



February 10, 2023

Mr. Jonathan Savoy
Nunavut Planning Commission
P.O. Box 2101
Cambridge Bay, NU X0B 0C0
Email: jsavoy@nunavut.ca / submissions@nunavut.ca

Dear Mr. Savoy,

RE: NWT & Nunavut Chamber of Mines 2021 DNLUP Final Written Submission

The Chamber thanks the Nunavut Planning Commission (NPC) for the opportunity to provide this final submission on the 2021 Draft Nunavut Land Use Plan (DNLUP) on behalf of our 145 member companies. This final submission restates previous concerns raised by our members through their written and verbal submissions to the Commission and builds on the Chamber's participation at the recent DNLUP public hearings in both Cambridge Bay and Iqaluit.

Listening to Inuit and Nunavummiut

Listening to Inuit with respect to developments that affect their culture, resources and land uses is an essential component of doing business in Nunavut. We consistently look to the collective experiences of our members and their relationships with communities in Nunavut to inform our positions on issues important to Nunavut, including the DNLUP. The interests of our industry and Inuit are intrinsically linked, and this submission represents Inuit interests in the many Inuit firms and Inuit employees that work in and rely on a healthy northern minerals industry. In providing a mineral development perspective, the Chamber ultimately seeks to support Inuit in their pursuit of the means to provide for themselves, their families, and their territory, all through the responsible development of mineral resources on public and Inuit-owned lands.

Respect the Existing Nunavut Regulatory System

Based on the explicit direction and recommendations the NPC has received to date, the 2021 DNLUP should support Signatories by providing guidance rather than prescriptive terms and conditions to achieve appropriate sustainable development through a flexible balance of economic, cultural and conservation interests.

Article 11 of the Nunavut Agreement is not stand alone, and the overall current Nunavut regulatory and co-management context needs to be considered in how a land use plan is devised. How well other Nunavut Agreement processes are performing should inform the NPC on what should be included in the Plan. Currently, the NLCA and the existing Nunavut regulatory system provide a process for thorough review of development projects in the territory, as well as proven mechanisms for compliance and enforcement. We believe the system is working as intended to

prevent land use related conflicts among Developers and Inuit Harvesters. For example, while Article 6 of the Nunavut Agreement allows Inuit to request compensation for impacts through the Inuit Wildlife Compensation Fund, to date, there have not been any records of comprehensive wildlife compensation claims made on behalf of Inuit. Similarly, the Nunavut Surface Rights Tribunal has yet to hear a single case where a developer and landowner were unable to reach consensus on issues related to land access.

Given no or few Land Use conflicts or sharp differences in Land Use Values are being seen through other NLCA processes, NPC should view this as evidence that specific, prescriptive measures are not necessary in a general, first-generation Land Use Plan. This first-generation plan is trying to do too much by being overly prescriptive across a massive and varied geographical area and without sufficient supporting information raising the risk of unintended consequences including causing an unnecessary decline in Nunavut's ability to attract investment.

A more practical approach would be to reframe the DNLUP as a planning framework, without the spatially explicit zonation, that is implementable and contributes to the improvement of Nunavut's integrated regulatory system. This approach would be consistent with the federal guidance to the NPC to develop a plan that helps improve decision making by IPGs and that is consistent with federal mandates, commitments and policies while providing more certainty for land users.

Subsequently, each region could then develop more detailed plans guided by active and informed participation of constituents considering a variety of land use options and supported by the extensive dataset assembled by the NPC. By incorporating an adaptive management approach within the planning review cycle each region can learn from the first-generation plan and make adjustments as required.

The NLCA contemplates the existence of multiple land use plans through various pluralized references to "plans" throughout Articles 11 through 13. The Chamber's suggestion that the DNLUP would be best served as a planning framework that then informs specific regional plans is drawn from best practices throughout other jurisdictions in Canada.

Supporting Inuit Autonomy in the Land Use Planning Process

The Chamber is in alignment with Nunavut's three Regional Inuit Associations (RIAs) with respect to their stated concern that the DNLUP not directly impede the autonomy and authority intended to be conveyed to Inuit through the NLCA with regard to Inuit Owned Lands (IOLs). Importantly, the DNLUP should not weaken the important economic development function of IOLs. Any proposed changes that may limit and/or sterilize Inuit rights to develop mineral resources on their IOLs, must receive RIA support and approval.

Encourage Nunavut Participation in Canada's Critical Mineral Strategy

The recent release of the [*Canadian Critical Minerals Strategy*](#) provides a generational opportunity for Nunavut to leverage its tremendous potential to discover, develop, and produce Critical Minerals to support the energy transition required to protect our planet.

Although Nunavut is home to at least 22 Critical Minerals on Canada's list, it is also under-mapped and underexplored, and will require substantial investment to discover and unlock this tremendous mineral potential. Unfortunately, as proposed, the 2021 DNLUP would severely

reduce Nunavut's ability to attract the investment needed to explore for critical minerals. As a result, the DNLUP undermines Nunavut's ability to contribute to increasing Canada's critical mineral production and meeting the challenges of our common climate future.

Figure 1 (attached) depicts current Critical Mineral exploration activity in Nunavut. The NPC should consider this map and the geological potential of Nunavut to produce the critical minerals required to address climate change and support transition to a greener economy to save the planet.

Existing Rights are Unprotected creating Serious Risk to Nunavut's Investment Climate

The DNLUP does not sufficiently protect Nunavut's mineral potential which, frankly, is also a valued component of the territory, deserving of protection.

- First, it surrounds existing high mineral potential and mineral rights with significant amounts of limited use designations, sterilizing significant amounts of Nunavut's mineral potential.
- Second, it prohibits companies from exploring and developing any mineral resources they find beyond the boundaries this draft proposes to place within their existing tenure. To be successful at developing mineral resources, companies need the ability to explore and develop attractive geology that might extend beyond what they know today. It is an inescapable fact of exploration that explorers don't know what's under the ground until they actually explore it. Additionally, rising markets and even new technology could incent a company to go beyond the current bounds that the plan would restrain them to.

Grandfathering can only be effective if it recognizes that explorers and developers need flexibility in the face of such things as new geological information, changing market conditions, or the development of new technologies.

Further, for the existing mineral rights to be meaningful, several things are necessary:

- The actual physical extent of the mineral tenures must be available for development;
- Adjacent lands necessary for surface mine and exploration infrastructure, including access, needs to remain available; and
- Flexibility is required to provide for changes in project design that are appropriate outcomes of NIRB and NWB processes.

These three components of grandfathering are not present in this draft plan. The consequences are that many of our members, after making significant investments in mineral tenure, would not be able to advance to development.

This has significant financial implications for our industry, and companies that have already invested in mineral exploration and development in Nunavut are seriously concerned with the negative effects the DNLUP would have on their projects and investments. Natural Resources Canada's reporting of exploration investment shows that Nunavut's share of Canadian investment has been declining over the past 6 years. We are deeply concerned that the recent post-COVID increase in exploration will collapse if this access-restrictive plan were to be approved.

The NPC must revise the grandfathering provisions in the DNLUP to ensure that developers can advance their mineral claims as the geology and market conditions allow. This would then

support mineral developments required to sustain a healthy minerals industry, that supports Nunavut's economy and its growing population.

The Chamber also notes, with concern, that the NPC did not seek outside legal counsel to clearly define "existing rights" and what protections that conferred to existing rights holders as recommended by NTI. We believe that, as a signatory, NTI's recommendations on this issue should have been followed.

Overly Restrictive Approach to Caribou Protection

The DNLUP takes an overly restrictive approach predicated on a poorly supported assumption that the decline of caribou populations is related to developmental activity. Further, when considering caribou calving grounds and restrictions, the NPC should consider the scientific methods and various surveying tools tested by human observers. Further, any information or influence that is not science or IQ based should be excluded from the plan.

We recommend the NPC consider the following key points related to caribou protection:

- Re-classify the land use designation for proposed caribou protection zones as Option 4 – Valued Ecosystem Component.
- Conduct a thorough review of existing scientific, e.g., telemetry, aerial, and calving surveys, and IQ data sources both historical and recent, identify data gaps required to understand habitat use by caribou, and work with other government bodies, researchers and industry to address the data gaps. Conduct consultation and verification with all stakeholders for any newly proposed boundaries.
- Apply an adaptive management framework to caribou management rather than utilizing static polygons with absolute prohibitions.
- Consider the use of mobile protection measures around calving and post-calving caribou rather than static Limited Use zones.
- Permit low impact activities, including geophysical surveys, high elevation flights, geological soil sampling, and research within caribou protection zones. Allow the regulators who issue permits and licences to make the determination regarding approval of these activities, based on the land use objectives outlined in the DNLUP and following proper environmental screening.
- Remove Limited Use zones from Existing Rights Areas.

Attempting to regulate wildlife issues via a land use plan further limits the future ability of the regulatory regime to assess and consider non-development related changes and factors. As many of the presentations have stated, land use and caribou can readily co-exist. The DNLUP should not be misused as a caribou protection plan.

The DNLUP Negatively Impacts Devolution and Nunavut's Socio-Economic Future

Nunavut is in a period of significant population growth with a quarter of its population, mainly consisting of Nunavummiut youth, who will be coming of age in the next decade. It is also under-served with healthcare, housing, jobs, infrastructure, energy, and much more.

Devolution requires the Government of Nunavut (GN) to assume responsibility for management of lands and resources and move to a position of economic strength, self-reliance and prosperity.

NPC must consider this reality with the current DNLUP and avoid land use designations that would hinder future development such as infrastructure required for land access, shipping routes, and power or fiber optic transmission services.

The DNLUP should support Nunavut's path towards economic self-sufficiency through devolution by providing broad guidance and good information to support well-informed decisions within the existing regulatory system while avoiding imposition of extensive and overly-prescriptive land use designations that reduce economic development opportunities and their benefits to Nunavummiut.

If the Land Use Plan cannot provide for territorial self-sufficiency, this should be clearly acknowledged. The Land Use Plan should then address the out migration of Nunavummiut to other areas of the country that would naturally result from residents not being able to meet their economic and social needs within the territory.

Recommendation – Utilize Policy Option #4

It is recommended that the NPC prioritize the use of Land Use Policy Option 4 as outlined in the 2021 Options and Recommendations document to provide clear guidance to Inuit landowners and Institutes of Public Governance (IPG's) in relation to the valued components associated with land use in specific areas for this first-generation plan. Identifying spatially-linked valued component sensitivities would have the advantage of providing clear and effective inputs and allow for a comprehensive co-management of the existing and effective systems such as the NWMB, NIRB, NWB, *Wildlife Act*, and RIAs to fulfil their obligations as outlined by the Nunavut Agreement.

As a first-generation plan, limited and conditional use designations should be restricted to situations where these designations are absolutely necessary and evidently able to attain the intended benefits, and where no other option would produce the desired outcome.

We also recommend that any future changes be informed by scenario analysis and modelling, including evaluation of economic impacts, to support well informed land use decisions that fully consider changing demographics and future social and economic needs.

The NPC should also publish all environmental values gathered to date, both as a guide to land users and managers but also to facilitate plan improvements and designation revisions going forward. This will help inform IPGs, land managers, and resource developers about what's important and the actions required by all to protect valued ecosystem components.

In Summary

We have carefully studied the 2021 DNLUP through an internal committee consisting of our members with direct knowledge and expertise with respect to mineral development matters in Nunavut. This has included juniors, producers, and service providers with many decades of experience in Nunavut. We have repeatedly and regularly consulted with our general membership who are affected by this plan to gain their input.

Our Chamber members are proud of the fact that mining has become the private enterprise engine of the Nunavut economy, and the main contributor to Nunavut GDP. We see tremendous potential for future growth. However, the concerns of our members, as expressed above, have

only deepened as they have become more familiar with the very real impacts that this draft plan would have on Nunavut's mineral sector if approved in its current form.

Unfortunately, despite the years that the Chamber has provided specific recommendations to the NPC for a DNLUP, we see minimal evidence that the Commission has considered this input or incorporated plan amendments in response. Therefore, our key concerns, as outlined above and in previous submissions, remain outstanding.

The Chamber requests that the NPC revisit the direction provided by the Government of Canada in its [Priority Expectations for a First Generation Nunavut Land Use Plan](#), including that the DNLUP:

- be compliant with the Nunavut Land Claims Agreement (NLCA) and the Nunavut Planning and Project Assessment Act (NUPPAA)
- be consistent with federal department and agency mandates, authorities, commitments and policies ...
- provide improved certainty for users
- be practical and implementable

We recommend that such a reassessment also ensure the plan supports:

- Nunavut's ability to fulfil a meaningful and deepening role within Canada,
- Respect for private property rights,
- Respect for the results of IPG and Inuit land management processes,
- Promotion of evidence-based caribou management,
- The needs of Nunavut's growing population are met, and
- Land managers are supported in making well informed value-based decisions.

We support the position of the GN and RIAs that the DNLUP will be detrimental to the economic trajectory that Nunavut is aiming for with Devolution. We support the application of Option 4 to support the existing regulatory process and allow for any required land use designations to be implemented on a case-by-case basis. This approach is appropriate for a first-generation land use plan within an evolving economic environment. Based on the concerns raised in this submission and the apparent misalignment of the 2021 DNLUP with the direction provided by the Signatories, the Chamber of Mines does not support the 2021 DNLUP.

Again, we thank you for providing us with this opportunity to comment and contribute to this historically important document and process for Nunavut.

Yours sincerely,

NWT & NUNAVUT CHAMBER OF MINES



Alex Buchan
Vice President – Nunavut

c.c.: Hon. Dan Vandal, Minister of Northern Affairs | Hon. P.J. Akeagok, Premier of Nunavut | Aluki Kotierk, President, Nunavut Tunngavik Inc. | Lori Idlout, Member of Parliament for Nunavut

