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Introduction

In response to the Nunavut Planning Commission (NPC) opening the record for further written submissions on the Draft Nunavut Land Use Plan 2016 (DNLUP 2016), Nunavut Tunngavik Incorporated (NTI) and the three Regional Inuit Associations (RIAs) are providing this joint submission.

In the notice requesting further written submissions, the NPC explains that organizations that have already provided written submissions need not provide a further submission unless they have new information, ideas or perspectives on the DNLUP 2016. The NPC also provided a list of questions for parties to address in their written submissions. NTI and the RIAs have not attempted to answer each question. For a number of the questions, the main objective or purpose of the question was unclear or could be interpreted in different ways.

NTI and the RIAs have provided responses with the intent of assisting the NPC in addressing the land use planning issues. This submission provides additional information and comments that supplement the written submissions provided previously by NTI and the RIAs. Unless indicated otherwise in this submission, the NTI and RIA joint submission (January 2017), past joint submissions, as well as previous submissions of each RIA, continue to reflect the views of NTI and the RIAs regarding the DNLUP 2016 and the land use planning process.

We expect that there will be a number of new written submissions on the DNLUP 2016 from various parties. As indicated by letter on November 15th, NTI, with the support of the RIAs, requests that the NPC set a date for parties to reply to the written submissions. As some of the submissions will likely be equivalent to expert reports, we request a minimum of a two-month period to provide replies.

Comments on the Process Moving Forward

NTI and the RIAs recognize the many challenges involved in developing a Nunavut wide land use plan that resolves land use conflicts. In redrafting the DNLUP 2016, we urge the NPC to address the planning principles outlined in Article 11.2.1 of the Nunavut Agreement including the requirement to give special attention to protecting and promoting the existing future well-being of Inuit and Inuit Owned Lands (IOLs).

As you are aware, NTI and the RIAs have suggested that the best way forward in the land use planning process is to redraft the DNLUP 2016, after the NPC conducts any additional focussed community consultations it deems necessary, and that the oral public hearing process should be restarted based on a redrafted DNLUP, allowing for each region to participate in the process.

Conducting oral public hearings is necessary to meet the obligation in section 11.4.17 of the Nunavut Agreement to at all times give weighty consideration to the tradition of Inuit oral communication and decision-making. Given the importance of the current land use planning process for Nunavut, and the tradition of Inuit oral communication and decision-making, it is essential that there be oral public hearings on a redrafted DNLUP.

Taking into consideration that there should be extensive amendments to the DNLUP 2016 based on submissions made to the NPC to date, it is imperative that future oral hearings be inclusive of the three regions of Nunavut including the Qikiqtani region. Inuit of the Qikiqtani region must have the opportunity to provide oral submissions on a revised DNLUP.

Subject Area: Caribou

NTI and the RIAs reiterate the view that caribou are of great significant to Inuit and that we are committed to having caribou addressed in the Nunavut Land Use Plan (NLUP). In our previous written submission of January 2017, we made three recommendations that we still fully support.

Particularly, we repeat that NTI and the RIAs support regional approaches to protecting caribou habitat. One of the principles listed in subsection 11.2.1 (c) of the Nunavut Agreement is to ensure that land use plans reflect the priorities and values of the residents of the planning regions. This principle requires a flexible approach in a Nunavut-wide land use plan to take into account diverse regional environments. The various caribou populations in Nunavut are distinct and there are significant regional differences. Each RIA has a different view on how caribou populations should be addressed in the land use plan. The Kitikmeot Inuit Association (KitIA) and the Qikiqtani Inuit Association (QIA) hold the same positions as described in the NTI-RIA joint submission of January 2017, and also described in their previous individual submissions. The following is the updated position of the Kivalliq Inuit Association (KivIA):

The KivIA Board have closed Inuit Owned Lands (IOL) to development within caribou calving grounds between 1 May and 31 July (subsequently modified to 15 May to 15 July to align with the Keewatin Regional Land Use Plan) and applied Mobile Caribou Conservation Measures (Mobile Measures), to manage sensory disturbance to caribou on calving grounds during other times of the year (*see Mobile Measures at Addendum A*). Further, the KivIA Board supports the implementation of Mobile Measures for exploration sites and Land Use Permits on IOL in other caribou seasonal ranges.

In addition, KivIA recommends that:

1. Mobile Measures should be part of the conditions applied to Special Management Areas, Mixed Use Areas and VEC Areas, essentially all areas where year-round Protected Area status (if implemented) is not applied,
2. IOL within calving grounds within Caribou Protection Areas should be closed to development between 15 May and 15 July, and Mobile Measures should be applied to manage sensory disturbance to caribou during other times of the year,
3. Mobile Measures should be used to manage appropriate industrial developments within post-calving areas. These would include restricting or not allowing development activities near caribou during the post-calving period. Seasonal ranges other than calving and post-calving (and outside of Caribou Protection Areas) should be managed using Mobile Measures, which scale monitoring and mitigation to the vulnerability (sensitivity) of caribou.
4. The immediate area around identified freshwater caribou crossings should be placed within year-round Protected Area status, with the size of the area tailored to traditional caribou approach characteristics based on IQ. Around this Protected Area of water

crossings the KivIA recommends a 10 km radius Special Management Area zone within which Mobile Measures would be applied, and

5. Proposed linear corridors, such as the Manitoba-Nunavut Road and the Kivalliq Hydro-Fibre Link, be incorporated into Schedule A of the DNLUP in the form of a separate Mixed Use and Special Management Area.

In addition, the KivIA provides additional information regarding caribou at Addendum A of this joint submission.

NTI and the RIAs also support the use of Inuit Qaujimagatuqangit (IQ) related to caribou populations and habitat for land use planning decisions and are of the view that IQ should be used equally with scientific data in decision-making. Moreover, in cases where the scientific data is not definite or not available, NTI and the RIAs recommend that IQ should be collected to address information gaps.

NTI and the RIAs have a few comments related to caribou monitoring. Caribou monitoring has been an important topic of discussion at land use planning technical meetings and has been evolving in Nunavut. The Nunavut Impact Review Board (NIRB) is requiring extensive caribou monitoring as part of terms and conditions with project certificates for larger developments. KivIA, of its own accord, is taking steps to monitor adherence to terms and conditions that are in place to protect caribou in its region. Although progress is being made with caribou monitoring, NTI and the RIAs acknowledge that there are many gaps and that more support is required to ensure consistent monitoring of caribou protection measures and that the land use plan could play a role on this issue.

At this time, NTI and the RIAs would support the development of a “recommended action” (as described in 7.4 Annex C of the DNLUP 2016) to support caribou monitoring. The main principles that NTI and the RIAs support for a recommended action for caribou monitoring include:

- Governments and proponents both have important roles in caribou monitoring and a responsibility to cover the costs related to caribou monitoring with contributions from other stakeholders as is reasonable;
- Caribou monitoring should be considered for all activities that may impact on caribou. More discussion is required to assess the level of monitoring required of activities that do not require a NIRB review;
- Ensure that landowners, local communities, HTOs and government are involved in the process;
- Ensure that both scientific data and IQ are collected and that there is agreement on collection methods;
- Ensure that there is a requirement for a robust data management system that is accessible to all parties; and
- Ensure that there is collaboration with other IPGs to achieve an integrated approach.

An NPC recommendation should provide that there be the consistent collection of caribou monitoring data to inform decision-making at various levels.

**The comments above take into considerations questions 10, 13, 15, 16, 17, 21, 26, 36, 37, and 38.*

Subject: Polar Bear Denning Areas

NTI and the RIAs reiterate their support for the placement of polar bear denning areas in a Special Management Area designation with terms and conditions to protect polar bear dens. NTI and the RIAs note that the Government of Nunavut (GN) in its January 2017 submission also proposed placing polar bear denning areas in a Special Management Area designation and referred the NPC to a set of terms and conditions that they had submitted in May 2016. In addition, the revised Nunavut Polar Bear Co-management Plan, under section 8.3 on Habitat Management and Environmental Stewardship (Avatitinnik Kamatsiarniq), provides direction to:

Identify important habitats for polar bears and implement appropriate habitat protection measures through cooperation with appropriate agencies.

NTI and the RIAs continue to express support for the adoption of the terms and conditions proposed by the GN for polar bear denning areas in consultations with Hunters and Trappers Organizations (HTOs) and Regional Wildlife Organizations (RWOs).

**The comments above take into considerations question 73.*

Subject Area: Terrestrial Linear Infrastructure

NTI and the RIAs reiterate their support for the recommendations made in January 2017 and particularly emphasize recommendation 1 that states:

NTI and the RIAs recommend a Special Management Area designation for the Manitoba-Kivalliq road and hydro corridor and the Gray's Bay Corridor in the DNLUP 2016 with appropriate terms and conditions to protect wildlife and their habitat and other values such as cultural sites. In regards to the Manitoba-Kivalliq road and hydro corridor, the Special Management Area should be located on post-calving caribou habitat.

Since our last written submission, there have been a number of developments. In 2017, we noted that the Grays Bay Corridor was originally submitted to NIRB by MMG Minerals and Metals Group (MMG) in September 2012 as a component of MMG's project proposal for the Izok Corridor Project. In 2017, the KitIA and the GN became co-proponents of the Grays Bay Road and Port project and submitted a revised Project Description to NIRB in July 2017. In April 2018, the GN relinquished its role and responsibilities as co-proponent of the Grays Bay Road and Port project and the KitIA suspended the NIRB process shortly thereafter. KitIA's intent is to continue as the sole proponent for the NIRB process as soon as the necessary funds are in place. If KitIA is successful, this will be an Inuit-led and Inuit-owned project: the project's development and management.

The previous NTI and RIA submission indicated that there is national support for the Grays Bay Road and Port Project. Recently, the extent of national support has been confirmed. In September 2018, the Canadian Chamber of Commerce passed a resolution at its Annual General Meeting that stated:

That the federal government support the social and economic strengthening of Canada and its territorial communities by funding the Grays Bay Road and Port Project by recognizing the national importance of the project and providing federal support for the remaining \$529 million in capital costs. Sources could include the Canada Infrastructure Bank, existing infrastructure programs or one-time contributions.

The resolution passed with more than 97% support from delegates.

With respect to the Manitoba-Kivalliq corridor, NTI and the RIA propose the addition of a fiber optic component to the corridor (see Addendum B).

Subject Area: Canadian Heritage Rivers

NTI, the Government of Nunavut and the Government of Canada have initialled an Agreement-in-Principle (AIP) for the Canadian Heritage Rivers Inuit Impact and Benefit Agreement (CHR IIBA). It is expected that the CHR IIBA will be officially signed in the near future.

The initialled CHR IIBA text provides that the designation and management of CHRs will not alter land ownership, regulation or management of Inuit Owned Lands (IOLs). There are several IOL parcels adjacent to the CHRs and the RIAs intend to manage these lands in keeping with the CHR IIBA with the goal of maximizing Inuit opportunities. To support the full utilization of Inuit benefits provided for in the CHR IIBA, NTI and the RIAs recommended that the rivers currently designated as CHRs be placed in a Special Management Area designation within the DNLUP.

As an update, QIA has not completed its consultations regarding the Soper River.

**The comments above take into considerations question 48.*

Subject Area: Marine Shipping and Cruise Ships

NTI and the RIAs note that there are many questions regarding the management of marine areas. In particular, community members continue to express concerns regarding cruise ships, other marine vessels, marine wildlife and impacts on harvesting from marine vessels. NTI and the RIAs do not believe that all marine issues can be addressed in this first-generation land use plan. The regulation of marine areas and vessels is complex and will require more deliberation with the involvement of the Nunavut Marine Council. However, we do believe that some direction should be provided for in the NLUP to address a few key issues.

Specifically, we have recommendations regarding cruise ships and ice-breaking.

Cruise Ships

There is growing frustration at the community level with increasing cruise ship traffic and the impact of cruise ships on wildlife and community life. NTI and the RIAs recommend that the NPC discuss with stakeholders the creation of cruise ship conformity requirements that address various community concerns. Specifically, there could be conformity requirements for cruise ship proponents to provide:

- i) A Community Communications Plan; and
- ii) Community Services Agreements.

A Community Communications Plan could detail what steps a cruise ship proponent will take to inform communities of when they plan to be in proximity to a community or community harvesting areas. In addition, the Community Communications Plan could outline what steps cruise ships will take to communicate with communities the location of the cruise ship at intervals agreed to with the communities (e.g. several weeks, days, or hours in advance of arriving near a community).

A Community Services Agreement is a recommended voluntary measure in the *Guidelines for Passenger Vessels Operating in the Canadian Arctic (Transport Canada, November 2017)* for when a vessel plans to visit a community. The types of items that are suggested be incorporated in a Community Services Agreement include the time and date of the visit, the number of passengers visiting and fees for services.

NTI and the RIAs recommend that consideration be given to establishing a conformity requirement that cruise ship proponents negotiate a Community Services Agreement with each community that it intends to visit and with each community when a cruise ship operator intends to enter into marine areas identified by the community to be harvesting areas or marine community areas of interest. The Community Services Agreement could address marine areas (e.g. inlets) that the community does not wish the cruise ship to enter, appropriate use of zodiacs, wildlife viewing, anchoring sites and any other issue of concern to the community. It is anticipated that communities will need support to identify marine areas of interest and to negotiate Community Services Agreements. If NPC proceeds to establish conformity requirements, it is recommended that the NPC with the assistance of regulatory and Inuit organizations develop a Community Services Agreement Template for the use of communities. In addition, other community support mechanisms should be developed.

NTI and the RIAs also recommend that the NPC develop a “required action” that regulatory authorities provide a point of contact for communities to report issues related to cruise ships or other marine vessels that are undertaking activities that are of concern or pose a health or safety risk. The point of contact should be responsible for taking action or ensuring that the appropriate authority provides the community with a satisfactory and timely response.

Ice-breaking

Proposals to conduct ice breaking activities are of serious concern to communities as ice-breaking often impacts on wildlife harvesting, harvester travel routes, wildlife habitat and wildlife populations. Additionally, vessel activities near ice areas such as floe edges can also be of serious concern. NTI and the RIAs agree with NPC that issues related to ice-breaking should be addressed within the NLUP.

As a preliminary submission, NTI and the RIAs recommend referencing the approach within the North Baffin Regional Land Use Plan regarding ice-breaking activities within the NLUP. Specifically, the conformity requirements of sections 3.2.1, 3.3.1 and 3.5.4 and related appendices within the North Baffin Regional Land Use Plan could be incorporated substantively into the NLUP.

NTI and the RIAs would consider an NPC proposal to update the requirements of the North Baffin Regional Land Use Plan regarding ice-breaking within the NLUP in a manner that secures similar results. NTI and the RIAs are continuing to discuss this issue and may provide further written submissions.

**The comments above take into considerations questions 46, 49, 57, 60, 61, 62, and 63.*

Subject: Inuit Access Rights

NTI and the RIAs submit that the NPC must take the same approach to Inuit access rights as the NPC has been taken with Inuit harvesting rights in the DNLUP 2016. The DNLUP 2016 states:

The NLUP does not apply to subsistence land use or to the harvesting of wildlife, as defined in the NLCA.

The NPC has correctly taken the position that the NLUP does not apply to Inuit harvesting rights and on the same basis should make similar statements regarding Inuit access right such as the right to establish an outpost camp.

**The comments above take into considerations questions 52.*