



NUNAVUT TUNNGAVIK INC. AND REGIONAL INUIT ASSOCIATIONS' JOINT SUPPLEMENTAL SUBMISSION ON THE DNLUP 2021

DATED: APRIL 15, 2022

INTRODUCTION

Nunavut Tunngavik Incorporated (NTI) and the three Regional Inuit Associations (Kitikmeot Inuit Association, Kivalliq Inuit Association and Qikiqtani Inuit Association) (RIAs) are providing this written submission to the Nunavut Planning Commission (Commission) on the Draft Nunavut Land Use Plan (DNLUP) 2021. This submission is in addition to the joint submission provided to the Commission on October 13, 2021 on the DNLUP 2021.

Since the Commission opened the public record on the DNLUP on July 23, 2021, there have been various changes to the land use planning process including:

- On October 21, 2021, the Commission postponed Regional Public Hearings on the DNLUP 2021 from November 2021 until March 2022 and this direction was further explained by a Notice on December 17, 2021;
- On February 1, 2022, the Commission provided a revised Notice indicating that:
 - Regional Public Hearings were postponed until September to November 2022;
 - Community Information Sessions overviewing the DNLUP 2021 and potential impacts of the proposed plan were scheduled for May and June 2022; and
 - Written submissions on the DNLUP 2021 were due on April 15, 2022.
- On March 28, 2022, the Commission provided a revised Notice indicating that:

- Regional Public Hearings are scheduled in Cambridge Bay (September 12-15, 2022), Rankin Inlet (September 19-23, 2022), Thompson, Manitoba (September 26-27, 2022), and subject to funding, hearings will take place in Pond Inlet (October 24-27, 2022) and in Iqaluit (November 14-19, 2022);
- Community Information Sessions will take place on proposed dates in late April, May and June;
- Written submissions on the DNLUP 2021 continue to be due on April 15, 2022;
- August 6, 2022 is set as the deadline for parties to submit presentation and questions to other participants in advance of the Regional Public Hearings.

Land Use Planning Process

NTI and the RIAs continue to reiterate that the Commission must fulfill *Nunavut Agreement* obligations including the requirement at 11.2.1 (d) that states:

the public planning process shall provide an opportunity for the active and informed participation and support of Inuit and other residents affected by the land use plans; such participation shall be promoted through various means, including ready access to all relevant materials, appropriate and realistic schedules,

Inuit must have ready access to all relevant materials including access to key land use planning documents in Inuktitut and in an appropriate format. We understand that the Commission has provided five hard copies of the DNLUP 2021 for the community representatives that will be attending the Regional Public Hearings in English and Inuktitut. We see this as a first step in facilitating the active and informed participation of Inuit and that the DNLUP 2021 and supporting documents, such as maps, should be available more widely in communities to meet the requirement in section 11.2.1 (d) of the *Nunavut Agreement*. The DNLUP 2021, and supporting documents such as maps, should be distributed to all Hunters and Trappers Organizations (HTOs), as well as other key community organizations. NTI and RIAs also remain concerned that the DNLUP 2021 and supporting materials are not yet available in Inuinnaqtun and urge the Commission to make these documents accessible in Inuinnaqtun as soon as practicable.

NTI and the RIAs do not support the April 15, 2022 deadline for written submissions as it does not support Inuit participation in this land use planning process. As explained by the Commission in its Notices, community engagements on the DNLUP 2021 will not occur until after the April 15, 2022 submission deadline. As described by the Commission in its Notice of February 1, 2022, the community engagements should:

- Provide an overview of the 2021 DNLUP, its potential impacts, and how communities and the public can be involved;
- Provide community representatives with opportunities to ask questions to better understand the 2021 DNLUP;

- Provide updates on the next steps in the planning process; and
- Assist representatives in the preparation of written submissions and/or oral presentations for the upcoming public hearings.

As community engagements are envisioned as assisting representatives in the *preparation* of written submissions, the Commission should provide a Revised Notice that explicitly allows for additional written submissions to be provided after the community engagements are completed. Inuit organizations and residents at the community level should have the opportunity to make written submissions after having the benefit of the community engagements. Providing this direction in a Revised Notice will contribute to supporting Inuit participation and ensure that Inuit participants are not disadvantaged by the current schedule set by the Commission.

Land Use Planning Process – Regional Hearings

NTI and the RIAs note that the Commission in its Revised Notice of March 28, 2022 states that participants will be able to observe the regional hearings online through live streaming; however interactive virtual participation will not be possible. The inability to participate virtually will limit Inuit participation at the public hearings unnecessarily. We have all learned over the last two years of managing through the pandemic that virtual interaction in combination with in-person attendance at hearings is technologically possible and provides an additional tool that promotes Inuit participation. The benefits of a hybrid hearing approach have been experienced first-hand by NTI and RIAs at the hearings held by the Nunavut Impact Review Board.

A hybrid approach to the regional hearings on the DNLUP 2021 that allows for in-person, as well as interactive virtual participation will facilitate the active participation of Inuit and Inuit oral communication and decision making. Without interactive virtual participation many Inuit and Inuit organizations that are interested in participating more fully will not have that opportunity and the Commission will not receive important Inuit evidence.

As providing for interactive virtual participation will greatly assist the Commission in fulfilling its obligation at section 11.4.7 of the *Nunavut Agreement* to give “weighty consideration to the tradition of Inuit oral communication and decision making”, NTI and the RIAs request that the Commission take the necessary steps to allow for interactive virtual participation at the upcoming regional hearings.

Land Use Planning Process – Tabling of Questions and Answers

The Commission, under Rule 26 of its *Rules for Public Proceedings*, has the discretion to invite participants to respond to relevant questions of other participants. The Commission’s Revised Notice of March 28, 2022 requests participants to submit their questions by August 6, 2022 without setting a date for responses. This approach creates uncertainty as to when and how questions may be answered. NTI and the RIAs request

that the Commission invite written responses from participants to the questions submitted before the start of the regional hearings. In addition, the Commission has the discretion to direct Commission staff to answer relevant questions. It is critical that relevant questions about the DNLUP 2021 be answered by the Commission to maximize the understanding of all participants of the land use planning proposals. NTI and the RIAs request that the Commission direct Commission staff to answer outstanding questions in writing that are submitted by participants by August 6, 2022 before the regional hearings and provide them on the written public record.

Previously, the Commission has taken steps to ensure responses to questions are requested, and NTI and the RIAs urge the Commission to do so again. On October 7, 2016, the Commission invited participants to submit written question for the Commission to ask Commission staff at their discretion, and to also submit written questions to other participants and invited written responses by March 7, 2017 as part of the regional hearing process that took place. The Commission's process of soliciting written questions and responses was an integral part of the previous regional hearing process and should be replicated.

Our outstanding questions on the DNLUP 2021 are at Appendix A and require responses from Commission staff in writing prior to July 20, 2022, in order that NTI and the RIAs may ask any further clarification questions by the August 6, 2022 deadline.

Content of this Submission

Part 1 of this submission focusses on the urgent concerns of NTI and the RIAs regarding the Commission's approach to Inuit Owned Lands (IOLs) in the DNLUP 2021 and steps that can be taken to remedy our concerns. Part 2 of this submission provides feedback on the proposed designations and substantive content of the DNLUP 2021.

In addition to this joint submission, each RIA will be making individual submissions. Silence on a particular topic area or designation in this joint submission, or the independent RIA submissions, should not be interpreted as support for that component of the land use planning proposal. NTI and the RIAs will be making further written and oral submissions on the DNLUP 2021.

Unless indicated otherwise in this submission, the previous joint submissions of NTI and RIAs, as well as previous submissions of each RIA, continue to reflect the views of NTI and the RIAs regarding land use planning issues and proposals.

PART 1: IOLs AND INUIT RIGHTS

1.1 UNACCEPTABLE CONSTRAINTS ON IOLs

NTI and the RIAs reiterate that the level of constraint placed over their control and management of IOLs in the 2021 DNLUP is unacceptable. The DNLUP 2021 and certain proposed designations unnecessarily constrain the Inuit right to manage IOLs that are vested in NTI and the RIAs pursuant to section 19.3.1 of the *Nunavut Agreement*. Inuit land ownership and management rights are a fundamental aspect of Inuit self-determination and are imperative to achieving Inuit self-sufficiency as envisioned in the *Nunavut Agreement*. These critical Inuit rights are impacted greatly by the DNLUP 2021. Approximately 32% of surface IOLs and 43% subsurface IOLs fall within the Limited Use and Conditional Use designations. When broken down by region, the percentages of surface IOLs impacted by the DNLUP 2021 designations are 48% for the Kitikmeot region, 46% for the Kivalliq region and 13% for the Qikiqtaaluk region. See Table 1 that indicates the percentage of IOLs that are impacted by the Limited Use and Conditional Use designations.

Table 1: Limited Use and Conditional Use Designations Impacting IOLs

	Limited Use (LU) Designation	Conditional Use (CU) Designation
Nunavut – Surface IOLs	31.49%	16.39%
Kitikmeot– Surface IOLs	48.00%	4.54%
Kivalliq - Surface IOLs	45.70%	10.85%
Qikiqtaaluk – Surface IOLs	12.53%	27.29%
Nunavut – Subsurface IOLs	42.93%	7.13%
Kitikmeot – Subsurface IOLs	46.98%	6.01%
Kivalliq - Subsurface IOLs	56.76%	0.20%
Qikiqtaaluk – Subsurface IOLs	25.41%	15.12%

As a result of the *Nunavut Agreement*, NTI and the RIAs hold a small percentage of Nunavut lands in comparison to the Government of Canada. Collectively, RIAs hold approximately 18% of Nunavut lands in fee simple surface title and NTI holds approximately 1.8% of Nunavut lands in subsurface title. NTI and the RIAs manage IOLs for the benefit of Inuit. The primary purpose of IOLs is set out in section 17.1.1 of the *Nunavut Agreement* that states:

...Inuit Owned Lands shall be to provide Inuit with rights in land that promote economic self-sufficiency of Inuit through time, in a manner consistent with Inuit social and cultural needs and aspirations.

NTI and the RIAs reiterate that achieving economic self-sufficiency through the management of IOLs requires Inuit maintaining an appropriate level of independence and decision-making authority over the IOLs. NTI and the RIAs have advocated, and continue to advocate for a balanced planning approach in the DNLUP 2021 that supports the maintenance of healthy wildlife populations and Inuit harvesting rights without impairing the right of NTI and the RIAs to manage IOLs for the economic self-sufficiency of Inuit. As currently drafted, the DNLUP 2021 significantly impacts Inuit land and management rights over IOLs, fails to respect section 17.1.1 of the *Nunavut Agreement*, and does not provide for a balanced land use planning approach.

The majority of subsurface IOLs were selected during the land selection process to support the exercise of mineral rights. DNLUP designations should not detract from the development of mineral rights on subsurface IOLs. Designations with prohibitions that preclude any mineral activities on subsurface IOLs are not compatible with Inuit goals and objectives for those lands and should be reflected in the Limited Use and Conditional Use designations.

Section 11.8.2 of the *Nunavut Agreement* states that:

The land use planning process shall apply to Inuit Owned Lands. Land use plans shall take into account Inuit goals and objectives for Inuit Owned Lands.

This provision requires the Commission to consult directly with the RIAs and NTI on the goals and objectives for IOLs as the Designated Inuit Organizations (DIOs) who hold the land rights in IOLs. The arguments of NTI and the RIAs regarding obligations of the Commission to consider and reflect the submissions of NTI and the RIAs on IOLs within the DNLUP from our October 13, 2021 submission continue to apply. Summarizing, the Commission must ensure that the content of the DNLUP is significantly shaped by Inuit objectives and goals for IOLs, particularly those of NTI and RIAs as the landowners. The submissions of NTI and the RIAs must have a substantive impact on the content of the final land use plan and designations.

Goal for IOLs Not Reflected in the DNLUP 2021

The Commission has not sufficiently reflected the goal for IOLs of NTI and the RIAs of retaining decision-making and management rights over IOLs in the DNLUP 2021 and this is a significant impediment to successfully realizing a NLUP. To remedy this substantial issue, the Commission must consider and use the submissions of NTI and the RIAs to revise the final land use designations before the Commission submits the final NLUP for approval. NTI and the RIAs call on the Commission to adopt distinct Plan Requirements over IOLs to mitigate the impact of the DNLUP on the land management rights of DIOs. The land use planning process as described at subsection 11.2.1 (b) *Nunavut Agreement* must pay special attention to IOLs and states:

the primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote the existing and future well being (sic) of those persons ordinarily resident and communities of the Nunavut Settlement Area taking into account the interests of all Canadians; special attention shall be devoted to protecting and promoting the existing and future well-being of Inuit and Inuit Owned Lands. [emphasis added]

The unique status of IOLs as Inuit-owned and managed in comparison to other lands, such as Crown lands, in the land use planning process, necessitates a distinct land use planning approach to IOLs in the NLUP to protect Inuit rights to manage IOLs. The Commission's rationalization that all lands should be treated the same, regardless of ownership, does not address the direction in the *Nunavut Agreement* to pay special attention to protecting and promoting IOLs. This means ensuring that land use planning designations minimally impair the decision-making authority of DIOs over IOLs. The provisions in the *Nunavut Agreement* that set out how the land use planning process, and resulting land use plans, apply to IOLs indeed requires the Commission to treat IOLs differently and cannot result in the NLUP revoking Inuit decision-making authority over close to 50% of IOLs.

1.2 IOLs and Existing Inuit Impact and Benefit Agreements (IIBAs)

NTI and RIAs are alarmed that the Commission appears unconcerned that land use planning proposals in various drafts of the NLUP impede the carrying out of legal obligations and the delivery of Inuit benefits set out in Inuit Impact and Benefit Agreements for parks and conservation areas. NTI and RIAs maintain that the Commission must be aware of the contents of existing IIBAs and land use planning designations must not obstruct the delivery of benefits and land management frameworks agreed to by the Governments of Canada (GC), the Government of Nunavut (GN) and Designated Inuit Organizations (DIOs) within IIBAs.

NTI and the RIAs cannot accept proposed land use plan designations that will result in the contravention of contractual obligations in umbrella IIBAs with the GC and the GN, including regarding allowable activities within IOLs. Umbrella IIBAs with both levels of Government provide processes and clear obligations for safeguarding a level of activity on IOLs within parks and conservation areas. For example, the National Wildlife Area and Migratory Bird Sanctuary IIBA provides a process for the approval of a RIA-Supported Permit Application to conduct an activity on IOL within a National Wildlife Area or a Migratory Bird Sanctuary. Additionally, the Canadian Heritage Rivers IIBA states that:

Government of Nunavut or Government of Canada decisions and activities related to CHRs...will not affect or impose any obligations or restrictions on the ownership

and management of IOLs by RIAs or NTI or affect land use activities on those IOLs, without the agreement of the owner of the IOL.

The DNLUP 2021 designations must be adjusted to ensure both Governments are not precluded from meeting their legal obligations under IIBAs. The final NLUP must support the full implementation of existing IIBAs.

1.3 New IIBAs and DNLUP 2021 Designations

NTI and the RIAs maintain that designations in the NLUP that achieve conservation goals require the negotiation of IIBAs. NTI and the RIAs are concerned that both levels of Government submitted datasets for wildlife habitat without consulting with DIOs which have resulted in extensive land areas being placed in designations that are equivalent to conservation areas, that will be in place for a minimum of ten years, as described in the DNLUP 2021, without IIBAs being negotiated. DNLUP designations without sunset clauses that achieve Government goals for conservation remove the need to implement the *Nunavut Agreement* Inuit right for the negotiation of conservation area IIBAs and undermine the ability of DIOs to negotiate IIBAs in good faith with Governments for the benefit of Inuit.

If land use planning designations are accepted as contributing and meeting the conservation goals of Government, an IIBA should be negotiated with NTI and the RIAs. NTI and the RIAs recommend that the Commission address this key issue in the DNLUP.

PART 2: PROPOSED DESIGNATIONS IN THE DNLUP 2021

In its October 13, 2021 submission, NTI and the RIAs alerted the Commission that we would carefully consider the views of the Regional Wildlife Organizations (RWOs) and HTOs for the wildlife related designations, as well as the views of other participants. Preliminary discussions have occurred with the RWOs. However, as RWOs and HTOs continue to learn about the contents of the DNLUP 2021, and as community engagements are scheduled for after the submission deadline, NTI and the RIAs proposals will continue to evolve as more engagements take place.

2.1 KEY MIGRATORY BIRD HABITAT SITES

Inadequate consultations have occurred with NTI, the RIAs and Inuit generally on the impacts of the proposed Limited Use designation for Key Migratory Bird Habitat Sites on IOLs, and on the impairment of the right of NTI and the RIAs to manage IOLs under the *Nunavut Agreement*. During the Commission's community engagements that took place in 2019 and 2020 on the DNLUP 2016, there were brief discussions, at best, with community members on the potential impacts of the proposed Key Migratory Bird Habitat Site designations on IOLs or on Inuit rights. For example, during engagements, the following questions were asked:

- (1) Do you agree that this is key migratory bird habitat?
- (2) Do you support the recommended prohibition and conditions for protecting these migratory bird habitat areas?¹

The fact that the Commission indicated that IOL was present within the proposed designation did not assist community members to understand the impact of prohibitions or conditions on the management of IOLs or on the ability of DIOs to negotiate an IIBA that would also benefit Inuit.

Moreover, the Commission prohibited representatives of NTI and the RIAs from speaking or answering questions at the community engagement sessions and only allowed representatives to participate as observers. As the landowners and managers of IOLs, NTI and the RIAs were best placed to address impacts of the proposed designations within the DNLUP 2016 on IOLs, and Inuit rights over IOLs, with community members. The Commission's approach impeded an open and in-depth discussion on potential impacts on IOLs and Inuit rights and no separate meetings have taken place with the Commission, DIOs and communities on the issue of the impacts of the DNLUP 2021 land use planning proposals on IOLs or on the right of DIOs to manage IOLs.

NTI and the RIAs recognize that many community members value the protection of migratory birds and have important Inuit knowledge related to migratory birds and sites.

¹ See Commission's Summaries of Community Meetings on the 2016 Draft Nunavut Land Use Plan on the public registry under "2019-2020 Community Engagement on the 2016 DNLUP" online at <https://lupit.nunavut.ca/portal/registry.php?public=docs&q=10&c=1039&searchtext=>

Taking this into account, NTI and the RIAs are recommending an approach that addresses protection for key migratory bird habitat sites and that reduces the impact of the proposed Limited Use designation on Inuit rights, including the right to manage IOLs.

NTI and the RIAs require that the Limited Use designation for Key Migratory Bird Habitat Sites apply on IOLs in a manner that maintains DIO management rights and simultaneously considers the value of the sites for migratory birds. Accordingly, the following highlighted amendments are required to Plan Requirements 2.1-1 (Class 1 Key Migratory Bird Habitat Sites), 2.1-2 (Class 1 Key Migratory Bird Habitat Sites) with the addition of a new 2.1-3:

2.1-1 The Class 1 migratory bird habitat sites shown on Map A **on Crown land** are Limited Use areas within which the following incompatible uses are prohibited:

- (a) mineral exploration and production;
- (b) oil and gas exploration and production;
- (c) quarries;
- (d) hydro-electrical and related infrastructure;
- (e) wind turbines for electrical generation that are over 15 m in height and related infrastructure; and
- (f) linear infrastructure.

2.1-2 All proponents of projects at the sites referred to in section 2.1-1 **on Crown land and IOLs** must obey setbacks listed in Table 1: Migratory Bird Setbacks. [See Map A and Table 1 – Sites # 1-23.]

2.1-3 The uses listed as prohibited in Plan Requirement 2.1-1 may proceed on IOLs within Class 1 migratory bird habitat sites shown on Map A when:

- (a) the use is supported by the appropriate Designated Inuit Organization(s) with land ownership and management rights and the local HTO in the form of written letters of support for the proposed use to the Commission.**

Proposed changes to the Plan Requirements for Class 1 Migratory Bird Habitat Sites will ensure that community interests in protecting key migratory bird sites are respected while allowing the DIOs to maintain an appropriate level of management over IOLs.

2.2 CARIBOU

Previous submissions of NTI and the RIAs on caribou habitat and designations continue to apply. In summary, NTI and the RIAs support regional approaches to protecting caribou habitat. Distinct land use planning measures are required to address the significant regional differences with respect to caribou populations.

2.3 POLAR BEAR DENNING AREAS

NTI and the RIAs reiterate their general support for the polar bear denning areas being placed in the Conditional Use area designation. We are continuing to consider the views and knowledge of RWOs and HTOs, as well as other participants, regarding the

designation, its geographic boundaries and proposed terms and conditions. Initial feedback indicates that there are polar bear denning areas missing from the current boundaries of the designation and there is concern that all Inuit Qaujimajatuqangit has not been considered.

2.4 WALRUS TERRESTRIAL HAUL-OUTS

NTI and the RIAs generally support walrus terrestrial haul-out areas being placed in a Limited Use area designation. In preliminary discussions with RWOs, there are concerns that some walrus terrestrial haul-outs and other important walrus habitat are not included in the designation and that the designation must be incorporate more Inuit Qaujimajatuqangit.

We will continue to consider the views and knowledge of the RWOs and HTOs, as well as other participants regarding the designation, its geographic boundaries and proposed terms and conditions, particularly regarding the potential impacts of the terms and conditions on community-based commercial activities such as small-scale tourism operations.

2.5 Whale Calving Areas

NTI and the RIAs generally support Limited Use area designations for whale calving areas. There is concern that many whale calving areas are not included with the Limited Use designations and that further additions will be required to incorporate both scientific and Inuit Qaujimajatuqangit. Preliminary discussions are underway with RWOs on the review of these designations, and we will continue to consider the views and knowledge of RWOs and HTOs, as well as other participants.

NTI and the RIAs continue to question the lesser level of protection for bowhead and narwhal calving areas in comparison to beluga calving areas and support the addition of terms and conditions to address the operation of vessels on a seasonal basis within Limited Use designations for bowhead and narwhal calving areas. NTI and the RIAs will be considering the submissions of RWOs and HTOs and other participants on whether all, or some, bowhead and narwhal calving areas should have additional terms and conditions related to the operation of vessels.

2.6 TRANSBOUNDARY CONSIDERATIONS: SARVARJUAQ (NORTH WATER) POLYNIA

NTI and the Qikiqtani Inuit Association (QIA) are continuing to review the Sarvarjuaq Polynya designation and look forward to better understanding the views of the Qikiqtaaluk Wildlife Board (QWB), HTOs and other participants on this designation, and particularly on whether the geographic scope of the designation is reasonable and whether the Plan Requirement restricting icebreaking activities seasonally is sufficient.

2.7 FUTURE PARKS

NTI and the RIAs do not accept the level of impact on IOLs from the proposed Limited Use designation for future parks. Included in the list of future parks, are territorial parks awaiting establishment that are listed under the Umbrella Inuit Impact and Benefit Agreement for Territorial Parks in the Nunavut Settlement Area (Territorial Parks IIBA) between NTI, the RIAs and the Government of Nunavut.² At a minimum, a land use planning designation for territorial parks awaiting establishment cannot interfere with the GN's ability to comply with obligations to allow certain Inuit activities within territorial parks, including for the removal of carving stone, the establishment of outpost camps and cabins.

Additionally, the Territorial Parks IIBA contemplates that some activities can take place on IOLs and this level of activity on IOLs must be allowed within a designation for territorial parks awaiting establishment in a final NLUP. Article 10 of the Territorial Parks IIBA at section 10.1.1 (d) recognizes that:

Parks should not prevent access or infrastructure needs for the efficient development of Mineral resources in the vicinity of a Park or on Inuit Owned Lands.

To ensure compliance with the Territorial Parks IIBA and to maintain DIO management rights over IOLs, NTIs and the RIAs require Plan Requirements that are specific to territorial parks awaiting establishment that:

- permit Inuit activities as described in the Territorial Parks IIBA within land areas, including IOLs; and
- permit uses on IOLs that are supported by the appropriate DIOs.

The Limited Use designation for future parks also includes proposed territorial parks that do not yet have an IIBA as required under the *Nunavut Agreement*, or a Parks-Specific under the Territorial Parks IIBA. These proposed territorial parks include: Agguttinni, Nuvuk, Kingaluuk-Sitiapiit, Napartulik/Napaaqtulik. Until *Nunavut Agreement* obligations for the negotiation of an IIBA for a proposed territorial park are complied with, NTI and the RIAs will not support land use designations for these areas that limit DIO management of IOLs to any degree.

To address our concerns, NTI and the RIAs require a land use designation specific to proposed territorial parks that includes a Plan Requirement that specifically provides that any uses that are prohibited on Crown lands **may proceed on IOLs within Proposed Territorial Parks with the written support of the appropriate DIO with land ownership and management rights.**

² These include: Katannilik Territorial Park, Mallikjuaq Territorial Park, Sylvia Grinnell Territorial Park, Pisuktinu Tunngavik Territorial Park Campground, Tamaarvik Territorial Park Campground, Kugluk (Bloody Falls) Territorial Park, Ovayok Territorial Park, Iqalugaarjuup Nunanga Territorial Park (Ijiriliq, Meliadine Esker Community Park), Inuujaarvik Territorial Park Campground (Baker Lake Territorial Park).

2.8 PROPOSED NATIONAL MARINE CONSERVATION AREAS – TALLURUTIUP IMANGA

Tallurutiup Imanga, known as the Arctic Serengeti, is the birthplace and refuge for nearly all species found in the Eastern Arctic. Since the 1960s, Inuit in Nunavut's High Arctic have worked to protect these pristine waters. These efforts were realized with the signing of the Tallurutiup Imanga Inuit Impact and Benefit Area (TI IIBA) in 2019. NTI and QIA are continuing to review the designation proposed by the Commission for Tallurutiup Imanga National Marine Conservation Area (TI NMCA) and submissions related to this designation by QWB, HTOs and all participants.

NTI and the RIAs have reviewed the submission and recommendations made by the GC related to TI NMCA on October 8, 2021 and are reserving comments on these recommendations. As recognized by the GC in their submission, the TI IIBA created the Aulattiqatigiit Board, with representatives from both the GC and QIA, to guide planning, operations and management of the TI NMCA. Within this context, QIA emphasizes the importance of restrictions on marine shipping to address community concerns within Tallurutiup Imanga.

QIA is assessing the role of the Aulattiqatigiit Board in developing recommendations on the TI NMCA designation within the DNLUP 2021.

The TI IIBA outlines the importance of research and monitoring for Tallurutiup Imanga and highlights the need for equal involvement of Inuit in these efforts and inclusion of Inuit knowledge and expertise in all decisions. The TI IIBA creates a new approach to cooperative management for the Tallurutiup Imanga National Marine Conservation Area.

NTI and the RIAs reiterate that the final NLUP must be consistent with existing IIBAs, including the TI IIBA.

2.9 CONSERVATION AREAS

2.9.1 National Wildlife Areas (NWAs) and Migratory Bird Sanctuaries (MBSs)

NTI and RIAs cannot accept land use designations that impede the full implementation of the National Wildlife Areas and Migratory Bird Sanctuaries IIBA or preclude the GC from meeting its legal obligations contained in the IIBA. The National Wildlife Areas and Migratory Bird Sanctuaries IIBA is a contract entered into by NTI, the RIAs, and the GC as represented by Environment Canada and Climate Change in 2016.

A fundamental principle in the National Wildlife Area and Migratory Bird Sanctuary IIBA at section 2.1.4 is that NWAs and MBSs will be co-managed by Inuit and the Canadian Wildlife Service (CWS) in accordance with the *Nunavut Agreement*, the IIBA itself, approved management plans, Inuit Qaujimajatuqangit, scientific information, and the *Migratory Birds Convention Act*, the *Canada Wildlife Act*, as well as other federal legislation. Overlapping the Commission's Limited Use designation over NWAs and

MBSs is not provided for in the IIBA and impedes the full implementation of the agreed to co-management obligations in the IIBA by the DIOs and CWS. To enable the full implementation National Wildlife Areas and Migratory Bird Sanctuaries IIBA, it is necessary that the Commission remove the Limited Use designation for NWAs and MBSs.

At a minimum, any land use planning designation cannot interfere with CWS's ability to comply with obligations to allow certain activities within NWAs and MBSs. Plan Requirements for NWAs and MBSs must allow for:

- activities on IOLs through approved "RIA-Supported Permit Application" (sections 4.2.1 and 4.3.1);
- an Inuk to remove up to 50 cubic yards per year of carving stone from Crown lands within NWAs and MBSs, and any amount of carving stone from IOL within NWAs and MBSs (s. 5.4.1);
- Inuit to establish new outpost camps anywhere in an NWA or MBS except within the areas set out in the IIBA (section 5.5.3); and
- QIA, or their designate(s), to build an ecotourism lodge and research facility, a Twin Otter airstrip and docking facilities on the Ninginganiq IOL in the vicinity of the easternmost point of Cape Raper within the Ninginganiq NWA (Appendix 1).

Any Plan Requirements for NWAs and MBSs should reflect the approach set out in the National Wildlife Areas and Migratory Bird Sanctuaries IIBA for IOLs. Specifically, that:

- the establishment and management of NWAs and MBSs should avoid social and cultural disruption to Inuit and their relationship with and use of the lands (including IOL), the waters and the resources of NWAs and MBSs;
- CWS, prior to making any decision that could substantially affect IOL within or adjacent to an NWA or MBS, consult the relevant RIA;
- the objectives for IOLs with NWAs and MBSs be respected, including objectives to:
 - (a) maintain the natural resource values of IOL that lie within MBSs and NWAs;
 - (b) recognize the respective roles and responsibilities of the RIAs and the Minister in managing IOL within MBSs and NWAs;
 - (c) fairly and impartially resolve disputes between an RIA and CWS regarding the permitting of activities on IOL within NWAs and MBSs;
 - (d) ensure reasonable notice to Inuit when CWS agents, employees and contractors access IOL; and
 - (e) ensure reasonable access across NWAs and MBSs to IOL.

The current proposed Limited Use designations for NWAs and MBSs in the DNLUP 2021 impede the GC's ability to comply with obligations in the National Wildlife Areas and Migratory Bird Sanctuaries IIBA, including the implementation of co-management obligations and provisions that allow certain activities on IOL and Crown land. For these

reasons, it is necessary for the Commission to remove the current Limited Use designation over NWAs and MBSs.

2.9.2 National Historic Sites

NTI, the RIAs, and the GC as represented by the Parks Canada Agency have entered into negotiations to conclude an IIBA for National Historic Sites in Nunavut which is an outstanding *Nunavut Agreement* obligation. It is premature for the Commission to designate National Historic Sites as Limited Use areas within the DNLUP 2021 before IIBA negotiations have concluded. Additionally, when the sites were designated, it was with the understanding that the commemoration did not impact land management rights and in particular the right of DIOs to manage IOLs. This understanding must continue to be respected by the Commission. For these reasons, NTI and the RIAs request that National Historic Sites not be designated as Limited Use areas.

2.9.3 Canadian Heritage Rivers

The Commission's proposed Limited Use areas for portions of rivers designated as Canadian Heritage Rivers in the DNLUP 2021 impede full implementation of the Canadian Heritage Rivers IIBA and preclude the GC from meeting its legal obligations contained in the IIBA. The Canadian Heritage Rivers IIBA is a contract entered into by NTI, the RIAs, and the GC as represented by Crown-Indigenous Relations and Northern Affairs Canada in 2019.

NTI and the RIAs entered into the Canadian Heritage Rivers IIBA with the understanding that the designation of a Canadian Heritage River does not, and will not, alter land ownership, regulation or management of IOLs. Section 4.2.3 of the IIBA states:

For greater certainty, the Government of Nunavut or Government of Canada decisions and activities related to CHRs, including CHR Designation Documents, will not affect or impose any obligations or restrictions on the ownership and management of IOLs by RIAs or NTI or affect land use activities on those IOLs, without the agreement of the owner of the IOL.

If the Governments of Nunavut and Canada support or approve Plan Requirements for Canadian Heritage Rivers within a NLUP that impose restrictions on IOLs, compliance with the obligation to not make decisions that restrict IOL management within Canadian Heritage Rivers cannot be met.

Plan requirements and designations in the DNLUP cannot impede the carrying out of legal obligations and the delivery of Inuit benefits set out in IIB As. For this reason, NTI and the RIAs require that any Limited Use designations for Canadian Heritage Rivers include a Plan Requirement after the listing of prohibitions that states:

The uses listed as prohibited in Plan Requirements for any Canadian Heritage River may proceed on IOLs within Canadian Heritage River shown on Map A.

2.10 COMMUNITY AREAS OF INTEREST

NTI and the RIAs are reviewing the Community Areas of Interest designations. In some cases, RIAs are submitting independent submissions for the Community Areas of Interest designations in their regions.

NTI and the RIAs will consider the views and knowledge of the RWOs and HTOs, as well as other participants regarding Community Areas of Interest designations and may make further submissions on these designations.

2.11 DENESULINE AREAS

NTI and the RIAs are of the view that titling areas in the 2021 DNLUP as the "Denesuline Areas" detracts from the fact that this area is not solely a Denesuline Area but also that of Nunavut Inuit. The area covers existing IOL, and potentially new IOL (as a result of ongoing negotiations), and as titling it solely as the Denesuline Area misrepresents the area in actuality. NTI and the RIAs propose that this area be renamed to the "Order in Council (P.C. 2019-576) Withdrawn Area".

Additionally, NTI and the RIAs submit that the 2021 DNLUP is unclear as to the actual designation of the Withdrawn Area. The text of the 2021 DNLUP only addresses the Denesuline Areas of asserted title as being a Valued-Socio-Economic Component and fails to indicate that the Withdrawn Area is designated as Mixed Use. This can only be determined by reviewing the Options and Recommendations document. NTI and the RIAs recommend that the text of the 2021 DNLUP clearly state that the Withdrawn Area is designated as a Mixed Use area.

NTI and the RIAs are concerned that the Commission has not used the proper data set to map out the Withdrawn Areas. Attached to this submission is the 2019 OIC Map (see Appendix B). The Commission must ensure that it uses the attached data set for mapping the Withdrawn Area. NTI and the RIAs also want to ensure that the Commission has properly mapped out the Kivalliq-Manitoba Linear Infrastructure Corridor within the 2021 DNLUP. Please note that Map 2 in the Ghotelnene K'odtineh Dene submission of October 8, 2021 is the correct map.

Overall, the 2021 DNLUP lacks clarity with respect to how overlapping designations apply to the Withdrawn Areas. Attached to this submission is a map that shows the Withdrawn Areas and the Land Use designations that overlap with the Withdrawn Areas. NTI and the RIAs require confirmation that in a case of an overlapping designation in the Withdrawn Area, that the Withdrawn Area designation of Mixed Use takes precedence. To support

the intentions of the OIC Withdrawal Area, the Withdrawn Area designation as Mixed Use must take priority in the event of an overlapping designation, including with the overlap that exists with the Kivalliq- Manitoba Linear Infrastructure Corridor.

The lands that were withdrawn were selected as part of ongoing treaty negotiations and it is the position of NTI and the RIAs that all withdrawn areas should be subject to a Mixed Use designation. Designating part of the Withdrawn Areas as Limited Use will detract from the overall purpose of land selections and possibly prevent the settling of the outstanding claim.

NTI and the RIAs further submit that the whole Withdrawn Area should be designated as Mixed Use.

2.12 COMMUNITY DRINKING WATER SUPPLIES

In the case of Community Drinking Water Supplies Outside of Municipal Boundaries, the RIAs may be preparing further submissions regarding this designation within their regions.

2.13 CONTAMINATED SITES AND MILITARY FACILITIES

2.13.1 Contaminated Sites

NTI and the RIAs continue to have questions related to contaminated sites which require responses before more detailed submissions can be made. We note that for contaminated sites, the Commission refers participants to the Federal Contaminated Sites Inventory for a list of sites that are part of the Limited Use designation for Contaminated Sites. A search of the Federal Contaminated Sites Inventory indicates that there are 73 sites listed as “Class 1 — High Priority for Action Sites”. In comparison, the NPC only lists 35 sites (16 priority sites and 19 that are listed as remediated/unassessed). In summary, here are the NTI and RIA questions related to contaminated sites:

- Based on what criteria have some priority Contaminated Sites listed on the Federal Contaminated Sites Inventory been excluded from the designation? More specifically, can the Commission explain what is the rationale for the choice of priority contaminated sites and the classification of remediated sites and unassessed sites?
- Can the Commission verify that there are no contaminated sites on Commissioner’s Lands that the DNLUP should apply to?
- For the proposed Contaminated Sites Limited Use designation, it appears that the sites are circular polygons with a 600m diameter. Has the Commission assessed whether this approach captures all actual contaminated lands that should be designated?

- In cases where the proposed Contaminated Sites overlap with IOLs, has the Commission assessed whether it is necessary for the IOLs to be included in the designated areas?
- The proposed Contaminated Sites Limited Use designated areas overlap with various other designations including for Key Migratory Bird Habitats - Class 1; Caribou Calving; Caribou Post-Calving; Caribou Freshwater Crossings; Peary Caribou; Key Migratory Bird Habitats - Class 2; Polar Bear Denning Sites; and Military Facilities. Can the NPC explain how these overlaps will be assessed during conformity determinations and what Plan Requirements will be applied?

2.13.2 Military Facilities

NTI and the RIAs continue to have questions related to military facilities that require responses before more detailed submissions can be made. In summary, here are the NTI and RIA questions related to contaminated sites:

- In cases where the proposed Military Facility designated areas overlap with IOLs, has the Commission assessed whether it is necessary for the IOLs to be included in the designated area?
- The proposed Military Facility Limited Use designated areas overlaps with various other designations including for Key Migratory Bird Habitats - Class 1; Caribou Calving; Caribou Post-Calving; Walrus Haul-out; Cumberland Sound Turbot Management Areas; Key Migratory Bird Habitats - Class 2; Caribou Sea Ice Crossings; Polar Bear Denning; Community Water Source Watershed; On Ice Travel Routes; and Contaminated Sites. Can the Commission explain how these overlaps will be assessed during conformity determinations and what Plan Requirements will be applied?

2.14 TRANSPORTATION AND COMMUNICATIONS – MARINE SHIPPING AND TERRESTRIAL LINEAR INFRASTRUCTURE

2.14.1 Marine Shipping

NTI and the RIAs are providing preliminary comments on marine shipping. Generally, NTI and the RIAs support the inclusion of provisions on marine shipping that:

- ensure that shipping activities do not interfere with hunters and the ability to harvest marine mammals;
- minimize shipping traffic through and around floe edges in April, May and June;
- consider further seasonal restrictions to protect wildlife and harvesting activities; and
- set conditions prior to the start of the shipping season including that community members are no longer using the sea ice for travel and harvesting activities, the floe edge is no longer being used by hunters, and no land fast ice is present.

Overall, more discussion is required on how the DNLUP can assist in ensuring that marine shipping does not limit Inuit harvesting and addresses community concerns regarding shipping. NTI and the RIAs are concerned with the reduction of restrictions on marine shipping in the DNLUP 2021.

2.14.2 Terrestrial Linear Infrastructure

In the case of Terrestrial Linear Infrastructure, the RIAs are preparing further submissions regarding this designation within their regions.

Specific to public easements within IOLs, Schedule 19-11 of the *Nunavut Agreement* lists these public easements for public travel routes, public transportation routes, and aircraft landing sites on specific IOL parcels. NTI and the RIAs submit that the public easements listed in the Nunavut Agreement have not been considered in the development of the designations for the DNLUP 2021 and must be recognized and adequately reflected in the approach to designations.

APPENDIX A

Outstanding Questions on the DNLUP 2021 and the Land Use Planning Process to the Nunavut Planning Commission (Commission)

Land Use Planning Process Questions

1. Can the date for written submissions be moved to a date after the community information sessions take place at the end of June 2022?
2. Will the Commission request written answers to questions received on August 6, 2022?
3. Can the NPC explain how further Inuit knowledge and traditional knowledge will be incorporated within their designations and accompanying maps? Particularly, how will be Inuit knowledge and traditional knowledge submitted orally at the regional public hearings be incorporated?

DNLUP 2021 Questions

Chapter 1: Land Use Planning in the Nunavut Settlement Area

Section 1.2.2

1. Can the Commission verify that the Commission will consult Nunavut Tunngavik Incorporated (NTI) and the Regional Inuit Associations (RIAs) directly as the landowners and managers of IOLs regarding the extent that Inuit goals and objectives for IOLs are adequately reflected in the DNLUP before the NPC submits a final DNLUP for approval?

Section 1.4.2 – Application of the Nunavut Land Use Plan

2. Although the Commission's Plan Requirement 1.4.2-2 states that it will repeal the Keewatin Regional Land Use Plan and North Baffin Regional Land Use Plan, can the Commission allow certain provisions of the regional plans to survive and be incorporated through reference in the DNLUP?

Chapter 2: Protecting and Sustaining the Environment

Key Migratory Bird Habitat Sites – DNLUP 2021

The DNLUP 2021 does not provide a list of the Key Migratory Bird Habitat Sites designated as Limited Use areas and Conditional Use areas. This important information can only be obtained by reviewing the GIS data associated with Map A.

3. Given that participants cannot not easily ascertain what Key Migratory Bird Habitat Sites are designated, can the NPC append the list of Key Migratory Bird Habitat Sites and the proposed designation for each site to the DNLUP 2021 and provide this information in a separate document for participants for use at the regional public hearings?

Caribou Generally

4. How will NPC incorporate missing Inuit Qaujimajatuqangit and traditional knowledge about caribou in the designations and in the DNLUP 2021?

Caribou – Proposed Limited Use designation

There are two Plan Requirements for Caribou Calving Areas, Caribou Post-calving Areas and Caribou Key Access Corridors designated as Limited Use areas: the first Plan Requirement prohibits activities including oil and gas exploration, mineral exploration and production, quarries and linear infrastructure while the second Plan Requirement states that:

Project proponents must cease all uses in those areas, except research and tourism related to caribou conservation, during the dates set out in Table 2: Caribou Seasonal Restrictions.

This approach is confusing and requires substantial clarification. Our questions are:

5. Can the Commission explain how the two Plan Requirements for Caribou Calving Areas, Caribou Post-Calving Areas and Caribou Key Access Corridors are intended to be implemented simultaneously?
6. Can the Commission explain the rationale for allowing research and tourism activities within the context of the second Plan Requirement and why terms and conditions are not applied to research and tourism activities to ensure impacts to caribou are minimized?
7. Can the Commission explain why these Limited Use designations for caribou do not explain how the preservation of rights provided for in the *Nunavut Planning and Project Assessment Act* (NuPPAA) will be implemented in the context of these designations? For example, how will NPC's requirement for various caribou designations that "all proponents must cease all uses at those sites" be implemented taking into account the statement at p. 11 of the DNLUP 2021, which states "prohibitions set out in the Plan do not apply to projects referred to in subsections 207(1), 207(2), 208(1) and 208(6) of the Nunavut Planning and Project Assessment Act"?

Post-Calving Caribou Areas

For Post-Calving Caribou Areas, the Options and Recommendations document does not take into consideration the detailed analysis and recommendations for post-calving caribou areas provided by NTI and the RIAs in its 2017 pre-hearing submission and particularly in "Appendix A: Comments and Recommendations for Mainland Migratory Caribou Post-Calving Areas in the Draft Nunavut Land Use Plan 2016".

8. Will the Commission re-evaluate its approach to Post-Calving Caribou Areas taking into consideration the NTI and RIA joint submission that has been overlooked?

Caribou Fresh Water Crossings

In the Options and Recommendations document, there were several different responses regarding how much area should be included within a "Protected Area" designation for caribou fresh water crossings based on local, community and regional knowledge of specific fresh water crossings.

9. Given the number of varying responses regarding fresh water crossings, why has the Commission chosen to apply the same buffer area (10 km radius from fresh water crossings) to all fresh water crossings when each water crossing is different and the size of the designation should be based on the local circumstances and needs?
10. The NPC states that it chose a Limited Use designation for fresh water crossings as “the NPC has not received detailed recommendations on appropriate seasonal dates applicable to freshwater crossings in different locations” (Options and Recommendations document, p. 102). Can the NPC explain whether they asked community representatives during the Community Engagement Sessions that took place in 2019 and 2020 how protection measures for each caribou fresh water crossing should be tailored based on Inuit Qaujimajatuqangit and Inuit knowledge generally?

Caribou Proposed Designations, the Preservation of Rights under NuPPAA and Additional Proposed Exemptions for Mineral Exploration and Development

There is currently a lack of clarity and transparency on the application of preservation of rights under NuPPAA and additional proposed exemptions for mineral exploration and development on the proposed Limited Use designations for caribou habitat.

11. Can the NPC explicitly state in the Plan Requirements for each Limited Use designation within the DNLUP 2021 what exceptions exist to the prohibitions based on:
 - i. the preservation of rights and transitional provision rights provided for in NuPPAA;
 - ii. additional proposed exemptions for Mineral Exploration and Development projects under Plan Requirement 6.1.8-1

and how these exceptions impact each designation and the geographic scope of each designation?

12. To understand how preservation of rights under NuPPAA and additional proposed exemptions (Appendix A of the DNLUP 2021) overlap with the proposed designations for caribou habitat, can the NPC for each caribou habitat designation provide:
 - i. a list of the projects that the preservation of rights and transitional provision rights apply to;
 - ii. a list of the proposed projects that would have additional exemptions under Plan Requirement 6.1.8-1; and
 - iii. for each project under i. and ii. indicate the geographic extent of the project within the designations?
13. Can the Commission provide a map that shows the overlap between projects listed under 12 i. and ii and each Limited Use designation for caribou habitat?

Polar Bear Denning Areas

It is unclear from the Options and Recommendations document the total area proposed as a Conditional Use area for polar bear denning sites as not all of the datasets submitted to the NPC were used in creating the designation.

14. Can the NPC confirm the datasets used to create the Conditional Use area designation for polar bear denning areas?
15. A scan of the Conditional Use designation for polar bear denning areas indicates that there are sites missing from this designation. How will NPC incorporate missing Inuit Qaujimajatuqangit about polar bear denning areas in the designation and in the DNLUP 2021?
16. Currently, the Conditional Use area for polar bear denning areas overlaps in part with the area withdrawn by Order in Council to facilitate negotiations with the Dènesuᓵᓵᓵ Nations. Does the NPC intend to remove this overlap in order that the area withdrawn by Order in Council remain fully in a Mixed Use designation?

Whale Calving Areas

The Options and Recommendations document does not provide enough information regarding the whale calving areas and the rationale for some decisions.

17. More specifically, why is the operation of vessels not limited in Bowhead calving areas and Narwhal calving areas seasonally?

Marine Areas of Importance– General

18. The Qikiqtani Inuit Association will be submitting a report to NPC commissioned to document Inuit Qaujimajatuqangit for the Baffin Bay and Davis Strait marine environment entitled “The Qikiqtaaluk Inuit Qaujimajatuqangit and Inuit Qaujimajangit Iliqquusingitigut for the Baffin Bay and Davis Strait Marine Environment Report”. Can the NPC commit to reviewing the report and incorporating Inuit Qaujimajatuqangit on the marine environment in the DNLUP 2021?

Transboundary Considerations -North Water Polynya – Sarvarjuaq/Pikialasorsuaq

It is unclear in the Options and Recommendations document whether the recommendation of the Qikiqtalluk Wildlife Board (QWB) to expand the boundaries of the Sarvarjuaq Polynya to include additional sites (e.g. Flagler Bay Polynya) has been accepted.

19. Can the NPC confirm whether the boundary of the Sarvarjuaq Polynya has been expanded to include additional areas recommended by the QWB?

Chapter 3: Encouraging Conservation Planning

Future Parks

Section 3.1.1 of the DNLUP 2021 does not list “National Parks Awaiting Full Establishment”, “Territorial Parks Awaiting Full Establishment” or “Proposed Territorial Parks” making it impossible to know what sites are designated without cross referencing with the Options and Recommendations documents and maps.

20. Can the NPC provide the list of proposed parks in the DNLUP 2021 and provide this information in a separate document for participants before regional public hearings?

21. For each “Territorial Parks Awaiting Full Establishment” and “Proposed Territorial Parks” can the Commission list projects with preserved rights under NuPPAA, and for each project indicate the geographic extent of the right?
22. Can the NPC provide a map that shows the overlap of “Territorial Parks Awaiting Full Establishment” and “Proposed Territorial Parks” and projects with preserved rights under NuPPAA?

Tallurutiup Imanga National Marine Conservation Area (TI NMCA)

23. Can the NPC explain why the TI NMCA Limited Use designation that includes the Lancaster Sound Polynya does not have terms and conditions to limit ice-breaking and marine navigation within the polynya and the NMCA? It is unclear why marine navigation and ice-breaking are not limited within the TI NMCA and why more protective measures are proposed for the Sarvarjuaq Polynya in comparison to the TI NMCA designation?

Chapter 4 – Building Healthier Communities

Community Areas of Interest – On Ice Travel Routes

24. Can the NPC explain why they did not include a term for On Ice Travel Routes designation that is similar to the one proposed for Caribou Sea Ice Crossings, namely including a term that restricts ice-breaking during certain seasons?
25. Although the NPC acknowledges the submission of NTI and the RIAs that on-ice shipping travel routes should receive similar protection as exists in the North Baffin Regional Land Use Plan, the NPC does not provide a rationale for why it proposes to provide less protection under the DNLUP 2021. Can the NPC explain why less protection is offered for On Ice Travel Routes in the DNLUP 2021 in comparison to the North Baffin Regional Land Use Plan? Specifically, the North Baffin Regional Land Use Plan does not allow navigation through ice in instances that it conflicts with conformity requirements 3.2.1 and 3.3.1:

3.2.1 All land users shall refer to the land values and concerns in Appendix G, and to the Areas of Importance map, to determine important land values and concerns in areas where they plan to work, as well as to adjust their work plans to conserve these values.

- i. All land uses shall be conducted in keeping with the policy of sustainable development in order to protect the opportunities for domestic harvesting. All land users shall avoid harm to wildlife and wildlife habitat and damage to community travel routes through the timing of their operations, through careful selection of the location of their main camps and travel routes, and through other mitigative measures. In order to achieve these ends, all land users shall follow the Code of Good Conduct contained in Appendix H.*

26. With respect to the overlap between On Ice Travel Routes and projects with preserved rights under NuPPAA, can the NPC provide a list of projects with preserved rights and the geographic extent of the right? Can this information be provided to participants in a separate document before the regional public hearings?

Chapter 5 – Encouraging Sustainable Economic Development

27. Can NPC commit to reviewing previous submissions of NTI and the RIAs supporting a designation for the Gray's Bay Corridor that are not considered in the Options and Recommendations document and revising the DNLUP 2021 to provide for a Gray's Bay Corridor?

Chapter 6 – Implementation Strategy

Overlapping Designations

Although the DNLUP 2021 does not discuss overlapping designations, a review of the maps shows that there are overlapping designations.

28. Can the Commission explain how overlapping designations will be addressed and which designations will take precedence?

Existing Rights

Section 6.1.8 of the DNLUP 2021 is entitled "existing rights". In this section, the NPC generally references the preservation of rights for certain projects under NuPPAA. However, important detail about prohibitions within Limited Use areas not applying when projects have preserved rights is omitted from section 6.1.8. The only time that the DNLUP 2021 references the impacts on Limited Use areas is on p. 11:

Note that the prohibitions set out in the Plan do not apply to projects referred to in subsections 207(1), 207(2), 208(1) and 208(6) of the Nunavut Planning and Project Assessment Act.

29. Can the NPC commit to indicating in the existing rights section of the DNLUP 2021 what projects have preserved rights under NuPPAA and how this impacts the implementation of prohibitions within Limited Use areas and seasonal restrictions within Conditional Use areas?

Section 6.1.8 on existing rights does not reference the transitional provisions of NuPPAA and specifically section 235, which provides that NuPPAA does not apply to projects and projects under assessment that were being carried out before NuPPAA came into force until there is a significant modification to those projects.

30. Can the NPC explain at section 6.1.8 on existing rights how the transitional provisions of NuPPAA apply in the DNLUP 2021 and to the Limited Use and Continual Use designations?
31. Does the NPC make a distinction between projects that existed before NuPPAA came into force and projects that existed prior to the approval of the Nunavut Land Use Plan? Or is NPC grouping these two types of projects together?
32. To understand how preservation of rights/transitional rights under NuPPAA and additional proposed exemptions (Appendix A of the DNLUP 2021) overlap with the proposed Limited

Use and Conditional Use designations, can the NPC for each Limited Use designation and Conditional Use designation provide:

- i. a list of the projects that the preservation of rights/transitional provision rights apply to;
- ii. a list of the proposed projects that would have additional exemptions under Plan Requirement 6.1.8-1; and
- iii. for each project under i. and ii. indicate the geographic extent of the project within the designations?

33. Can the Commission provide a map for each Limited Use and Conditional Use designation that shows the overlap with projects listed under 32 i. and ii. including for:

- migratory birds,
- caribou,
- polar bear denning areas,
- terrestrial walrus-haul out sites,
- whale calving areas,
- Sarvarjuaq polynya
- proposed territorial parks,
- territorial parks awaiting establishment,
- TI NMCA,
- Migratory Bird Sanctuaries,
- National Wildlife Areas,
- National Historic Sites,
- Soper River watershed outside of Katannilik
- Areas for the Thelon and Kazan rivers
- Community Areas of Interest
- Community drinking watersheds
- Contaminated sites
- Military Facilities
- Linear infrastructure
- Cumberland Sound Turbot Management Area

34. Can the NPC confirm that it procured an outside legal opinion regarding the Commission's legal authority to provide for grandfathering beyond what is set out in NuPPAA? If yes, can you share this legal opinion with participants?