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Your file - Votre référence

Our file - Notre référence
IQA-N 8505-1 UNC/ CIDMs 426957

September 16, 2010

Sharon Ehaloak
Executive Director
Nunavut Planning Commission
Cambridge Bay, NU, X0B 0C0

Re: Review of Working Draft Nunavut Land Use Plan Materials

The government of Canada is pleased to respond to the Commission's June 22, 2010 letter requesting comment on the Working Draft Nunavut Land Use Plan materials. This material is the product of collaboration by eight federal departments and agencies and speaks on behalf of Fisheries and Oceans Canada, Department of National Defence, Environment Canada, Indian and Northern Affairs Canada, Natural Resources Canada, Parks Canada Agency, and Transport Canada. Attached to this letter is a compilation of initial responses by each of the above listed departments and agencies as well as appended submissions from individual departments and agencies with more specific and technical comments.

Canada's observations outlined herein are a preliminary response to a set of materials that are evidently at an early stage of development. Canada's observations on the Plan will, of course have to be revisited as additional responses to the materials become available, most notably those of the Government of Nunavut, Nunavut Tunngavik Incorporated, the Regional Inuit Associations, Inuit and other residents.

Moreover, as the Commission continues to articulate and clarify its proposed approaches to key planning issues, Canada will periodically reassess all relevant considerations.

It is important to note that while Canada's comments are detailed in some areas, they are in no way comprehensive. These comments are provided in addition to previous submissions made to the Commission by departments. In this regard, Canada recognizes that the Commission's planning process is iterative. As this planning process will involve multi-party review, comment and revision of numerous versions of several

documents over time, Canada recommends that the Commission ensure that all Plan materials indicate their draft status, and all relevant materials are assigned a consistent title, dated, and are made accessible within a public registry system.

We look forward to continuing to participate in the plan development process.

Sincerely,



Natalie Plato
A/Regional Director General
Indian and Northern Affairs Canada

Encl. ANNEX A – September 16, 2010 Government of Canada Submission
ANNEX B – Fisheries and Oceans Canada Submission
ANNEX C – Department of National Defence Submission
ANNEX D – Environment Canada Submission
ANNEX E – Indian and Northern Affairs Canada Submission
ANNEX F – Parks Canada Agency Submission
ANNEX G – Transport Canada Submission
ANNEX H - Fisheries and Oceans Canada, Parks Canada Agency,
Environment Canada Submission

cc. Markus Weber, Government of Nunavut
Joe Kunuk, Nunavut Tunngavik Incorporated
Nancy Anilniliak, Parks Canada Agency
Randal Cripps, Environment Canada
David Harper, Natural Resources Canada
Karen Hurst, Fisheries and Oceans Canada
Paula Isaac, Indian and Northern Affairs Canada
Ken Landa, Department of Justice
Peter Linkletter, Department of National Defence
Harvey Nikkel, Transport Canada

ANNEX A to the September 16, 2010 INAC Letter to the Commission

September 16, 2010 Government of Canada Submission

Materials reviewed

- Map (Poster Plan) – Working Draft Nunavut Land Use Plan
- Supplementary Maps – Summary of Implementation Strategy
- Draft Nunavut Land Use Plan Implementation Strategy

CONSULTATION

Canada is mindful of the Commission's mandate which includes the promotion of active and informed participation of Inuit and other residents affected by the land use plan and the promotion of public discussion and debate throughout the land use planning process.

Canada is interested to know what version of the Commission's materials might be shared with the public prior to and during any Commission consultation process. At this stage of the development of the Plan, the materials do not fully reflect Canada's interests or perspectives. We know also that the Government of Nunavut expects to provide significant comment in late fall, and we anticipate that the Commission will hear from Inuit Organizations as well. While in no way wishing to detract from the Commission's engagement with the public, we recommend that materials be sufficiently developed and accurate enough to support a meaningful and productive public engagement process.

An initiative of this scope and scale will require an extensive consultation approach. Canada encourages the Commission to engage federal, territorial and Inuit organization officials in the development of the Commission's consultation strategy and the development of materials specific to the purpose.

Canada notes that your fellow Institutions of Public Government have offered to share their extensive knowledge and information on integrated resource management and promotion of public participation within their respective administrative tribunal processes. We encourage the Commission to access their experience.

STRUCTURE OF THE PLAN

As stated in S.11.3.1 of the *Nunavut Land Claims Agreement*, "A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following: (a-i)".

In the current format it is unclear how the components of the Plan materials fit together and function. Observations and recommendations on these components are provided below:

A. Map (Poster Plan)

Used on its own, a poster format presents practical challenges which ought to be recognized at the outset of this process. Canada observes the following:

1. A graphical representation alone cannot adequately address planning around a dynamic physical and regulatory environment.
2. Scale – depicting such a vast planning region in a single poster presents significant problems of scale including readability, level of detail and ability to achieve comprehensiveness. The scale of the map(s) must accurately reflect the nature, location of the items shown. The present scale of the Plan cannot accurately portray much of the previously supplied point-data from federal departments.
 - a. Canada recommends that the Plan include supplementary scaled maps that allow for accurate representation of point-data
 - b. Canada recommends creating subset maps of larger data layers to better reflect community interests for areas within a reasonable adjacency of Nunavut's communities. Local data sets and larger scaled maps would allow all users to better comprehend the information and offer meaningful comments.
3. The poster plan format is difficult to work with especially for electronic viewing and/or printing.
4. In contrast to a book or binder format, a single poster plan gives no linear “start to finish” progression for the reader and little guidance on how to understand the Plan, its context and its future implementation.
5. It is foreseeable that a single poster format would be incapable of giving sufficient interpretative certainty to meet the needs of users, including proponents and regulators. Based on Canada's experience with other Northern land use plans, the degree of certainty required for such a key legal document necessitates a greater degree of reliance on textual information.

There are techniques that could assist the Commission in addressing some of the above noted challenges including the use of:

1. Base data – basic level of map data on which other information is placed for purposes of comparison or geographical correlation. Base maps should act as the standard display and be used repeatedly.
2. Derived maps – maps created from regional or local data sets should be used for analyzing, altering or combining maps for a master database.
3. Map palette colours and applicable legends – an array of distinct colours and associated map legends should be remain standardized throughout the generation of base level to detailed maps/posters.

B. Map-based Approach

In the Plan, the Commission appears to have established conformity requirements and other planning provisions entirely by geographic indicators on a map. By-law type statements are also necessary for the creation of certain kinds of conformity requirements. By the phrase “by-law type statements” we mean text based planning provisions that apply to a given physical or environmental element whether or not that element has been mapped in the Plan. The following two examples illustrate this point:

1. Contaminated sites under Indian and Northern Affairs Canada’s administration and appearing on the federal Contaminated Sites Program List have not been mapped by the Commission and sites on this list will continue to change over time. To plan accordingly around these sites, it will be necessary to adopt a planning approach not tied exclusively to a map.
2. Official listings for species at risk are also continually updated. For the Plan to be responsive to this changing information, a method other than graphical mapping of a geographic area will be necessary.

There should be no need to trigger the *Nunavut Land Claims Agreement* plan amendment process in order to keep current with certain kinds of foreseeable changes to the physical environment or legal status of eco-systemic components and other variable factors.

Canada looks forward to seeing mechanisms to deal with non-mapped and dynamic information further developed in the next version of the Plan materials or the methods the Commission will use to plan around these components.

C. Geomatics and Land Descriptions

In order to support an integrated resource management system, and to inter-operate with other sources and users of geospatial data, the Commission is encouraged to adopt a standardized, inter-operable, approach to geospatial data.

It will be of key importance to link that data to other legal and technical data sources, including legal surveys and legislation based boundary divisions (e.g., NLCA, mining regulations, oil and gas land regulations, public and Inuit land management systems, land withdrawals under the *Territorial Lands Act*, protected area boundaries, etc).

It is important to consider the need for clarity in identifying and describing geographic areas. Project proponents and other users will need to know when a proposed development is in or near a zoned area. Although a formal legal survey is not required for all purposes, well described features and other geospatial information will ensure that administration is effective and the opportunity for conflict is reduced. Natural Resources Canada, in particular the Surveyor General Branch, has considerable experience in describing areas effectively for legislative and quasi-legislative purposes and could assist

in identifying techniques to properly describe areas and boundaries to meet their intended purpose.

D. Supplementary Maps

Data displayed on the supplementary maps is useful; however, much or all of the data is subject to change or revision over time and some of the information displayed on the maps may need to be included in the main Plan materials. It would therefore seem wise to separate background information that is subject to change from the Plan, in order to ensure that the Commission can consistently publish accurate and up-to-date data without requiring plan amendment. Canada sees a clear link between these kinds of data and maps and the Commission's general monitoring mandate.

APPLICATION

The Commission's planning jurisdiction applies only in the Nunavut Settlement Area and Outer Land Fast Ice Zone. The Plan should clearly indicate the limits of its application and make clear that it does not apply to or within established National Parks, established National Marine Conservation Areas, or established National Historic Sites of Canada provided they are administered by Parks Canada.

No provisions of the Plan should purport to have jurisdiction beyond the Nunavut Settlement Area and Outer Land Fast Ice Zone boundary.

Canada notes that the current Plan materials are ambiguous as to whether the Commission is opting not to exercise planning jurisdiction within municipal boundaries, or whether it is expressing the view that the Commission's planning jurisdiction does not extend within municipal boundaries. We observe that this issue has also been raised by the Nunavut Impact Review Board in their letter dated August 27, 2010. Canada looks forward to participating in this discussion, in particular because INAC is commonly the administrator of lands adjacent to municipalities and of beds of bodies of water within municipalities, and has a co-management role of a key municipal resource, fresh water.

ZONING

A fundamental requirement of a land use plan is a clear explanation of its approach to zoning. Canada needs clarification on the Commission's intended outcome of each kind of zone (e.g., "restricted access", "special management areas", and areas not currently zoned).

A. Restricted Access

The working draft materials do not identify the implications of zoning any particular area as "restricted access". Without knowing these implications, we cannot comment meaningfully on the specific areas. Canada presumes that the next set of working draft materials will identify the restrictions applicable in each Restricted Access Zone. Canada

recommends that, in order to strike the appropriate balance, terms and conditions, and permitted uses for all land use planning zones are sufficiently tailored to meet the objectives of that particular zone. This means it is quite likely that several different management strategies may be necessary depending on the eco-systemic, economic, cultural, or other value being protected. As the Plan continues to develop, Canada will follow up with additional recommendations and management strategies, including for critical habitat identified as necessary for the recovery of listed or soon to be listed species at risk.

B. Special Management Areas

The Plan does not fully identify the implications of zoning any particular area as ‘special management area’. Without knowing these implications, we cannot comment meaningfully on the specific areas presently identified. As the Plan continues to develop, Canada will follow up with additional recommendations for management strategies, including for critical habitat identified as necessary for the recovery of listed or soon to be listed species at risk.

With respect to any zoning for the Lancaster Sound area, please note that information will be forthcoming from Canada on this issue.

C. General use areas

The current Plan contains planning provisions in a fairly small proportion of the Commission’s geographic mandate. The Commission has not identified any basic minimum conformity requirements common throughout the Nunavut Settlement Area and Outer Land Fast Ice Zone. Canada presumes that as the Plan progresses; the Commission might identify planning provisions to apply in these geographic areas currently without any provisions.

D. Permitted Uses in All Zones

Canada suggests that the Commission should take a cautious approach to determining that any class of project proposal might be permissible in all zones. For example, establishment of a recreational cabin might be inconsistent with an area containing identified critical habitat for a species at risk to which prohibitions against destruction apply under the *Species at Risk Act*, or an area that is an un-remediated contaminated site zone. At a minimum the Plan should clearly articulate that where a use is permitted in all zones, it will still be subject to existing legislative and regulatory provisions and impact assessment that could preclude certain project proposals.

POLICY DIRECTION

Canada has not identified a source of authority for the Commission to provide ‘policy direction’ to the other Institutions of Public Government or to Government. Section 11.5.1 of the NLCA indicates that the Plan shall be formulated by the Commission in

accordance with Section 11.5.4 to ‘guide and direct’ short term and long term development in the Nunavut Settlement Area; that is the fundamental purpose of the Plan. On a project-by-project specific basis, the Commission may make project specific recommendations ‘to the appropriate federal and territorial agencies’. No provision appears to support giving ‘policy direction’ as in the current working draft materials.

While Bill C-25 (*Nunavut Planning and Project Assessment Act*) would mandate the Commission to contribute to the development and review of marine policy in the Arctic, this would not authorize the Commission to give policy direction to Institutions of Public Government or Government in the manner currently contemplated in the Plan.

Irrespective of jurisdiction for policy direction, the policy directions within the current Plan are not meaningful as they purport to direct Institutions of Public Government and government regulators to meet their minimum legal mandate. For example, the draft Policy Direction: “*Within the identified areas, NIRB and government regulators will consider the impacts of activities on habitat for marine wildlife and habitat*” describes the basic operational activities and minimum legal requirements of the Nunavut Impact Review Board and the relevant government regulators in respect of all species and habitat in any impact assessment process.

TERMINOLOGY

To support an integrated land and resource management system, Canada suggests that the Commission endeavour to use terminology consistent with the NLCA, applicable legislation, the Nunavut Impact Review Board and the Nunavut Water Board where possible.

There were no definitions on which to provide comment. Canada presumes that any terms in the land use plan requiring definition would be defined in the land use plan and that any terms defined in the implementation strategy document would be terms relevant only to that document.

A. Specific Terms

The term “leave no trace” is subjective until defined. Please provide an explanation of what the Commission is trying to achieve by using this term.

The terms “light industry” and “heavy industry” require definition. However if those terms are difficult to define usefully and for all purposes, perhaps they should be avoided. The Commission could instead identify incompatible infrastructure and activities and restrict or prohibit them.

The term “variance” is not defined. The NLCA allows a plan to make provisions for “minor variances” but not “major variances”. As the Commission is presently intending to make provisions for variances, it would be helpful to make clear what sorts of variances might be available within their authority to grant only minor variances.

Throughout the Plan, where the Commission intends to create conformity requirements, Canada observes that the term “should” is ambiguous. Please consider replacing “should” with “must not be” or “shall not be” or some other mandatory formulation.

The term “sustainable use” is subjective until defined. Please provide an explanation of what the Commission is trying to achieve by using this term.

IMPLEMENTATION STRATEGY

The implementation strategy is a component of the Plan and subject to the same development, consultation, approval, and amendment requirements. However, the implementation strategy serves a specific function within the planning regime. The content of the implementation strategy should be limited to the strategy for the implementation of the Plan. Additionally, as a distinct component of the plan, it should not contain substantive planning provisions. All substantive planning provisions (and related definitions) must be contained within the primary planning documents.

The current document does not appear to contain a strategy for implementation of the plan. Although Canada does not have a predetermined view on what would constitute a complete implementation strategy, we observe that one potentially useful component would be a strategy to inform and educate plan users and regulatory decision makers about the Plan.

PROCEDURES

The Commission has not provided any draft procedures. It has been and will continue to be difficult for Canada to comment meaningfully on the Plan materials in the absence of any guidance on what procedures the Commission is considering adopting.

Substantive planning provisions need to be developed in parallel with draft procedures, including for conformity determinations and applications for approvals of variances. This is because the development of appropriate management strategies will depend on an understanding of the procedural environment in which conformity determinations and variance decisions will be made by the Commission.

For example, it is difficult to comment on the aerodrome-related or any other conformity requirements until Canada understands the Commission’s “site plan approval” concept, how the Commission proposes to deal with variance applications, and any other procedures a conformity determination might involve. This issue is broadly applicable to all planning provisions.

Canada observes that if procedures are contained within the Plan itself, including within the implementation strategy, then any amendment to those procedures would require an amendment to the Plan. Therefore procedures should be stand alone documents not contained within the Plan itself. To facilitate continued substantive comment on the Plan

materials, detailed draft procedures should be developed by the Commission as soon as practicable. Canada looks forward to working closely with the Commission in the development of these procedures.

PROCESS MAP

While Canada is not sure what processes from Bill C-25 the Commission is planning on mapping, we look forward to working with the Commission, the Nunavut Impact Review Board, and stakeholders in the regulatory system to develop legislative process maps which could be used by the Commission on the passage of this or any future legislation.

CONCLUSION

Canada remains committed to working with the Commission and all the participants in the planning process, and looks forward to reviewing future iterations of the Plan materials.

ANNEX B to the September 16, 2010 INAC Letter to the Commission

Fisheries and Oceans Canada Submission

(To be read in conjunction with the ANNEX A – September 16, 2010 GOC Submission)

1) Missing information on the map

The map uses data from the 1994 Freshwater Institute Proceedings. This information has been updated. Please update data using the "Arctic Marine Workshop, Freshwater Marine Institute, Feb 16-17, 2010" (S.A. Stephenson and L. Hartwig, Canadian Manuscript Report of Fisheries and Aquatic Sciences 2934, 2010). Both science and Traditional Knowledge were used in the creation of this report. Shape files of all data have been sent to the Commission.

2) Management Strategies

a. Policy Direction Area 2 - Habitat for Unique Species

Fisheries and Oceans Canada recommends that the title be worded “Critical Habitats” rather than “Habitat for Unique Species”.

Critical habitats refer to and include small areas used by unique populations, such as the Arctic lakes population of Atlantic Cod (*Gadus morhua*) as well as critical habitat identified under the Species at Risk Act (SARA) which is required by species to complete some portion of their life history. Critical habitat needs to be identified to ensure the recovery of threatened and endangered species (*e.g.*, areas of Cumberland Sound needed for the recovery of Cumberland Sound beluga whale population). At this time, few areas of critical habitat have been identified under the SARA as few species have been assessed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and listed under the SARA. In time, several marine areas critical to the recovery of threatened or endangered species will be identified in Nunavut. At that time, the activities which may cause threatened or endangered species to avoid using these areas or activities that may damage these habitats will be identified. Certain activities may not be permitted within the areas of critical habitat if appropriate mitigation is not possible. Examples of some threats that may damage habitats or cause animals to avoid habitats include marine transportation, fishing, anthropogenic generated noise and localized pollution.

Fisheries and Oceans Canada has previously presented the Commission with a proposed preliminary management strategy for some of these areas which is not accurately reflected in the current Working Draft Plan.

b. Policy Direction Area 3 - Marine Areas with Higher Biological Activity

Fisheries and Oceans Canada recommends that the title be worded “Marine Areas with High Biological Importance” rather than “Marine Areas with Higher Biological Activity”.

Fisheries and Oceans Canada has identified to the Commission several marine areas of high biological importance. These areas were recently updated and refined the biological "hot spots" identified in 1995. The new data should be used for all future maps. While no specific conformity requirements are being recommended for these areas, a heightened consideration as to the potential disruptive effects of activities should be applied at the impact assessment stage due to the overall importance of these areas and the use of the areas by multiple species.

Fisheries and Oceans Canada therefore recommends that these areas should be identified as areas which may be subject to additional scrutiny and/or restrictions by regulators. The identification of specific mitigation measures and conditions for proposed developments will be identified during the impact assessment or regulatory review phase.

ANNEX C to the September 16, 2010 INAC Letter to the Commission

Department of National Defence Submission

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16 September 2010

Distribution List

WORKING DRAFT COMMENTS 04/10

REVIEW OF WORKING DRAFT NUNAVUT LAND USE PLAN

Refs : A. Letter from NPC to INAC in titled Working Draft of the Nunavut Land Use Plan (NLUP), dated 22 June 2010;

B. Map – Working Draft Nunavut Land Use Plan, dated 17 June 2010;

C. Map – Summary of Implementation Strategy, 2010; and

D. Draft Nunavut Land Use Plan Implementation Strategy, dated June 2010.

Overview and aim of Review

1. We acknowledge receipt of your letter dated 22 June 2010 requesting comment from the Department of National Defence (DND) on the Working Draft of the Nunavut Land Use Plan (NLUP) and the Implementation Strategy. The aim of the review was to identify any important gaps in the information provided or which have been overlooked and to provide suggestions and/or recommendations for the continued development of the land use plan.

2. Over the last year, DND and Federal departments have worked together to help Nunavut Planning Commission develop a Land Use Plan. DND planning staff have attended various meetings, workshops as well as technical panels to review the collected information for the Plan.

3. The Working Draft NLUP submitted in June displays the initial progress up-to-date of a much larger document to come which will adequately reflect the future direction of land use development in the Territory of Nunavut. According to NLCA 11.3.1, “a Land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development...” It is hoped that over the next months, we will continue to work together in developing a comprehensive Land Use Plan.

Structure of Working Draft - NLUP

4. The NLUP should provide guidance to land and resource users when developing project proposals, and when conducting land use activities in the Territory. The current format of the proposed NLUP does not provide clear direction to the land user. There are no supporting documents to the NLUP explaining the scope of the plan, a vision statement, guiding principles, goals and objectives. In addition, a description of the Territory, the setting, the environment, its people, economy and cultural values are usually key elements found in a land use plan. Finally a simple explanation or guide should be provided to the land user explaining each land use zone, its purpose and implication in identifying issues, potential impacts and management direction.

The Map

5. Overall the Map needs improvement and the map should not be the primary document in any plan. Maps are a graphic representation of underlying data. DND is missing key information on the map which was provided to NPC over the last year (2009-2010). The following are comments listed in no particular order but relate to the information on the map and to some cartography aspects.

- a. Missing information on the map.
 - i. Canadian Forces Station (CFS) Alert is missing as an infrastructure on the map;
 - ii. Canadian Forces Station (CFS) Eureka is missing as an infrastructure on the map;
 - iii. 10 km buffer surrounding Dye-M NWS Site;
 - iv. Nanisivik Naval Facility site is missing as an infrastructure on the map;
 - v. Zones (letters) indicating Military sites “C” are missing on the following sites: CAM-5, CAM-3, CAM-A3A, PIN-3; and,
 - vi. The name of the NWS at Cambridge Bay: CAM-M is missing.

Recommendation: that the missing information be indicated on the map prior to the start of the public process this fall.

- b. Cartography comments

- i. The small global insert located on the top left side of the map should be clearer (not black) and should clearly situate Nunavut within the country. It is hard to see the red on the dark background;
- ii. All the information related to the map should be found in one legend to the right, left or below the map. Currently there are references to the map in the right hand corner as well as to the bottom left hand corner of the map which makes it confusing for the reader;
- iii. The colour scheme of the map needs to be improved: it is very difficult to see the hashed areas (brown) representing the “Marine Areas with higher biological diversity” on a beige outline. ***Recommendation: Use of another color such as blue;***
- iv. Currently yellow is used to identify three different items (DND sites, DFO sites as well as municipal water supply). It is confusing to the reader. ***Recommendation: to use different colors for each item or symbol on the map;***
- v. Larger scale maps showing a certain planning region should be developed. The current map is overloaded and very difficult to read. A series of small maps could provide a clearer picture with more details and accurate information for the land user. In addition, a caveat on the map should be added so the end user is well aware of the intended use: for example: *“This document is intended for presentation purposes only and is not intended to be a legal document or interpreted as such.”*
- vi. The North arrow map symbol and the magnetic declination which orientates the map is missing;
- vii. Special Management Areas. The Zone designations (A to K) with the associated terms are very confusing and were not explained in the Implementation Strategy as the Map suggests. Shouldn’t these zones be listed in a Zoning By-Law map and not in the LUP? ***Recommendation: that a simpler method be used to designate each area and that specific zones with associated regulations be located in the appropriate document, such as Zoning By-laws.***

Implementation Strategy

6. Section 1 - Definitions. There were no definitions listed in the document to provide comment. We have attempted to define certain terms which were referred in the NLUP. These definitions are **working draft** and need to be revised in greater detail with NPC.

- a. Leave no trace military exercise and operations. Requirement of DND while conducting operations and exercise to protect the natural environment and to restore to its original state the area used when the area is no longer required; ***Recommendation: We would like to discuss with NPC the intention and meaning of this definition.***
- b. Military Sites: Real Property owned, leased and operated by the Department of National Defence (DND);
- c. Distant Early Warning (DEW) Line: A system of radar stations built in 1954 across the Arctic as the primary line of air defence warning for the North American Continent;
- d. North Warning System (NWS) Sites: are joint Canadian/American advance and modern communication stations which replaced the DEW line in 1985;
- e. Electro-Magnetic Interference (EMI): Any electromagnetic energy that interrupts, obstructs, or otherwise degrades or limits the effective performance of other electrical, electromechanical and electronic equipments and systems;
- f. The term Restricted Areas needs to be explained and defined;
- g. Real Property: 1. Land and its permanently affixed buildings or structures. 2. Any property which is not personal property. 3. Land and buildings thereon, and rights thereof;
- h. DND Aerodrome (reference MIL 312): means any area of land, water (including the frozen surface thereof) or other supporting surface used, designated, prepared, equipped or set apart for use either in whole or in part for the arrival, departure, movement or servicing of aircraft and includes any buildings, installations and equipment situated thereon or associated therewith;
- i. Development: The construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability.

Recommendion: In consultation with NPC, we would like that the following terms be explained and defined in greater detail prior to the start of the public consultation.

7. Section 2 - NUPPAA Process Maps. What kind of process maps will be developed and included in this section? Will the conformity determination

process be clearly defined using a series of charts with boxes and arrows to help the land user?

8. Section 3 - NLUP Procedures.

- a. Conformity Determinations: as stated earlier, please define each step of the conformity process which will be required. Also define which type of activity will require a conformity determination under the NLUP;
- b. Minor Variances. The Minor Variance has not been defined in the NLUP documents. Please provide supportive documentation to define this process.
- c. Plan Amendments. What is the process for a Plan Amendments? Will this plan be implemented by the passage of Zoning By-Laws in compliance with the provisions of the Plan?
- d. Site Plan Approval. What is the Site Plan Approval process? Who will be involved in reviewing each application and granted permission? What lands within the Territory will be designated as Site Plan Control Area? Will the Nunavut Planning Commission pass a By-Law designating any portion of the Territory as a Site Plan Control Area?
- e. Enforcement. How will this plan be enforced? For example, if a building or structure is erected, altered, in contravention of any requirement of the NLUP? What will be the process for Appeals?

9. Section 4 - Implementation of Terms. It is unclear the meaning or intent of this section. Once more information is provided, DND will provide follow-up comments.

10. Section 6 - Permitted Uses in all Zones. DND supports NPC in permitting the conduct of DND Sovereignty Operations and Training Exercises as a permitted use in all zones of the NLUP. DND regularly conducts land, sea, air and joint operations and training exercises in Nunavut in support of the Government Northern Strategy such as Operation Nanook and Operation Nunalivut. In addition, Search and Rescue Training and Operations are conducted in remote areas of Nunavut on a regular basis.

11. Section 7 – Land Uses Eligible for Approval as Minor Variances. DND does not support the use of Minor Variance near Military Sites notably in close proximity of DND NWS sites because of the EMI energy which could interrupt, obstruct and limit the effective performance of the electronic instruments and systems.

12. Section 9 – Community Water Supply and Aerodrome Zoning. As a note, the term military aerodrome should be used rather than military airstrips. DND is currently

working with Transport Canada (TC) in discussing common planning and zoning regulations with regards to Aerodromes. Subsequent comments will be provided to NPC.

13. Section 10 – Military Site Zoning.

a. Aerodrome Zoning. DND is currently working with TC in discussing common planning and zoning regulations with regards to Aerodromes. Subsequent comments will be provided to NPC.

b. Military Storage of Ammunition and Explosives. Military installations often require the storage of quantities of ammunition and explosives. Buildings, stacks and vehicles containing ammunition and explosives present a potential risk to nearby personnel and property. To afford reasonable safety for adjacent property users and to permit unrestricted military operations, the DND applies carefully calculated safety separation zones around ammunition storage sites. These distances are a function of the explosives quantity and ammunition type stores, and are termed Quantity Distances (QD). Guidelines for the siting of an explosives facility are set out in Canadian Forces publications C-09-153-001/TS-000 Ammunition and Explosives Regulations (DAER 2-6).

NIRB and government regulators will consider the impacts of explosives quantity and ammunition types stored when reviewing projects in the vicinity of military sites.

DND cannot control the use of non-owned lands, however for the planning of larger, Quantity Distance (QD) regulated ammunition storage facilities (magazines storing multiple pallets of ammunition or explosives), a 2000m restricted development zone precluding the construction of residential or commercial structures housing 20 or more residents unrelated to the military ammunition operation is preferred. Vulnerable construction (large glass-faced buildings, hospitals, stadiums, and fuel farms) high-power radio or radar transmitters and heavily travelled public traffic routes are also to be avoided in this zone. Areas that are lightly inhabited or infrequently transited by people such as trails, parks or farms need not be restricted. Smaller unit ammunition lock-ups may be held in a cabinet or small room and are not regulated by QD, requiring only moderate (25m) separations to account for possible fire hazards.

14. Section 14.1 - Special Management. Military Sites:

- a. Height Restrictions. Replace existing wording with the following: “The height of any building, structure, or object to be constructed within a 4km of the DND aerodrome reference point or points, as well as the Outer, Approach and Transitional Surfaces, requires a Site Plan Approval from DND to confirm that it is not hazardous to aircraft operations.

Additional information will be provided to NPC on Radar Line of Site and EMF issues.

- b. Wildlife Hazards – Birds. Replace existing wording with the following: Within 8km of the DND aerodrome reference point or points, no owner or lessee shall permit those lands or any part of them to be used as a site for a sanitary landfill, a food garbage disposal site, a sewage lagoon, an open water storage reservoir and any commercial activity that would prove to be a bird attractants such as a coastal commercial fish processing plant, requires a Site Plan Approval from DND to confirm that it is not hazardous to aircraft operations.
 - c. Electronic Zoning. The following needs to be added: “In the vicinity of the aerodrome, no owner or lessee of lands shall permit those lands or part of them to be used in a manner that may cause interference with aeronautical communications, requires a Site Plan Approval from DND to confirm that it is not hazardous to aircraft operations.
15. Section 14.2 – Policy Direction. Military Sites:
- a. North Warning System (NWS) sites. In the title of the paragraph and in the following wording, please remove the word ‘radar’ after NWS. “NIRB and government regulators will consider the impacts of Electro-Magnetic Interference (EMI) from the following activities on NWS sites”:

Recommendation: to remove the following development restrictions listed below in para i to v from the Plan. We are currently developing new zoning maps which we will be providing to NPC in the very near future with clearer requirements for future development around our NWS sites as well as to our other installations.

- i. Any project within a 2 km radius of a NWS site;
 - ii. Any project within a 3.2 km radius of a NWS site deemed to have a greater land use impact than light industry;
 - iii. Any project within a 5 km radius of a NWS site that involves an AC Power Line Transmission system (greater than 66 kilovolts), including generating sites and substations;
 - iv. Any project within a 25 km radius of a NWS site that involves heavy industry, including: mining, port activity, airports, landing strips, helipads and terrestrial microwave systems;
 - v. Any wind farm project within a 100 km radius of a NWS site.
- b. Restrictions to Visibility. Replace the word airstrip with aerodrome in the first sentence.

Conclusion

16. The comments and recommendations provided are intended as working draft submissions. As the plan develops over the next months, we hope to have the opportunity to review and submit additional comments.

17. The Nunavut Land Use Plan once completed and approved will provide a sustainable development framework for land management in the Territory of Nunavut. Throughout this planning process, we would like to thank the Nunavut Planning Commission for allowing us to comment on the first Working Draft of Nunavut Land Use Plan.

18. Should you require clarification on the comments provided or additional information, please do not hesitate to contact the undersigned at (613) 995-3113 or at nadine.tischhauser@forces.gc.ca.

//original signed//

N.J. Tischhauser, MCIP, RPP
Major
Strategic Real Property Project Manager

Distribution List

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Indian and Northern Affairs Canada

Information

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DND NLUP Working Committee

ANNEX D to the September 16, 2010 INAC Letter to the Commission

Environment Canada Submission

(To be read in conjunction with the ANNEX A – September 16, 2010 GOC Submission)

1) Missing information on the map

The current Plan includes information on important habitat sites for migratory birds. This information should be revised to reflect the recommendations provided by Environment Canada to the Commission on June 17, 2010 regarding the zoning of these habitat sites in restricted access and special management zones. Further information on recommended terms and conditions for the management of key habitat sites will be provided to the Commission for consideration in developing subsequent drafts of the Plan.

ANNEX E to the September 16, 2010 INAC Letter to the Commission

Indian and Northern Affairs Canada Submission

(To be read in conjunction with the ANNEX A – September 16, 2010 GOC Submission)

1) Missing information on the Supplementary Maps

Recognizing that the Nunavut Water Board is the authoritative source for the delineation of water management areas or watersheds, Canada recommends the Commission adopt the 65 water management areas that have been identified and provided to the Commission by the Nunavut Water Board. This information could be displayed on supporting maps. This will support the development of the Nunavut water management strategy.

Regarding oil and gas, as opposed to demonstrating wells, significant discoveries would be more valuable to display to indicate locations of possible overlap of competing interests. Hydrocarbon potential needs to be represented by three potential categories (low, medium, high) rather than two as shown in the working draft. This information was provided to the Commission April 29, 2010.

2) Policy Direction Area 1 - Municipal Water Supplies

The term ‘municipal water supply watersheds’ requires definition. In the absence of watersheds being mapped clearly and at an appropriate scale, it is not possible to determine the geographic scope where the current provision applies.

Indian and Northern Affairs Canada expects that as the Commission works with the Nunavut Water Board and municipalities, appropriate conformity requirements for municipal watersheds will be identified and incorporated.

Recognizing the detailed submission from the Nunavut Water Board, Indian and Northern Affairs Canada will continue working in the Nunavut Water Management Strategy development process and will keep the Commission informed as that progresses.

3) Contaminated Sites

The Nunavut land use planning process should not impede Government’s remediation of a contaminated site; the current draft prohibits ‘heavy industry’ which, without proper clarification, could prohibit clean-up.

ANNEX F to the September 16, 2010 INAC Letter to the Commission

Parks Canada Agency Submission

(To be read in conjunction with the ANNEX A – September 16, 2010 GOC Submission)

1) Zoning

The areas shown as land withdrawals for the possible expansion of Tuktut Nogait National Park in Nunavut and for the proposed Bathurst Island National Park need to be zoned in a manner that is consistent with requirements under the *Territorial Lands Act* for land withdrawals (i.e. no establishment of third party interests, no prospecting, no exploration and no development).

Additional management measures may be recommended for areas to which a land withdrawal is currently in effect for the purpose of a national park.

2) Ensuring All National Historic Sites of Canada are included in the Plan

In the current working draft, there is no mechanism for newly commemorated National Historic Sites of Canada to be added to the Plan. Additionally, if in the future Parks Canada administers any National Historic Sites in the Nunavut Settlement Area, these sites will need to be clearly indicated in the Plan as areas where the Plan does not apply. A map based plan does not allow for flexibility in incorporating new information into the Plan. Referring to the Directory of Designations of National Historic Significance of Canada in the Plan would allow for the complete list of National Historic Sites in Nunavut to be included in the Plan.

3) Commemoration of National Historic Sites:

The Plan should not prohibit the commemoration of a National Historic Site of Canada in any zone identified in the Plan

4) Consideration of Cultural Factors

Under Article 11.3.1(h) of the NLCA, it is stated that the Plan should take into account cultural factors, specifically the protection and preservation of archaeological sites. As the expert federal authority on archaeology, Parks Canada requests that the protection and preservation of archaeological sites be incorporated into the Plan, taking into account that information on the exact locations of known archaeological sites is often protected and therefore this type of information may not be suitable on a map based land use plan. Other cultural factors that should be included in the Plan include federal heritage buildings, heritage lighthouses, and heritage wreck.

5) Recommendation on the management of National Historic Sites of Canada

Parks Canada does not currently administer any National Historic Sites of Canada in the Nunavut Settlement Area and advises that the land managers of individual sites be

consulted for recommendations on zoning and management strategies for each site. Parks Canada can assist individual site owners in developing recommendations.

6) Updates on data provided by Parks Canada

The plan should reflect the correct land withdrawal boundary description and GIS file for the proposed Bathurst Island National Park, which was provided to the Commission on July 8, 2010.

The current draft of the Plan identifies Ukkusiksalik National Park and a parcel (RE-32) of Inuit Owned Lands (IOL) as areas where the Plan would not apply. The current and future situation of these lands needs to be clarified so that the Commission has accurate information on them:

- The geographic boundaries of Ukkusiksalik National Park have been defined (in the *Inuit Impact and Benefit Agreement for Ukkusiksalik National Park*) and are currently subject to a land withdrawal under the *Territorial Lands Act* (including the subsurface of IOL Parcel RE-32).
- The area is managed as a national park.
- Until full establishment of the park under the *Canada National Parks Act*, the Plan will apply in the area identified in blue as Ukkusiksalik National Park in the Plan. Parks Canada expects that the park will be formally established under the *Canada National Parks Act* prior to the completion of the Plan.
- The Kivalliq Inuit Association has requested a land exchange for IOL Parcel RE-32 (surface) as provided for under Section 8.2.5 of the NLCA, which, if successful, would allow that parcel to be part of the park.
- It is expected that the park will be established in steps, with the main part of the park being established under the *Canada National Parks Act* very soon, and possibly the areas covered by IOL Parcel RE-32 and Sila Lodge at a later date.
- In the interim, we would like the Plan to assist in protecting the entire area (including IOL Parcel RE-32 and Sila Lodge) in a manner that is consistent with the intent that these lands become a national park (no establishment of third party interests, no prospecting, no exploration and no development), recognizing that Sila Lodge is a commercial naturalist lodge with infrastructure that is an appropriate use as indicated in the Inuit Impact and Benefits Agreement for the park.
- Parks Canada will provide the additional GIS files that are necessary to the Commission as soon as possible.

The current draft of the Plan identifies Ward Hunt Island as being part of Quttinirpaaq National Park and therefore as not being subject to the Plan. The current situation of Ward Hunt Island needs to be clarified so that the Commission has accurate information on the status of the Island:

- The Island is subject to a land withdrawal and is managed as a national park, but it is not yet fully included as part of Quttinirpaaq National Park under the *Canada National Parks Act*.

- Until Ward Hunt Island is fully included in Quttinirpaaq National Park under the *Canada National Parks Act*, the Plan will apply to Ward Hunt Island. It is expected that the Island will be included in the Park under the *Canada National Parks Act* soon.
- Until this has happened, we would like the Plan to assist in protecting Ward Hunt Island in a manner that is consistent with the intent that these lands become a national park (no establishment of third party interests, no prospecting, no exploration and no development).
- Parks Canada will provide the additional GIS files that are necessary to the Commission as soon as possible.

Please also note that the boundaries of Ukkusiksalik National Park and Ward Hunt Island have been defined in Inuit Impact and Benefit Agreements and that these areas are managed as national parks. They are therefore very different from the lands withdrawn for the purpose of establishing a national park on Bathurst Island and a national park extension for Tukturnogait National Park in Nunavut because the definition of boundaries for these areas is still subject to negotiation with Inuit. Accordingly, they should be indicated (shaded) differently on the Plan map.

7) Information for proponents

Please include information in the Plan for project proponents to alert them that activities proposed outside of national parks, national marine conservation areas and national historic sites may require careful consideration within the environmental assessment/screening process to ensure that they do not affect the ecological integrity or cultural resources of national parks, the ecologically sustainable use of national marine conservation areas or the commemorative integrity of national historic sites.

8) Issue for discussion with the Government of Nunavut

Fort Conger is identified in the additional maps as a Historical Site under the Government of Nunavut *Historical Resources Act*. It is also within Quttinirpaaq National Park, to which the Plan will not apply. Parks Canada will discuss this with Government of Nunavut and follow up with comments to the Commission as needed at a later stage.

9) Editorial comment

In the Implementation Strategy, please edit the first sentence of the statement about the National Park System Plan as follows, for accuracy: "There are two Natural Regions (Region 28-Southampton Plain & Region 25 - Ungava Tundra Plateau) that are entirely or partly within the Nunavut Settlement Area that are not currently represented by a National Park and for which a park establishment project has not yet been initiated and therefore no land withdrawal is in place." (Note: Bathurst Island National Park is not established yet, so Region 38 is not yet represented, but there is a land withdrawal in effect.)

Please contact Parks Canada if you have any questions relating to comments in this letter relating to national parks, national marine conservation areas or national historic sites:

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ANNEX G to the September 16, 2010 INAC Letter to the Commission

Transport Canada Submission

(To be read in conjunction with the ANNEX A – September 16, 2010 GOC Submission)

1) **Restricted Development Zones Around Certified Aerodromes**

Transport Canada's mandate for safe airport operations and the certification of airports in Canada stems from the Aeronautics Act. Transport Canada's aerodrome certification process includes the establishment of zoning regulations for certified airports in Canada. Zoning restrictions include development prohibitions on height; bird attractants, electronic interference with navigational equipment, and line of sight. Zoning regulations are unique to each certified aerodrome. Transport Canada would like the Nunavut Land Use Plan to reflect the following:

- Certified aerodromes in Nunavut have unique zoning regulations that place restrictions on land adjacent to the airports. It is the responsibility of a project proponent or developer to adhere to the provisions of the Airport's Zoning Regulations.
- Applications for minor variances of the airport zoning regulations will be reviewed to ensure that safety of aircraft and airport operation are not compromised.

ANNEX H to the September 16, 2010 INAC Letter to the Commission

Fisheries and Oceans Canada, Parks Canada Agency,

Environment Canada Submission

(To be read in conjunction with the ANNEX A – September 16, 2010 GOC Submission)

The Plan should not prevent advancing new Park or Conservation Area proposals within the Nunavut Settlement Area and Outer Land Fast Ice Zone, nor amendments to the boundaries of the currently proposed protected areas that are indicated in the land use plan, subject to meeting all relevant requirements set out in the NLCA and Bill C-25, (*Nunavut Planning and Project Assessment Act*) and to respecting relevant Government of Canada policies.

In addition the Plan should not prevent other planning processes including federal/territorial marine and terrestrial protected area networks, integrated management and establishing marine environmental quality standards.

Canada is prepared to work with the Commission to devise final wording to convey these understandings on the face of the final map plan.