



May 10, 2017

Ms. Aluki Kotierk
President

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The Honourable Peter Taptuna
Premier of Nunavut
Government of Nunavut
P.O. Box 1000, Station 200
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The Honourable Carolyn Bennett
Minister of Indigenous and Northern
Affairs Canada
10 Wellington Street
Gatineau, Quebec
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RE: Industry Concerns with 2016 DNLUP Public Hearing and Consultation Process

Dear Ms. Aluki, Premier Taptuna, and Minister Bennett:

The Nunavut land use plan is an important document for the future of Nunavut. That is why the NWT & Nunavut Chamber of Mines has been an active participant in the planning process for many years, even before the release of the 2011 Draft Nunavut Land Use Plan (DNLUP).

Our members are proud to work in Nunavut and many of our workers are Nunavummiut. Overall, our industry is the largest private sector contributor to the Nunavut economy. Extraction alone accounts for 17% GDP (which does not include exploration expenditures, infrastructure spending, and contributions to other sectors like construction, transportation, real estate, and trade, etc.) Mining is the main economic driver of our territory and is the largest private-sector employer of Inuit - second only to government as the primary employer. Through Inuit Impact Benefit Agreements (IIBAs), the Nunavut Agreement ensures other direct economic benefits to Inuit and communities.

During the regional Public Hearing in Iqaluit, March 22 – 27, 2017, we provided feedback on the following general themes: Industry's role in the Nunavut regulatory regime; sustainable development; caribou; existing rights; Nunavut's mineral potential and; the impacts on Nunavut's future that we are concerned this plan would have if approved.

Industry works within Nunavut's existing Regulatory Regime

The Chamber respects the need for a land use plan, and the Nunavut Planning Commission's (NPC) role and intentions, but we have a number of serious concerns with this current version. Many of the key parties in this Iqaluit proceeding, including your representatives as signatories, and the Regional Inuit Associations (RIOs) expressed serious concerns about the 2016 DNLUP.

Overall, we think that the process has been confusing, and is not fair or transparent. The NPC has carried out a limited and inadequate consultation on the 2016 DNLUP, and has not provided any direction based on the feedback they have received on that draft.

We believe these hearings should not have been scheduled until the NPC provided an updated draft of the plan and carried out a proper, transparent, and balanced consultation with all stakeholders including reasonable timelines. This is still our view.

Nunammiut need a fair chance to understand the down sides of the development bans that NPC has included in the DNLUP, and to discuss in their own communities and decide whether they agree with them.

As the NPC said in the video we saw on the first day of the hearing, since the 2016 DNLUP was released it has been a “sprint to the finish”. Respectfully, we think that something this important, with potential to impact generations of Nunammiut, should not be rushed.

Community consultation on the 2016 Draft has been limited to six short regional prehearing conference engagement sessions, two of which were held outside of Nunavut (Manitoba and Quebec). One example - Pond Inlet consultation session on Nov. 4, 2016 - had 22 NPC staff and consultants attending, but only three members from Arctic Bay and Clyde River, and five members from Pond Inlet. This is far less consultation than our members are required to undertake with communities as part of the process to permit a mine. Our industry understands that development in Nunavut is an important decision. That is why it is necessary to go back to the communities many times, to ensure that they understand the project that is being proposed and have a chance to tell us what they think, what areas are sensitive, and how we can make it better. Sometimes, the projects are not approved. That is part of the regulatory process that was set up in the Nunavut Agreement, and we respect that.

The Nunavut Agreement provides for processes to accomplish conservation aims while allowing for benefits for Nunammiut; Articles 8 and 9 are specifically designed to protect land and marine areas in Nunavut. The regulatory regime requires that industry work collaboratively with, and take direction from regulators, including the NIRB, NWB, and territorial and federal regulators, to ensure that the negative effects of exploration and development are minimized and that the positive effects are realized. The process includes assessment of potential project effects, cumulative effects (including caribou and potential for effects to other wildlife) and development of mitigation and management measures that apply the best science and build on past experience in the North.

A false choice has been presented - protection or development. For Nunavut, our industry and our members, this is not a choice. Development in Nunavut should always proceed in a way that is protective and respectful of our Elders, IQ, the views of the community and Inuit, and scientific knowledge. The companies, communities, and government and regulatory agencies have all worked hard together since the Nunavut Agreement was signed to ensure that development in the territory proceeds in a way that is protective. We do not think that most of the development bans in the current DNLUP will help increase environmental or cultural protection in Nunavut, but we do believe that they will harm Nunavut’s economy.

Encouraging sustainable economic development

The Chamber believes that the 2016 DNLUP does not adequately take into account Nunavut Agreement Article 11 – *“in developing planning policies, priorities and objectives, factors such as economic opportunities and needs, should be taken into account”*.

We believe it is also inconsistent with the Government of Nunavut (GN) Parnautit Mineral Development Strategy – *“A strong and sustainable mining industry will have operating mines throughout the territory providing employment and business opportunities. This will require a high level of exploration activity resulting in new mineral discoveries and developments with new mines coming into production as older mines are closed and reclaimed.”*

A healthy minerals industry and the responsible economic development it can bring is critical to the future economic prosperity of Nunavut and its people. Mining gives direct benefits to individual Inuit and Nunavummiut whom our industry is able to hire at our projects. Hiring is something that is addressed in every IIBA and it is something that every RIO is careful to address. The Nunavut Agreement also ensures that all Inuit benefit from each mine. Before we are able to explore or mine a property, we need to acquire our mineral rights from either NTI or the Government of Canada. If we are successful and are able to produce minerals from the property, we are required to pay a portion of those profits back - that is called a “royalty”. If NTI owns the mineral rights, we pay royalty directly to NTI. If the Government of Canada owns the mineral rights they collect the royalty and pass it on to NTI. When projects happen on lands that are surface Inuit owned, we pay rent and other fees to the RIO. Our industry also pays taxes in Nunavut and to the federal government, and those funds are used for the benefit of everyone.

The 2016 DNLUP recognizes that there are data gaps in our knowledge in the Arctic. Research recommendations on use and occupancy mapping, caribou, climate change, char, cumulative impacts, polar bears, marine mammals, exploration and development are listed. However, only what the 2016 DNLUP defines as “non-exploitative scientific research” is considered to generally conform to the NLUP and may occur in any land use designation. “Non-exploitive scientific research” is defined as *“research whose objective is not the development or extraction of renewable or non-renewable resources, and uses scientific methods of data collection whose procedures and outcomes adhere to recognized ethical parameters of non-exploitation.”* Research related to activities such as oil and gas exploration and production and mineral exploration and development is prohibited in a number of designated “Protected Areas”.

The Chamber strongly objects to including restrictions on research within the NLUP. The research that is carried out on behalf of mineral exploration and development companies in Nunavut relies on both scientific methods as well as traditional knowledge. This research is relied on to support our members’ applications to regulatory and Inuit authorities but also has served to contribute important scientific information to the body of knowledge that we have about Nunavut. The Chamber does not understand why the 2016 DNLUP would seek to prohibit future collection of such knowledge.

Caribou

The Chamber wants to be absolutely clear. We believe in caribou protection. We do not believe that the methods proposed in the 2016 DNLUP provide the best protection for caribou.

In the 2016 DNLUP, the NPC has substantially changed the designations for the protection of the caribou habitat, caribou freshwater crossings and Heritage Rivers in the revised 2016 DNLUP from *Special Management Areas* to *Protected & Prohibited Areas*.

The WWF referred to Nunavut Impact Review Board's (NIRB) submission on the plan - as quoted in the NIRB's January 2017 submission: *"Regardless of what the NPC and interested parties determine is an appropriate balance of caribou conservation versus promotion of economic potential (whether seasonal restrictions, management of air and ground traffic through specific areas, or outright prohibition on development), the NIRB requests that a Nunavut wide land use plan provide clear guidance regarding measures for protection for caribou habitat and associated parameters for development of various project types in and around those areas. In their participation within the NPC's land use planning process, the NIRB encourages governments and responsible parties to clearly identify other legislative tools for caribou protection that may reside outside of the NLUP (e.g. DIAND Caribou Protection Measures) and any corresponding plans for using the same to address caribou protection more broadly."*

Other parties, including NIRB, recognize there are many potential options that would protect caribou other than an outright ban on development. The caribou protection option which our industry supports is caribou protection measures. The Chamber acknowledges and recognizes that mining and exploration projects in Nunavut may interact with caribou. Caribou protection measures have been applied by industry for many years and have been developed through a regulated and collaborative process with input from governments, regulatory bodies, RIOs, Hunter and Trapper Associations, communities, and adapting industry best-practices.

Our industry has a track record of managing our interaction with caribou. These protective measures are spelled out in various terrestrial monitoring and management plans for mining and exploration activities. Long term viability of caribou herds can successfully coexist with a sustainable and beneficial mineral development industry.

The minerals industry is leading many efforts in studying and monitoring the effects of exploration and mining activities on caribou (such as extending funds to and collaborating with GN on caribou collaring) and we continually adapt new information and new approaches to monitoring and reducing those impacts (mobile caribou protection measures) and have shared this information with land use planning partners.

Banning exploration and mining activities when there is no scientific link to the decline of caribou would unnecessarily compromise the development of economic and other opportunities for Nunavut and Nunavummiut, while not necessarily contributing to better caribou population protection.

There is also insufficient evidence on the record to accurately delineate and describe the specific calving and post calving areas in the DNLUP. The Kitikmeot Inuit Association has provided NPC with an expert report which addresses this point in detail.

As NPC has previously acknowledged, *"The planners at the NPC are not experts on any of the topics, and rely on input from participants in the planning process. Planners only develop options for managing land use based on the input received."* The issue of caribou is a complex one and requires specialized expertise. This is recognized in the Nunavut Agreement. Under Article 5 of the Nunavut Agreement, it is government and the NWMB that approves the establishment of Conservation Areas or plans for protection of particular wildlife habitat. The Chamber believes the proper Nunavut Agreement processes should be followed for the

establishment of Conservation areas and for the protection of particular wildlife habitat. If conservation areas are required or change, there should not be a requirement to go through a land use plan amendment process - this should be able to be done directly by the groups that have been tasked with this responsibility under the Nunavut Agreement.

Grandfathering /Existing Rights – minerals

Our members hold mineral rights that are protected under the Nunavut Agreement and Canadian legislation. Our mineral rights are currently administered by the Government of Canada and NTI. Indeed, under Article 17.1.11 of the Nunavut Agreement, *“The primary purpose of 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.”* Yet the NPC staff has consistently excluded or undermined industry in this process.

The Chamber’s view is that the grandfathering of existing rights on all stages of mineral exploration and development without exceptions should be acknowledged in the DNLUP.

High mineral potential

The 2016 DNLUP is misleading when it identifies areas of “high mineral potential”. Well known deposits are generally shown on Schedule B, but it is important to understand that so much of Nunavut is yet to be explored. Banning research and exploration will sterilize vast areas of Nunavut from mining and exploration and will not allow for future discoveries.

Mineral potential assessments are only as good as the knowledge of the time. Future generations and technologies may identify new minerals that are essential to society, and new technologies that can allow access to them with minimal disturbance. This may alter our understanding of what constitutes high-medium-low mineral potential.

The Land Use Plan should preserve flexibility as much as possible in land use designation, so that future generations have the ability to benefit from mineral resources and technologies that we can’t imagine today.

As you know, working in the North and Arctic is expensive. The money available in our industry for exploration depends on the prices of metals and the market. In the last few years, it has been difficult. Prices have been low although they are getting better. It is not easy to raise money to explore and develop projects in this region. People who finance the exploration and mining projects in Nunavut also have the option to invest their money in mining projects in other parts of the world. The uncertainties included in the 2016 DNLUP will discourage them from investing in Nunavut. Investors understand that there is a risk that regulators will not approve every project proposal. That is a normal risk that every project proponent takes when they enter the regulatory process. However, adding a land use plan amendment process will add a layer of uncertainty that will heavily damage or eliminate the potential for investment for many projects.

This is already happening. Because of the uncertainty existing in the 2016 DNLUP with respect of the zoning of former special management areas as being “protected” and therefore not available for mineral exploration and development, several companies have opted out of doing further exploration work at this time.

In particular, we do not think the DNLUP should include development bans on Inuit Owned Lands. Inuit organizations used high mineral potential as a selection criteria in the lands they chose, so reducing access to these areas means reducing the value of land they selected. We also want to acknowledge that NTI and the RIOs - Kivalliq Inuit Association, Kitikmeot Inuit Association, and Qikiqtani Inuit Association - are stewards of the lands. They are very careful when they permit development on Inuit Owned Lands, and are up front with industry about their values when we approach them.

Impacts on mining and economic development

In closing, the proposed changes to the DNLUP could have a significant and long-term negative impact on the economic development of Nunavut. Millions of dollars are spent in Nunavut communities each year through jobs, training, taxes, and support for local service industries.

If implemented in its present form, the 2016 DNLUP will deter investors from funding exploration projects in the territory and will reduce the potential for new discoveries and mining projects that would provide economic and other benefits to Nunavut and Inuit. As you are the ultimate approvers of the DNLUP, we ask that you put measures in place to stop the current consultation process and direct the NPC to redraft the plan with existing information.

Sincerely,

The NWT & Nunavut Chamber of Mines



Gary Vivian
President

cc Mr. Stanley Anablak, President of Kitimeot Inuit Association
Mr. David Ningeongan, President of Kivalliq Inuit Association
Mr. P.J. Akeagok, President of Qikiqtani Inuit Association
The Honourable Dennis Patterson, Senator for Nunavut
The Honourable Monica Ell-Kanayuk, Minister of Economic Development and Transportation and Minister of Mines
MP Hunter Tootoo, MP for Nunavut
Mr. Brian Fleming, Executive Director of the Nunavut Association of Municipalities
Mr. Andrew Nakashuk, Chair of the Nunavut Planning Commission
Mr. Percy Kabloona, Commissioner of the Nunavut Planning Commission
Mr. Peter Alareak, Commissioner of the Nunavut Planning Commission
Mr. Ovide Alakanauruk, Commissioner of the Nunavut Planning Commission
Ms. Sharon Ehaloak, Executive Director of the Nunavut Planning Commission