# MRA Feedback Table: Online Map Staking, Blackout Period, and Temporary Restricted Areas

Please provide your feedback on the proposed policy intentions by submitting this table to mra_implementation@gov.nt.ca

**Section 1: Online Map Staking**

| Section # | Topic | Comments | Proposed Changes if Applicable | Suggestions for the Implementation of Proposed Changes (if Applicable) |
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| **14.0** | **How claims will be recorded** | What are the "areas that are off-limits" and how will they be shown on the Online Map Staking (OMS) system? Will the OMS display surface dispositions in an effort to avoid land use conflicts even if the existence of a surface disposition does not necessarily prevent the online recording of a claim? How will ITI make map staking consistent with s. 22 of the MRA that states:<br><br>"22. If the surface rights to lands have been granted or leased by the Crown or the Commissioner, no person shall go on the surface of those lands to prospect or stake a claim, unless<br>(a) the holder of the surface rights has consented to entry for the prospecting or staking; or<br>(b) the Surface Rights Board has, under the Surface Rights Board Act, made an access order that authorizes entry on those lands and that sets the compensation, if any, payable to the holder of the surface rights.",<br><br>If the OMS does not display surface rights, how will ITI ensure compliance with s. 22 of the MRA and reduce avoidable land use conflicts?<br><br>ITI should also clarify the relationship between the online recording of a claim and the separate statutory requirements governing | • Provide details as to what "areas are off-limits" and ensure different types of off-limits areas and land interests are displayed differently on the OMS.<br>• Clarify whether surface dispositions will be shown on the OMS so as to avoid land use conflicts, promote transparency and encourage better relationships between those wishing to acquire mining rights and the public and municipal governments.<br>• Explain how the OMS will distinguish between the recording of mineral claims and any subsequent requirement to obtain surface access authorization under s. 22 of the MRA. If surface dispositions are not going to be shown on the OMS, explain why and how this is consistent with s. 22 of the MRA and the goals of the MRA, especially with regard to sustainable land use and encouraging positive relationships.<br>• Provide a template for the public notice that will be given by GNWT of an application to record a claim. Along with a set of geographic coordinates, a map should be included (at a scale that allows for easy identification e.g., showing the nearest community).<br>• The MAARS should be designed to allow members of the public to identify areas of interest proactively. That is, to preset their notification preferences using a variety of criteria. If not, then members of the public | Ensure that MAARS and/or the public registry is capable of allowing users to set their preferences for notices in meaningful ways.<br><br>There will be a need to monitor and evaluate MAARS and/or the public registry to ensure it is effective, user-friendly and its management is responsive to user feedback.<br><br>The OMS system should integrate different mapping layers capturing types of off-limits areas, including protected areas, land withdrawals, and other relevant public information |

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| **14.1** | **Claim Shape and Size** | The Policy Intentions document states: "This maximum [claim size] is very similar to the maximum size allowed for three other Canadian jurisdictions". Which three jurisdictions were used and why? Why has the comparative review not been shared publicly?<br><br>Will OMS encourage or facilitate staking rushes and allow companies and/or individuals to tie-up large amounts of land without doing much work? How were these trade-offs analyzed or assessed, and what is the rationale for the system chosen? Fees that fully take in the administrative costs of the MAARS system and the job losses from ground staking should be one part of preventing a staking rush. Other ways need to be detailed by ITI. A black-out period does not fulfill that requirement | ITI must provide a more detailed rationale for its proposed claim shape and size.<br><br>As currently formulated, the OMS will improve efficiency but may also increase speculative staking, encourage the acquisition of large land positions with comparatively little work, and reduce opportunities to identify environmental and other public concerns before claims are acquired.<br><br>Comparative reviews of claim and map staking that ITI or consultants have conducted should be publicly released.<br><br>ITI should provide more details and a rationale for how it intends to prevent staking rushes and claims holders from acquiring large holdings with minimal work requirements. If scenarios or alternatives were assessed and lessons learned from other transitions to map staking, including any measures adopted elsewhere to discourage speculation while maintaining efficient mineral administration. This information should be publicly shared. | There should be a public review of any transition and implementation of online map staking with an opportunity for public feedback and public release of the documentation. |

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| **14.2** | **Transitional Provisions** | "These policies are intended to support a smooth and predictable transition from ground staking to the new OMS system, while minimizing disruption to existing mineral interests." The "policies" are apparently in the first column. It is not clear whether these provisions be included in the regulations or are they simply direction or requirements to come from the Mining Recorder's Office.<br><br>It is not clear whether existing claims holders will be required to register their claims as online claims under the MRA. | The transitional provisions should be included in the regulations to ensure enforceability.<br><br>All existing claims holders should be required to register or have those claims transferred as online claims under the OMS. This should be a requirement and happen at the earliest possible time to ensure consistency and that MRA improvements are implemented. | All existing claims should be registered online under the OMS. |

## Section 2: Blackout Period

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| **15.0** | **What is the purpose of the Blackout Period?** | We question why holders of existing mineral claims would be permitted to withdraw their consent to transition into the MRA system and remain under the former one, even temporarily. The engagement document appears to contemplate that most existing claims will be administered under the MRA after the blackout period, but that claims for which consent to cancel-and-replace is withdrawn may continue under the prior regime for up to ten years, with the possibility of an extension. ITI should explain the legal and policy basis for this exception, the circumstances in which an extension could be granted, and why any extension is necessary.<br><br>Existing mineral leases raise a different issue. ITI should clarify the extent of its legal authority to require legacy leases to transition before renewal and, where immediate transition is not legally available, identify the earliest lawful transition point and explain the basis for continued grandfathering.<br><br>Additionally, while the purpose of the blackout period is understandable, the engagement document provides limited information regarding black out period implementation, communication, and contingency planning. | Keep the black-out period as short as possible and make it mandatory for existing mineral claims to transition into the new MRA system by the blackout period expiry, unless a clear legal impediment is identified. The regulations should not permit extensions of legacy claim status beyond the initial transition period without exceptional, prescribed circumstances and written reasons.<br><br>For existing mineral leases, require transition at the earliest lawful opportunity, including renewal, amendment, transfer, surrender and replacement, or another prescribed regulatory trigger. | Publish clear timelines regarding the different phases of the blackout and activities impacted by the blackout, transition updates, contingency plans, and clear guidance regarding public and stakeholder communications. This should include a detailed transition matrix identifying: i) each category of existing claim and lease; ii) whether it will be administered under the MRA immediately after the blackout; iii) any consent or withdrawal-of-consent process; iv) the duration of any grandfathered status; v) the criteria for any extension; and vi) the event or date on which full transition becomes mandatory. |

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| **15.1** | **What activities are authorized or prohibited during the blackout period?** | Has ITI assessed and evaluated the potential for claims rushes during the transition, either under the old system (*Mining Regulations*) or the new system (MRA), and what, if any strategies or provisions there are to minimize disruptive rushes?<br><br>Under Existing Claims, it is stated: "However, after the blackout period, they will be administered under the MRA, unless consent to transition the claim was withdrawn." Again, under Notice of Survey: "Claims that do not have a completed survey or are under a survey extension where a survey has not been completed will become 30-year claims as long as claimholder does not withdraw their consent for cancel-and-replace." Can ITI explain what this consent process is all about?<br><br>Under Mineral Leases, it is stated: "The current exception would be that leases issued prior to coming into force would not receive the MRA new lease rental rates until it comes time for lease renewal. Additional exceptions may arise in the course of ongoing policy work." Can ITI clarify whether there are different types of mineral leases (e.g., those with fixed rental rates vs. those with provisions to change rental rates) and the number of each with the revenues generated on an annual basis? | Provide any analysis of implementation options and efforts to minimize claim rushed. Design the transition in a way that minimizes the potential for disruptive claim rushes.<br><br>Make it mandatory for any existing claim or lease holder to transition to the new MRA system in the shortest possible time.<br><br>Provide clarity on the different types of mineral leases (e.g., those with fixed rental rates vs. those with provisions allowing changes to rental rates), the number of each with the revenues generated on an annual basis different types of mineral leases (e.g., those with fixed rental rates vs. those with provisions to change rental rates) and the number of each with the revenues generated on an annual basis and how this influenced the design of the black-out period. | |

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| **15.2** | **How long will the blackout period be?** | Did other jurisdictions that moved to a map staking system have a black-out period, for how long and what were the lessons learned?<br><br>ITI states: "Public engagement feedback has indicated a desire to accelerate the implementation of Online Map Staking (OMS). The blackout period will support this transition by enabling OMS to be implemented as quickly as possible." Although we have continually requested that all submissions be made public, ITI has failed to make this happen. It is impossible for us to gauge what support there is for map staking and whose interests are being served. | Publicly release any policy or other review work done to date on the implementation of map staking, black-out periods and any lessons learned from other jurisdictions.<br><br>Immediately publicly release all the submissions made to date on the four public engagements on the Policy Intentions for the MRA regulations in the interest of transparency and accountability and in keeping with the MRA goal to "regulate mineral interests efficiently, effectively and in a transparent manner". | |

## Section 3: Temporary Restricted Areas

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| **16.0** | **What are Temporary Restricted Areas (TRAs)?** | The engagement document does not clearly identify who may request a TRA or the evidentiary threshold that will apply to such requests.<br><br>Section 23(2) of the MRA does not appear to prevent the Minister from considering or acting on a request for a TRA from a municipal government or NGO or the public. Can ITI confirm this approach and indicate whether public communications and processes will support the ability of municipal governments and the public to request TRAs? | Clarify eligibility, application requirements, evidentiary thresholds and the criteria the Minister will apply when deciding whether to establish a TRA. | ITI ensure in its public communications around TRAs that the Minister has the discretion to accept and consider TRA proposals from municipal governments and the public. For example, a request from a municipal government to protect a drinking water source.<br><br>Establish clear application requirements, evidentiary expectations, and minimum information necessary to support a request. |

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| **16.1** | **How TRA Requests are Assessed** | It is our observation that the proposed process is much more onerous than that proposed for the registration of mineral claims where there is no apparent concern with the avoidance of land use conflicts (lack of clarity whether the public will be able to set up notifications through the public registry or MAARS, lack of clarity whether surface dispositions will be shown on the OMS) or little consideration of the impacts to other land or resource users. This is a reflection of the free entry paradigm where mining is held to be the highest and best use of the land. This is not consistent with ecological realities or modern resource management. The proposed process is so onerous that it would be difficult to envision successful applications for TRAs.<br><br>Rather than "a plan towards seeking long-term protection", the template should say "a proposed process for seeking long-term protection". The TRA process should include various parties evaluating types of protection that is possible, rather than stating what act would be used. Protection could, for example, fall under several different legislative regimes. Further details would be helpful or a template.<br>It is not at all clear whether there are any plans or requirements for public notice or public engagement around TRA applications and implementation. ITI should clarify whether there will be public notice of any TRA application, any opportunities for public engagement, and reasons | ITI must clearly set out its requirements and expectations around TRAs including the use of a template or application form and necessary supporting evidence.<br><br>ITI must establish and publish transparent decision-making procedures, including firm decision-making timelines, and the possibility of reconsideration or review of TRA decisions.<br><br>Public notice of any TRA application and the applications themselves (with reasonable redactions for any Traditional Knowledge or protection of privacy) be incorporated into the proposed process in the interest of transparency. Consistent with the MRA goal of transparency and in keeping with GNWT's Open Government Policy, incorporate public engagement into the decision-making around TRAs. Reasons for decision from the Minister be standard and publicly released in a timely fashion for all TRA applications by posting to the public registry.<br><br>Once a TRA proposal has been accepted for consideration and public notice has been given, the Mining Recorder should place any applications for record claims on hold until the Minister renders a decision. | ITI should develop templates for the TRA process that are clear and encourage an informed, transparent and evidence-based process.<br><br>There should be a review of the TRA process after a period of time to evaluate its effectiveness, efficiency and transparency.<br><br>Adopt and publish decision-making protocols, require decisions within prescribed timeframes, and provide for the possibility of reconsideration or review of TRA decisions.<br><br>Provide status updates for applicants and the public during review. |

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| **16.2** | **TRA Size** | Will the OMS show TRA applications under consideration? It is not clear whether proposed TRAs will be shown on the OMS during the application stage. | Proposed TRAs accepted for assessment and approved TRAs be shown on the OMS to increase transparency and avoid land use conflicts. A mechanism needs to be put in place to prevent claim staking once a TRA proposal has been accepted for consideration. To ensure a timely process, set a deadline for the Minister to make a decision and still allow for IGO consultation and public engagement. | |

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| **16.3** | **TRA Duration** | This section states: "NWT has a range of protective legislation that can provide long-term protections for these significant areas under legislation administered by:<br>• Environment and Climate Change<br>• Education, Culture and Employment<br>• Industry Tourism and Investment".<br>We question this list. Only ECC has the *Protected Areas Act*, which would prevent mining claims and development in a protected area. Mining is allowed in Territorial Parks (ITI legislation). There is no ECE legislation that involves subsurface withdrawal, although the *Archaeological Sites Regulations* prohibits the disturbance of sites and could have implications for mineral staking and development. There was a territorial historic sites program, which is no longer active, although the *Historical Resources Act* is still in force.<br>There are other potential mechanisms or approaches including a land use plan that has been approved under an Act of the Northwest Territories or an Act of Canada or under a land, resources and self-government agreement, and various federal land protection options including National Historic Sites, National Wildlife Areas and more. The scope and detail of this list should be clarified. | The text and further communications around TRAs should refer to a greater range of protection options. | |

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| **16.4** | **TRA Extensions** | It is not at all clear whether there are any plans or requirements for public notice or public engagement around TRA extensions. ITI should clarify whether there will be public notice of any TRA extension requests, any opportunities for public engagement, and reasons for decision from the Minister (the text mentions reasons for decision but is silent on public disclosure) that are posted in a timely manner to the public registry. | Public notice of any TRA extension and the requests themselves (with reasonable redactions for any Traditional Knowledge or protection of privacy) be incorporated into the proposed process in the interest of transparency. Consistent with the MRA goal of transparency and in keeping with GNWT's Open Government Policy, incorporate public engagement into the decision-making around TRAs. Reasons for decision from the Minister be standard and publicly released in a timely fashion for all TRA extensions by posting to the public registry. Decision-making timelines should also apply to requests for TRA extensions. | |
| **16.5** | **Revoking a TRA** | It is not at all clear whether there are any plans or requirements for public notice or public engagement around TRA revocations (the text does refer to notice to Indigenous governments and organizations). ITI should clarify whether there will be public notice of any TRA revocation requests, any opportunities for public engagement, and reasons for decision from the Minister (the text mentions reasons for decision but is silent on public disclosure) that are posted in a timely manner to the public registry. | Public notice of any TRA revocation and the requests themselves be incorporated into the proposed process in the interest of transparency. Consistent with the MRA goal of transparency and in keeping with GNWT's Open Government Policy, incorporate public engagement into the decision-making around TRAs. Reasons for decision from the Minister be standard and publicly released in a timely fashion for all TRA revocations by posting to the public registry. Decision-making timelines should also apply to requests for TRA revocation. | |

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| **16.6** | **TRA Expiry** | We note this line is the only place there is any mention to the public registry. Potentially two types of notice are presented here:<br>“There will be at least 3 months notification in advance of the expiry of a TRA to applicable IGOs and any proponents with pending mineral claims overlapping the area.”<br>and<br>“The public registry will also indicate when a TRA is set to expire.”<br>ITI should clarify whether this is the same notice or two different notices, one for IGOs and proponents and another for the public. | Public notice of the pending expiration and the actual expiration for the public registry be incorporated into the TRA process. This is consistent with the stated MRA goal of transparency and GNWT’s Open Government Policy. | |