

**PERSPECTIVES ON MARINE PROTECTED AREAS
CATEGORIES AND ASSOCIATED STANDARDS
WITHIN THE NUNAVIK MARINE REGION**

SUBMITTED BY MAKIVIK CORPORATION



**TO THE NATIONAL ADVISORY PANEL
ON MARINE PROTECTED AREAS STANDARDS**



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MANDATE AND SCOPE OF THE CONSULTATION

While the Government of Canada made a commitment to establish Marine Protected Areas (MPAs) in 10% of its oceans by 2020 as part of its “Target 1 -2020 Biodiversity Goals and Targets for Canada”, it also committed to obtain comments from Canadians in order to offer recommendations to the Minister of Fisheries, Oceans and the Canadian Coast Guard on categories and associated standards for federal MPAs. The International Union for the Conservation of Nature (IUCN) system of guidelines, defining categories of MPAs depending on objectives sought, is seen as a starting point in creating guidelines for use in Canada. Adjustments may be proposed by the Canadian government to the IUCN categories and protection standards based on comments to be received by the National Advisory Panel on MPA Standards, launched October 2017 by the Minister of Fisheries and Oceans and the Canadian Coast Guard. The Panel intends to make an interim presentation to the Minister by August 15, 2018 and provide recommendations in a final report by September 15, 2018. The Panel consultation process will give due consideration to the recommendations of the Indigenous Circle of Experts (ICE) contained in the March 2018 *We Rise Together* report, including the recommendations on the concept of Indigenous Protected and Conserved Areas (IPCAs) in terrestrial and inland waters, and also the values, aspirations and interests related to MPAs by Indigenous groups in Canada. Many laws apply to marine protection in Canada, and many designations are possible under distinct parameters (ex: Oceans Act’s MPAs, Canada Wildlife Act’s National Wildlife Areas, Migratory Birds Convention Act’s Marine Migratory Bird Sanctuaries, Canada National Marine Conservation Areas Act’s National Marine Conservation Areas). Each designation has a different purpose and suite of benefits and consequences. However, designations in Nunavik need to be considered within the relevant treaty frameworks (the Nunavik Inuit Land Claims Agreement – NILCA) and the institutions of public governance which receive their mandates from the Land Claims Agreement. Many stakeholders or Rights holders may have a role to play in protecting Canada’s biodiversity (ex: federal, territorial, provincial and local governments, Indigenous Peoples, private landowners, communities, non-governmental organizations and the private sector). However, Makivik Corporation’s role must be at the forefront of any conservation process in the Nunavik Marine Region (NMR), considering its roles as the Nunavik Inuit representative and collective rights’ guardian and custodian, as a territorial privileged player, and as a private land owner and manager. While Makivik Corporation is not ready to review or make recommendations regarding national or regional MPA targets in the NMR, any specific MPA proposals, or any specific resource development proposals, it hereto proposes perspectives regarding conservation that build upon a renewed relationship with the Crown that shall be respectful of the rights, responsibilities, needs, and priorities of the Inuit of Nunavik when it comes to protection.

OVERVIEW OF MAKIVIK CORPORATION:

Makivik Corporation (Makivik) was created in 1978 by the *Act to Establish the Makivik Corporation* (R.S.Q., c. S-18.1). Makivik is the recognized Inuit Party to the 1975 James Bay and Northern Quebec Agreement (JBNQA). A non-profit corporation, its central mandate is the protection of the integrity of the JBNQA and its implementation. Makivik promotes the preservation of Inuit culture and language as well as the health, welfare, relief of poverty, and education of Nunavik Inuit who are beneficiaries of the JBNQA. It focuses on the political, social and economic development of the Nunavik region. Makivik is further mandated to manage the heritage funds of the Inuit of Nunavik provided for in the JBNQA, and to administer and invest these funds while promoting the economic growth of the Nunavik region by supporting the creation of Inuit operated businesses. The members of the Makivik Board of Directors include sixteen (16) community representatives and five (5) executive directors universally elected by beneficiaries of the JBNQA. The members of the corporation comprise all Nunavik beneficiaries of the JBNQA. Makivik also defends the constitutionally protected rights and interests of the Nunavik Inuit provided for in the NILCA, signed in 2006 with the Government of Canada and the Government of Nunavut. The NILCA applies within the Nunavik Marine Region. It also contains three overlap agreements with the Cree of Eeyou Istchee, Nunavut Inuit and the Inuit of Labrador, each of which has marine components.

OVERVIEW OF THE NUNAVIK MARINE REGION:

The Nunavik Marine Region (NMR), as defined under Article 3 of the NILCA, is the area offshore Nunavik (Northern Québec). The surface area of the NMR is 265 974 km² which encompasses parts of northern James Bay, Hudson Bay, Hudson Strait and the entirety of Ungava Bay. Within the NMR there are 7530 islands with a land area of 8051 km², of which Makivik, on behalf of Nunavik Inuit, owns 80% in fee simple, with Makivik also owning surface and sub-surface rights. Nunavik Inuit have utilized the NMR for millennia and it continues to be a vital source of food and resources for the Nunavik Inuit. Additionally, the islands in the NMR contain important archaeological sites and the entirety of the NMR holds the potential for mineral and oil and gas extraction and commercial fisheries. Nunavik Inuit have a strong interest in protecting portions of the NMR for future generations. It is within this context that Makivik has an interest in the identification of future potential MPAs within the NMR. Ultimately, this will **mandatorily** include Inuit community consultations and working with the Nunavik Marine Region Planning Commission (NMRPC) and Nunavik Marine Region Wildlife Board (NMRWB).

PERSPECTIVES ON MPAs IN NUNAVIK:

Nunavik is the Nunavik Inuit homeland and consists of both onshore and offshore areas. Onshore Nunavik, governed by the JBNQA, is a territory that occupies a large landmass (660,000 km²) within the tundra and sub-boreal regions above the 55th parallel in the Province of Québec. It covers an area that is equivalent to one-third of the total area of Québec. The offshore area consists of the marine region around Québec, northern Labrador and offshore northern Labrador and is further defined in the NILCA as the NMR, and includes all marine areas and waters, all islands and lands within the boundary of the Nunavik Inuit Settlement Area identified in Schedule 3-2 of the NILCA. This boundary includes areas of equal use and occupancy with the Inuit of Nunavut, and areas of equal use and occupancy and joint ownership with the Cree of Eeyou Istchee. The Nunavik Inuit legal regime is an organic, all-inclusive concept, which contains interconnected elements relating to identity, language, usage, history, culture, traditions, environment, needs, families, and reciprocity, combined with treaty rights and interests, all observed through perennial, sustainable and equitable lenses.

Federal commitments to protect 10% of Canada's oceans by 2020 have created discussion around MPAs development in the NMR under the four federally-designated MPAs options. Makivik recently conducted MPA gap analysis to identify jurisdictional gaps, ecological gaps, and management gaps within the NMR ¹. While a preliminary scan of knowledge indicated that documented knowledge is unevenly distributed geographically and among species, with a greater portion being based in Western science compared to Inuit knowledge, several other key gaps have been identified, and which should be addressed within the context of MPAs' objectives, conditions and standards.



To understand specific priorities, needs and concerns on topics such as protection of species and habitats, cultural values, and economic and community development for the NMR, community-by-community consultations are needed. However, there have also been significant consultation efforts on related topics and high-level statements from Nunavik Inuit leadership that provide guidance on Inuit priorities for protection and development in the offshore.

For Nunavik Inuit, the protection of the environment, land and water, wildlife and natural resources, is crucial. It is a matter of food security, identity, way of life, health and wellbeing, integrity of the territory, and the passing of Inuit knowledge to future generations. Reliance on

¹ Makivik recognizes the contribution of the March 2018 Gap Analysis Report (Prepared for Makivik Corporation by Agata Durkalec) for the preparation of the present submission.

country foods defines Nunavik Inuit, and the right and priority to harvest are specifically defined within both the JBNQA and the NILCA. However, the development of Nunavik communities is equally important, as the young population deserves thriving economic opportunities and creation of quality jobs. Protection and development are two intrinsically mixed elements for Nunavik Inuit, as acknowledged in the 2002 Sanarrutik Agreement signed with the Government of Québec, which addresses both economic and community development, notably through the development of the tourism industry with natural conservation initiatives including parks. A fine balance is needed in between communities' needs and aspirations, present and future. Conservation objectives inclusive of economic and community development components are thus key for the creation of protected areas in Nunavik. We believe that sustainable development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs, but while further pursuing equity objectives for Nunavik Inuit. This may be achieved by offering priorities to the Nunavik Inuit, in the context of a park, marine reserve or any other protected area, for jobs, services, traditional activities, contracts, business opportunities, and research, monitoring or enforcement initiatives. This is exactly what is contemplated in NILCA via entering into Impact Benefits Agreements or Marine Protected Area Agreements prior to conservation designations. It was interesting to see that, in the 2016-2019 Federal Sustainable Development Strategies, there were new chapters relating to human health, wellbeing and quality of life but also to jobs and innovation goals, and their related social and economic framing.

It is timely to mention the March 2017 report from Mary Simon, as special representative to the Minister of Indigenous and Northern Affairs, "*A New Shared Arctic Leadership Model*" which is the product of a robust consultation, including with Nunavik representatives. Said report rightly outlined the need for a conservation paradigm shift in the Arctic, as having conservation objective competing with economic progress shall not engender sustainability for the interested northern regions and inhabitants.

Nunavik Inuit still hunt, fish, travel, and camp in their homeland. This defines them as a people, characterized by their historic and contemporary reliance on the land, water and the resources therein within the homeland they call Nunavik. There can be no doubt these activities will be pursued through all future generations of Nunavik Inuit. For these activities to continue, and also while respecting the harvesting rights as guaranteed under the JBNQA and the NILCA, and to maintain their core identity and transmission of their knowledge and skills, a Nunavik cultural landscape objective needs to be recognized for its vital importance and be preserved accordingly. The concept of MPAs can be considered as an available tool to address the priority of subsistence wildlife harvesting over all other uses to notably ensure food security and quality in a truly substantive manner. Therefore, conservation objectives for Nunavik must include the concept of the preservation of the cultural landscape as a key objective, and, to achieve social

acceptability for Nunavik Inuit, include real sustainable and equitable objectives as the only axis for protection planning and development.



The Parnasimautik 2014 Consultation Report, the culmination of two years of reflection, discussion and visioning by Nunavimmiut, articulates objectives around conservation and development for Nunavik. The report states that Inuit, “want to see their government equipped with the tools and authorities to better control the pace, type and location of development activities”.

Makivik fully supports the goal of self-determination for Nunavik Inuit. This has implications for the development of Marine Protected Areas (MPAs). Makivik takes the positions that Inuit and Inuit communities have the authority to plan the location and status of proposed MPAs, and the final say in any MPA creation. While this may go beyond the current IUCN guidelines, which call for “Making Partnerships with Communities and other Stakeholders”, we suggest that there is no other way to proceed if real reconciliation efforts are to be deployed and a nation-to-nation relationship established, at par with commitments made by the current federal government to Inuit under the new Inuit-Crown Partnership. This is further consistent with the United Nations *Declaration on the Rights of Indigenous Peoples*. Planning and development of MPAs in Nunavik must therefore be innovative in enacting ownership, control and/or power delegation to the Inuit. Real reconciliation and cooperative approaches are prerequisites for the pursuit of conservation objectives and protected areas creation in Nunavik. We opine that the concept of Indigenous (or in this case Inuit) Protected Areas is, in this context, of great interest. Yet, there needs to be a formal legal basis developed in federal legislation and regulations to give life to this concept while further defining the idea and tabling legislation that will provide it with a proper legal framework, as recommended in “*A New Shared Arctic Leadership Model*”.



To use this authority, Inuit and communities need to have their specific needs and objectives recognized in the planning and in the decision-making process. They should have access to knowledge, both scientific and Inuit Knowledge, so that proper decisions can be made. For example, the Parnasimautik report discusses the need to consider how Nunavik Inuit can continue to exercise their right to harvest, given the pressures of a steadily increasing Inuit population, environmental changes and industrial development impacts on wildlife populations. Based on previous consultations and observations, there would generally be support and interest

among Nunavik communities for exploring and developing MPAs as a means to ensure food security once it is clear that harvesting rights are protected within designated MPAs.

However, it is equally clear for the communities that development of protected areas and conservation measures must be balanced with industrial and commercial development that is responsive to the needs, concerns and priorities of Inuit now and into the future. Protected areas are one part of a holistic vision of natural resource management, development, and use that is “sustainable and equitable” (Parnasimautik Consultation Report 2014, pg. 142).

These considerations were reiterated by Makivik in the response developed on protected areas and conservation objectives submitted in 2016 to the Standing Committee on Environment and Sustainable Development. Makivik’s submission underscored the balance needed between protection and economic development to achieve the joint objectives of sustainability and equity.



There are complex jurisdictional issues when it comes to Nunavik since the offshore regime is very distinct from the onshore, with two separate Land Claims Agreements in application. Regarding the NMR, the Nunavik Marine Region Planning Commission (NMRPC) was established pursuant to the NILCA as an institution of public government. The NMRPC has been undertaking a land use planning process for the NMR. The land use plan is intended to guide development and use based on a foundation of extensive consultation, knowledge gathering and planning with communities. The draft land use plan is in development while the land use and occupancy study commissioned by the NMRPC that serves as the basis for the draft land use plan is also not yet available. However, these documents will provide substantive additional guidance on MPAs development in the NMR once they are released. While one of the IUCN guidelines is to place MPAs in the larger context of land use plans and consideration of other management regimes, it may be challenging to reconcile the two management regimes established for the offshore and mainland Nunavik, especially if Inuit are not involved in discussions between the federal government and Québec regarding offshore initiatives, which are of their direct interest. Indeed, Makivik was recently made aware of a Canada-Quebec agreement on MPAs which is notably to be applied in the coastal regions around Nunavik. While we do not question the ability of the two governments to discuss such matters, we are of the opinion that, considering the provisions of the NILCA and the processes for the establishment of MPAs in the NMR which are governed by this treaty, the fact that an agreement was reached without any involvement of the Nunavik Inuit, rights holders and signatories to the Agreement, represents, at the very least, a breach of the spirit, if not the letter, of the NILCA. Makivik is reviewing the document and developing a

position. While our response will be pursued through other channels, it certainly clouds our perception of the current consultation initiative and of the reconciliation rationales brought forward as part of the Panel's objectives.



IN SUMMARY, WE SUBMIT THAT PERSPECTIVES ON CATEGORIES AND ASSOCIATED STANDARDS FOR MPAs IN THE NMR SHALL:

- ❖ FOREMOST CONSIDER AND CONTRIBUTE TO THE PURSUIT OF THE SUSTAINABILITY AND EQUITY OBJECTIVES BY AND FOR THE NUNAVIK INUIT;
- ❖ BE BUILT AROUND TRANSPARENT AND COMPLETE KNOWLEDGE ACCESSIBILITY, INCLUSIVE OF INUIT KNOWLEDGE WHILE RESPECTING THE RIGHTS OF KNOWLEDGE HOLDERS;
- ❖ ACHIEVE A BALANCE BETWEEN CONSERVATION, ECONOMIC DEVELOPMENT, AND EMPLOYMENT NEEDS OF NUNAVIK INUIT.;
- ❖ BE INCLUSIVE OF THE SPECIFIC NEEDS AND OBJECTIVES OF THE NUNAVIK INUIT, FOR THE CONSERVATION OF THE UNIQUE CULTURAL LANDSCAPE, WITH DUE RECOGNITION TO THE NEED TO GUARANTEE FOOD SECURITY;
- ❖ BE RESPECTFUL OF INUIT SELF-DETERMINATION, INCLUDING IN THE DEVELOPMENT OF MPAs OR OF FULLY-RECOGNIZED INUIT PROTECTED AREAS, WITH THE AUTHORITY TO PLAN LOCATION AND STATUS OF PROPOSED MPAs, AND TO HAVE THE FINAL SAY FOR ACTUAL CREATION;
- ❖ BE COGNIZANT OF THE COMPLEX JURISDICTIONAL ISSUES MPAs PLANNING AND CREATION ARE FACING IN NUNAVIK, IN THE RESPECT OF THE APPLICABLE TREATIES, RIGHTS AND BODIES' PREROGATIVES.