered by part 6 of the SEV or by requirements set out in the ERA. The GNWT has determined that other suggested additions have no legislated basis under the ERA and are therefore not appropriate to add to the SEV.

### 9.4 WHAT WE HEARD

Add the following as a new section 4: "MONITORING AND REPORTING ON THE USE OF THE SEV

The GNWT, its Ministers, Boards and Deputy Heads shall document and make public how the SEV was considered each time a decision on an Act, regulation or policy is made or any other decision, action, recommendation or decision-making instrument is made that may have significant impact on the environment. Ministers, Boards and Deputy Heads will ensure that staff involved in decisions that might significantly affect the environment are aware of and comply with Environmental Rights Act and SEV obligations. Ministers, Boards and Deputy Heads shall review and report, both internally and to the Executive Council, on their progress in implementing the SEV.

The Executive Council shall draft a “Guide to Integrating the Statement of Environmental Values into Government of the Northwest Territories Actions, Decisions, Recommendations and Submissions to Boards (such as the Mackenzie Valley Boards) and Decision-making Instruments.”

The Executive Council shall submit an Annual Report on the Integration of the SEV into GNWT Actions, Decisions, and Submissions to Boards (such as the Mackenzie Valley Boards) and decision-making instruments to the Legislative Assembly as soon as possible after the end of each year.”

#### 9.4 ENR RESPONSE

It is the responsibility of each Minister to take every reasonable step to ensure that the overarching SEV is considered whenever decisions are made that might significantly impact the environment. Ministers are accountable for this responsibility.

While the GNWT does not currently have the capacity to track and report on the day to day use of the SEV. The SEV will set out specific responsibilities of the Deputy Minister of ENR to coordinate the administration and implementation of the SEV, monitor advancements in best practices, and periodically review the SEV.

The GNWT recognizes that it has already created the Guide to Integrating Climate Change Considerations into GNWT Decision-Making Instruments, and does not plan to develop a Guide specific to the SEV at this time.

#### 9.5 WHAT WE HEARD

Add a new section after s. 4: GREENING INTERNAL OPERATIONS

The GNWT is committed to reducing its environmental footprint by greening its internal operations, and supporting environmentally sustainable practices for its partners, stakeholders and suppliers. This includes but is not limited to reducing the GNWTs air emissions, energy use, water consumption, and waste generation. Activities include: monitoring and reducing the GNWTs carbon footprint, promoting energy and water conservation in GNWT outreach and educational activities, and supporting government-wide greening and sustainability initiatives.

#### 9.5 ENR RESPONSE

The SEV is meant to be a set of high level principles and values to help guide GNWT decision making and is not meant to commit to specific actions and initiatives. Actions relating to GNWT waste management,

energy use, and greenhouse gas emissions are already being implemented under the GNWT Waste Resources Management Strategy, the Climate Change Strategic Frameworks and the Energy Strategy. The GNWT will continue to consider what other actions it could feasibility undertake to make its operations more sustainable.

## 9.6 WHAT WE HEARD

Add a specific Commitment to Address Climate Change as Section 4 of the SEV, worded as follows:

“The GNWT is committed to tackling climate change, as evidenced by its policies, frameworks, action plans and other approved instruments or measures. The GNWT believes that the public interest requires a broad effort to reduce greenhouse gases and to build a cleaner and more resilient NWT. The GNWT will continue to involve and engage individuals, businesses, communities, municipalities, non-governmental organizations and Indigenous governments and communities in the ultimate goal of fostering a high-productivity, resilient, low-carbon economy and society in the NWT.”

## 9.6 ENR RESPONSE

The ERA provides an overarching commitment of a healthy environment to NWT citizens. The GNWT is committed to mitigating and adapting to climate change, as evidenced by the ongoing implementation of the Climate Change Strategic Framework. The GNWT has also moved forward with adding climate change considerations to GNWT decision making instruments as part of a Mandate priority of the 19th Legislative Assembly. Specific climate change considerations related to decision making and priority setting are being addressed through these tools. Specific mention of climate change considerations in the SEV is therefore not necessary and would create duplication in GNWT decision making processes.

# 10. General Comments

## 10.1 WHAT WE HEARD

Amend the Statement wherever it says: “adheres to the principles and provisions of this Statement” to “integrates the principles and provisions of this Statement”.

## 10.1 ENR RESPONSE

Not all government priorities or decision making will necessitate or result in the integration of all SEV provisions but all may allow for reasonable steps to be taken to ensure departments adhere to the principles and provisions set out in the SEV. For example, integration of environmental considerations may not be applicable to a decision addressing health or education program or service delivery.

## 10.2 WHAT WE HEARD

Amend the Statement wherever it says, “will integrate environmental considerations into...” to “will integrate the Statement of Environmental Values into...”.

## 10.2 ENR RESPONSE

The ERA states that the purpose of the SEV is to explain how environmental considerations will be integrated into decisions that might have a significant impact on the environment. The GNWT would therefore prefer to continue to reference "environmental considerations" in the body of the SEV.

## 10.3 WHAT WE HEARD

The Act states that the "right to a healthy environment, will be integrated into decisions"; wording such as 'should' is used in various places in the SEV. "Will be" should be used throughout; i.e., the SEV wording should be at least as strong as the Act.

## 10.3 ENR RESPONSE

The GNWT will amend language throughout the SEV to ensure consistency with the ERA..

## 10.4 WHAT WE HEARD

I strongly support the proposed "Statement of Environmental Values" policy. As a long-time member of the Canadian Evaluation Society (CES), holding the Credentialed Evaluator designation, I was part of a volunteer Sustainability Working Group established by the CES in 2018. Clearly, at a time when the world is faced with numerous environmental crises, it is essential that decision-making consider the potential and actual environmental impacts of planned and existing initiatives. The working group undertook a stocktaking exercise to identify the current practices around evaluating the impacts of programs on natural systems in Canada, which concluded that environmental sustainability is considered to a very limited extent in Canadian evaluation studies. A similar stocktaking conducted by the UN Evaluation Group in 2020 found that environmental considerations are less likely than social considerations to be addressed in evaluations internationally. Both assessments included recommendations for the evaluation profession to take action to ensure that consideration of environmental impacts becomes common evaluation practice. (The CES report can be found here: <https://evaluationcanada.ca/news/26761>).

The CES Stocktaking Report notes that, "Incorporating sustainability into evaluation recognises that all human activity draws from and affects the natural system and involves consideration of the roles of both human and natural systems... As a result, including sustainability is not a requirement limited to evaluations of programs and activities focusing primarily on the natural system (e.g. environment or natural resources). It is a consideration for all evaluations, as practically all programs and activities involving the human system necessarily have an impact on the natural system that is currently too often ignored."

The draft "Statement of Environmental Values" if approved, would set a ground-breaking precedent with its commitment to include environmental considerations into program evaluation where appropriate. This would establish GNWT as a leader not only with respect to sustainable development, but also within the field of evaluation.

#### 10.4 ENR RESPONSE

The GNWT would like to thank the member of the public for their support.

#### 10.5 WHAT WE HEARD

As a society where environmental issues are at the forefront of current topics requiring our attention, one issue that is not clear in the proposal is transparency. Whatever environmental values approved are meaningless if backroom deals, special deals, exemptions, or excuses are allowed without the public knowing. A trade-off of lets say a new mine worth maybe 100B over its 20 year life may overlook some of the environmental issues in exchange for the GDP growth. Those things have to be public and cannot be determined solely by a Deputy Minister, Minister, Legislative Committee, Ministerial Caucus, or Premier without public knowledge. That public knowledge includes truth, have an up-to-date annual report in simple language that reports to the people all outstanding environmental issues.

Another item is that any reclamation costs in any agreements cannot continue as they have been. Look at what the taxpayers are left with in dealing with the past environmental catastrophes such as Giant, Colomac, and who knows what with the other 200 items on the environmental cleanup lists. Any new or future projects that have environmental impact must be funded 100% for the reclamation and cleanup costs. Something like 50% cash and a security bond for the remainder, with provisions for updating the amounts over say every five years (technology, science, etc. changes so those environmental agreements should be subject to changes). We no longer have to Kowtow to the threats of projects proponents pulling out resources because of stricter rules, everybody will have to play by the same rules, if they don't want to play by the rules then let someone who can prove they will play by the rules take over the projects.

The final issue is that establishing environmental values will be meaningless again without action, follow up, and adequate resources. No use putting in something without public and the possible affected buy-in, and the Government will be making a great mistake if they try to do so. Forcing participation in establishing actions or monitoring follow up without adequate resources will lead to failure. Put your money where your mouth is.

#### 10.5 ENR RESPONSE

The concerns raised identify the need for transparency over regulatory decision making related to mining projects. The importance of transparency and the opportunity for public engagement are recognized and implemented under the current NWT resource management regulatory framework, which incorporates public hearings and calls for submissions as part of the impact assessment process. This impact assessment regulatory process also includes setting appropriate securities for major resource development projects, to ensure NWT residents and communities are not adversely impacted.

The GNWT is committed to implementing Open Government, understanding that public engagement results in sound, evidence-based decision-making that reflects the values of NWT residents. As a priority of this government, the GNWT will continue to ensure adequate resources are in place to support public engagement activities.

## What are the next steps?

The draft SEV was amended as indicated in the responses above and renumbered to be consistent with standard GNWT policy structures.

The final SEV will be tabled during the May/June 2022 session of the 19<sup>th</sup> Legislative Assembly, in accordance with the required timeframe set out in the ERA (150 days since the close of comments). The SEV will be posted on ENR's website.

As part of its ongoing responsibilities to coordinate the administration and implementation of the SEV, ENR will ensure the Statement is shared with all departments and applicable agencies. ENR will also monitor advancements in environmental principles and best practices, and periodically review the SEV, to ensure it remains current and useful as a tool to protect the rights of NWT residents to a healthy environment.

## Contact

If you have any questions or about this report, you can contact:

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