

Attachment No. 1: Government of Canada Response to the Final List of Issues for Public Hearing on North Baffin Regional Land Use Plan Amendment # 3

The Government of Canada (GoC) understands that the purposes of sections 3.5.10 - 3.5.12 of the North Baffin Land Use Plan, and therefore of Appendices J and K, is to help guide the Nunavut Planning Commission (the Commission or NPC) in determining whether a proposal to develop a transportation corridor is both reasonable and preferred in respect of potential implications of all reasonable alternative route selections.

The GoC does not believe that the proposed amendment would develop a transportation corridor, because a transportation corridor has already been developed in a manner consistent with the North Baffin Regional Land Use Plan. The process that led to the existing Appendix Q of the North Baffin Land Use Plan under sections 3.5.10 - 3.5.12 resulted in the approval of an existing Milne Inlet Tote Road and Marine Transportation Corridor. The North Baffin Regional Land Use Plan's concept of a 'transportation and/or communications "corridor"' (s. 3.5.10) (as opposed to transportation *infrastructure* or transportation *activities*) is premised on finding optimal locations for linear development, and if possible to facilitate the bundling of disparate forms of linear infrastructure into established locations within the plan. Appendix Q has already established a corridor.

In that context, the GoC has reviewed the amendment request and supporting documentation provided by BIMC and believes that the content provided is satisfactorily comprehensive to allow the NPC to consider the application and make recommendation on whether to amend the North Baffin Regional Land Use Plan, and if so how.

It should be noted that while the information provided by BIMC meets the requirement of the land use plan amendment process, this does not mean that the level of information provided would necessarily satisfy the requirements for project-specific impact assessment. If a specific project advances to the screening stage, the GOC has every confidence that the NIRB will adequately assess the proposal and determine appropriate actions to ensure potential environmental and socio-economic impacts are properly considered and addressed.

- 1. (a) Is BIMC required to provide the information listed in Appendix J if adding a new railway to an existing transportation corridor (road); and (b) if the answer is yes, has BIMC in fact provided that information?**

Despite our view that there is an existing transportation corridor and that BIMC's plan amendment application is not to "develop" a transportation corridor, the GoC respects that BIMC has applied for an amendment to the land use plan, and that the Commission might consider sections 3.5.10-3.5.12 to apply to this proposed amendment. The GoC is comfortable that the information provided is reasonable for the NPC to determine whether to recommend the proposed amendment.

BIMC has provided a description of the proposed corridor in their Project Proposal, Mary River Expansion Project, submitted to NPC on February 3, 2017, complemented and referenced in BIMC's Attachment #1, Response to NPC Request for Additional Information, submitted to NPC on March 17, 2017. These documents provide what the GoC considers an adequate description of the proposed corridor, its use, general routing, and possible environmental and social impacts, including harm to wildlife, harm to wildlife habitat, the environment, and disruption to community travel routes and traditional land use activities, in order to satisfy the requirements of Appendix J.

BIMC does not provide a comparison of alternative routes, indicating the consideration of alternative railway routes would not be practical or reasonable. BIMC instead outlines the criteria by which the existing transportation route is considered the only feasible option. While the amendment application does not provide alternatives to the proposed corridor, the GoC notes: (i) there is already an approved and existing corridor and it is both reasonable and preferred to concentrate linear infrastructure to a single corridor to reduce landscape fragmentation (noting further that this is a principle supported by the North Baffin Land Use Plan, specifically within sections 3.5.10-3.5.12 and Appendices J and K); (ii) the information on the public record shows alternative routes have been fully considered by BIMC and the NPC during the Early Revenue Phase, NBRLUP Amendment 2 process (see Summary of Information Provided to the NPC in Accordance with Appendices J and K of the NBRLUP, submitted to the NPC on November 8, 2013). The GoC considers this a reasonable approach.

It is important to restate that although the information is sufficient for plan amendment purposes, it remains to be considered in later processes what information would be required for project-specific impact assessment.

2. **(a) Must BIMC follow the guidelines in Appendix K if adding a new railway to an existing transportation corridor (road); (b) if the answer is yes, has BIMC met those guidelines; and (c) does the NPC need to make a decision to determine the physical width of the existing corridor that is to safely encompass all components of compatible linear infrastructure within the corridor?**

Despite our view that there is an existing transportation corridor and that BIMC's plan amendment application is not to "develop" a transportation corridor, the GoC respects that BIMC has applied for an amendment to the land use plan, and that the Commission might consider sections 3.5.10-3.5.12 to apply to this proposed amendment. However, it should also be recognized that BIMC's amendment proposal is to amend the plan's treatment of an existing transportation corridor, while sections 3.5.10-3.5.12 speak to the "develop[ing]" a transportation corridor. This is a meaningful difference because sections 3.5.10-3.5.12, and the referenced Appendices J and K, anticipate that whenever a "transportation and / communications corridor" is considered (as was done leading to the Appendix Q corridor), the starting point preference and assumption is that such corridors are to be multi-purpose.

To the extent that NPC considers appendix K applicable in the circumstances, it is the view of the GoC that BIMC has given due consideration to the guidelines within Appendix K and responded to them to a reasonable degree in its plan amendment application.

BIMC provides a proposed Mine Site Layout, Milne Port Layout, and railway routing and design which aims to minimize or mitigate impacts to the values and interests outlined in Appendix K. BIMC goes as far to suggest that the proposed railway will reduce some impacts associated with the existing Milne Road activities. BIMC proposes all activities would occur within the existing Appendix Q corridor, using the corridor width as proposed in the draft Nunavut Land Use Plan (10 kilometers) because no corridor width was defined in the North Baffin Regional Land Use Plan and its Amendment.

The GoC considers the information provided by BIMC adequate at a land use planning level of analysis, in the context of the proposed amendment to the existing Appendix Q corridor.

3. Is the proposed amendment consistent with Nunavut Agreement, Nunavut Planning and Project Assessment Act and NPC's broad planning policies, objectives, and goals, or if not are revisions to the amendment required?

The Government of Canada is of the view that the proposed amendment is consistent with Nunavut Agreement and *Nunavut Planning and Project Assessment Act* as Appendix Q in the North Baffin Regional Land Use Plan has established a transportation corridor in the area.

4. Do the Caribou Protection Measures in Appendix 1 of NBRLUP need to be revised in connection with the proposed amendment of Appendix Q and prior to a conformity decision on the proposal to construct the railway, and if so, what revisions are necessary or advisable?

Making amendments to the Caribou Protection Measures in Appendix 1 in connection with the proposed amendment of Appendix Q and prior to a conformity decision is outside the scope of the amendment application by BIMC. The Government of Canada is of the view that the revision of the Caribou Protection Measures in Appendix 1 of the North Baffin Regional Land Use Plan should be conducted separately from this proposed amendment because it requires an amendment and consultation process in its own, as the protection measures are applicable throughout the region instead of limited to the area pertaining Appendix Q.

5. Should the NPC create corridors that allow proponents to carry out any type (or "mode") of transportation project, and avoid restricting transportation by any project proponent?

In GoC's view, this is already the planning approach evident in the North Baffin Land Use Plan. In our view, this strongly suggested by the policy underlying sections 3.5.10-3.5.12, and in particular item #3 on Appendix J ("suitability for inclusion of other possible communication and transportation initiatives"). This part of the plan is designed to facilitate regional planning that looks for opportunities to gather together transportation, communication, and transmission potential in a combined corridor, where it

makes sense to do so. In most cases, including the Appendix Q corridor, a multi-modal and multi-user corridor is preferable to a project-specific corridor.

6. Will the addition of a proposed railway (a “multi-modal” use) to the existing transportation corridor in Appendix Q:

a. unduly interfere with the existing public right of access for the purpose of transportation to the Milne Inlet Tote Road easement under the Nunavut Agreement, or not, and

The Government of Canada is of the view that the proposed amendment does not interfere with the existing public right of access for the purpose of the transportation to the Milne Inlet Tote Road easement under the Nunavut Agreement. The project-specific assessment of impacts of any specific project on other users or potential users of these lands would be done through the impact assessment process.

b. are the proposed “multi-modal” uses (road and rail) compatible pieces of linear infrastructure within the corridor together with a public easement?

The Government of Canada is of the view that the nature of the proposed “multi-modal” uses are compatible with linear infrastructure within the corridor described in Appendix Q together with a public access easement. The project-specific assessment of impacts of any specific project on other users or potential users of these lands would be done through the impact assessment process.