Too Important to Stall:

Delay, Devolution and the Case for Moving Forward with the Recommended Nunavut Land Use Plan

Authored by lawyers Nick Leeson, Mariana Gallegos Dupuis, Kate Kempton and Qajaq Robinson, this paper is an independent legal analysis commissioned by Friends of Land Use Planning (FLUP).

This paper is meant to serve both as a public-facing legal analysis and as a practical briefing document. It is written to assist public understanding of the treaty and statutory framework governing the RNLUP, to set out the legal analysis showing that the process has reached the point where a decision is legally required, and to identify the legal pathways by which movement toward a decision may be required if the process continues to remain unresolved. In our view, the NLCA and NuPPAA require that the Recommended Nunavut Land Use Plan be brought to decision without further delay. Continued non-decision is becoming increasingly difficult to reconcile with the structure and purpose of the treaty and statute, particularly as development interests continue to accrue, devolution approaches and continued delay risks giving rise not only to legal challenge but to increasingly serious practical and financial consequences. Those consequences are not limited to uncertainty or delay in the abstract. As interests continue to accrue while the Plan remains unresolved, later implementation will become weaker, more contested, and more expensive, including by increasing the likelihood that governments or signatories will have to accommodate, compensate or otherwise work around interests that would have been far easier to manage had the Plan been brought into operation sooner.

Section 1: From Treaty Promise to Planning Impasse

The *Nunavut Land Claims Agreement* (NLCA)[1] and the *Nunavut Planning and Project Assessment Act* (NuPPAA)[2] establish a comprehensive framework for land use planning in Nunavut.[3] They create much more than just a framework for Government-to-Government discussion. Together, they form part of a modern treaty governance architecture through which Inuit,[4] the Government of Nunavut and the Government of Canada are meant to serve structured and consequential decision-making roles in the coordinated planning and management of land, water, and resources across Nunavut. A robust co-governance regime that, at its core, is meant to lead to something concrete: an operative, land use planning framework capable of guiding development across Nunavut, reflecting Inuit priorities and interests, supporting sustainable economic development and ensuring coordinated decision-making across institutions.

[1] *Nunavut Land Claims Agreement*, SC 1993, c 29 [NLCA].
[2] *Nunavut Planning and Project Assessment Act*, SC 2013, c 14 (in force 2015) [NuPPAA].
[3] For ease of reading, this paper refers to land use planning "in Nunavut," "for Nunavut," and "across Nunavut." More precisely, the critical planning framework applies to the designated area, including the Nunavut Settlement Area and the Outer Land Fast Ice.
[4] Unless otherwise indicated, references in this paper to "Inuit" are to Nunavut Inuit, including Inuit beneficiaries under the NLCA, unless the context indicates otherwise. The term is used in that sense for readability, given that this paper concerns the treaty and statutory land use planning regime applicable in Nunavut.

The Recommended Nunavut Land Use Plan (**RNLUP**), submitted by the Nunavut Planning Commission in June 2023 following nearly two decades of consultation, revision, iterative development and public processes, represents the culmination of that work.[5] Its approval by the three signatories under the NLCA and NuPPAA—Nunavut Tunngavik Incorporated (**NTI**), the Government of Nunavut, and the Government of Canada—would mark the transition from planning to implementation contemplated by both treaty and statute.

Under the NLCA and NuPPAA, the next step for the RNLUP is not indefinite further delay. It is a decision.

Yet the Plan remains neither accepted nor rejected. The problem, at this stage, is not that the Plan has not been approved. It is that no decision has been made at all. That absence of a decision raises questions not only of policy, but of legal obligation. As this paper will show, the delay is no longer merely procedural or inconvenient. It has become legally significant because it is now producing real practical consequences on the ground. For instance, as more time passes, existing interests continue to accrue, further diminishing the practical value of the eventual plan, deferring co-governed land use planning and treaty implementation, and undermining the ability of the planning process to carry into effect Inuit priorities regarding culturally important areas, harvesting grounds, wildlife habitat and other areas repeatedly identified for protection or more limited use. Ongoing delay, in other words, is far from neutral as the status quo is itself consequential.

This paper examines the implications of continued delay within the NLCA and NuPPAA framework and considers the legal and practical consequences of failing to bring the planning regime into operation.

What follows examines that problem in five parts. Section 2 sets out the legal framework governing land use planning in Nunavut, including the treaty-based architecture established by the NLCA and its statutory implementation through NuPPAA. Section 3 summarizes the development and current status of the RNLUP. Section 4 explains why continued delay matters, focusing on sequencing failure, the accumulation of development interests, and the resulting consequences for implementation, governance, and accountability. Section 5 considers the potential legal pathways that arise should the delay persist, including legal options of declaratory relief and mandamus.

The analysis proceeds on the premise that the issue is not whether a particular version of the Plan must be approved exactly as drafted. The issue is whether a treaty-and-statute-based planning regime, designed to move toward decision, implementation, and accountability, can lawfully remain in prolonged suspension. Where the process is allowed to remain unresolved for too long, the risk is not simply administrative delay. Rather, the risks are that the planning regime itself is weakened; that the treaty-promised mechanism for guiding land use across Nunavut is hollowed out in practice; and that continued delay may expose the signatories to increasingly serious legal, financial, and remedial consequences as impacts accumulate in areas important for culture, harvesting, and wildlife.

[5] Nunavut Planning Commission, *Recommended Nunavut Land Use Plan* (Iqaluit: Nunavut Planning Commission, June 2023) [RNLUP].

Section 2: The Legal Architecture of Land Use Planning in Nunavut

If Section 1 identifies the present impasse, this section explains why that impasse matters in legal terms. The obligation to establish a land use plan for Nunavut does not arise from policy preference alone. It arises from both treaty and statute.

The development of the *Nunavut Land Claims Agreement* reflects the generational work of individual Inuit and Inuit organizations to successfully negotiate and secure a modern treaty framework with meaningful Inuit involvement in governance over land, ice, water and resources in what would become Nunavut. Inuit Tapirisat of Canada first presented the claim to Canada in 1976, but negotiations did not gain real momentum until Tunngavik Federation of Nunavut (now Nunavut Tunngavik Incorporated or NTI) took over negotiations in 1982 on behalf of Nunavut Inuit.[6] Signed in Iqaluit in 1993, the *Nunavut Land Claims Agreement* remains one of the most significant and innovative agreements to date between the Crown and Indigenous Peoples in our shared history. It establishes a comprehensive co-governance regime for the Nunavut Settlement Area, recognizes Inuit title over 352,240 square kilometres of land, and secures Inuit representation and formal decision-making roles within a range of co-management bodies, or Institutions of Public Government, responsible for land, water, and resource management.[7] It is also, by far, the largest land claim agreement in Canadian history by geographic area covered.

The NLCA also included the commitment to establish the Nunavut territory, which was formally established through the *Nunavut Act* in 1999.[8] Through that public territorial government, Inuit could pursue self-determination within a public governance structure in which Inuit comprise over 80%, or the large majority, of Nunavummiut.[9] As such, the Government of Nunavut's governance structure integrates Inuit priorities, values, and decision making into territorial administration. Land use planning must be understood within that broader setting. It is not simply a technical or bureaucratic exercise. It is one of the principal ways in which the co-management framework established by the treaty is implemented in practice, requiring Inuit institutions and government to carry shared responsibility, including over concrete decisions about land use, development, protection, and long-term territorial management.

Against that backdrop, land use planning is central—not peripheral—to the NLCA framework. Article 11 of the NLCA establishes a structured planning regime intended to result in an operative land use plan. Its purpose is straightforward: to prepare plans that guide and direct resource use and development in the Nunavut Settlement Area.[10] Article 11.5.1 provides that the Nunavut Planning Commission (NPC) "shall formulate" a land use plan to guide both short-term and long-term development. That language matters. It confirms that

[6] John J Borrows & Leonard I Rotman, *Indigenous Legal Issues: Cases, Materials and Commentary*, 6th ed (Toronto: LexisNexis, 2023) at § 6.04(2) [Borrows].
[7] *Ibid*; NLCA, *supra* note 1.
[8] *Nunavut Act*, SC 1993, c 28.
[9] Borrows, *supra* note 6 at § 6.04(2).
[10] NLCA, *supra* note 1, art 11.2.2.

the treaty intends more than mere discussion, consultation or policy aspiration. Instead, it clearly contemplates the creation and implementation of a comprehensive planning framework and land-use plan. A real plan capable of operating on the ground.

Just as importantly, Article 11 sets out what happens once that planning work of the NPC is completed. Under Article 11.5.6, after receiving a draft or revised draft plan, the Ministers jointly "shall, as soon as practicable" either accept the plan or refer it back to the Commission with written reasons.[11] The decision chain is therefore clear. The provision identifies the decision makers, the moment the duty is triggered, and the requirement that a decision be made "as soon as practicable."[12] That is, the Commission develops the Plan through an iterative process informed by the signatories and their officials; the signatories must then decide whether to accept it or refer it back with written reasons; and, once accepted and approved, the Plan moves into implementation.

The treaty provisions are not an invitation to an open-ended conversation. Instead, the provisions create a planning architecture with a defined endpoint: the approval and implementation of a land use plan. While the regime is iterative, and the structure allows for revision and reconsideration to support collaborative progress, it is ultimately directed towards implementation. This is the process that was meticulously negotiated for in the NLCA and that same implementation-oriented planning structure is carried forward into statutory law through the NuPPAA.

Statutory Implementation under the Nunavut Planning and Project Assessment Act

The NuPPAA operationalizes the planning framework established under the NLCA, by translating the treaty's structure into statute and providing the detailed procedures for plan development, review, approval and ongoing administration.[13] NuPPAA is the instrument Parliament enacted to make the treaty architecture function in practice. Government witnesses emphasized that the bill would establish a more coherent process, set clearer timelines, and provide a three-party land-use plan approval process involving Inuit, Canada, and the Government of Nunavut.[14] This perspective also shows that the planning regime is not only a governance tool, but also a mechanism for coordination, certainty, and even shared economic prosperity. An approved land use plan guides responsible investment by providing clear information to industry about community priorities and anticipated environmental impacts. Industry witnesses, for their part, stressed that land use planning would provide "more up-front information" and clarity about where development was appropriate, thereby reducing wasted time and investment and improving predictability for proponents.[15] These comments illustrate a shared understanding of the legislation's purpose:

[11] NLCA, *supra* note 1, art 11.5.6.
[12] NLCA, *supra* note 1, art 11.5.6; NuPPAA, *supra* note 2, s 54(3).
[13] NuPPAA, *supra* note 2.
[14] Canada, Senate, Standing Committee on Energy, the Environment and Natural Resources, Evidence, 41st Parl, 1st Sess (30 April 2013).
[15] Canada, Senate, Standing Committee on Energy, the Environment and Natural Resources, Evidence, 41st Parl, 1st Sess (30 April 2013) at 18:38:28 (Mr. Gratton) [Gratton].

land use planning provides industry with the certainty to coordinate development aligned with community priorities, attracting investment and fostering mutual economic prosperity.

The operative provisions of NuPPAA make that especially clear. NuPPAA imposes clear obligations on decision-makers to accept or reject land use plans "as soon as practicable," demonstrating that the process is intended to move toward implementation. The statutory scheme is structured and outcome-oriented, with defined stages that culminate in an approved and operative land use plan. Subsection 54(3) of NuPPAA imposes a clear duty on the federal Minister, the territorial Minister, and the designated Inuit organization (NTI): upon receiving a draft or revised land use plan, they must make a joint decision to accept or reject it with written reasons "as soon as practicable."[16] This key provision mirrors Article 11.5.6 of the NLCA discussed above, and reinforces that the duty is both mandatory and time-bound.

Section 46 of NuPPAA further requires that the planning process be carried out so that the designated area is subject to one or more land use plans "as soon as practicable," showing that the statutory scheme is oriented toward avoiding stagnation and ensuring expeditious implementation.

Taken together, these provisions do more than describe a process. They establish a structured path from planning to decision to approval to implementation. They identify the decision-makers, the point at which their legal obligations are triggered, and the fact that those obligations must be discharged within a prompt and diligent timeframe. The repeated use of the phrase "as soon as practicable" does not eliminate room for deliberation or coordination. It does, however, reject the notion that the process may simply remain unresolved for an indeterminate period or languish in the ordinary wheels of bureaucracy without end. The statutory framework and treaty commitment require more: prompt and diligent attention to moving the process forward.

The planning framework is binding, not aspirational. It is a legal architecture directed toward a result: an approved and operative land use plan.

Approval as a Baseline, Not an Endpoint

At the same time, the treaty and statutory regime do not treat approval as the final word. Under the NLCA and NuPPAA framework, approval marks the beginning of an operative land-use governance and planning regime. Once in place, a land use plan provides a legal and governance baseline that can guide development decisions and land protection measures across the designated area. But the regime also provides structured tools for later adjustment. For instance, the NLCA and NuPPAA provide mechanisms for formal amendment,[17] periodic review,[18] and minor variances[19] to enable a practical legal baseline while retaining flexibility for future adjustment. In other words, the plan functions as a living

[16] NuPPAA, *supra* note 2, s 54(3).
[17] *Ibid*, ss 59–65.
[18] *Ibid*, ss 66–67.
[19] *Ibid*, s 48.

document supporting adaptable governance, rather than a static or rigid end product. The system is designed to accommodate and evolve over time.

The planning regime established under the NLCA and implemented through NuPPAA is therefore both disciplined and flexible. It requires the signatories to move the process forward and act within a defined framework, while preserving room for ongoing refinement. This combination of obligation and adaptability is central to the regime's design. It also helps to explain why continued delay in approving an initial Plan is so significant. The legal framework already includes all the necessary tools to correct, improve upon, and adapt or modify the plan over time. What it does not contemplate is prolonged inaction at the point where a decision is required. If the signatories have concerns, the regime provides structured means to raise and address them through the iterative processes of written reasons, reconsideration and further progress. It does not permit indefinite delay in either approval or in the structured decision-making process needed to move the Plan forward, underscoring that delay in approval and implementation contradicts both the letter and spirit of the negotiated land use planning framework under the treaty.

Section 3: How the Recommended Nunavut Land Use Plan Reached the Decision Stage

The legal architecture described above matters because the process has already advanced to the point where the signatories are required to decide. The 2023 RNLUP is not a preliminary concept paper or an early-stage draft. It is the result of an iterative planning process spanning nearly two decades.[20]

The NPC's Mandate and the Planning Record

The NPC, established under the NLCA, began work on a territory-wide land use plan in 2006. Under the treaty, and later under NuPPAA, the NPC was given a broad and demanding mandate to develop, implement and monitor land use plans that guide and direct development across the Nunavut Settlement Area and the Outer Land Fast Ice Zone.[21] Under NuPPAA and the NLCA, NPC also effectively serves as a "gatekeeper" for all project proposals, screening proposed land uses and resource developments for conformity with the land use plan.[22]

The importance of land use planning within the NLCA and NuPPAA framework is reflected in the breadth of the NPC's mandate. Under Article 11.4.4, the NPC, or Commission, is tasked with identifying planning regions, establishing planning priorities and objectives, soliciting and incorporating input from communities and stakeholders, preparing and circulating draft land use plans, conducting public hearings and consultations throughout the planning process, and reporting annually to the signatories of the NLCA on the implementation of the land use plan.[23] These functions and responsibilities reflect the central place of land use planning within the co-governance framework under the treaty. They also show that the land use

[20] RNLUP, *supra* note 5.
[21] NLCA, *supra* note 1, art 11; NuPPAA, *supra* note 2, s 54(3).
[22] Nunavut Planning Commission, "About the Commission", online: https://www.nunavut.ca/en/about-commission.
[23] NLCA, *supra* note 1, art 11.4.4.

planning process was intended to be deeply participatory, strongly shaped by Inuit priorities, iterative and grounded in sustained territory-wide engagement.

That is how the process unfolded. Over the course of roughly seventeen years, the NPC developed the RNLUP in partnership with the Government of Canada, the Government of Nunavut, and NTI, consistent with the co-governance structure established under the NLCA. NTI's role in that process is distinct from the NPC's: the NPC is the treaty-created planning body responsible for developing and submitting the Plan, while NTI, as the designated Inuit organization and one of the signatories, participates in the process and joins the federal and territorial governments at the decision stage. From 2006 to 2023, NPC conducted community meetings, technical workshops, information sessions, and written consultations with Inuit organizations, Crown institutions, and industry stakeholders, while also undertaking significant technical work, such as ecosystemic, socio-demographic, and economic analyses.[24]

The process was not always linear but iterative: the NPC developed and revised multiple draft plans, including releasing draft versions in 2012, 2014, 2016, and 2021, each of which was subjected to consultations, written submissions, and revision.[25] Throughout these stages, Canada, the Government of Nunavut, and NTI all had repeated opportunities to provide feedback and recommendations, which were then incorporated into successive drafts.

During more than a decade, the Commission conducted in-person community meetings, technical workshops, and information sessions across Nunavut, engaging with communities in all regions of the territory as well as affected neighbouring jurisdictions. In 2010, the Commission distributed a Priority Areas Map to all households in Nunavut to solicit feedback on proposed land use designations.[26] The process also included multiple rounds of written submissions and culminated in formal public hearings held in 2022 across the Kitikmeot, Kivalliq, and Qikiqtani regions and in Iqaluit.[27] The Commission maintained a public archive of that engagement spanning over a decade.[28] In short, the development of the Recommended Plan rests on an unusually extensive record of community participation, institutional input, iterative revision and repeated signatory input over many years.

The RNLUP itself reflects that process. It articulates the priorities repeatedly expressed by Nunavummiut, including the importance of food security, the protection of wildlife and their habitat, the preservation of Inuit culture and traditional practices, and the importance of sustainable economic development, including employment opportunities for younger generations.[29] The RNLUP is therefore not simply a technical planning document. The Plan is a product of years of time, effort, public participation and knowledge from people and

[24] RNLUP, *supra* note 5 at 7.
[25] *Ibid*, at 8–9.
[26] *Ibid*, at 7.
[27] *Ibid*, at 8.
[28] Nunavut Planning Commission, "Consultation Record Archive", online: https://www.nunavut.ca/en/consultation-record-archive.
[29] RNLUP, *supra* note 5 at 9.

communities across Nunavut, together with the institutions and signatories charged with carrying the planning process forward.

June 2023 Submission and the Triggering of the Decision Duty

That work reached a formal legal milestone on June 20, 2023, when the Commission formally submitted the RNLUP to the federal Minister, the territorial Minister, and NTI for consideration and approval. In its covering letter, the Commission described the RNLUP as the result of a "comprehensive consultation process" and "thorough review" of feedback received following the 2021 draft plan and the five regional public hearings held in 2022.[30] It also expressly presented the RNLUP as a "first-generation plan" and described it as "balanced, responsible, and approvable.[31]" That submission of the Plan was not the continuation of planning in the abstract. It was the point at which the legal obligation to decide was triggered under Article 11.5.6 of the NLCA and subsection 54(3) of NuPPAA for the signatories to jointly accept or reject the Plan with written reasons "as soon as practicable.[32]"

Yet, despite the completion of that process and the formal submission of the Recommended Plan, the RNLUP sits in limbo—neither accepted nor rejected—by the three signatories. None of the signatories have publicly identified a clear decision timeline or explained, with any meaningful precision or detail, how the joint decision-making process is presently unfolding. Public explanations for the delay have tended to vaguely refer to ongoing review and efforts to align positions among signatories, or unresolved issues, without setting out what exactly remains to be resolved, or what process is underway to resolve it, or why a decision has still not been reached.

That current status matters. The issue is no longer simply that the process has taken a long time. The more important point is that the process has already done what the treaty and statute required of the Commission: it has produced a recommended plan for the designated planning area and placed it before the signatories for decision. At that stage, prolonged non-decision runs counter to both the regime's structure and the fact that the Commission's work has already reached the decision stage contemplated by the treaty and statute. It also increases the likelihood that, as interests continue to accrue in areas important to harvesting, culture, and wildlife, more concrete legal disputes and causes of action may be advanced as impacts accumulate in the absence of an operative planning framework.

The RNLUP emerged from nearly two decades of consultation, revision, and public engagement. The present impasse, therefore, raises a sharper question than mere administrative delay: whether the signatories are now failing to carry the planning process through to the point of decision and implementation that the legal framework was designed to reach, with the result that the current impasse may have increasingly serious legal, financial and practical consequences. Continued inaction, coupled with the absence of any clear public explanation of the process or timeline, raises serious questions as to whether

[30] Nunavut Planning Commission, letter from Andrew Nakashuk to Minister Vandal, Minister Quassa, and President Kotierk, re "Submission of the 2023 Recommended Nunavut Land Use Plan" (20 June 2023) at 1, 3.
[31] *Ibid*, at 1, 3.
[32] NLCA, *supra* note 1, art 11.5.6; NuPPAA, *supra* note 2, s 54(3).

the signatories are meeting the obligations undertaken in treaty and statute to Nunavut Inuit, Nunavummiut, and the broader public.

Section 4: Continued Delay is Not Neutral

Sequencing Failure: From Directive Planning to Reactive Land Use Decisions

The NLCA and NuPPAA establish a planning regime in which land use planning is intended to guide and direct land use decisions, including development. The current delay disrupts the intended sequence and flow of land use planning and project screening. The requirement that the signatories accept or reject a plan as soon as practicable reflects an expectation that planning be brought into force in a timely manner, consistent with the treaty and statutory scheme, and used to structure land use decisions. Within this framework, planning operates as a proactive governance tool, providing clarity and predictability about where development may occur with community consent and where it should be limited. It also provides an important foundation for understanding and managing cumulative effects over time. Without an operational plan in place, that work becomes more fragmented and less able to reflect a coherent set of priorities.

This understanding is reflected in the legislative record. When Parliament considered the bill that became NuPPAA in 2013, industry leaders emphasized that land use planning was valuable precisely because it was forward-looking and provided greater certainty about where development would and would not be supported. Appearing before the Standing Senate Committee on Energy, Environment, and Natural Resources in 2013 meetings, President and Chief Executive Officer of the Mining Association of Canada, Pierre Gratton, explained:

> It will provide industry with greater certainty with respect to the land base. You will not explore and develop in an area that you know at the community level is considered an area where they do not want you. If you know that early enough, you can plan for that and avoid lost time and investment dollars. Land use planning will give you more up-front information. If it is an area where they are encouraging development, it will give you up-front information on how to plan for that.[33]

The current delay sidelines this intended sequence by allowing development interests to accumulate in the absence of an approved plan. Without a governing framework in place, land use outcomes are shaped more by industry-driven, incremental project pressures and the accumulation of development interests than by any coordinated and principled planning regime that reflects community priorities.

Development without coordinated and principled planning is particularly concerning in light of the structure of the RNLUP, which designates areas for limited, conditional, and mixed use with corresponding restrictions and conformity requirements. Such designations through the Land use Plan are of heightened significance in Nunavut, where the land claim agreement

[33] Gratton, *supra* note 15 at 18:38:28.

creates a constitutionally protected land and resource management regime intended to ensure that development does not sever Inuit from the lands, waters, wildlife and cultural practices that sustain Inuit identity and economic self-determination. The NLCA proceeds on the basis that Inuit culture, identity, life, and survival are inseparable from the land, water, ice and wildlife, and that wildlife and wildlife habitat conservation are inseparable from Inuit harvesting and cultural rights.

The land use planning and developmental impacts provisions of the NLCA and NuPPAA are designed to manage and direct development proactively, before impacts occur. In the absence of an approved and implemented plan, there is heightened risk that development will proceed in areas requiring conservation or development constraints—including sensitive harvesting areas, migration corridors, calving grounds, and culturally significant areas that would otherwise be identified for protection.[34] That risk is heightened further where available interim protective tools—most notably withdrawals from disposal under s. 23(a) of the *Territorial Lands Act*[35]—are not used to prevent additional interests from accruing in areas that may later require protection or stricter use constraints. In turn, continued unguided development may increase the risk of adverse impacts on Inuit harvesting-related rights and the corresponding risk of legal exposure. Where such impacts materially impair the meaningful exercise of harvesting rights, that may, on an adequate evidentiary record, give rise to claims by impacted individual Inuit, or potentially by their hunters and trappers organization (HTO) on their behalf, including claims for compensation under Article 6 of the NLCA.[36]

In this way, the prolonged failure to finalize the land use plan may increase both the practical risk of harm to Inuit harvesting rights and increase the corresponding legal exposure for loss and damages associated with that.

Although staking itself is not screened by the Commission as a "project," an approved land use plan still has a significant practical impact because it helps establish where staking should not proceed and informs land withdrawals and other coordinated land management responses by providing an upfront planning baseline against which governments, communities and proponents can act. Without that baseline, interests are asserted first and dealt with later. Once claims are staked, a harder-to-reverse chain begins: rights accrue, expectations form, and the practical and legal challenges to protecting sensitive areas increase.

As a result, land use becomes reactive rather than directive, forcing Nunavut to adapt to *ad hoc* development activity instead of shaping development through the coordinated, co-managed planning framework in advance and in the manner the treaty and statute were intended to secure. This inversion runs counter to the structure and purpose of the NLCA

[34] RNLUP, *supra* note 5 at 48.
[35] *Territorial Lands Act*, RSC 1985, c T-7, s 23(a).
[36] NLCA, *supra* note 1, art 6.3.1.

and NuPPAA, undermines the planning regime's core function, and weakens its ability to shape land-use outcomes effectively. Nor is this sequencing inversion static. As delay persists, its effects accumulate.

Accumulating Interests, Lock-In Effects & the Devolution Deadline

Continued delay in approving a land use plan allows development interests to accumulate across the territory, including in areas identified as priorities for environmental, ecological, and cultural protection within the RNLUP.[37] Once established, land and mineral interests are difficult to reverse without significant legal, political, and financial cost.

In that sense, delay creates "lock-in" effects, where future implementation of planning decisions will be constrained by industry's existing rights and interests that arose while the Plan remained inoperative. The longer implementation delay persists, the greater the likelihood that further development activity will compromise the Plan's eventual practical effect. Areas that the RNLUP was designed to protect or manage more carefully—including areas identified through the planning process for protection or more limited use—may already be burdened by pre-existing interests by the time the Plan comes into force, leaving the Plan to operate around those interests rather than fully shape land use in the first place. Delay, therefore, does not simply defer planning; it changes the landscape to which planning must be applied and, in doing so, reshapes the conditions under which planning can eventually occur, diminishing the Plan's overall effectiveness.

Delay also increases the future cost of implementation itself. As interests continue to accrue without an approved plan in place, later efforts to limit, displace, accommodate, or work around those interests become more legally constrained, more politically difficult and more financially expensive. Accrued interests cannot simply be treated as though they never arose. In most cases, meaningful later implementation will require negotiated accommodation, grandfathering, compensation, or even expropriation rather than straightforward application of the Plan's designations and criteria. The result is that delay carries not only environmental and governance costs, but also potentially escalating legal, administrative, and financial costs for those later required to implement the regime effectively.

More fundamentally, the delay matters because the planning process was one of the principal mechanisms through which Inuit priorities regarding protection, land use, and development were meant to be identified and carried into effect. The RNLUP is not merely a planning instrument in the abstract. It is also the vehicle through which Inuit, within the treaty framework, have had a structured opportunity to identify areas for protection or for uses other than industrial development. To the extent delay continues to permit staking and other interests to accrue in areas recommended for protection or more limited use, the practical value of that process is not merely postponed but diminished.

Recent public reporting helps to scale the problem. Drawing on federal and territorial data, maps commissioned by Friends of Land Use Planning found that, as of May 2025,

[37] RNLUP, *supra* note 5 at 48.

approximately 14,962 square kilometres had been staked within areas that would be designated limited-use zones if the RNLUP were approved.[38] The same report found more than 52,000 square kilometres of active mining claims had been staked across Nunavut overall, with more than half of those claims issued in the prior two years.[39] The overlap includes areas such as caribou calving grounds and freshwater crossings, underscoring that continued delay carries with it increasingly material consequences for wildlife, harvesting, and protection. The longer that pattern continues, the more difficult and costly it will become to give practical effect to the Plan's protections and designations. The impending transfer of authority through devolution, anticipated for April 2027, only further heightens the urgency of implementing a land use plan. As responsibility for land and resource management shifts, the absence of an approved territory-wide planning framework becomes increasingly significant. Without a plan in place, authority over land and resource management will operate without clear, coordinated direction guiding decisions. This increases the risk of fragmented decision-making at a critical institutional moment, as governance structures evolve and responsibilities are reallocated. It also increases the risk that unresolved interests, implementation burdens, and associated legal or financial consequences will be carried into the post-devolution regime rather than addressed in advance through the planning framework both the treaty and statute contemplated.

Devolution also sharpens the cost of delay in a more practical sense. If the inaugural territory-wide plan is not in place before devolution, the Government of Nunavut and Nunavummiut will inherit a more heavily encumbered implementation landscape: one shaped by pre-existing interests that arose while the Plan remained unresolved, and one in which the legal, administrative, and financial burden of dealing with those interests will increasingly fall on the post-devolution territorial regime. Put differently, bringing the Plan into operation before devolution is not merely a sequencing preference. It is a way of improving what the Government of Nunavut will inherit. Delay risks making eventual implementation of an approved plan not only weaker, but also more complicated, more contested and more expensive.

The Accountability Gap Created by Non-Decision

The land use planning framework established under the NLCA and NuPPAA is intended to provide coordinated direction across Nunavut. Without an approved land use plan in place, the broader regulatory and project review system still operates, and the NPC continues to perform its statutory functions. But those functions are exercised without the benefit of the legal planning baseline that the treaty and statute were intended to produce. In practical terms, that means that decision-making proceeds without a clear framework against which to assess whether proposed land uses align with the planning priorities the Nunavut Inuit and Nunavummiut have identified and articulated for those lands and waters. It also weakens the system's ability to engage coherently with cumulative impacts over time. As a result, land

[38] Chloe Williams, "For 19 years, Nunavut has been working on the largest land use plan in the world. Industry is moving faster," *The Narwhal* (14 August 2025), online: https://thenarwhal.ca/nunavut-land-use-plan-stalls/.
[39] Chloe Williams, "For 19 years, Nunavut has been working on the largest land use plan in the world. Industry is moving faster," *The Narwhal* (14 August 2025), online: https://thenarwhal.ca/nunavut-land-use-plan-stalls/.

use decisions are made on a case-by-case basis, increasing the risk of inconsistency and fragmentation.

This absence of a guiding framework affects multiple actors. Industry lacks predictability as to where projects are likely to be supported, while areas already designated as requiring protection are left unprotected, with development interests accumulating. This uncertainty compromises Nunavut's ability to implement the co-governance priorities it developed over decades. Rather than preserving flexibility, the absence of a plan produces inefficiency, uncertainty, and a heightened risk of conflict between industry, community, and government.

Publicly, the primary justification for continued delay appears to be the need for further review, refinement, or alignment among the three signatories to the treaty. However, public explanations from Canada, the GN, and NTI regarding the delay remain limited and general, offering little clarity on the nature of outstanding concerns or the timeline for resolution. At both territorial and federal levels, responses have emphasized ongoing discussions without providing concrete timelines or specific reasons for delay.

This pattern is evident in proceedings before the Legislative Assembly of Nunavut. The Member of the Legislative Assembly for Pangnirtung, Mr. Johnny Mike, raised questions about the status of the RNLUP and the Government of Nunavut's position following its submission in June 2023. On March 9 and again on March 11, 2026, the Minister of the Environment's responses emphasized that the Plan remained under "internal review," that efforts were underway to align positions with other signatories, and that further study was required. However, no clear timeline for decision-making was provided, nor were specific outstanding concerns identified.

At the federal level, similar explanations have been offered. As reported by CBC, the federal Minister of Northern Affairs indicated that Ottawa would move "when the partners are ready to move," while noting that discussions remain ongoing in light of recent governmental transitions.[40] No further details have been provided as to the nature of outstanding issues or the expected timeline for resolution. NTI has likewise not publicly articulated a specific rationale for the continued delay.[41]

The delay now also carries a more immediate public-accountability dimension. The NTI presidential byelection is scheduled for May 27, 2026, while the RNLUP remains unresolved before the signatories. In that context, Inuit are entitled to hear clearly from those seeking to lead NTI whether they support bringing the Plan to a decision without further delay. The issue is similarly timely federally. Nunavut's sole MP, Lori Idlout, previously called on Ottawa to approve the Plan and she correctly raised the concern that—in the absence of an approved land use plan—mineral claims may continue to be staked before consultation obligations are triggered.[42] She has since said that joining the governing Liberals gives her a stronger voice

[40] Samuel Wat, "The push to get the world's largest land use plan in Nunavut signed amid mining rush," CBC News (23 March 2026), online: CBC News https://www.cbc.ca/news/canada/north/nunavut-land-use-plan-mining-rush-9.7136841.
[41] *Ibid*.
[42] Jorge Antunes, "Idlout calls on Ottawa to sign land-use plan protecting Inuit hunting grounds," *Nunatsiaq News* (15 August 2025), online: https://nunatsiaq.com/stories/article/idlout-calls-on-ottawa-to-sign-land-use-plan-protecting-inuit-hunting-grounds/.

within Ottawa.[43] These developments underscore that the consequences of continued non-decision are now part of a live public and political debate within the territory.

These responses stand in sharp contrast to the nearly two-decade-long planning process that produced the RNLUP. Over seventeen years, the Plan was developed through multiple iterations, transparently incorporating feedback from the three signatories, extensive community consultation, and formal public hearings. The result is a document that already reflects sustained and iterative refinement. In contrast, the current decision stage has been marked by limited public explanation, no clear timeline, and little transparency into how the joint decision-making process is actually unfolding.

While no land use plan can be perfect at the point of approval, the statutory framework anticipates that reality by providing mechanisms for amendment, review, and variance after approval. The risks associated with moving forward are, therefore, comparatively limited and manageable. By contrast, the risks associated with continued delay are cumulative and potentially irreversible.

As development interests continue to accumulate, the practical ability to implement meaningful land use restrictions is increasingly constrained. The asymmetry is therefore clear: the risks of acting are more manageable and more correctable, while the risks of continued delay compound over time and narrow future options. In essence, the greater risk is no longer acting too soon but waiting too long. That practical asymmetry also has a financial dimension. The longer staking and other interests are permitted to accrue in areas proposed for limited use or protection, the greater the likelihood that later implementation will require more costly accommodation, compensation or other remedial measures. The non-use of interim protective tools, including interim land withdrawals under s. 23(a) of the *Territorial Lands Act*, only sharpens that concern by allowing avoidable implementation burdens and potential legal exposure to continue to accumulate while the Plan remains unresolved.

Land use planning under the NLCA is not merely a technical exercise, but a core component of a negotiated system of co-governance intended to reflect Nunavut Inuit priorities and participation in decision-making. The RNLUP represents the culmination of sustained engagement by communities across Nunavut, reflecting collective input on issues such as food security, environmental protection, cultural preservation, and economic development.[44]

Continued delay in implementation, therefore, raises broader concerns about whether the outcomes of that process are actually being carried forward. Where a governance system is designed to incorporate community participation, prolonged inaction after the completion of that process risks undermining confidence in the system itself. The absence of a clear planning baseline may also influence patterns of development, deterring coordinated, community-aligned projects while allowing more opportunistic activity to proceed in the absence of a governing framework. These considerations reinforce the central point: delay

[43] Mah Noor Mubarik, "Here's how Lori Idlout's Nunavut constituents feel about her joining the Liberals," *CBC News* (16 March 2026), online: https://www.cbc.ca/news/canada/north/nunavummiut-lori-idlout-9.7130019
[44] RNLUP, *supra* note 5 at 9.

is not neutral. It alters the conditions under which land use planning will eventually occur, increases costs and constraints, and undermines the effectiveness of the very system the NLCA and NuPPAA were designed to establish.

Section 5: Legal Pathways if Non-Decision Persists

The NLCA and NuPPAA establish a joint decision-making framework grounded in both treaty and statute, intended to culminate in an operative land use plan capable of guiding development across Nunavut. This framework is not process for process's sake. It is a co-management regime directed toward a clear outcome. It is designed to move from consultation, to draft plans, to acceptance or rejection, and ultimately to implementation. The requirement that the signatories accept or reject a plan "as soon as practicable" reflects a legal obligation to act in a timely manner consistent with the treaty and statutory scheme, while still allowing room for coordination and deliberation.[45]

However, "as soon as practicable" cannot reasonably be interpreted as permitting indefinite delay, particularly where the process has reached the decision stage following the Commission's submission of the RNLUP in June of 2023. The obligation of the signatories is not to approve any particular version of the Plan, but to advance the process to the point where the implementation of this treaty-and-statute-based governance mechanism either becomes operative or is returned with written reasons sufficient to permit meaningful reconsideration and timely further progress toward completion. Indefinite delay risks undermining the practicality of implementing this mechanism altogether. If this impasse reaches a court, the strongest legal issue will not be whether the RNLUP should be approved as drafted. It will be whether a treaty-and-statute-based planning regime, once brought to the decision stage, may lawfully remain there without decision for an indefinite period.

When Delay Becomes Legally Significant

Where a legal framework imposes a duty to decide or otherwise to act, prolonged and unjustified delay may become legally significant, particularly where it frustrates the purpose or practical operation of the governing scheme. For instance, common law principles of procedural fairness require that administrative decisions be made within a reasonable time. Whether delay gives rise to a legal remedy depends on a contextual assessment of the length of time involved, the reasons for the delay, and its consequences or impacts. As the Supreme Court clarified in *Law Society of Saskatchewan v Abrametz*, delay becomes actionable where it is inordinate, unjustified, and results in significant prejudice, especially where the prejudice undermines the fairness or purpose of the proceeding.[46] In this situation, that prejudice need not be understood only in procedural terms. It may also include concrete harm to affected Inuit rightsholders, both collective and individual, where continued delay permits unguided development interests to accrue in areas important to harvesting, culture, and wildlife.

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[45] NLCA, *supra* note 1, art 11.5.6; NuPPAA, *supra* note 2, s 54(3).
[46] *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29 at paras 38-44 on *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 at paras 101, 104.

In the present context, the concern is not merely that time has passed. It is that continued delay and non-decision may now be undermining the operation of a treaty-and-statute-based planning regime that was specifically designed to produce a functioning land use plan capable of guiding development. Once the Commission completed its work and submitted the Recommended Plan in June 2023, the regime moved to the decision stage. At that point, prolonged inaction ceased to be merely procedural. It became capable of frustrating the practical operation of the planning framework itself. The concern is not delay in the abstract, but delay at a critical stage where further inaction risks undermining the effectiveness—and potentially the realization—of the entire framework.

Delay as De Facto Non-Implementation

That is because delay here does not simply postpone implementation. It alters the conditions under which implementation will eventually occur. As development interests continue to accumulate in the absence of a binding plan, the practical ability of a future plan to shape land use outcomes is diminished. The longer the process remains unresolved, the greater the risk that the framework will be weakened before it is ever allowed to operate as intended.

This concern is sharpened by the approach of devolution. If devolution of authority over land and resource management takes place before an approved land use plan is in place, a major governance transition will occur without the coordinating framework that the NLCA and NuPPAA were designed to provide. In that sense, the issue is no longer simply that the process is taking too long. It is that continued, prolonged delay and indecision now risk undermining the very framework the treaty and statute were meant to deliver, before they are ever allowed to operate as intended, resulting in *de facto* non-implementation.

Where delay reaches that point—where it is inordinate, unjustified and materially prejudicial—judicial intervention becomes not only available but inevitable. The most immediate and viable remedies where a decision-maker fails to act within a reasonable timeframe are outlined below.

Treaty Implementation – A Structural Failure

The NLCA established land use planning through the NPC and Article 11 process as a central mechanism for accomplishing co-governance and coordinating land use and development across Nunavut.

As the Supreme Court of Canada emphasized in *Beckmann v Little Salmon/Carmacks First Nation*, modern treaties must first be interpreted and applied by reference to their own terms and the governance structures they create—structures which are designed to provide certainty, transparency, and predictability in the relationship between Indigenous Peoples and the Crown.[47] The legal force of a modern treaty depends on its implementation. Neither party may simply disregard the framework they have negotiated, and failure to give effect to

[47] *Beckman v Little Salmon/Carmacks First Nation*, 2010 SCC 53 at paras 10, 12, 67.

that framework and its provisions risk undermining both the treaty's practical value and the broader objective of reconciliation.[48]

This situation does not involve a unilateral action or decision by one treaty partner infringing the rights of others. Instead, it arises within a tripartite decision-making framework in which NTI, alongside the territorial and federal governments, each have an equal role at the decision stage. The problem is therefore not best understood as a single-actor failure. It is that a central treaty-promised governance mechanism has been brought to the point of decision and then left there in prolonged suspension. The present situation reflects a shared failure to carry forward the treaty-and-statute-based process intended to guide development across Nunavut.

That prolonged non-implementation matters not only in principle, but in its consequences. The longer the process remains suspended, the greater the risk that the treaty-promised regime will become harder to implement in practical terms, more costly to make effective and more likely to undermine the co-management function the treaty contemplated and was deliberately designed to achieve. It also increases the risk that impacted Inuit rightsholders and/or Inuit organizations will seek legal recourse where unguided development has caused or exacerbated impacts on cultural, harvesting, and wildlife interests. In that sense, the consequences of non-performance become increasingly serious over time.

The Consequences of Treaty Non-Performance

The consequences of prolonged non-performance within the NLCA framework are not merely theoretical. In *Nunavut Tunngavik Inc v Canada (Attorney General)*, the Court addressed Canada's failure to implement a monitoring regime required under the treaty and emphasized that the federal government's obligations must have meaningful effect.[49] The Court warned that allowing the Crown to avoid meaningful consequences for non-performance would risk depriving Inuit of the intended effects of the NLCA.[50]

The remedies in that case were framed in terms of damages, but the broader principle is what matters here: obligations central to the operation of a treaty framework cannot be rendered ineffective by inaction. Prolonged delay, where it prevents a framework from reaching its operative stage, raises similar concerns. That risk is not necessarily confined to disputes framed by NTI or the regional Inuit associations alone. Where prolonged delay serves to permit further staking, development pressures and loss of protection in areas important to harvesting, culture, wildlife, or Inuit use of lands and waters, more specific claims may also be advanced by impacted Inuit rightsholders able to show concrete impacts.

That is, prolonged non-performance of treaty and statutory obligations may, in an appropriate case and on an adequate evidentiary record, give rise to potential claims for monetary relief. That possibility becomes more concrete as delay continues to permit the accumulation of interests that may later constrain implementation, increase the cost of giving practical effect

[48] *Beckman v Little Salmon/Carmacks First Nation*, 2010 SCC 53 at paras 106, 203 (LeBel and Deschamps JJ concurring).
[49] *Nunavut Tunngavik Incorporated v Canada (Attorney General)*, 2014 NUCA 2 at para 67.
[50] *Nunavut Tunngavik Incorporated v Canada (Attorney General)*, 2014 NUCA 2 at para 88.

to the Plan, and complicate the operation of the treaty-promised regime. It may also become more concrete where affected Inuit rightsholders can point to specific impacts to harvesting, cultural use, wildlife or related protected interests that have been caused or materially worsened by continued unguided development while the planning regime remains unresolved.

Those risks are heightened further if devolution proceeds before the land use plan is in place, leaving the Government of Nunavut to inherit a more heavily encumbered, more complicated, more costly, and less effective implementation landscape. This makes continued delay not merely a structural failure in principle, but it is increasingly capable of producing materially consequential legal and practical effects for Inuit rightsholders and for the future operation of the regime itself. That process was also the means by which Inuit priorities regarding protection, land use, and development were to be articulated and translated into an operative framework before project-by-project decision-making occurred. The planning regime was intended to function pre-emptively and proactively, not only reactively after interests had already accrued. Prolonged suspension—especially while interests continue to accumulate in areas recommended for protection or more limited use—therefore risks weakening that treaty-promised function in practical terms.

Taken together, these considerations suggest that prolonged indecision is not merely a matter of administrative delay. It undermines the practical implementation of a treaty-based governance framework and raises serious questions, with potential legal consequences, as to whether the signatories are honouring the treaty and statutory commitments they undertook as part of a constitutionally protected modern treaty regime. It is not that a specific version of the Plan must be approved. Rather, it is that the process must be brought to the point where a decision is made, and the framework can either operate as intended or move, with written reasons that are detailed, coherent, and in line with the NLCA and NuPPAA, to permit meaningful and timely further progress into its next lawful stage. Where delay reaches the point of frustrating that objective, courts may intervene to ensure that the process moves forward within a reasonable and accountable structure.

Declaratory Relief: Clarifying the Duty to Decide

Declaratory relief offers a measured judicial response where the concern is prolonged failure to carry a legal obligation through to a decision. In *Manitoba Métis Federation Inc v Canada (Attorney General)*, the Supreme Court of Canada recognized persistent delay in fulfilling solemn obligations may justify a declaration, particularly where delay undermines the purpose of the underlying commitment.[51]

In the present context, a declaration would not compel approval of the Plan. Rather, it would clarify that the NLCA and NuPPAA establish a binding framework requiring progression toward a decision, that the obligation to act "as soon as practicable" imposes meaningful temporal constraints, and that the process cannot remain in a state of indefinite non-decision without justification, without undermining the purpose of the treaty and statute.

[51] *Manitoba Métis Federation Inc v Canada (Attorney General)*, 2013 SCC 14 at paras 110, 128, 140.

Declaratory relief is attractive precisely because it is proportionate to the problem. It would not displace the role of the signatories or substitute judicial judgment for planning judgment. Obtaining a declaration would crystallize legal expectations and obligations already embedded in the governing framework, reinforce accountability, and make clear that the current state of prolonged suspension is neither legally nor practically neutral.

Order of Mandamus: Compelling a Decision

Where a legal duty to act exists and is not fulfilled, a court may grant a mandamus order to compel performance of that duty. In *Apotex Inc v Canada (Attorney General)*, the Federal Court of Appeal set out the conditions under which mandamus is available, including where a public legal duty exists, the duty is owed to the applicant, and the duty has not been performed.[52] Mandamus is concerned with ensuring that decision-making authority is exercised, not with dictating the outcome of that decision itself. This principle has been applied even where statutory discretion is at play. In *Prosper Petroleum Ltd v Alberta*, for example, the Court ordered the Lieutenant Governor in Council to make a decision required by statute without addressing or prescribing the substance of that decision.[53]

That logic fits this situation. The relevant question is whether the process has now reached a point where continued indecision is no longer consistent with the expectation of timely progression toward implementation. If so, a mandamus order could require the signatories to render a decision with written reasons within a defined timeframe. Properly framed, the remedy would not be court-ordered approval of the RNLUP as drafted. Rather, it would be a court ordering the signatories to make a decision, with written reasons, within a defined timeframe.

In effect, a mandamus remedy would help protect the purpose and integrity of the planning process by compelling action, while preserving the signatories' discretion rooted in statute and treaty. As with declaratory relief, the tripartite structure may complicate how mandamus would be framed in practice, but the central logic remains the same: where a legal framework requires movement toward decision, mandamus may be available to ensure that decision-making power is actually exercised.

Section 6: Planning Cannot Remain Suspended Indefinitely

The NLCA and NuPPAA establish a land-use planning regime intended to achieve something concrete: to bring into operation a territory-wide land-use plan capable of guiding development across Nunavut in a manner consistent with Inuit priorities, coordinated governance, and long-term territorial stewardship. The RNLUP, as the result of sustained community engagement, expert analysis, and iterative revision over nearly two decades, is the product of that process.

The current absence of a decision does not preserve flexibility within this framework. Rather, it alters the conditions under which planning will eventually occur. As development interests

[52] *Apotex Inc v Canada (Attorney General)*, [1994] 1 FC 742 (FCA).
[53] *Prosper Petroleum Ltd v Alberta*, 2020 ABQB 127.

continue to accumulate, the practical ability of a future plan to meaningfully guide land use is increasingly compromised. Delay, in other words, is not neutral. Delay alters outcomes and risks weakening the effectiveness of the planning regime itself.

The legal framework established by the NLCA and NuPPAA anticipates deliberation, coordination, and revision. It does not, however, contemplate indefinite inaction. The requirement to act "as soon as practicable" reflects a legal obligation to move the process forward in a timely manner consistent with the treaty and statutory framework. Where that obligation is not met, the consequences extend beyond administrative delay. What is put at risk becomes the practical operation—and, with enough time, the potential complete erosion—of a critical treaty-based governance mechanism that was negotiated precisely to guide land use, development and protections across Nunavut.

The path forward does not require that any particular version of the RNLUP be approved exactly as drafted. It requires that the process reach the point of decision. Advancing to that stage—whether through approval, rejection with reasons, or reasoned revision—is essential to maintaining the integrity of the framework established under the NLCA and NuPPAA. Nor would movement to decision eliminate flexibility. As this paper has shown, the legal framework already contains multiple avenues for amendment, review, and variation after approval. Implementation, therefore, preserves room for refinement while finally allowing the planning regime to function in its intended, operative state.

That matters not only as a matter of legal design and expectation, but also as a matter of practical governance. An operative plan would help limit the continued accumulation of *ad hoc* development interests, provide greater certainty to communities, governments, and proponents alike, and help ensure that future land use decisions remain grounded in the priorities articulated by Nunavummiut through the RNLUP. While the process remains unresolved, that risk may be heightened where available interim protective tools—including interim land withdrawals—are not used to limit the further accrual of interests in areas proposed for limited use or protection, particularly where the resulting impacts may affect Inuit harvesting, cultural practices, wildlife, or other protected interests.

Economic development is strongest when it is aligned with community support, legal certainty, and a transparent planning framework. That point is especially timely at this moment. Ottawa is explicitly prioritizing major projects, critical minerals, Arctic infrastructure, and northern sovereignty, including through the *Building Canada Act*[54] and the work of the Major Projects Office. At the same time, Canada's current critical minerals strategy emphasizes domestic production, sovereignty and economic resilience, while recent federal announcements have tied northern infrastructure and Arctic operations directly to sovereignty and security. In that environment, an approved land use plan would not hinder responsible northern development. It would help support it by providing an up-front, lawful, and community-grounded framework through which major projects, infrastructure, and resource development could move with greater clarity, legitimacy, and durability. Continued delay serves none of those interests well and only increases the likelihood of later conflict,

[54] *Building Canada Act*, SC 2025, c 2, s 4, s 5.

compensation, or other legal consequences that could have been avoided and/or mitigated by earlier action.

The immediate issue, then, is not whether the Plan is perfect. It is whether a treaty-and-statute-based planning regime, designed to move toward decision, implementation, and accountability, can lawfully remain suspended once the point of decision has been reached. It cannot. The signatories should now move the RNLUP to a decision, give clear reasons for that decision, and bring this long-promised planning framework into operation. Each further period of non-decision increases the likelihood that more interests will accrue, that implementation will become more difficult and expensive, and that the legal and financial consequences of delay will deepen rather than diminish.

Delay is not neutral. Approval is not the end of refinement. And in the present circumstances, the greatest risk is not acting too soon but failing to act at all. If the signatories do not act, the result may not simply be further delay, but rising conflict, rising implementation costs and rising legal exposure—especially where continued unguided development adversely impacts Inuit harvesting, cultural, wildlife and other protected interests of rightsholders. At some point, delay stops being defensible as cautious or prudent and instead becomes a source of legal risk and vulnerability. The time for a decision is now.