



August 15, 2016

Mr. Andrew Nakashuk
Chair, Nunavut Planning Commission
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Dear Mr. Chair:

RE: Procedural Concerns regarding the Nunavut Land Use Plan Process and Pre-Hearing Conference

This letter is with respect to the scheduled Nunavut Land Use Plan (NLUP) Pre-Hearing Conference (PHC) and in response to the release of the NLUP Pre-Hearing Conference Agenda.

As you know, the NWT & Nunavut Chamber of Mines (Chamber) has provided support and advice to the Nunavut Planning Commission (NPC), commented on all three drafts of the draft NLUP (2011-2012, 2014, 2016), and attended the series of technical meetings on the draft NLUP held during 2015 and 2016. We were extremely disappointed with the draft NLUP released in June 2016 (the June 2016 Draft NLUP), which ignores scientific evidence and does not reflect any of the engagement that NPC staff have had with the Chamber or with industry in general.

The NPC framework document "*Broad Planning Policies, Objectives and Goals, November 10, 2007*", signed by the three designated authorities, sets the goalposts for the planning process. Of particular interest is the "Goal 5 - Encouraging Sustainable Economic Development" section on page 15 of the document:

"It is an objective of the Nunavut Planning Commission that Land Use Planning: ensures that the goals of any proposed restrictions on land use are achieved with the least possible impact on undiscovered mineral resources, while taking into account environmental and social objectives."

The corresponding Broad Land Use Planning Policy states:

"It is a policy of the Nunavut Planning Commission that Land Use Planning: will, before any restriction on land use is created, review and assess the available data and research, broad planning goals and objectives, legislation, policies, priorities and values of residents and other planning partners, and programs relating to conservation, land use planning, wildlife management and parks to determine whether the restriction is warranted (and) provides clear direction and guidance regarding the conservation, development, management and use of land to provide certainty to land users, encourage investment, minimize risk and costs, and

streamline the regulatory process to ensure Nunavut resources can compete in a global market place.”

It is the position of the Chamber that the June 2016 Draft NLUP fails to meet this objective and that the NPC has compounded this failure by propagating a flawed “consultation” process.

First, we are of the view that for reasons of procedural fairness, the NPC must extend the notice period for individuals or companies who may wish to apply for standing to become a Participant in the public hearing on the June 2016 Draft NLUP. We note that the *“Final Notice to Become a Participant for the Draft Nunavut Land Use Plan Public Hearing”* was issued on June 1, 2016, and reflected a deadline of July 4, 2016. The June 2016 Draft NLUP included significant new restrictions on development which had not been contemplated previously within the process, and the time provided by NPC was insufficient for our members to review the June 2016 Draft NLUP and consider the potential impact of the new restrictions on their individual projects. The deadline for applications for standing should be extended to (at minimum) November 2016 to permit all individuals, companies and organizations potentially affected by the NLUP to fully review the June 2016 Draft NLUP, consult directly with NPC and other stakeholders about potential implications for their individual projects, and determine whether they wish to seek party status.

Second, the In-person Pre-Hearing Conference currently scheduled to take place in Iqaluit August 29-31, 2016 should be postponed until after the final deadline for written submissions on the draft NLUP, written evidence or other materials to be relied on in the Final Public Hearing. This information is essential in order to provide any meaningful input on the topics outlined in the proposed Agenda. As noted above, we believe there may be parties that are now impacted by the June 2016 Draft NLUP that may wish to seek participant status. Again, we note that our members and other groups have not had sufficient time to consider the June 2016 Draft NLUP to make this determination. Without review of final written submissions, it will be impossible for *“Parties with Standing to Share Their Expected List of Representatives and (if applicable) Expert Witnesses”*. In order to have a meaningful discussion about NPC’s proposed order of presentations, participants at the PHC would require this information in advance. It is also premature for parties that have not reviewed final submissions to be provided their *“final opportunity to present concerns about the structure of the public hearing”* when they have not yet been presented with any detail about that structure. As an industry organization, it would be irresponsible for the Chamber to provide feedback on these points without an opportunity to canvass our members - NPC’s proposal to present this information “live” during the PHC is not practical. Other Agenda topics (such as “Logistics”) are readily dealt with by other Institutions of Public Government (IPGs) by written notice or teleconference, and do not require an in-person workshop setting.

Third, NPC has the technical capacity to provide for teleconferencing during the PHC. In our view, the NPC requirement that parties must be present in person in order to be heard will further reduce our members’ ability to participate in the process. There is no practical reason why a teleconference line cannot be established to allow participation by all parties to the process, particularly given the timing of this workshop. This restriction will have the effect of further reducing any opportunity for engagement by those who may be impacted by the NLUP but work or live outside of Iqaluit.

Fourth, with respect to the August 15 deadline regarding expert reports and September 12 deadline regarding participant response to expert reports, these deadlines are premature given the timing of the June 2016 Draft NLUP release and artificial given the current public hearing schedule. These are essential components of the public hearing and timing of expert reports is an essential item for any PHC agenda.

Fifth and most importantly, the August 2016 PHC Agenda allows for no further comments to be considered on the June 2016 Draft NLUP, yet the "*Timeline for the Development of the NLUP*" indicates a series of Regional Community Representative Sessions to be held throughout the territory and Denesuline and Makivik regions in October, 2016 and for final written evidence to be submitted on November 28, 2016. There is no plan for an industry focused session or even a general session during that period. As noted at the outset of this letter, the Chamber has deep and significant concerns that its input in the process to date appears to have been completely disregarded by NPC staff with no supporting rationale for doing so.

In closing, the Chamber is the leading advocate for responsible and sustainable mineral exploration and development in the NWT and Nunavut. Our key objectives are to encourage, assist, and stimulate prosperous, orderly, and environmentally responsible development and growth of mining and mineral exploration in Nunavut. The Chamber and our members view Inuit, Inuit organizations and Indigenous groups, Northern residents, IPGs established under the NLCA, and the territorial and federal government as our partners in ensuring that Nunavut has a strong and responsible mining industry. As representatives of the industry and a major stakeholder in the final NLUP, we deserve to be heard through *meaningful* consultation. While the Chamber will continue to participate as a Party to the NLUP process, we believe there is no point in adding further comments or submissions at this time, as to date NPC has not demonstrated clarity, transparency, or fairness within the NLUP processes established to date. Changes to the NPC's process and approach are necessary in order to remedy this very serious deficiency and its significant consequences on the Nunavut and Canadian economy.

Sincerely,

The NWT & Nunavut Chamber of Mines



Elizabeth Kingston
General Manager - Nunavut

cc The Honourable Carolyn Bennett, Minister of Indigenous and Northern Affairs
MP Hunter Tootoo, MP for Nunavut
The Honourable Peter Taptuna, Premier of Nunavut Legislative Assembly
The Honourable Monica Ell-Kanayuk, Minister of Economic Development and
Transportation and Minister of Mines
Ms. Cathie Towtongie, President of Nunavut Tunngavik Incorporated
Sharon Ehaloak, Executive Director of the Nunavut Planning Commission
Percy Kabloona, Commissioner of the Nunavut Planning Commission
Peter Alareak, Commissioner of the Nunavut Planning Commission
Ovide Alakanauruk, Commissioner of the Nunavut Planning Commission
Mr. Gary Vivian, President of the NWT & Nunavut Chamber of Mines