



July 2, 2014

Attn: Minister Bernard Valcourt

Delivered By Electronic Mail

Re: Public Hearing Funding for the Draft Nunavut Land Use Plan

Dear Minister Valcourt,

In September 2011 Aboriginal Affairs and Northern Development Canada (AANDC) spear-headed an Independent Third Party Review (ITPR) of the Nunavut Planning Commission's (NPC) Draft Nunavut Land Use Plan (DNLUP) and land use planning process. AANDC's Report concluded that the DNLUP was "**reasonable**". The ITPR further recommended that public consultations be undertaken on the DNLUP and that the planning process be finalized in a timely manner. Those consultations were concluded (October 2012 – May 2014). The hosting of the Public Hearing required under the Nunavut Land Claims Agreement (NLCA) is the final step in this process as outlined in Article 11 of the NLCA prior to the draft plan going forward to the Ministers for approval.

An important aspect of land use planning is to bring the voice of residents into the regulatory process. This aspect is entrenched in the NLCA which at section 11.2.1(c) requires that "***the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning region.***" The NLCA at section 11.4.4 (e) further requires the NPC to "*solicit opinions from municipalities, residents and others about planning objectives, goals and options of the region*"

The NPC's community consultation began in October 2012 and included meetings with elected officials and public workshops where the content of the Plan was reviewed and the priorities and values of residents were recorded. Meetings and workshops were hosted in the 25 municipalities in Nunavut. Five Inuit communities from Northern Quebec, 2 Denesuline communities from Northern Manitoba and 3 from Northern Saskatchewan were also consulted in accordance with NLCA Article 40, Other Aboriginal Peoples. Written submissions were also received from Federal and Territorial governments, Inuit organizations, First Nations, Métis organizations, industry and non-government environmental organizations.

During the compilation of priorities and values from residents and neighbouring jurisdictions, the NPC learned that food security is of the utmost importance. In these communities, which are only accessible year-round by air and where there are often few economic opportunities, access to country foods such as caribou, fish and sea mammals is the highest priority. In an environment where most of the food consumed is imported, access to safe, reliable local food sources is critical to the existing and future well-being of Nunavummiut, Dene and Métis.

In short, the Inuit, Dene and Métis of Nunavut, Nunavik, Northwest Territories, northern Saskatchewan and Manitoba have all voiced their concern that the DNLUP must **“protect our food”**.

Regional land use plans can accomplish numerous objectives. As Canada’s Northern Strategy: Our North, Our Heritage, Our Future¹ recognizes *economic development is aided by effective institutions and transparent and predictable rules*.

Industry expects that land use planning will identify areas of importance to the well-being of residents and put in place rules that will create certainty for investment. In other words, industry needs to know where not to develop. There are numerous instances across Canada and around the world where legal challenges and conflict have arisen because areas of significance to Aboriginal people have been unknowingly identified for development. Appropriately funded, comprehensive land use planning can: address competing interests in advance of development; put in place rules to address concerns of residents, and; allow industry to invest with confidence. The Strategy itself highlights that:

“The Government of Canada is introducing measures to ensure that regulatory systems across the North protect the environment in a predictable, effective and efficient manner. Efforts such as the Northern Regulatory Improvement Initiative are helping resolve the complex approval process for development projects, to ensure new projects can get up and running quickly and efficiently.”

Under Canada’s Northern Strategy the importance of the three territories to the future prosperity of Canada and globally is acknowledged. As noted under the Strategy *“the Government of Canada has a clear vision for the North, in which: self-reliant individuals live in healthy, vital communities, manage their own affairs and shape their own destinies; the Northern tradition of respect for the land and the environment is paramount and the principles of responsible and sustainable development anchor all decision-making and action...”*. Again, in Nunavut this vision can be realised through the completion of land use plans prepared in accordance with professional land use planning standards and practices guided by the NLCA.

The NPC has advised AANDC officials that this vision of the Government of Canada is not realistic given the current funding levels proposed to the NPC as Gatekeeper to Nunavut’s regulatory system. Instead the NPC offered the following scenario if it was not provided with adequate funding:

The regulatory system will be slow and cumbersome. The NPC will fumble project proposals. Industry will lose millions as legislated timelines are missed. The resulting delays will ripple through the regulatory process. Already short seasonal windows for mobilizing a work force and equipment will not be achievable. Delays at the beginning of the regulatory process will affect government regulators. Unsuspecting investors will make billion dollar decisions based on the content of incomplete land use plans. Growing concerns of Inuit, First Nations and Métis around development in areas they rely on for

¹ Canada’s Northern Strategy: Our North, Our Heritage, Our Future <http://www.northernstrategy.gc.ca/cns/cns-eng.asp>

food will slow and eventually stall the environmental assessment process. Legal challenge will be brought to the NPC's door by Aboriginal groups exasperated by projects being approved in their dwindling hunting grounds. Key habitat will be lost and unique species will be at risk. Discontent over the management of resources in Canada's Arctic will come from the Circumpolar and International community. Embarrassment will be brought to the Government of Canada, the only Nation that has in place comprehensive land use planning as a tool that can support shared international ideals of; responsible and sustainable development, promotion of healthy communities, and maintenance of resilient ecosystems over the long term. There will be limited investment, jobs, and economic spin offs, and regulatory improvement for 65% of Canada's Arctic will remain an unfulfilled dream.

The NPC has great expectations placed upon it with the requirements to complete a single comprehensive land use plan for the Nunavut Settlement Area (NSA). Canada to date has failed to conclude the funding negotiation contracts which have been outstanding since 2003. By continuing to not fund the NPC appropriately and not funding the public hearing and conclusion of the land use planning process the Minister will in essence silence the voice of Inuit, Dene and Métis while AANDC continues to lay the foundation for fulfillment of the above scenario.

The Minister has noted that the NPC has received \$54 million in funding over 18 years and has not completed any land use plans. This statement is not true. Appendix A outlines the history of land use planning in Nunavut. In short, during the January 2005 Public Hearing on the Draft West Kitikmeot Regional Land Use Plan, AANDC officials announced that the Federal Government would no longer support land use planning on a regional scale and that NPC should conduct planning on a Nunavut wide basis. NPC was forced to abandon the regional approach and put all of the work outlined in Appendix A on the shelf due to the threat from AANDC. Because of the AANDC announcement that it would no longer participate, the regional approach was stopped and the process to develop the Draft Nunavut Land Use Plan began. Had the NPC continued to develop regional land use plans as originally contemplated under the NLCA Implementation Contract all regions in Nunavut would have land use plans in place today.

For those that are good with numbers, one can easily see that \$54 million dollars over 18 years represents approximately \$3 million per year. The figures that were used to come up with budgets for the NPC, and other IPG's, were as a result of the NLCA. These figures were devised in 1993. A ten year renewal of these funding levels is noted in the NLCA. That review was to be completed by 2003 but it is still ongoing. AANDC has not completed this review 11 years after the deadline and funding for the NPC and all other IPG's has only increased by a small factor since the signing of the NLCA in 1993.

Since 2006, the NPC has provided a needs-based budget as well as a balanced budget to the federal government. The needs-based budget contains everything that the NPC is mandated to do under the NLCA. The balanced budget is what the NPC can do with the funding level provided by the federal government. The NPC also identifies several items within its mandate that it cannot do as a result of the funding provided by the federal government. When requested in November 2012, the NPC provided a 10 year projection of a needs-based budget vs the balanced budget. The average difference between needs-based and balanced budget for the 10 year period was almost 6 million per year. Considering that the current funding level is approximately 4 million per year, one can infer that almost 2/3 of the NPC's mandate is unfunded by the federal government each year.

Despite only being sparsely funded to fulfill a fraction of its mandate over the past few years the NPC has completed a draft of the Nunavut Land Use Plan (NLUP). As outlined in Appendix B delays in the planning process have occurred, which is natural for a project of this scale that is the first of its kind in the world. Because of the level of funding provided by the federal government the NPC has been required to functioned with a 50% vacancy rate on approved positions. AANDC's Independent Third Party Review (ITPR) highlights the lack of funding as a major challenge to completing the land use planning process. Yet through all this, the NPC has still met the deadlines and produced a draft of the NLUP through a reasonable process as noted by AANDC's ITPR.

The process for requesting funds has been followed for many years and is well understood by all parties. The federal government understands our mandate to deliver a plan and the obligation to fund the process. On June 11th, 2014 the NPC provided to AANDC the most recent information requested by AANDC officials to acquire funding for the public hearing. This represents only the last in a series of personal meetings and detailed submissions the NPC has given the government over the past many years.

In closing, since 1993 the NPC has done everything that AANDC has asked of it. As each request is addressed AANDC proposes a new expectation which results in delays to the land use planning process. Canada's Northern Strategy promotes the need to put in place mechanisms to provide regulatory certainty in an environment where northern people ***manage their own affairs and shape their own destinies***. Land use planning will support Canada's goals for the north and bring the voice of Aboriginal groups to "**protect our food**" into the regulatory process while providing certainty to investors. However this cannot happen if AANDC does not support conclusion of the public consultation and planning process by funding the DNLUP public hearing, concluding the outstanding funding contract negotiations, and fund the NPC at the appropriate level to fulfil its mandate as outlined in the NLCA and upcoming NUPPAA legislation.

Respectfully



Percy Kabloona
A/Chairperson

cc:

- President NTI, RIAs
- Nunavut MLAs
- Nunavut Mayors
- Chief and Council Manitoba, Saskatchewan, NWT
- President Métis Organizations
- Member of Parliament Nunavut, NWT
- NAM
- Media Relations

APPENDIX A

History of Land Use Planning in Nunavut

The Nunavut Planning Commission Transition Team (NPCTT) operated under the Basis of Agreement on Land Use Planning. This work resulted in the preparation and approval of the Lancaster Sound Regional Land Use Plan in December 1990 and approval of the original Keewatin Regional Land Use Plan (KRLUP) in March 1995.

The NPC implemented the NLCA Article 11 in accordance with the guidelines established under the 1993 Contract Relating to the Implementation of the Nunavut Final Agreement (the Contract). The Contract suggests that *“Land use planning in the Nunavut Settlement Area will be done by the NPC on a regional basis in accordance with a scheduling plan developed by it.”* Over the next several years the NPC carried out work in the; North Baffin, Keewatin, West Kitikmeot, South Baffin and Akunnig (east Kitikmeot) planning regions of Nunavut. This work resulted in the formulation of:

- an approved North Baffin Regional Land Use Plan
- an approved Keewatin Regional Land Use Plan
- a Draft West Kitikmeot Regional Land Use Plan
- a Draft South Baffin Regional Land Use Plan.
- a Preliminary Draft Akkuniq (East Kitikmeot) Regional Land Use Plan.
- a comprehensive review of the approved Keewatin Regional Land Use Plan was underway

The community of Sanikiluaq, located on the Belcher Islands, was the only planning region that did not have a land use plan under development.

APPENDIX B

Why does land use planning take so long?

The NPC is often asked, “Why is the formulation of the Draft Nunavut Land Use Plan taking so long to complete?” Below is an overview of several illustrative examples of the NPC land use planning experience since 2005.

- 2005 – 2007 updated the NPC’s Broad Planning Policies, Objectives and Goals in conjunction with Federal and Territorial governments and Nunavut Tunngavik Incorporated. Note of this 2 year period it took GoC 16 months to provide input.
- January 2008 to 2009 the NPC compiled and disseminated publically baseline data to planning partners to support decision making and to encourage discussion and debate. These included: A Socio-Demographic and Economic Sector Analysis August 15, 2008; Nunavut Wildlife Resources and Habitat Values October 2008 and Cumulative Effects Referral Criteria Report May 2009 and a spatial summary of the information compiled into a State of Knowledge in Maps document.
- During 2009 and 2011 the NPC worked with planning partners, compiled data and expert advice and prepared working drafts of the DNLUP for input by government and other public agencies.
- During a multi-party workshop in June 2011 AANDC officials advised the NPC that it would provide data and feedback on a working draft of the DNLUP by September 2011.
- September 2011 the AANDC advised NPC that no feedback would be provided. Instead AANDC advised the NPC of their intention to undertake an Independent Third Party Review (ITPR) of the NPC’s land use planning process and DNLUP.
- AANDC assured the NPC that the ITPR would be concluded by December 2011. AANDC also requested that in the interim the NPC not proceed with the DNLUP public consultations as outlined in NPC’s approved annual work plan. Although requested, no substantive reasons that would justify the ITPR were ever provided to the NPC.
- June 15, 2012 the ITPR was finalized and concluded that the NPC’s draft Nunavut Land Use Plan and land use planning process was “reasonable”.
- A number of observations regarding the funding levels provided to the NPC were also identified in the ITPR, for instance:
 - *Capacity and resource allocation may, in our opinion, be at the root of some of the major challenges facing planning in Nunavut.*
 - *Although NPC has clear responsibility to direct the planning process and prepare the draft plan, it lacks the authority and resources to ensure the successful completion of the process and approval of the plan.*

- Inuit organizations, government and other interested parties must: establish and maintain reasonable expectations; be realistic to what can actually be achieved by a chronically and historically underfunded planning agency, and be respectful of the NPC's NLCA authority to prepare land use plans under the NLCA.
- September 7, 2012 the NPC made the Draft Nunavut Land Use Plan public and initiated public consultations as recommended by the ITPR. The NPC has implemented all of the ITPR recommendations that were directed to it.
- October 2012 – May 2014 concluded over 60 workshops and meetings during its public consultation on the DNLUP.
- April 2013 advised the public of the November 2014 Public Hearing
- June 2014 made public an updated DNLUP to reflect the two year consultation period and put in place all preparations for the November 2014 Public Hearing