

CHAPTER 18

An Act with respect to land use planning and protection in the Far North*Assented to October 25, 2010*

Note: This Act amends or repeals more than one Act. For the legislative history of these Acts, see the Table of Consolidated Public Statutes – Detailed Legislative History at www.e-Laws.gov.on.ca.

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

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INTERPRETATION AND APPLICATION

Purpose of the Act

1. The purpose of this Act is to provide for community based land use planning in the Far North that,

- (a) sets out a joint planning process between the First Nations and Ontario;
- (b) supports the environmental, social and economic objectives for land use planning for the peoples of Ontario that are set out in section 5; and
- (c) is done in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the *Constitution Act, 1982*, including the duty to consult.

Definitions

2. In this Act,

“band” and “reserve” have the same meaning as in the *Indian Act (Canada)*; (“bande”, “réserve”)

“community based land use plan” means a land use plan that has been prepared under section 9 and approved as required by that section; (“plan communautaire d’aménagement du territoire”)

“council” with respect to a band, has the same meaning as “council of the band” as defined in the *Indian Act (Canada)*; (“conseil”)

“Far North” means,

- (a) the portion of Ontario that lies north of the land consisting of,
 - (i) Woodland Caribou Provincial Park,
 - (ii) the following management units designated under section 7 of the *Crown Forest Sustainability Act, 1994* as of May 1, 2009: Red Lake Forest, Trout Lake Forest, Lac Seul Forest and Caribou Forest,
 - (iii) Wabakimi Provincial Park, and
 - (iv) the following management units designated under section 7 of the *Crown Forest Sustainability Act, 1994* as of May 1, 2009: Ogoki Forest, Kenogami Forest, Hearst Forest, Gordon Cosens Forest and Cochrane-Moose River, or
- (b) the area, if any, that is set out in the regulations made under this Act and that describes the area described in clause (a) more specifically; (“Grand Nord”)

“Far North land use strategy” means the strategy for land use planning in the Far North that is prepared under section 8; (“stratégie d’aménagement du Grand Nord”)

“Far North policy statement” means a policy statement issued by the Minister under subsection 7 (7); (“déclaration de principes sur le Grand Nord”)

“First Nation” means a band having one or more reserves set apart for it in the area of Treaty No. 5 or The James Bay Treaty - Treaty No. 9 which latter treaty was made in 1905 and 1906 with adhesions made in 1929 and 1930; (“Première nation”)

“Minister” means the Minister of Natural Resources or any other member of the Executive

Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“planning area” means an area of public land in the Far North that is designated in an order made under subsection 9 (4); (“zone d’aménagement”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“protected area” means an area of land that is designated as such by a land use plan under clause 9 (9) (c) if the plan is approved as a community based land use plan; (“zone protégée”)

“public land” has the same meaning as in the *Public Lands Act*. (“terres publiques”)

Non-application of Act

3. This Act does not apply to,

- (a) any part of a reserve;
- (b) land vested in the Crown in right of Canada;
- (c) any part of a municipality; or
- (d) land that is not public land.

Orders under Act

4. (1) An order of the Minister or the Lieutenant Governor in Council made under this Act is not a regulation within the meaning of Part III of the *Legislation Act, 2006*.

No hearing required

(2) The Minister or the Lieutenant Governor in Council is not required to hold or afford to a person an opportunity for a hearing before making an order under this Act.

Publication

(3) The Minister shall post on the Government of Ontario site on the Internet a copy of the orders that the Minister and the Lieutenant Governor in Council make under this Act.

LAND USE PLANNING

Objectives for land use planning

5. The following are objectives for land use planning in the Far North:

1. A significant role for First Nations in the planning.
2. The protection of areas of cultural value in the Far North and the protection of ecological systems in the Far North by including at least 225,000 square kilometres of the Far North in an interconnected network of protected areas designated in community based land use plans.
3. The maintenance of biological diversity, ecological processes and ecological functions, including the storage and sequestration of carbon in the Far North.
4. Enabling sustainable economic development that benefits the First Nations.

Contribution of First Nations

6. First Nations may contribute their traditional knowledge and perspectives on protection and conservation for the purposes of land use planning under this Act.

Joint body

7. (1) Any First Nation having one or more reserves in the Far North and any First

Nation with whom the Minister has agreed to work to prepare terms of reference under subsection 9 (2) may indicate an interest to the Minister to initiate discussions with respect to establishing a joint body to,

- (a) advise on the development, implementation and co-ordination of land use planning in the Far North in accordance with this Act; and
- (b) perform the other advisory functions to which the Minister and the First Nations that participate in the discussions agree.

Discussions

(2) If one or more First Nations indicate their interest under subsection (1) within six months after this section comes into force, the Minister shall participate in the discussions with them.

Content of discussions

(3) The discussions shall focus on factors relevant to establishing the joint body, including,

- (a) the criteria that members of the body must meet to be eligible to be appointed to the body;
- (b) the functions of the body;
- (c) the procedures that the body is required to follow in carrying out its functions, including the frequency of its meetings and the selection of a chair or two or more co-chairs for it; and
- (d) any other matters that the Minister and the First Nations that participate in the discussions agree to with respect to establishing the body.

Functions of the body

(4) The functions of the joint body may include,

- (a) recommending to the Minister matters to include in the Far North land use strategy, including statements to be issued as Far North policy statements; and
- (b) advising the Minister on matters related to the development, implementation and co-ordination of land use planning in the Far North in accordance with this Act, including,
 - (i) the allocation of funding to support First Nations working with Ontario on that land use planning, and
 - (ii) appropriate dispute resolution processes for land use planning matters under this Act.

Establishment of body

(5) If the First Nations that participate in the discussions and the Minister agree to establish the joint body, the Minister shall,

- (a) take into account the discussions and establish the joint body in accordance with subsection (6); and
- (b) ensure that the instrument establishing the body sets out the functions of the body consistent with subsection (4).

Composition

(6) The joint body shall be composed of the following in equal numbers:

1. Persons, each of whom is a member of a First Nation.
2. Persons, each of whom is an official of the Government of Ontario.

Far North policy statements

(7) If the joint body recommends a statement to the Minister under clause (4) (a), the Minister shall submit the statement to the Lieutenant Governor in Council and, with the approval of the Lieutenant Governor in Council, issue the statement as a Far North policy statement if the Minister is of the opinion that the statement takes into account the objectives set out in section 5 and if the statement relates to any of the following matters:

1. Cultural and heritage values.
2. Ecological systems, processes and functions, including considerations for cumulative effects and for climate change adaptation and mitigation.
3. The interconnectedness of protected areas.
4. Biological diversity.
5. Areas of natural resource value for potential economic development.
6. Electricity transmission, roads and other infrastructure.
7. Tourism.
8. Other matters that are relevant to land use planning under this Act if the Minister and the joint body agree to the matters.

Non-application of *Environmental Assessment Act*

(8) For greater certainty, the Far North policy statements are not undertakings as defined in the *Environmental Assessment Act*.

Posting on the Internet

(9) Upon issuing a Far North land use policy statement, the Minister shall post it on the Government of Ontario site on the Internet.

Amendment

(10) At least every 10 years after issuing a Far North policy statement, the Minister shall request the joint body to advise the Minister whether it is necessary to amend it.

Process for amendment

(11) The joint body may recommend to the Minister amending a Far North policy statement and subsections (7), (8) and (9) apply to the amendment with necessary modifications.

Far North land use strategy

8. (1) The Minister shall ensure that a strategy is prepared to assist in the preparation of land use plans in the Far North under section 9 and to guide the integration of matters that are beyond the geographic scope of the planning area of each of those land use plans.

Objectives to consider

(2) The Minister shall ensure that the objectives set out in section 5 and the advice, if any, provided by the joint body under subsection 7 (4) on matters related to the strategy are taken into account in the preparation of the strategy.

Contents of strategy

(3) The Far North land use strategy shall contain all Far North policy statements issued from time to time and may contain,

- (a) policies relating to,
- (i) requirements and restrictions that apply to amending community based land use plans and the process for making the amendments,
 - (ii) categories of land use designations that describe the developments, land uses and activities that are permitted or are not permitted in a category of land use designation, and
 - (iii) categories of protected areas that describe the developments, land uses and activities that are permitted or are not permitted in a category of protected area, subject to the restrictions set out in subsection 14 (2); and
- (b) any other matters that the Minister considers are advisable and relevant to the strategy.

Non-application of *Environmental Assessment Act*

(4) For greater certainty, the Far North land use strategy is not an undertaking as defined in the *Environmental Assessment Act*.

Posting on the Internet

(5) The Minister shall ensure that a current copy of the Far North land use strategy is posted on the Government of Ontario site on the Internet.

Community based land use plan

9. (1) If one or more First Nations having one or more reserves in the Far North indicate to the Minister their interest in initiating the planning process, the Minister shall work with them to prepare terms of reference to guide the designation of an area in the Far North as a planning area and the preparation of a land use plan for the purposes of this section.

Same, other First Nations

(2) The Minister and one or more First Nations not having a reserve in the Far North that indicate to the Minister their interest in initiating the planning process may agree to work with each other to prepare the terms of reference.

Joint planning team

(3) The First Nations that work with the Minister under subsection (1) or (2) and the Minister shall,

- (a) create a joint planning team that the parties shall use when preparing the terms of reference, the land use plan mentioned in subsection (6) and any amendments to the terms of reference, the planning area or the plan;
- (b) include a description of the joint planning team in the terms of reference; and
- (c) take into account the objectives set out in section 5 when preparing the terms of reference.

Order

- (4) The Minister may make an order designating a planning area if,
- (a) the Minister has approved the terms of reference;
 - (b) the council of each of the First Nations that works with the Minister under subsection (1) or (2) has passed a resolution approving the terms of reference; and

(c) in designating the area, the Minister follows the terms of reference.

Posting on the Internet

(5) Upon approving the terms of reference, the Minister shall post a copy of them on the Government of Ontario site on the Internet.

Preparation of plan

(6) The First Nations that work with the Minister under subsection (1) or (2) may work with the Minister to prepare a land use plan for the planning area.

Factors to consider

(7) In preparing a land use plan under subsection (6), the First Nations that prepare the plan and the Minister shall take into account the objectives set out in section 5 and the Far North land use strategy, if any, as it exists at the time the plan is prepared.

Process for preparing plan

(8) In preparing a land use plan under subsection (6), the First Nations that prepare the plan and the Minister shall,

- (a) jointly prepare a draft plan that follows the terms of reference as they apply to guide the preparation of the plan;
- (b) provide to the public notice of the draft plan that indicates where members of the public may access a copy of the draft plan;
- (c) ensure there is an opportunity for the public to provide written comments on the draft plan within the time period that the Minister specifies; and
- (d) take other steps that they jointly consider necessary to prepare the plan.

Mandatory contents of plan

(9) A land use plan prepared under subsection (6) shall,

- (a) specify the prescribed category of land use designation to which areas in the planning area belong, if categories of land use designations have been prescribed;
- (b) specify land use designations in the planning area and the development, land uses and activities that are permitted or are not permitted in the area to which each such designation applies, if no categories of land use designations have been prescribed;
- (c) designate one or more areas in the planning area as protected areas;
- (d) specify to which category of protected area each protected area belongs, if categories of protected areas are prescribed;
- (e) describe how the plan has addressed the significant cultural and ecological features, land uses and land use designations for areas adjacent to the planning area that the joint planning team has identified;
- (f) specify when the parties that prepared the plan are required to review it, which shall not be more frequently than once every 10 years after the plan is approved as a community based land use plan; and
- (g) contain the other matters, if any, that are prescribed.

Additional contents of plan

(10) A land use plan prepared under subsection (6) may contain other matters related to land use planning in addition to the matters required by subsection (9).

Amended planning area

(11) At any time before a land use plan mentioned in subsection (6) is approved as a community based land use plan for a planning area, the Minister may make an order amending the boundaries of the area, including if,

- (a) the First Nations that work with the Minister under subsection (1) or (2) on preparing the original terms of reference work with the Minister to prepare terms of reference to guide the making of the amendment;
- (b) the Minister has approved the terms of reference to guide the making of the amendment;
- (c) the council of each of the First Nations that work with the Minister under subsection (1) or (2) on preparing the original terms of reference has passed a resolution approving the terms of reference to guide the making of the amendment; and
- (d) in making the order, the Minister follows the terms of reference to guide the making of the amendment.

Amended terms of reference

(12) At any time before a land use plan mentioned in subsection (6) is approved as a community based land use plan, the First Nations that worked with the Minister under subsection (1) or (2) on preparing the terms of reference may work with the Minister to amend the terms of reference as they apply to guide the preparation of the plan.

Approval of amended terms of reference

(13) The terms of reference as they apply to guide the preparation of the plan are amended to contain the amendment mentioned in subsection (12) if,

- (a) the Minister approves the terms of reference containing the amendment; and
- (b) the council of each of the First Nations that prepared the original terms of reference with the Minister has passed a resolution approving the terms of reference containing the amendment.

Approval of plan

(14) A land use plan prepared under subsection (6) has no effect until,

- (a) the Minister, by order, approves the parts of the plan that subsection (9) requires be included in the plan; and
- (b) the council of each of the First Nations mentioned in subsection (6) passes a resolution approving the plan.

Minister's approval

(15) The Minister shall not make an order approving a land use plan under clause (14) (a) unless the plan is a land use plan for the planning area as it exists at the time the Minister makes the order.

Factors for Minister to consider

(16) In deciding whether to make an order approving a land use plan under clause (14) (a), the Minister shall take into account the objectives set out in section 5 and the Far North land use strategy, if any, as it exists at the time the Minister decides whether to make the order.

Notice of approval

- (17) When a land use plan is approved under subsection (14), the Minister shall post on the Government of Ontario site on the Internet,
- (a) a notice indicating that the plan has been approved as required by that subsection;
 - (b) a copy of the parts of the plan that the Minister by order has approved under clause (14) (a);
 - (c) a copy of the parts of the plan that are approved under clause (14) (b), other than the parts that subsection (9) requires be included in the plan, if the council of each of the First Nations mentioned in that clause has approved the posting under this clause; and
 - (d) a notice specifying under which one of clauses (b) and (c) the parts of the plan are so posted.

Contents of approved plan

(18) A land use plan approved under subsection (14) consists of the parts of the plan approved under clause (14) (a) and the parts of the plan approved under clause (14) (b) that subsection (9) does not require be included in the plan.

Non-application of *Environmental Assessment Act*

(19) For greater certainty, a community based land use plan is not an undertaking as defined in the *Environmental Assessment Act*.

Grants

(20) The Minister may make grants for the purpose of preparing a land use plan under subsection (6) or implementing or reviewing a community based land use plan and the grants shall be paid out of money appropriated for that purpose by the Legislature.

Transition

(21) The area to which the document entitled “Keeping the Land: A Land Use Strategy for the Whitefeather Forest and Adjacent Areas”, approved on June 26, 2006 and as amended from time to time, applies is deemed to be a planning area; that document is deemed to be a community based land use plan and the Minister shall ensure the document is made available to the public.

Same

- (22) If the Minister approves a land use plan that relates to an area in the Far North after June 26, 2006 and before the day this section comes into force,
- (a) the area to which the plan applies is deemed to be a planning area; and
 - (b) the plan is deemed to be a community based land use plan.

Amendment of plan

10. (1) Any of the First Nations that have approved a community based land use plan or the Minister may, with respect to land use designations in the planning area, the designation of protected areas in the planning area or the specification of permitted land uses in the planning area propose an amendment to the plan in accordance with the prescribed requirements and restrictions.

Process for amendment

(2) Subsections 9 (7), (9), (10) and (14) to (20) apply to a proposed amendment to a community based land use plan, reading references to a land use plan as references to the proposed amendment and references to the First Nations that prepared the plan with the

Minister as references to the First Nations that approved the plan.

Amended planning area

(3) The Minister may make an order amending the boundaries of a planning area after a community based land use plan is approved under section 9 for the area, including if,

- (a) the First Nations that worked with the Minister under that section to prepare the plan work with the Minister to prepare terms of reference to guide the making of the amendment;
- (b) the Minister has approved the terms of reference to guide the making of the amendment;
- (c) the council of each of the First Nations that worked with the Minister under that section to prepare the plan has passed a resolution approving the terms of reference to guide the making of the amendment; and
- (d) in making the order, the Minister follows the terms of reference to guide the making of the amendment.

Process

(4) For greater certainty, nothing in section 9 applies to the making of an order under subsection (3).

Effect on plan

(5) When the Minister makes an order under subsection (3), the community based land use plan,

- (a) ceases to apply to any area that the order removes from the planning area; and
- (b) does not apply to any area that the order adds to the planning area unless the plan is amended under subsection (1) with respect to the added area.

Amended publication

(6) Upon making an order under subsection (3) that removes any area from the planning area, the Minister shall amend the copy of the community based land use plan posted on the Government of Ontario site on the Internet in accordance with subsection 9 (17) to indicate the effect of the order on the plan.

Regulation for boundaries of protected areas

11. (1) After a community based land use plan is approved under section 9 for a planning area, the council of each of the First Nations may jointly request that the Minister make a regulation specifying the boundaries of a protected area in the planning area.

Procedure

(2) For greater certainty, nothing in section 9 applies to the making of a regulation under subsection (1).

Effect of regulation

(3) The boundaries of a protected area that are specified in a regulation made under subsection (1) supersede the boundaries of the area that are specified in the designation of the area made by the community based land use plan that applies to the area.

Amended publication

(4) Upon making a regulation under subsection (1), the Minister shall amend the copy of the community based land use plan posted on the Government of Ontario site on the Internet in accordance with subsection 9 (17) to indicate the effect of the regulation on the

plan.

No amendment by parties

(5) If the Minister makes a regulation under subsection (1) specifying the boundaries of a protected area designated in a community based land use plan, none of the First Nations nor the Minister may propose an amendment to the plan under subsection 10 (1) to specify the boundaries of the area.

Development if no community based land use plan

12. (1) If there is no community based land use plan for an area in the Far North, no person shall undertake any of the following developments in the area except if the required authorization for the development has been obtained before the day this Act comes into force:

1. Opening a mine in the prescribed circumstances.
2. Commercial timber harvest.
3. Oil and gas exploration or production.
4. Constructing or expanding an electrical generation facility that uses wind or water as a source and any other infrastructure that is associated with it.
5. Constructing or expanding electrical transmission and distribution systems and transmission and distribution lines, in accordance with the definitions of “transmission system”, “distribution system”, “transmit” and “distribute” in the *Electricity Act, 1998*, and any other infrastructure that is associated with them, including all weather transportation infrastructure.
6. Constructing or expanding all weather transportation infrastructure and any other infrastructure that is associated with it.
7. Constructing or expanding any other infrastructure that is prescribed.
8. Any other land use or activity that is prescribed.

Exception, Minister’s order

(2) Despite paragraphs 4, 5, 6 and 7 of subsection (1), the Minister may make an order permitting a person to undertake any of the developments described in any of those paragraphs in the area if,

- (a) the Minister has made an order designating the area as a planning area;
- (b) a person has submitted an application to the Minister within five years from the day this section comes into force or within the prescribed time, if a time is prescribed, which may be for a maximum of seven years from the day this section comes into force;
- (c) the First Nations in the area support the development, as evidenced by resolutions passed by each of their councils; and
- (d) one of the following conditions applies:
 - (i) the First Nations in the area and the Minister provide a draft plan to the public in accordance with clause 9 (8) (b) and the development is consistent with the draft plan,
 - (ii) if the development is a development described in paragraph 4 or 5 of subsection (1), the Minister is of the opinion that sufficient information on

ecological values exists for the geographic area of the development.

Application form

(3) The application mentioned in clause (2) (b) shall be in the prescribed form or in any other form that the Minister by order determines is sufficient for the purpose.

Exempting order

(4) A person may undertake a development described in subsection (1) if the Lieutenant Governor in Council, after taking into account the objectives set out in section 5, by order determines that the development is in the social and economic interests of Ontario.

Other permitted development

(5) If there is no community based land use plan for an area in the Far North, no person shall undertake a development that is not described in subsection (1) in the area unless,

- (a) the required authorization for the development has been obtained before the day this Act comes into force;
- (b) the Minister by order indicates that the Minister is of the opinion that the development is incidental or complementary to land use or land use activities that existed in the area in the year before the day this Act comes into force;
- (c) the development consists of activities associated with feasibility studies or similar assessments, including wind testing;
- (d) the development consists of activities associated with environmental clean-up;
- (e) the development consists of prospecting, mining claim staking, mineral exploration or obtaining a mining lease or licence of occupation for mining purposes in accordance with the *Mining Act*; or
- (f) the Minister by order determines that the development contributes directly to meeting community needs of the First Nations and takes into account the objectives set out in section 5.

Same, Minister's order

(6) Despite anything in this section, if there is no community based land use plan for an area in the Far North, a person may undertake a development in the area if the Minister by order determines that the development is predominantly for community use in the area.

Information for Minister's order

(7) If a First Nation provides information to the Minister in relation to whether or not a development contributes directly to meeting community needs of the First Nations or is predominantly for community use in the area, the Minister shall consider the information in making an order described in clause (5) (f) or subsection (6), as the case may be.

Exception for other orders

(8) An order under section 13 designating an area as an area of provisional protection prevails if it conflicts with subsection (2), clause (5) (b), (c) or (f) or subsection (6).

Same

(9) An order withdrawing an area from staking under the *Mining Act* prevails if it conflicts with clause (5) (e).

Area of provisional protection

13. (1) If there is no community based land use plan for an area in the Far North, a

First Nation may request that the Minister make an order designating the area as an area of provisional protection.

Order

(2) At the request of a First Nation under subsection (1) or on his or her own initiative, the Minister may make the order described in that subsection if the Minister is of the opinion that the prescribed criteria have been met.

Effect of order

(3) An order designating an area as an area of provisional protection shall specify the developments, land uses and activities that are not permitted in the area, subject to the restriction that no person shall carry on any of the developments, land uses and activities described in any of paragraphs 2 to 6 of subsection 14 (2) in the area.

Request to withdraw land from mining staking

(4) If the Minister makes an order under subsection (2) with respect to an area, the Minister shall request the Minister of Northern Development, Mines and Forestry to make an order under the *Mining Act* withdrawing the area from staking under that Act.

Non-application of *Environmental Assessment Act*

(5) For greater certainty, the designation of an area as an area of provisional protection is not an undertaking as defined in the *Environmental Assessment Act*.

Termination of order

(6) An order that designates an area as an area of provisional protection ceases to have any effect if a community based land use plan takes effect for the area.

Development if community based land use plan

14. (1) If there is a community based land use plan for a planning area, no person shall make any decision under an Act respecting the allocation, disposition or use of public land and natural resources in the area or carry on any activity in the area that is related to that allocation, disposition or use unless the decision or the activity, as the case may be, is consistent with the land use designations and permitted land uses specified in the plan and the permitted activities prescribed for the purpose of the plan.

Protected areas

(2) No person shall carry on any of the following developments, land uses and activities in a protected area:

1. Prospecting, mining claim staking or mineral exploration.
2. Opening a mine in the prescribed circumstances.
3. Commercial timber harvest.
4. Oil and gas exploration or production.
5. Constructing an electrical generation facility that uses wind or water as a source unless a person issues an authorization for the construction under an Act administered by the Minister because the person is of the opinion that the construction is incidental or complementary to land use or land use activities that are not prohibited under paragraph 1, 2, 3, 4 or 6.
6. Any other development, land use or activity that is prescribed as not being permitted for the category of protected area to which the area belongs.

Exception, mining claims, etc.

(3) If a community based land use plan is made or amended after a mining claim, mining lease, patent or licence of occupation for mining purposes is recorded, issued, or granted in an area to which the plan applies, nothing in subsection (1) or (2), other than paragraph 2 of subsection (2) shall affect,

- (a) the validity of the mining claim, mining lease, patent or licence of occupation for mining purposes; or
- (b) any of the following if the mining claim, mining lease, patent or licence of occupation for mining purposes is in good standing at the time the plan is made or amended:
 - (i) obtaining a lease of the mining claim pursuant to the *Mining Act*,
 - (ii) obtaining a mining lease with respect to any lands subject to the licence of occupation in accordance with the terms of the licence,
 - (iii) pursuant to the *Mining Act*, obtaining the necessary approvals and permits or making the necessary filings for mineral exploration and development activities in relation to the land subject to the mining claim, mining lease, patent or licence of occupation,
 - (iv) pursuant to the *Mining Act*, undertaking mineral exploration and development activities in relation to the land subject to the mining claim, mining lease, patent or licence of occupation.

Exception, order

(4) Subsection (1) or (2) does not apply if the Lieutenant Governor in Council, after taking into account the objectives set out in section 5, by order determines that the allocation, disposition or use of public land and natural resources in the planning area or the development in the planning area, as the case may be, is in the social and economic interests of Ontario.

Restriction on making order

(5) The Lieutenant Governor in Council shall not make an order under subsection (4) unless,

- (a) the Minister has proposed an amendment to a community based land use plan in accordance with subsection 10 (1) to permit the allocation, disposition or use of public land and natural resources or the development, as the case may be;
- (b) six months have passed since the day on which the Minister proposed the amendment; and
- (c) the required parties have not approved the proposed amendment as an amendment to the community based land use plan.

Existing rights

(6) Nothing in subsection (1) or (2) affects the right of a person to acquire, use or occupy any public land or carry on activities on public land under any Act in a planning area for which there is a community based land use plan if the person acquired the right to do so before the day the plan or an amendment to the plan that prohibits the right to do so comes into force and the right is in good standing on that day.

Compliance order

15. (1) The Minister may, by order, require any person to stop any activity that, in the

opinion of the Minister, is in contravention of subsection 14 (1) or (2).

Compliance

(2) No person shall contravene or fail to comply with the Minister's order.

Offence

(3) Every person who contravenes subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 and to an additional fine of not more than \$1,000 for each day during which the offence continues.

GENERAL

Agreements made by Minister

16. The Minister may enter into agreements for the purpose of enabling land use planning in the Far North in accordance with this Act.

Minister's authority unaffected by growth plan

17. Despite any other Act, the Minister's authority to do anything under this Act is not affected or restricted by a growth plan approved under section 7 of the *Places to Grow Act, 2005*, including all amendments to the plan.

Collection of personal information

18. For the purposes of this Act, the Minister may collect personal information within the meaning of section 38 of the *Freedom of Information and Protection of Privacy Act*.

No liability

19. (1) In this section,

“person” includes the Crown and its employees and agents, members of the Executive Council and their employees and agents.

No cause of action

(2) No cause of action arises as a direct or indirect result of,

- (a) the enactment or repeal of any provision of this Act;
- (b) the making or revocation of any provision of the regulations made under this Act;
- (c) the preparation of a community based land use plan or the preparation of an amendment to such a plan;
- (d) anything done or not done in accordance with this Act or the regulations made under it; or
- (e) any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Act or the regulations made under it or any neglect or default in the performance or exercise in good faith of such duty or power.

No remedy

(3) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in contract, restitution, tort or trust, is available to any person in connection with anything mentioned in subsection (2).

Proceedings barred

(4) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, that is directly or indirectly based on or related to anything mentioned in subsection (2) may be brought or maintained against any person.

Same

(5) Subsection (4) applies regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the coming into force of this Act.

Proceedings set aside

(6) Any proceeding mentioned in subsection (4) commenced before the day this Act comes into force shall be deemed to have been dismissed, without costs, on the day this Act comes into force.

No expropriation

(7) Nothing in this Act and nothing done or not done in accordance with this Act constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

Conflict

20. (1) If there is a conflict between a provision of this Act and a provision of the *Places to Grow Act, 2005*, the provision of this Act prevails.

Definition

(2) In this section,

“growth plan” means a growth plan approved under section 7 of the *Places to Grow Act, 2005*, including all amendments to the plan.

Conflict, Far North land use strategy

(3) Despite any other Act, if there is a conflict on matters related to land use between a growth plan and the Far North land use strategy, the strategy prevails.

Same, community based land use plan

(4) Despite any other Act, if there is a conflict on matters related to land use between a growth plan and the matters that subsection 9 (9) requires be included in a community based land use plan, those matters included in the community based land use plan prevail.

Regulations

21. (1) The Lieutenant Governor in Council may make regulations describing the boundaries of the Far North.

Same, Minister

(2) The Minister may make regulations,

- (a) specifying anything that this Act describes as being prescribed;
- (b) specifying requirements and restrictions that apply to amendments that parties who prepared a community based land use plan propose to the plan under subsection 10 (1), including the nature of the amendments that they can propose, the times at which they can propose the amendments and the process governing the making of the amendments;
- (c) specifying categories of land use designations in a planning area and the developments, land uses and activities that are permitted or are not permitted in a category of land use designation;
- (d) specifying categories of protected areas and the developments, land uses and activities that are permitted or are not permitted in a category of protected area;
- (e) specifying boundaries of a protected area in a planning area for the purpose of subsection 11 (1);

- (f) providing for matters to facilitate the implementation of this Act or any provision of it, including providing for transitional matters in relation to,
- (i) the coming into force of a community based land use plan, or
 - (ii) the amendment of a planning area or a community based land use plan.

CONSEQUENTIAL AMENDMENTS

Transition, this Act

22. (1) This section and section 23 apply only if Bill 173 (*An Act to amend the Mining Act*), introduced on April 30, 2009, receives Royal Assent.

Same

(2) References in this section and section 23 to provisions of Bill 173 are references to those provisions as they were numbered in the first reading version of the Bill.

Same, new mines

(3) On the later of the day this section comes into force and the day section 100 of Bill 173 comes into force, paragraph 1 of subsection 12 (1) of this Act is repealed and the following substituted:

1. Opening a new mine as defined in section 204 of the *Mining Act*.

Same

(4) On the later of the day this section comes into force and the day section 100 of Bill 173 comes into force, paragraph 2 of subsection 14 (2) of this Act is repealed and the following substituted:

2. Opening a new mine as defined in section 204 of the *Mining Act*.

Mining Act

23. On the later of the day this section comes into force and the day subsection 1 (2) of Bill 173 comes into force, the definitions of “community based land use plan” and “Far North” in subsection 1 (1) of the *Mining Act*, as enacted by subsection 1 (2) of Bill 173, are repealed and the following substituted:

“community based land use plan” has the same meaning as in the *Far North Act, 2010*; (“plan communautaire d’aménagement du territoire”)

“Far North” has the same meaning as in the *Far North Act, 2010*; (“Grand Nord”)

Provincial Parks and Conservation Reserves Act, 2006

24. Section 9 of the *Provincial Parks and Conservation Reserves Act, 2006* is amended by adding the following subsections:

Restriction in Far North

(6) Despite subsections (1) to (5), the Lieutenant Governor in Council may make an order decreasing the area of a provincial park or conservation reserve, where the area to be decreased is located in the Far North and is located in whole or in part in a planning area only if,

- (a) a replacement area of equal or increased size is designated as a protected area in a community based land use plan or the order is conditional on there being a replacement area of equal or increased size designated as a protected area in a community based land use plan;
- (b) the replacement area described in clause (a) contributes to the protection of areas

of cultural value in the Far North and the protection of ecological systems in the Far North; and

- (c) before making the order, the Lieutenant Governor in Council provides notice to the public of a proposed order and provides an opportunity for the public, within the time period that the Lieutenant Governor in Council specifies, to provide written comments on the proposed order.

Discretion to make order

(7) Upon complying with subsection (6), the Lieutenant Governor in Council may make an order under that subsection with the changes, if any, from the proposed order mentioned in clause (6) (c) that the Lieutenant Governor in Council considers appropriate.

Definitions

(8) In subsection (6),

“community based land use plan”, “Far North”, “planning area” and “protected area” have the same meaning as in the *Far North Act, 2010*. (“plan communautaire d’aménagement du territoire”, “Grand Nord”, “zone d’aménagement”, “zone protégée”)

Public Lands Act

25. (1) Section 1 of the *Public Lands Act* is amended by adding the following definition:

“land use plan” means a land use plan mentioned in subsection 12 (2); (“plan d’aménagement du territoire”)

(2) Section 12 of the Act is repealed and the following substituted:

Designating planning units

12. (1) The Minister may designate as a planning unit all or any area of public land that is not a planning area, as defined in the *Far North Act, 2010*, to which a community based land use plan, as defined in that Act, applies.

Land use plan

(2) The Minister may require that a land use plan be prepared for a planning unit.

Land use planning

12.1 (1) The Minister may establish policies and guidelines for land use planning.

Advisory committees

(2) The Minister may establish one or more advisory committees to provide the Minister with advice on land use planning.

Land use plans

12.2 (1) A land use plan shall be prepared in accordance with the land use planning policies and guidelines mentioned in subsection 12.1 (1).

Approval required

(2) A land use plan is of no effect unless the Minister approves it, as the Minister considers appropriate.

Amendments

(3) The Minister may, at any time, amend, in accordance with the land use planning policies and guidelines, a land use plan that the Minister previously approved.

No hearing required

(4) The Minister is not required to hold or afford to any person an opportunity for a hearing before exercising any powers under this section.

Non-application of *Environmental Assessment Act*

(5) For greater certainty, a land use plan is not an undertaking as defined in the *Environmental Assessment Act*.

Consistent activities

12.3 (1) All activities carried out within a planning unit designated under subsection 12 (1) shall be consistent with the land use plan approved for the planning unit.

Minister's order

(2) The Minister may, by order, require any person to stop any activity that, in the opinion of the Minister, contravenes subsection (1).

Compliance

(3) No person shall contravene or fail to comply with the Minister's order.

Red Tape Reduction Act, 1998

(3) Section 49 of Schedule I to the *Red Tape Reduction Act, 1998* is repealed.

COMMENCEMENT AND SHORT TITLE

Commencement

26. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

27. The short title of this Act is the *Far North Act, 2010*.

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