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October 6, 2021

RE: Draft Nunavut Land Use Plan, 2021

Dear Chairperson Nakashuk,

Please accept the enclosed submission as per the reopened public record on the Draft Nunavut Land Use Plan.

I submit this as Senator for Nunavut, a registered participant, and a concerned citizen who is resident in Iqaluit in the hopes that it may prove useful in the review of this proposed draft.

Respectfully,

Dennis Patterson, Senator for Nunavut

#### **OVERVIEW**

The Draft Nunavut Land Use Plan (DNLUP) 2021 was introduced on July 8, 2021. The record was reopened for submissions on July 21, 2021 with an original deadline for submissions set for September 30, 2021. The notice of this decision was posted in a release on the Nunavut Planning Commission (NPC) website on July 23, 2021.

On September 17, 2021, the submission deadline was revised to October 8, 2021 in an effort to "[recognize] the desire for all parties to have adequate notice and time to prepare for the upcoming proceedings." Within that same notice, it was communicated that "a corrected English version of the DNLUP is available on the NPC's Public Registry that addresses issues with references to site numbering on Map A."

#### PROCESS OF DEVELOPMENT

The authority for the NPC to develop a land use plan(s) is derived from both the Nunavut Land Claims Agreement (NLCA) and the *Nunavut Project Planning and Assessment Act* (NuPPAA).

Section 42(1) of NuPPAA states "The Commission must identify planning regions and may, for each planning region, identify specific planning objectives and planning variables regarding the conservation, development, management and use of land."

Section 42(2) goes on to clarify that "The specific planning objectives must be consistent with the broad objectives established for the designated area."

Section 44 clarifies that "The principles and factors set out in sections 11.2.1 and 11.2.3 of the Agreement must guide the development of broad policies, priorities and objectives under section 41 and specific planning objectives under section 42."

For ease of reference, Article 11.2.1 of the NLCA states,

The following principles shall guide the development of planning policies, priorities and objectives:

- (a) people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation;
- (b) the primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote the existing and future well being 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;

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The Honourable Dennis Patterson

- (c) the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning regions;
- (d) 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 recruitment and training of local residents to participate in comprehensive land use planning; various means, including ready access to all relevant materials, appropriate and realistic schedules,
- (e) plans shall provide for the conservation, development and utilization
- (f) the planning process shall be systematic and integrated with all other planning processes and operations, including the impact review process contained in the Agreement; and
- (g) an effective land use planning process requires the active participation of both Government and Inuit.

## Article 11.2.3 states.

In developing planning policies, priorities and objectives, factors such as the following shall be taken into account:

- (a) economic opportunities and needs;
- (b) community infrastructural requirements, including housing, health, education and other social services, and transportation and communication services and corridors;
- (c) cultural factors and priorities:
- (d) environmental protection and management needs, including wildlife conservation, protection and management; and
- (e) energy requirements, sources and availability.

The "Nunavut Planning Commission Broad Planning Policies, Objectives and Goals" approved by the NPC lists five goals including "Strengthening Partnership and Institutions"; "Protecting and Sustaining the Environment"; "Encouraging Conservation Planning"; "Building Healthy Communities"; and "Encouraging Sustainable Economic Development".

A review of all these documents raises questions about the adherence to these goals and guiding principles in the drafting of the 2021 DNLUP.

#### DNLUP 2021 APPEARS TO CONTRAVENE NPC'S GOAL 1

Under the NPC's published policies and objectives, the first goal, "Strengthening Partnership and Institutions," states that the NPC will

[establishes] targets and timelines to inform Government, Inuit Organizations and other planning partners of annual work plan activities in order to facilitate coordination of activities and maximize opportunities for multi-party participation and interaction.

This would be consistent with Article 11.2.1 (g) that states, "an effective land use planning process requires the active participation of both Government and Inuit."

However, DNLUP 2021 was released with no prior notice to partners. None of the signatories were represented at the July 8 presentation of the draft; there also appears to be an overall lack of coordination on review timelines given the original September 30 deadline. When the notice on timelines and next steps was released on July 23, 2021, the date of September 30 was already recognized as a federal holiday: the National Day for Truth and Reconciliation.

The release goes on to list hearings in the Kivalliq and Denesuline on November 1-5, 2021 and the Kitikmeot region on November 23-26, 2021. Additional hearings in Pond Inlet and Iqaluit would be "subject to the availability of funding".

Several questions arise in light of this release.

Why did original deadlines not take into account the federal holiday, and why were timelines not immediately extended when the federal government entered caretaker mode following the writ drop of August 2, 2021?

It is a well-established convention in the Canadian parliamentary system federally as well as provincially and territorially that, during an election period, governments enter into a so-called "caretaker" mode where routine government functions continue, but major decisions are not taken; Ministers are not expected to undertake any new initiatives or changes to existing programs or policies.

The Government of Canada, as one of the three main signatories, should be able to participate fully, which would be difficult under caretaker mode and in the ensuing transition period following a federal election. With no minister(s) and the potential shuffle of deputy ministers and senior government officials, no additional decisions on funding could be made in order to provide for hearings in Pond Inlet and Iqaluit, communities that would allow for the fulsome participation of Inuit and participants from the territory's most populous region. As of the writing of this submission, Prime Minister Trudeau indicated a Speech from the Throne would come in November, meaning that the earliest a funding agreement could be authorized would be December, though, given the machinations of government, it would not be realistic to expect a funding decision prior to Q1, 2022.

It should be further noted that a June 21, 2018 joint letter from all three signatories (Appendix A) – the Government of Canada, the Government of Nunavut and Nunavut Tunngavik Incorporated – required that a revised draft be "subject to public hearings in all three regions." Any plans and budgeting by the NPC **must include all three regions**. According to the Government Response to the Senate Special Committee on the Arctic (Appendix B), an additional \$2M in funding was provided in 2020-21 to complete a new draft. According to the timeline posted on the NPC website, the NPC solicited additional

feedback on the 2016 draft between July 2018 and March 2019, then "conducted in-person community information sessions in the Kitikmeot and Kivalliq regions to solicit feedback on the 2016 draft Plan." Why were similar sessions not organized for the Baffin region?

Even with the extension of the deadline for written submissions to October 8, the timeline given does not take into account the fact that the Legislative Assembly was dissolved on September 19 and that the territorial election is currently underway, with the vote set for October 25, 2021. Why would the NPC create a timeline that wouldn't allow for the fulsome review and participation of the Government of Nunavut, one of the three main signatories whose approval is required for the DNLUP to become final?

Policy point F.1 in the NPC's policies and objectives notes that the NPC will provide "products for comment at all steps in the planning process to encourage organizations to actively participate in a collaborative and transparent manner." Similarly, point G pledges that the NPC will promote, "opportunities for dialogue to share values, priorities, land and resource research, data and information, among Government, Regional Inuit Associations, Nunavut Tunngavik Incorporated and other planning partners for inclusion in land use planning decisions. "

Further to the timing issues noted above that would severely limit government partners at the territorial and federal level to provide their input and collaborate meaningfully in this process, it is important to point out that every municipality and hamlet in Nunavut is listed as a participant. Yet it is widely known by entities operating in Nunavut that the summer period is the time when many Nunavummiut, particularly Inuit, go out on the land to fish and hunt, while many go on annual leave for several weeks or longer. This leaves most levels of government and organizations in a capacity deficit.

Such a lack of capacity would greatly impact the organization's ability to meet the relatively short deadline for comments on such an important document.

There is also a general lack of technical expertise required to provide meaningful input into the creation of a land use plan. To properly analyze the included maps, a geographic information system (GIS) analyst is required to help understand the main map and the series of additional polygons and valued components.

Every participant should have access to their own analysts and advisors, in order to make well-informed submissions and independent contributions to the drafting process of any land use plans. Such advisors with the specialized knowledge required are not available to every hamlet and would take time and resources to secure. It would be very difficult to achieve all this within the short timeframe given, particularly with many decision-makers away on annual leave or on the land during the summer months.

To underscore the importance of such expertise, GIS analysts that were retained for this submission and a previous submission on the 2016 DNLUP reported that the data sets between the 2014, 2016 and 2021 drafts have no consistency and none of the polygons directly correlate to the definitions in subsequent iterations. This makes direct

comparisons difficult and requires additional support in analyzing how input into past drafts was or was not integrated into newer drafts.

### DNLUP 2021 APPEARS TO CONTRAVENE NPC'S GOAL 2

The NPC's policy point C1 under this section states that the NPC will ensure, "environmental, economic, Inuit cultural and social concerns are considered in decisions regarding transportation."

While much attention has be given to environmental and cultural concerns, there appears to be a lack of balance with economic considerations. Mixed-use land in the 2021 DNLUP is defined as "is a land use designation that allows for all uses, but may identify Valued Components that should be considered in the design and regulatory review of projects." The Valued Components (VCs) are further broken down into Valued Ecosystem Components (VECs) and Valued Socio-Economic Components (VSECs).

A review of the VCs suggests that future economic activity, including the construction of transportation linear infrastructure could be constrained by the proposed draft. As demonstrated in the map provided (Appendix C), VECs and VSECs surround several densely populated areas and those existing mineral rights identified by the Commission. Their presence creates barriers for transportation linear infrastructure vital to the development of some known mineral deposits. This would have a domino effect on surrounding communities that could benefit from improved infrastructure constructed in an effort to develop resources and would result in an overall lack of jobs and monetary investments through IIBAs and other means. Other impacts include the socio-economic impacts of stable, well-paying jobs that support healthier communities and local economies.

### DNLUP 2021 APPEARS TO CONTRAVENE NPC'S GOAL 4

Further to the statements made above, policy point A.2 under Goal 4 clearly states that land use planning should support "social and economic development initiatives", which is in line with NLCA Article 11.2.3(a).

Policy point D goes on to clarify that land use planning must "[take] into account the need and potential for development of alternative energy sources through the plan development process."

Many of the VCs could limit the construction of hydro-electric dams and wind turbines, further limiting the options for alternative energy sources, and potentially increasing affected communities' reliance on traditional diesel energy.

# DNLUP 2021 APPEARS TO CONTRAVENE NPC'S GOAL 5

Policy point A.2 directs that planning must, "to the extent possible provide for a mix of the economic sectors to secure balanced economic development. The relative weighting of



economic sectors with respect to any particular community or region shall depend on the actual and potential economic opportunities at hand, the particular community or regional preferences, and the priorities and values of residents in the planning region."

Based on this point, it would be helpful for the NPC to clarify its statement on page 48 of the DNLUP that says,

In order to support economic development in Nunavut, the Commission has identified projects with existing mineral rights in Limited Use areas in Appendix A that will not be subject to prohibitions on that type of activity at the time they undergo significant modifications, but will require a further conformity determination under the Act.

It is not immediately clear what the impact of surrounding VCs would have on future conformity decision deliberations. This lack of clarity undermines the overall goal and intent behind a land use plan to provide clarity and surety to those operating or hoping to operate in Nunavut. This would align with policy point F.2 that states plans should provide "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."

Without clear assurances, such perceived impacts on mineral development potential in the territory could lead to a significant decline in investment within the territory.

Much heed seems to have been paid to interventions stressing the conservation and protection of lands, but there does not appear to be a balanced consideration for the economic potential of the land as further emphasized by policy points C.1, C.2 and E.

### PROCESS OF INTRODUCTION

During the July 8 introduction, only the bilingual floor feed was available to those watching. The lack of an English only feed was constraining for those participants that do not speak Inuktitut. While it is important that Inuktitut be protected and promoted within the Nunavut Land Claim Area, it is equally important that those who choose to access NPC documents or proceedings in the other three official languages of the territory – English, French and Innuinaqtun – are freely able to do so. There was a public commitment made by the NPC that a transcript of the launch would be provided in English. However, to date, no such transcript has been made available.

### RECOMMENDATIONS GOING FORWARD

Based on the points above, it is recommended that:

1. The NPC revise its timelines to allow for the fulsome and informed participation of all participants, particularly the Government of Canada, the Government of Nunavut and all municipalities and hamlets. This would include revising the deadline for



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technical expertise required to fully analyze the proposed plan;

- 2. The NPC negotiate, in its funding agreement with Canada, that participant funding for this round of consultations be widened in scope to enable hamlets and municipalities to retain the technical expertise required to participate fully in discussions on the DNLUP;
- 3. The NPC revise schedules and budgets to ensure that public hearings are held in all three regions of Nunavut; and
- 4. The NPC post a full transcript of the launch in all four official languages of Nunavut.