



FINAL WRITTEN COMMENTS

**PRESENTED BY MAKIVVIK
ON BEHALF OF THE INUIT OF NUNAVIK**

TO THE NUNAVUT PLANNING COMMISSION

**ON THE 2021 DRAFT NUNAVUT LAND USE PLAN (DNLUP)
IN RELATION WITH
THE AREAS OF EQUAL USE AND OCCUPANCY (AEUO)**

February 10th, 2023

TABLE OF CONTENT:

1. CONTEXT AND COMMENTS OVERVIEW
1. NUNAVIK INUIT HOMELAND
2. MAKIVVIK AND THE AREAS OF EQUAL USE AND OCCUPANCY (AEUO)
3. COHERENT PLANNING NILCA-NLCA
4. CONCLUSION
5. GENERAL DESCRIPTION - MAKIVVIK

LIST OF ACCRONYMS:

AEUO:	Areas of Equal Use and Occupancy
DNLUP:	2021 Draft Nunavut Land Use Plan, or 2016 Draft Nunavut Land Use Plan
KivIA:	Kivalliq Inuit Association
KitIA:	Kitikmeot Inuit Association
Makivvik:	Makivik Corporation
NPC:	Nunavut Planning Commission
NA:	Nunavut Agreement
NILCA:	Nunavik Inuit Land Claims Agreement
NISA:	Nunavik Inuit Settlement Area
NTI:	Nunavut Tunngavik Inc.
NMR:	Nunavik Marine Region
NMRPC:	Nunavik Marine Region Planning Commission
NSA:	Nunavut Settlement Area
QIA:	Qikiqtani Inuit Association
Sanarrutik:	2002 Quebec-Nunavik Economic and Community Development Partnership Agreement
VSECs:	Valued Socio-Economic components

1. CONTEXT AND COMMENTS OVERVIEW

These are the final written comments presented to the Nunavut Planning Commission (NPC) by Makivik Corporation (Makivvik) on behalf of Nunavik Inuit. They concern the Areas of Equal Use and Occupancy (AEUO) defined in Article 40 of the Nunavut Land Claims Agreement (NA) and Article 27 of the Nunavik Inuit Land Claims Agreement (NILCA). It reiterates elements presented by Makivvik on November 18, 2022, during the Public Hearings (Iqaluit session).

As the exclusive representative of the Inuit of Nunavik when it comes to the AEUO according to the NILCA and the NA, this submission presents the official position of Makivvik in respect to the land use planning designation proposed for the AEUO in the 2021 Draft Nunavut Land Use Plan (DNLUP).

We note that the June 2021 DNLUP (2021 DNLUP) is an updated version of the 2016 DNLUP by the NPC. In the 2016 DNLUP, the AEUO jointly owned by Makivvik and Nunavut Tunngavik Inc. (NTI) were designated under a proposed Protected Areas (Limited use) status. While some representatives of the interested communities indicated their desire to see the AEUO designated under some form of protection, at the time NTI and Makivvik recommended a more open designation status, notably since the joint land ownership and the anticipated permanent management regime to be established over the area necessitate Inuit decision-making and control. Hence, the strict protected area designation advocated for under the 2016 DNLUP for the AEUO was decried by Makivvik under various considerations:

- The proposal did not balance the needs and aspirations of the joint rights holders, while acknowledging the economic needs but also the conservation objectives of said rights holders;
- It contravened to the Parnasimautik 2014 Community consultation report: although Nunavik mainland oriented, this report advocates for balanced planning of the Nunavik Inuit Homeland, permitting sustainable and equitable development for Nunavik Inuit;
- It did not provide for meaningful and adequate consultation of adjacent Nunavik Inuit communities to which the proposed status could have been explained in greater detail, and the strict prohibitions it entailed, although Makivvik is the one and official representative of the Inuit of Nunavik when it comes to the AEUO and the rights co-owned thereto;
- It may have fundamentally prejudiced the rights of the Nunavik Inuit to these overlap areas in that it could diminish the value of the land by severely limiting potential future alternate use including economic development, moreover when considering the level of information and data currently available on the AEUO resources and potentials;
- It did not permit the development of a coherent land planning approach in-between the responsible bodies when it comes to the AEUO the NPC and the Nunavik Marine Region Planning Commission (NMRPC).

The 2021 proposal for the AEUO refers to a “Valued Socio-Economic Component”, which appears to have bridged the concerned community considerations and the co-owners’ rights and interests. Your options and recommendations document, section 4.2.3, clarifies this policy recommendation:

Recommendation for Areas of Equal Use and Occupancy:	Option 4 is recommended (VSEC)
--	--------------------------------

Rationale:	Option 4 is recommended given the importance of the areas to residents and the latest land use management approach suggested by the landowners.
------------	---

It is our understanding that this option shall reinforce the Mixed Use designation with added characteristics that, in turn, will impact the obligations devolved to proponents so they respect and accommodate identified Valued Components. In fact, the various options for designation in the 2021 DLUP were refined as follows:

OPTION	2021 NLUP	PREVIOUS NLUP	COMMENTS
1	Limited use (LU)	➤ Former Protected Area category (2016)	2016 NLUP: AEUO were included under this category
2	Conditional use (CU)	➤ Former Special Management Area (2016)	
3	Mixed Use (MU)	➤ Default characterization if no other status is provided in the plan ➤ Characterized by no prohibited uses or other conformity requirements in the DNLUP.	2016 NLUP: NTI and Makivik asked that this category be used for the AEUO
4	Valued Socio Economic components (VSECs)	➤ Former Direction to Regulatory Authorities (2014) ➤ Added characteristic to Mixed use ➤ No land use restrictions in the area, except as may be set by regulatory authorities	2021 NLUP: AEUO are now recommended under this option for designation

When comparing the 2016 Mixed Use designation with the current Option 4 proposed, similarities in nature, objectives and, to a certain extent, effects, are observed:

2016 DNLUP	2021 DNLUP
➤ Mixed Use is a Land Use Designation that allows for all uses except highways and railways but may identify Valued Components that should be considered Areas that have been identified for their potential to support a variety of land uses are managed through a Mixed Use Land Use Designation. ➤ The intent of Mixed Use Land Use Designations is to support a variety of opportunities and land use activities, taking into account the following factors: a) The	➤ Mixed Use (Option 3) is the default characterization if no other status is provided in the plan ➤ Characterized by no prohibited uses or other conformity requirements in the DNLUP. Other regulatory authorities may set other requirements through the issuance of permits, licences and authorizations, as appropriate ➤ Valued Socio Economic components (VSECs) (Option 4) are an added characteristic to Mixed use, with no land use restrictions in

<p>potential for economic opportunity in the area b) The potential for conservation initiatives in the area; and c) The social well-being of the residents of the area</p> <p>➤ At the DNLUP, areas of ecological and biological significance have been identified as “Mixed Use” due to limitations in available information. It is anticipated that as available science, traditional knowledge, and understanding of these areas improves, future planning at finer scales may identify more specific management requirements.</p>	<p>the area, except as may be set by regulatory authorities</p> <p>➤ Identifies geographic areas that are important to particular Valued Ecosystem Components (VECs) or Valued Socio-Economic Components (VSECs). VECs and VSECs are collectively referred to as VCs.</p> <p>➤ Proponents and regulatory authorities would be made aware of the importance of the sites, and the NPC would consider this information when determining whether there are potential cumulative impacts concerns regarding project proposals.</p>
---	--

Taking into consideration that this designation shall largely respect the decision-making role and management rights devolved to Makivvik and NTI for the AEUO in the NILCA and NA, it seems that the balanced approach called upon by Makivvik is integrated in the 2021 designation proposal for the AEUO: Option 4 may in fact permit the reconciliation of the past, present, and future Inuit objectives and needs towards acceptable, sustainable and equitable development:

Addressing current and future needs of the communities and the region as a whole is essential (...) for achieving greater autonomy, self-sufficiency and well-being - **2014 Parnasimautik Report**¹

Makivvik does note, however, that the designations of Conditional Use (CU) and Limited Use (LU) for polar bear denning habitats and walrus haul-out sites, respectively, are counter to the balanced approach of the VSEC designation. Despite this, Makivvik does support the recommendations of the NPC with regards to these sites.

2. NUNAVIK INUIT HOMELAND

The Nunavik Inuit homeland consists of both the mainland and offshore areas. The Nunavik mainland portion is a territory that occupies a large landmass (660,000 km²) within the tundra and sub-boreal regions above the 55th parallel in the Province of Québec and beyond. It covers an area that is equivalent to one-third of the area of Québec. The 1975 James Bay and Northern Quebec Agreement (JBNQA) governs it. The offshore area consists of the offshore region around Québec, Eeyou Istchee, Nunavut, northern Labrador, and offshore northern Labrador. It is further defined in the 2006 NILCA as the Nunavik Marine Region (NMR), and includes all

¹ See www.parnasimautik.com / the Parnasimautik Consultation Report was prepared by Makivvik, the KRG, the Nunavik Regional Board of Health and Social Services, the Kativik School Board, the Nunavik Landholding Corporations Association, the Avataq Cultural Institute, and the Youth Association.

marine areas and waters, all islands and lands within the boundary of the Nunavik Inuit Settlement Area (NISA) as identified in Schedule 3-2 of the NILCA. Said boundary includes the AEUO with the Inuit of Nunavut, but also areas of equal use and occupancy and joint ownership with the Cree of Eeyou Istchee. When it comes to their homeland, the Nunavik Inuit legal regime is an organic, all-inclusive concept, which contains inter-connected elements relating to identity, language, usages, history, culture, traditions, environments, needs, families, interconnectivity and reciprocity, combined with treaty rights and interests, all observed through perennial, sustainable and equitable lenses and with self-determination objectives.

3. MAKIVVIK AND THE AEUO

Makivvik acknowledges the objectives of the DNLUP, which are intended to guide and direct land and resources use and development in the Nunavut Settlement Area (NSA) including for the AEUO. The AEUO themselves are areas of great significance for Nunavik Inuit. Their importance for Nunavimmiut was so real, as a fundamental and integral component of Nunavik, that they were designated as areas jointly owned by Nunavik and Nunavut Inuit in the NILCA and the NA. They have nurtured Nunavik Inuit of nearby communities for thousands of years and, as their wish is for this to continue, we are very aware that uses of the land may evolve over time and that new opportunities may present themselves. That is why, as co-owner of the Inuit title, we are committed to finding the right balance as far as land designation was contemplated for this area.

As illustrated in both land claims agreements, the AEUO means the areas generally located around the Salisbury and Nottingham Islands in the Hudson Strait, and the Bakers Dozen, King George, and Sleeper Islands in the Hudson Bay. The title for these islands is jointly owned and managed between the Inuit of Nunavik, represented by Makivvik, and the Inuit of Nunavut represented by NTI. The AEUO in Hudson Bay and the Hudson Strait are mapped at Schedule 40-1 of the NLCA, which is mirrored at Schedule 27-2 of the NILCA, the first acting as the authoritative source. The AEUO aims at permitting a participation of the two joint owners, NTI and Makivvik in regimes for wildlife management, **land use planning**, impact assessment and water management (Article 40.2.1 (iii) NA). As such, Makivvik is allowed full standing by the NPC when performing the functions it holds in relation to the jointly owned islands and marine areas, considering that Makivvik is the voice of the Nunavik Inuit respecting areas traditionally used and occupied by Nunavimmiut (Paragraph 40.2.16).

In the best interest of Nunavik Inuit, the AEUO shall achieve sustainability objectives, while acknowledging past and present needs without compromising the ability to pursue in the

future equity objectives as required. This principle stands for the preservation of the traditional culture and economy of Inuit titleholders, but also for the fulfillment of their aspirations. To balance economic or conservation objectives, flexibility needs to be offered in the decision-making process, to the decisional authorities and rights holders which are Makivvik and NTI in this instance. Both are tasked with the development of a permanent arrangement for the management of the AEUO, as called upon in the NILCA and the NA. Inuit decision-making for Inuit owned lands is crucial. As such, Makivvik remains committed to acting with its partner on this opportunity at the earliest occasion. In the interim, we are of the opinion that the management regime currently in place for the AEUO, which puts the two rights holders front and center over any land use prospect, suffices to respond to limited access or conservation views, and this will continue right up until a permanent management regime for the AEUO is developed in accordance with the Agreements. Given these circumstances, however, Makivvik questions the appropriateness of the NCP making any land use plans and designations for the AEUO. Although we concur with the draft designation that the NCP has promoted in the 2021 DNLUP, we question if the NCP would not have been better deferring any designation until such time as the permanent management regime has been established.

4. COHERENT PLANNING NILCA-NLCA

Regarding the NMR and Nunavik Inuit Settlement Area (NISA), the NMRPC was established pursuant to the NILCA as an institution of public government. It should tackle the important task of developing a Land Use Plan for the NMR, including for the AEUO. The planning process aims at developing planning policies, priorities and objectives regarding the conservation, development, management and use of land within the NMR and to ultimately prepare land use plans which will guide and direct resource use and development in the NMR. Based on both the NILCA and the NA, a coherent and coordinated approach needs to be developed between the NPC and the NMRPC regarding the AEUO, with privileged involvement of the Inuit rights holders throughout the processes. We expect full cooperation from the NMRPC and the NPC in the discharge of their associated duties when it comes to the AEUO.

5. CONCLUSION

Based on our review of the 2021 DLUP in reference to the AEUO, we are satisfied with the recommended designation for the AEUO, which calls for the Mixed Use Valued Socio Economic Components Designation, taking into consideration that this designation shall respect the decision-making role and management rights devolved to Makivvik and NTI for the AEUO in the

NILCA and NA. However, we would like to simultaneously note our reservations on the authority and wisdom of the NPC making land use designation recommendations prior to the establishment of the permanent management regime envisioned in the NA and NILCA.

Lastly, we require that the present submission be duly incorporated into the deliberation by the Commissioners in considering the 2023 Recommended Nunavut Land Use Plan.

6. GENERAL DESCRIPTION - MAKIVVIK

Makivvik was created in 1978 by the *Act to Establish the Makivik Corporation* (CQLR., c. S-18.1). Makivvik is the recognized Inuit Party to the JBNQA. A not-for-profit corporation, its central mandate is the protection of the integrity of the JBNQA and its implementation. It also acts upon the rights and interests of the Nunavik Inuit provided for in another constitutionally protected treaty, the NILCA. Makivvik promotes the preservation of Inuit culture and language as well as the health, welfare, relief of poverty and education of Inuit in Nunavik communities. It focuses on the political, social and economic development of the Nunavik region. Makivvik is further mandated to manage the heritage funds of the Inuit of Nunavik provided for in the JBNQA, and to administer and invest these funds while promoting the economic growth of the Nunavik region by providing assistance for the creation of Inuit operated businesses. The members of the Makivvik Board of Directors include sixteen (16) community representatives and five (5) executive directors universally elected by beneficiaries of the JBNQA. The members of the corporation comprise all Nunavik Inuit beneficiaries of the JBNQA.
