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## JOINT NTI – RIA SUBMISSION REGARDING REVISIONS TO THE DNLUP 2014

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## **INTRODUCTION**

Nunavut Tunngavik Incorporated (NTI) and the Regional Inuit Associations (RIAs) including the Kivalliq Inuit Association (KivIA), Kitikmeot Inuit Association (KitIA) and the Qikiqtani Inuit Association (QIA) are providing a joint set of submissions for the revision of the Draft Nunavut Land Use Plan 2014 (DNLUP 2014).

This submission considers subject areas, and associated options, presented by the Nunavut Planning Commission (NPC) in its document entitled *Considerations for Potential Refinements to the 2014 Draft Nunavut Land Use Plan (NPC's Refinements Document)*, which was released in advance of the 3<sup>rd</sup> Technical Meeting that took place in January 2016. Additionally, this submission addresses a number of subject areas not addressed in *NPC's Refinements Document*.

This submission does not limit NTI and the RIAs providing further submissions separately or together in the future on any matter related to the DNLUP 2014, future drafts of the Nunavut Land Use Plan (NLUP), or the land use planning process.

## **PROPOSED TIMELINES**

It may not be feasible for NTI and RIAs to meet the NPC's May 30<sup>th</sup> deadline for providing comments on submissions made by other organizations. Without knowledge of the volume and content of submissions by other organizations, NTI and RIAs anticipate requiring more time to provide response comments.

NTI and the RIAs will not be in a position to provide expert reports by August 15, 2016. It is expected that expert reports will be based on the final comments provided to NPC on the revised DNLUP 2014 (final comments have been requested by NPC by November 28, 2016). Given this timeline, NTI/RIA expert reports may be ready for submission in December 2016.

As a proposed final public hearing on the DNLUP 2014 is not expected to take place before March or April 2017, it will not be appropriate to anticipate provision of a witness list for the scheduled first in-person pre-hearing conference in August 2016. To make the most use of such a conference, we suggest that it be postponed to a date closer to a final public hearing.

Lastly, NTI and the RIAs are interested in the details regarding the four regional community sessions planned for October-November 2016. We request that NPC involve NTI, RIAs and Regional Wildlife Organizations (RWOs) early on in the planning and delivery of these regional conferences to ensure that issues raised by NTI, RIAs and RWOs previously regarding community consultations can be addressed.

## SUBJECT AREA: PERIODIC REVIEW

### Recommendations:

1. A DNLUP should state that a follow-up comprehensive public review be completed between five and ten years from the time the NLUP first comes into effect. The public review should be initiated by the fifth anniversary of the coming into effect.
2. The DNLUP should state that specific subject areas in a NLUP may be reviewed on a more frequent basis as appropriate. Subject areas that will likely require more frequent review include measures to address wildlife populations such as caribou and the impact of land use planning measures on Inuit Owned Lands (IOLs).

### Considerations:

- Inuit organizations and government have voiced concerns regarding the need for set periodic public reviews of the NLUP at NPC's technical meetings.
- Support for land use prohibitions and terms and conditions found in the NLUP are premised on the assumption that they will be reviewed at set intervals to ensure they are still relevant, necessary and supported by the parties, regions, communities and Nunavummiut.
- There is no discernable support for designations that will be in place permanently. As stated in "Fix It Up: Why and How to Put Land Use Planning on Track for Success":

*... review and amendment processes should guarantee that periodic changes will be made in a deliberate, transparent, and inclusive manner...An approved land use plan should, therefore be seen as a framework for change, not a straightjacket.<sup>1</sup>*

- Initiating a NLUP public review process by year five of its coming into effect will provide assurance that a public review and amendment process will occur within a predictable time period.

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<sup>1</sup> Steven A. Kennet, "Fix It Up: Why and How to Put Land Use Planning on Track for Success" in *Canada's North: What's the Plan*, The Conference Board of Canada, 2010.

- To date, there is not an example of a northern land use plan where a public review and amendment process has actually been undertaken within a five-year time frame, which suggests that public reviews require explicit timelines, planning, co-ordination and resources. Examples of other land use planning processes include:
  - the *North Baffin Regional Land Use Plan*, approved in 2000, has not undergone a public review.
  - the *Keewatin Regional Land Use Plan*, approved in 2000, has not undergone a public review.
  - the *Gwich'in Land Use Plan*, approved in 2003 has undergone a public review. However, final approvals have not been obtained for the revised Gwich'in Land Use Plan to date.
  - the *North Yukon Regional Land Use Plan*, approved in 2009 and no public review has been announced.

## **SUBJECT AREA: WALRUS HAUL-OUTS**

### **Recommendation:**

1. NTI and the RIAs support Option 1 as outlined at page 3 of *NPC's Refinements Document* that would result in walrus haul-out sites being designated as Protected Areas with year round protection within the NLUP. NTI and RIAs also support the inclusion of marine setbacks from shipping for these walrus haul-out sites.
2. NTI and the RIAs request that NPC propose a list of appropriate prohibited uses that will fulfill the objective of protecting walrus haul-out sites.
3. NTI and the RIAs recommend that NPC verify with RWOs, RIAs, NTI and other wildlife organizations that the walrus haul-out sites identified in the DNLUP 2014 are accurate and comprehensive.

### **Considerations:**

- In its written submission, the Qikiqtaaluk Wildlife Board (QWB) states that the walrus haul-out sites are very important to a number of Qikiqtani communities and are highly vulnerable to disturbance. The submission maintains that the “slightest disturbance has the potential to scare walruses away from the site indefinitely” (QWB, June 22, 2015 submission to NPC).
- The recommendations of NTI and the RIAs take into account statements made at the technical meetings regarding walrus haul-out sites including:
  - The attention and on-going work on walrus by seven Qikiqtani communities with the Department of Fisheries and Oceans (DFO) in development a walrus management plan;
  - Concerns regarding marine setbacks from walrus haul-out sites (1<sup>st</sup> Technical Meeting Transcript, p. 85);
  - 100% support of communities connected to the Foxe Basin region for protection of the walrus haul-out sites (3<sup>rd</sup> Technical Meeting Transcript, p. 33).

## **SUBJECT AREA: POLAR BEAR DENNING AREAS**

### **Recommendations:**

1. NTI and the RIAs support the investigation of whether polar bear denning areas can be placed in a Special Management Area designation with terms and conditions that protect polar bear dens. Discussions should be initiated with RWOs, RIAs, NTI and other wildlife organizations regarding this approach.
2. Polar bear denning areas and polar bear dens should be identified in consultation with RWOs, RIAs, NTI and other wildlife organizations.

### **Considerations:**

- In its written submission, the QWB points out that hunters argue that protecting denning sites is central to respecting the integrity of polar bear management. QWB recommends that polar bear denning areas be placed in a Protected Area designation in the DNLUP (QWB, June 22, 2015 submission to NPC).
- NTI and the RIAs agree that the current approach in the DNLUP 2014 is insufficient to adequately protect polar bear denning sites. In the DNLUP 2014, the Special Management Area designation does not outline terms and conditions that specifically address protection of polar bear dens.
- The current geographic delineated area is based on polar bear denning area habitat as opposed to actual known polar bear denning sites.
- Research into the regulation of oil and gas development in Alaska within polar bear denning habitat provides a model for placing terms and conditions for the protection of polar bear dens. Before initiating exploration activities during the denning season (November to April) in known or suspected polar bear denning habitat, operators must attempt to locate occupied polar bear dens in the area around proposed operations and report all observed or suspected polar bear dens. An exclusion zone around known polar bear dens is then applied as follows:

*Operators must observe a 1-mile [1.6 km] operational exclusion zone around all known polar bear dens during the denning season (November to April, or until the female and cubs leave the areas). Should previously unknown occupied dens be*

*discovered within 1 mile of activities, work in the immediate area must cease and the Service contacted for guidance.*<sup>2</sup>

- The recommendations of NTI and the RIAs take into account statements made at the technical meetings regarding polar bear denning areas, including:
  - There is a lack of awareness of concerns about denning areas in the Kitikmeot (1<sup>st</sup> Technical Meeting Transcript, p. 83);
  - Polar bear denning can be addressed with a seasonal approach as denning occurs in the winter time and because denning is widespread and in low densities (3<sup>rd</sup> Technical Meeting Transcript, p. 38); and
  - Polar bear denning areas in the DNLUP 2014 need to be reviewed by the communities. Regional and community organizations have not had the opportunity to review the specific areas proposed in the DNLUP 2014 (3<sup>rd</sup> Technical Meeting Transcript, p. 43).

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<sup>2</sup> Government of the United States. (2013). Code of Federal Regulations: Title 50 — Wildlife and Fisheries, Parts 18 to 199. Revised as of October 1, 2013. Washington, DC: United States Fish and Wildlife Service, Department of the Interior (50 CFR 18.118(a)(6)(ii)(B), p. 38).



## **SUBJECT AREA: SABINE PENINSULA**

### **Recommendation:**

1. NTI and the RIAs support Option 2 as outlined at page 5 of *NPC's Refinements Document*. The Sabine Peninsula should not be placed in a Protected Area designation in the NLUP. An amendment to the NLUP can be put forward when there is clearer direction regarding whether it will be designated as critical habitat for the Peary caribou.

### **Consideration:**

- Based on discussions at the Third Technical Meeting, there appears to be an understanding that designating the Sabine Peninsula as a Protected Area within the NLUP would be premature (see pages 44 - 46 of 3<sup>rd</sup> Technical Meeting Transcript).

## **SUBJECT AREAS: PROPOSED MIGRATORY BIRD PROTECTED AREAS**

### *Qikiqtani Region*

1. QIA is currently verifying community support for the following proposed Migratory Bird Protected Areas:

- Belcher Islands (Sanikiluaq)
- Sleeper Islands (Sanikiluaq)
- Cheyne Islands (Resolute Bay)
- Creswell Bay (Resolute Bay)
- Eastern Devon Island (Resolute Bay)
- Nasaruaalik Island (Resolute Bay)
- East Axel Heiberg Islands (Grise Fiord)
- Eastern Jones Sound (Grise Fiord)
- North Water Polynya (Grise Fiord)
- Fosheim Peninsula (Grise Fiord)
- Inglefield Mountains (Grise Fiord)

Until community feedback on these proposed designations and appropriate terms, conditions or restrictions has been received, NTI and the RIAs recommend that these sites be designated as Special Management Areas with terms and conditions. In cases where communities support protected areas, discussions should occur regarding establishing new National Wildlife Areas or Migratory Bird Sanctuaries outside the NLUP, allowing for the negotiation of additional benefits under the 2016-2023 Inuit Impact and Benefit Agreement for National Wildlife Areas and Migratory Bird Sanctuaries in the Nunavut Settlement Area.

### *All Regions*

2. NTI and the RIAs request that all other proposed migratory bird protected areas be re-designated as Special Management Areas where appropriate terms, conditions and restrictions are developed for these areas. Communities adjacent to proposed migratory bird areas must be consulted regarding the proposed areas and potential terms, conditions and restrictions. In cases where communities support protected areas, discussions should occur regarding establishing new National Wildlife Areas or Migratory Bird Sanctuaries outside the NLUP allowing for the negotiation of additional

benefits under the 2016-2023 Inuit Impact and Benefit Agreement for National Wildlife Areas and Migratory Bird Sanctuaries in the Nunavut Settlement Agreement.

3. NTI and the RIAs require that terms, conditions and restrictions not eliminate or hamper access to IOLs (see also page 23 of the submission).
4. NTI and the RIAs recommend that NPC identify shipping routes around migratory bird areas that allow for marine access while avoiding sensitive bird colonies.
5. NTI and the RIAs support Environment Canada's preliminary proposal shared during internal discussions to rezone the Western Cumberland Sound and Frozen Straight Migratory Bird areas as Mixed Use Areas.

#### **Considerations:**

- The recommendations by NTI and the RIAs take into account statements made by NPC at the technical meetings regarding how migratory bird protected areas were created and what consultation took place regarding the delineated areas, including:
  - Steps were not taken to modify or adjust the geographic areas provided by Environment Canada regarding migratory bird habitat with the information on migratory bird habitat provided by communities (1st Technical Meeting Transcript at p. 33 and p. 53); and
  - There have not been community consultations on the specific migratory bird designations in the DNLUP 2014 (1st Technical Meeting Transcript at p. 43).
- The recommendations take into account discussions with Environment Canada regarding the proposed designations and Environment Canada's commitment to the participation of Inuit in the identification and designation of protected areas.<sup>3</sup>
- The recommendations take into account the statements made at the 3<sup>rd</sup> Technical Meeting that some of key habitat sites that Environment Canada has put forward are anticipated as being National Wildlife Areas, but not all of them (3<sup>rd</sup> Technical Meeting Transcript, pgs. 120-121).

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<sup>3</sup> Environment Canada, Environment Canada Protected Area Strategy, 2011 (see on-line at <http://www.ec.gc.ca/Publications/default.asp?lang=En&xml=6DBF66E1-3339-4C6A-8758-76F713EADA32>).

- There is an Inuit Impact and Benefit Agreement process provided for in the *Nunavut Agreement*, outside of the land use planning process, which should be observed and respected.

## **SUBJECT AREA: MIGRATORY BIRD SETBACKS**

### **Recommendations:**

1. NTI and the RIAs agree with Option 1 at page 9 of *NPC's Refinements Document* making migratory bird setbacks a condition of land use planning conformity.
2. As the final wording of the migratory bird setback conditions is not available for review, NTI and the RIAs cannot provide further comments. However, NTI and the RIAs will review such wording when it is available with a view to verifying that the proposed conditions:
  - i. Do not interfere with Inuit harvesting rights under the *Nunavut Agreement*;
  - ii. Allow for marine access to IOL parcels by all classes of vessels;
  - iii. Indicate dates when setbacks will apply; and
  - iv. Respect the authority of the NWMB for various approvals under the *Nunavut Agreement*.

### **Consideration:**

- The Government of Canada agrees with Option 1 and has committed to providing the information necessary to make the option implementable in the NLUP (3<sup>rd</sup> Technical Meeting Transcript, p. 143-145).

## **SUBJECT AREAS: PROPOSED NATIONAL PARK IN THE BLUENOSE LAKE AREA**

### **Recommendation:**

1. NTI and the RIAs agree with Option 1 at page 10 of *NPC's Refinements Document* that would remove the Protected Area designation and replace it with a Mixed Use designation.

### **Consideration:**

- At the 3<sup>rd</sup> Technical Meeting, there was consensus between KitIA and the Government of Canada about the suitability of Option 1 (3<sup>rd</sup> Technical Meeting, pgs. 146-147).

## **SUBJECT AREA: LEGISLATED PROTECTED AREAS AND EXISTING CONSERVATION DESIGNATIONS (CONSERVATION AREAS)**

### **Recommendations:**

1. NTI and the RIAs support Option 1 as outlined at page 12 of *NPC's Refinements Document*. Option 1 states that the "Protected Area designation" would be removed from current National Wildlife Areas (NWAs) and Migratory Bird Sanctuaries (MBSs) and that the existing regulatory prohibitions would apply in these areas. NTI and the RIAs recommend that NWAs and MBSs be placed in a designation called "Legislated Protected Areas".
2. National Historic Sites and Territorial Historic Sites are designations that do not have accompanying land use restrictions. NTI and the RIAs recommend that these sites be placed in a Special Management Area designation and that terms and conditions be developed to ensure community values are protected. Terms and conditions should include:
  - Proponents should consult with communities adjacent to a historic site:
    - on the activities they would like to conduct;
    - on what historic and cultural values the community would like protected; and
    - on what measures can be taken to protect community values.
  - Proponents should provide a report to the NPC and the appropriate community organizations on the consultations they have undertaken and what measures will be taken to address community values and concerns.
  - Proponents should post a notice in adjacent communities 30 days before they proceed with physical activities within or near a historic site.

### **Considerations:**

- NTI and the RIAs continue to support Option 1 as this approach more closely follows the 2016-2023 Inuit Impact and Benefit Agreement for National Wildlife Areas and Migratory Bird Sanctuaries in the Nunavut Settlement Agreement (2016 IIBA). The 2016 IIBA at section 2.1.2 states that:

*NWAs and MBSs make an important contribution to wildlife and wildlife habitat conservation in the NSA, Canada and the world. They shall be co-managed by Inuit and CWS in accordance with the NLCA, this IIBA, approved Management Plans, Inuit Qaujimajatuqangit, scientific information and, except where inconsistent with the NLCA, the Migratory Birds Convention Act, the Canada Wildlife Act, the Species at Risk Act and other applicable legislation.*

- The 2016 IIBA outlines a co-management approach in accordance with Inuit Qaujimajatuqangit (IQ), scientific information and applicable legislation. Applying additional prohibited uses in the NLUP would add an unnecessary layer of complexity that would undermine expectations of the parties to the 2016 IIBA on how these areas will be managed.
- At the 3<sup>rd</sup> Technical Meeting, Environment Canada suggested that the current proposed Protected Areas that overlap with MBSs and NWAs reflect Environment Canada policy (3rd Technical Meeting Transcript, p. 117). NTI and the RIAs submit that more prohibitions, adopted outside the co-management context, are not in keeping with the intent of the parties to the 2016 IIBA.



## **SUBJECT AREA: HERITAGE RIVERS**

### **Recommendation:**

1. NTI and the RIAs support Option 1 as outlined at page 14 of *NPC's Refinements Document* that would result in the Thelon Heritage River, the Kazan Heritage River, the Soper Heritage River and the proposed Coppermine Heritage River being given a Mixed Use land designation.

### **Considerations:**

- The recommendations take into account key circumstances noted at the Technical Meetings regarding heritage rivers:
  - An Inuit Impact and Benefit Agreement (IIBA) has not been concluded for Canadian Heritage Rivers (CHRs) in Nunavut. Negotiations have hit an impasse. KivIA and the KitlA emphasize that IIBA issues must be resolved before CHRs are provided a designation other than Mixed Use in the NLUP (1<sup>st</sup> Technical Meeting Transcript, pgs. 115-116);
  - QIA seeks to consult with the appropriate communities before taking a final position on a designation for the Soper River (3rd Technical Meeting Transcript, p. 126).

## **SUBJECT AREA: DND AND CONTAMINATED SITES**

### **Recommendations:**

1. NTI and the RIAs would support an option that does not create prohibitions or a designation for DND or Contaminated Sites in the DNLUP.
2. NTI and the RIAs recommend that more detailed information be provided regarding what notification the Government of Canada requires regarding proposed activities near DND and Contaminated Sites. It is unclear whether notification is needed through conformity determinations or can be addressed administratively outside of the NLUP.

### **Considerations:**

- At the 3<sup>rd</sup> Technical Meeting, the Government of Canada indicated that it did not require prohibitions for areas delineated as DND Sites. The Government of Canada also indicated that it preferred a similar approach for DND and Contaminated Sites (3rd Technical Meeting Transcript, pgs. 133-136).
- At the 3<sup>rd</sup> Technical Meeting, NPC and the Government of Canada discussed whether an administrative approach for notification to the Government of Canada regarding proposed activities might be appropriate. An administrative approach would not require notification to be a term and condition in the NLUP (3rd Technical Meeting Transcripts, pgs. 134-136).

## **SUBJECT AREA: COMMUNITY AREAS OF INTEREST**

### **Recommendations:**

1. NTI and the RIAs support a combination of the four options presented by NPC at page 24 of the *NPC's Refinements Document*.
2. In regards to Option 1, in some cases, it may be appropriate to have Community Areas of Interest as Protected Areas, in other cases, it may be appropriate to have Communities Areas of Interest as Special Management Areas where specific terms and conditions are in place to protect the values of interest to the community. NTI and the RIAs recommend that the NPC define the scope and purpose of the Community Areas of Interest designation to assist in assessing new proposals. NTI and the RIAs also recommend that the NPC consult with communities on proposals and assist in developing terms and conditions where Special Management Areas are found to be appropriate.
3. In regards to Option 3, NTI and the RIAs support including a section in the DNLUP detailing how past consultations (particularly consultations with communities and Inuit organizations) have contributed the DNLUP, the development of the designations, Table 1 and Schedules A and B. NTI and the RIAs also support the inclusion of better definitions for IQ and statements on Inuit values in the DNLUP.
4. NTI and the RIAs have reviewed the Community Areas of Interest in the DNLUP 2014. RIAs are planning on consulting communities regarding the proposals for: Duke of York Bay, Foxe Basin, Moffett Inlet, and Nettilling Lake. For the Hiukitak River and Walrus Island, NTI and the RIAs support the proposed Protected Area designations in the DNLUP 2014.
5. NTI and the RIAs are in the process of reviewing new proposals for Community Areas of Interest.

### **Considerations:**

- The recommendations of NTI and the RIAs take into account statements made at the technical meetings regarding community areas of interest, including:

- Some of the new proposals for community areas of interest may be better placed in Special Management Areas. Further consultation with communities bringing forward the proposals is needed (3<sup>rd</sup> Technical Meeting Transcript, pgs. 152-153); and
- Other communities will be interested in proposing areas. A process is needed to include all communities in this discussion (1<sup>st</sup> Technical Meeting, p. 119, 3<sup>rd</sup> Technical Meeting, pgs. 153, 160).

## **SUBJECT AREA: COMMUNITY DRINKING WATER SUPPLY WATERSHEDS**

### **Recommendations:**

- NTI and the RIAs recommend that the delineation of the community drinking water supply areas in the DNLUP be confirmed with the Nunavut Water Board, the Government of Nunavut, the Government of Canada, NTI, RIAs and community organizations such as hamlets.
- NTI and the RIAs support an option that would include the delineation of community drinking water supply areas in the DNLUP and would allow for a discussion with the Nunavut Water Board, Government of Nunavut, the Government of Canada, NTI, RIAs and community organizations about what terms and conditions may be appropriate in the DNLUP to protect community drinking water supply areas.

### **Considerations:**

- The recommendations of NTI and the RIAs take into account statements made at the technical meetings regarding community drinking water supply areas:
  - NPC did not have access to community drinking water supply delineation data from the Nunavut Water Board or Government of Canada and digitized polygons based on contour maps and elevation models (1<sup>st</sup> Technical Meeting, pg. 138); and
  - There has not been recent feedback from the Nunavut Water Board on what option is preferable for community drinking water supply areas. The involvement of the Nunavut Water Board is necessary (3<sup>rd</sup> Technical Meeting, pgs. 141-142).

## **SUBJECT AREA: LINEAR INFRASTRUCTURE CORRIDORS (TERRESTRIAL)**

### **Recommendations:**

1. NTI and the RIAs support Option 1 as outlined at page 28 of *NPC's Refinements Document* that would result in transportation infrastructure being considered to conform to the requirements of the DNLUP except where explicitly prohibited.
2. NTI and the RIAs support a Special Management Area designation for the Manitoba-Kivalliq road and hydro corridor in the DNLUP with appropriate terms and conditions to protect wildlife and their habitat and other values such as cultural sites. In regards to caribou habitat, the Special Management Area terms and conditions should indicate that a plan amendment would not be necessary if the road and hydro corridor were located on post-calving caribou habitat.

### **Considerations:**

- There is support for Option 1 (3rd Technical Meeting, pgs. 174-179, 181).
- The Hudson Bay Regional Roundtable, co-chaired by the Manitoba Minister of Aboriginal and Northern Affairs and the Nunavut Minister of Community and Government Services adopted a resolution in January 2016 supporting a final feasibility study for a Manitoba- Nunavut hydro link.

## **SUBJECT AREA: MARINE AREAS AND MARINE LINEAR INFRASTRUCTURE CORRIDORS**

### **Recommendations:**

1. NTI and the RIAs are providing preliminary comments as it is recognized that further information is required to resolve outstanding issues related to the marine environment. It is anticipated that Transport Canada, Environment Canada, DFO and the Canadian Coastguard will be providing additional information regarding marine issues raised at the NPC Technical Meetings that will facilitate discussions and progress on resolving marine environment issues.
2. NTI and the RIAs recommend that further community consultations take place to confirm specific community concerns regarding shipping routes, vessels (such as cruise ships), ice-breaking and protection of wildlife.
3. NTI and the RIAs recommend that the Institutions of Public Government that form Nunavut Marine Council be engaged regarding marine issues.
4. NTI and the RIAs identify the following as priority issues:
  - Ice-breaking generally and during the shoulder periods (freeze-up/break-up);
  - Ice-breaking along caribou crossings;
  - Identification of specific travel corridors for ships and the maintenance of appropriate distances from wildlife populations of concern;
  - Ensuring that marine access to IOLs is not hindered; and
  - Designations for Marine Management Areas and Marine Conservation and Protected Areas.
5. Some options require more discussion with NPC and regulatory authorities including:
  - Special Management Areas for wildlife areas where terms and conditions could be established. For example, terms and conditions for caribou crossings that limits or prohibits ice-breaking on a seasonal basis.
  - The use of notices, permits, licenses, registrations and other authorizations to regulate vessel activities (e.g. Notice to Mariners; modifications to the Marine Environmental Handbook).
6. To facilitate discussions on marine options for the DNLUP, NTI and the RIAs recommend that NPC and the Government of Canada (Transport Canada, Environment Canada, DFO and the Canadian Coastguard) provide a comprehensive list of notices, permits, licenses, registrations, authorizations, regulatory tools as well as policies and strategies that

should be considered in addressing marine issues in the Nunavut Settlement Area and Zones I and II.

**Considerations:**

- The recommendations of NTI and the RIAs take into account statements made at the four NPC Technical Meetings (including the Marine Technical Meeting) emphasizing concerns about the following marine issues:
  - The number of ships and their travel routes around communities and the impact of all types of vessels on wildlife (3rd Technical Meeting Transcript, p. 200).
  - Areas of key importance, such as Chesterfield Inlet, Foxe Basin and Moffett Inlet (1<sup>st</sup> Technical Meeting Transcript, p. 132 and 3rd Technical Meeting Transcript, pgs. 199-200);
  - Many communities are against ice-breaking altogether. In the Kivalliq, there is concern about ships arriving too early in the Spring and disturbing walrus (3<sup>rd</sup> Technical Meeting Transcript, p. 199);
  - Ice-breaking along caribou crossings. In the Kitikmeot there are particular concerns regarding the impact of ice-breaking on the Dolphin and Union caribou. The Government of Nunavut has recommended a Special Management Area designation with seasonal restrictions on icebreaking for caribou sea ice crossings (3<sup>rd</sup> Technical Meeting Transcript, pgs. 199, 201, 205).
  - Shipping activities unrelated to project activities falling under *Nunavut Planning and Project Assessment Act* (NUPPAA) be addressed in the NLUP (3rd Technical Meeting Transcript, p. 207).
  - Insufficient community engagement on marine issues (3<sup>rd</sup> Technical Meeting Transcript, p. 200).
  - Commercial fisheries. Future consideration should be given to sustainable fisheries development consistent with the *Nunavut Agreement* (Marine Technical Meeting).
  - The involvement of the Nunavut Marine Council and the IPGs that form the Nunavut Marine Council is recommended (Marine Technical Meeting).



## **SUBJECT AREA: AREAS OF EQUAL USE AND OCCUPANCY**

### **Recommendation:**

1. NTI and the RIAs recommend that the NPC consult with the Nunavut and Nunavik communities impacted by the proposed Protected Area designation for Areas of Equal Use and Occupancy. These consultations should occur in co-operation with QIA, NTI and Makivik Corporation. Until further community consultations, and consultations with the landowners have occurred, NTI and the RIAs support the Makivik Corporation request that the designation of the Areas of Equal Use and Occupancy as Protected Areas be delayed and shown as pending confirmation based on further consultations.

### **Considerations:**

- QIA has begun consultations with the community of Sanikiluaq. Those consultations are on-going. At the first consultation, Sanikiluaq community members indicated that more information is required regarding the views of the Nunavik communities on the lands in question. On a preliminary basis, Sanikiluaq community members are open to considering a protection oriented designation. QIA also intends to consult with the community of Cape Dorset.
- Makivik Corporation in its letter to NPC dated March 1, 2016 indicates that the NPC did not hold direct community consultations in the communities of Inukjuak and Umiujaq and that the overall level of community consultation has been insufficient. The Makivik Corporation also reiterates that the current designation of Protected Areas in the zones of Equal Use and Occupancy may prejudice the rights of Nunavik Inuit.

## **SUBJECT AREA: EXISTING RIGHTS**

### **Recommendation:**

1. NTI and the RIAs urge NPC to provide a timely response to NTI's letter of March 22, 2016 recommending that NPC retain outside legal counsel to prepare an independent legal opinion on the grandfathering of existing rights. NTI made this request as it is uncertain whether NPC has the authority under NUPPAA to provide more grandfathering in the NLUP as has been requested thus far by the Government of Canada.

The two questions that should be answered before NPC considers providing additional grandfathering provisions are:

- i. whether the NPC possesses statutory authority to develop a land use plan that would exempt uses of land from the plan's requirements, over and above the exemptions provided in the NUPPAA, and
- ii. if so, having regard to the Government of Canada's current recommendations (for the expansion of grandfathering) what are the limits, if any, on such statutory authority?

## **SUBJECT AREA: DIRECTION TO REGULATORY AUTHORITIES**

### **Recommendation:**

1. NTI and the RIAs support Option 1 as outlined at page 36 of *NPC's Refinements Document* that would result in the establishment of conditions in the DNLUP replacing "Direction to Regulatory Authorities".

### **Considerations:**

- There was support for Option 1 at the 3<sup>rd</sup> Technical Meeting.

## **SUBJECT AREA: OVERLAPPING DESIGNATIONS**

### **Recommendation:**

1. NTI and the RIAs do not support Option 1 as outlined at page 39 of *NPC's Refinements Document* that would create a new land use designation where designations overlap. Overlapping designations are not a concern unless there are conflicting requirements between the designations.

### **Considerations:**

- The establishment of a new land use designation for overlapping designations was not supported at the 3<sup>rd</sup> Technical Meeting.

## **SUBJECT AREA: ACCESSORY USES**

### **Recommendation:**

2. NTI and the RIAs support Option 3 as outlined at page 40 of *NPC's Refinements Document* that would result in accessory uses being eliminated from the DNLUP.

### **Considerations:**

- The use of accessory uses in the DNLUP would add unnecessary complexity and cause confusion.
- The use of accessory uses in the DNLUP was not supported at the 3<sup>rd</sup> Technical Meeting.

## **SUBJECT AREA: CARIBOU HABITAT**

### **Recommendation:**

1. NTL respects the views of each RIA and is continuing to work with the regions on establishing approaches to caribou and will provide updates as appropriate.
2. The following is a summary of the views of each RIA regarding caribou habitat:

#### QIA

In October 2015, the QIA Board of Directors adopted a resolution endorsing protection of caribou calving grounds and the use of mobile protection measures in post-calving grounds in the Qikiqtani region (see Appendix 1). In a letter to the NPC dated March 24, 2015, QIA reiterated its support for caribou Protected Areas and stated that QIA would like to see caribou protection measures applied in all three regions. QIA also indicated that there is currently a lack of resources, capacity and research regarding the use of mobile protection measures in calving grounds.

#### KitIA

On May 5, 2016, the KitIA Board adopted a resolution stating:

- i) Support for reasonable mobile protection measures for concentrations of caribou, including calving caribou, where they may be, irrespective of the season;
- ii) KIA commitment to lobby responsible agencies and proponents to bolster their investments in caribou monitoring, information sharing, and enforcement in order to ensure caribou are appropriately protected;
- iii) Support for the development of research initiatives geared to identifying adaptive management approaches that allow for the co-existence of caribou and development in the Kitikmeot Region (see Appendix 2).

In the preamble to the resolution, KitIA acknowledges that caribou calving grounds shift unpredictably on the mainland of the Kitikmeot region and that caribou populations have cycles of lower and higher numbers over history caused by several natural and man-made factors.

#### KivIA

KivIA has not passed a board resolution regarding appropriate measures to protect caribou habitat in the DNLUP. A technical submission (see Appendix 3) to NPC provides that:

- core calving areas on surface IOLs be identified using IQ and science and be closed to development using Protected Areas in the NLUP, and
- core calving areas on surface IOLs that overlap with areas of High Mineral Potential should be placed in seasonal Special Management Areas with stringent measures based on Mobile Protection Measures.