



August 12, 2012

Alan Ehrlich
Mackenzie Valley Environmental Impact Review Board
200 Scotia Centre
Box 938, 45102-50th Ave
Yellowknife, NT X1A 2N7

Dear Mr. Ehrlich:

**Re: Giant Mine Remediation Project Environmental Assessment
Hearing EA 0809-001**

Please accept this letter as the City of Yellowknife's submission for the Giant Mine Remediation Project Environmental Assessment Hearing. The City is seeking greater clarification on a number of key areas which are categorized accordingly.

ISSUES SUMMARY

Following the Developer's Assessment Review, the Developer's responses to the Information Requests, and the Technical Sessions, the City's position is that the Developer (AANDC) has not adequately addressed key land use issues for this project. Despite the Developer's initial commitment to evaluating and addressing the key Community Interests: Land Use, Visual and Cultural Settings, Socioeconomic Conditions, Transportation, and Local Resources; they have failed to demonstrate how they are incorporated into the Remediation Plan for Giant Mine.

Throughout the ongoing public process, the City has stressed the need for greater public engagement and transparency relating to the long term planning and legacy of the Giant Mine site. Both the Developer and the Mackenzie Valley Environmental Impact Review Board have indicated that certain aspects of the project are beyond the "Scope of the Assessment".

Commitments have been made from the Developer to “work” with the City on certain matters pertaining to land use and Harbour planning, and to establish a public consultation process on these matters. To date the Developer has worked cooperatively with City staff over the past several months to advance a preliminary land use concept that can be brought to the public for consultation.

Despite these commitments it is not clear what the outcome of these efforts will be, or what guarantee the Developer will make after the public consultation process to actually implement the land use plan. A typical planning process would have the land use plan incorporated into the initial Giant Mine Remediation Plan to serve as the foundation for optimizing the operations of remediation. How else can the Developer, the Mackenzie Valley Impact Review Board, the City of Yellowknife and local First Nations residents fully consider what the Community Interests are? In this regard the Remediation Plan is short-sighted in its consideration of socioeconomic, cultural, aesthetic, transportation and local resource impacts. The City is therefore seeking a more defined level of commitment from the Developer and the Mackenzie Valley Environmental Impact Review Board to address these issues.

PAYMENT IN LIEU OF TAXES

The Property Assessment and Taxation Act of the GNWT includes a provision whereby the Government of Canada would provide to a municipal taxing authority a payment in lieu of property taxes (PILT). The decision to make such payments is governed by an agreement between the Government of Canada and the taxing authority. In the case of land within municipal boundaries where the Government of Canada has a vested right or has an interest, such payments would be made to the City of Yellowknife. The amount of PILT that is to be paid by the Government of Canada under such arrangements is to be calculated in the same manner as the taxing authority would calculate property taxes had the land been owned or occupied by a private sector firm.

Since AANDC has taken over responsibility for the Giant Mine Remediation Project, there has been no PILT paid to the City of Yellowknife. In its place, a contribution agreement has been established to ensure that the property continues to benefit from municipal services that are derived from taxes paid. The City is required to apply for these funds on an annual basis. The payment is subject to a holdback each year and the holdback is released and the following year's payment authorized only after the City has produced an accounting of the contribution received. This places additional administrative burden on both City staff and staff of AANDC that would not be required if a PILT arrangement was in place.

The Giant mine property is the only land vested in the Crown or where the Crown has an interest for which PILT is not paid. All other properties are subject to PILT calculated in the same manner as property taxes are calculated for the private sector. At least three Supreme Court of Canada decisions within the past 4 years have confirmed the obligation of the Government of Canada, in cases where a PILT agreement exists, to make such payments based on the assessed value of the land and improvements as arrived at through the assessment methodology in place in the local jurisdiction.

Questions

1. Will the Government of Canada agree to enter into a PILT agreement with the City of Yellowknife for the land and improvements on the Giant Mine properties which are directly related to the remediation project?
2. Will the Government of Canada comply with recent Supreme Court of Canada decisions requiring that the payments be made in accordance with the assessment process in place for the City of Yellowknife?

WATER TREATMENT AND MANAGEMENT

Diffuser

During the Technical sessions, significant concerns were raised with regards to the proposed diffuser in Yellowknife Bay. Yellowknife Bay is used throughout the summer and winter and proper measures need to be in place to ensure the safety of residents in the region. The impacts on ice-melt from the diffuser in the winter are not clear and could present a safety risk to snowmobilers, skiers, and pedestrians. It is not clear what protective measures if any are proposed.

Question

1. What measures will be taken to mitigate safety concerns for citizens, should the diffuser result in ice-thinning during the winter?

Water Quality/Water Treatment Plant

The Federal Government was involved in the construction of the municipal pipeline which extends from Yellowknife River to the City's water treatment plant. The City is in the process of upgrading its water treatment plant and pipeline. The City's initial plans were to reconstruct the pipeline as a result of public concern pertaining to water quality in Yellowknife Bay.

Questions

1. Will the Developer agree to cover the expenses of reconstructing this pipeline to address public concern regarding the water quality in Yellowknife Bay as a result of the Remediation Plan?
2. Will the Developer conduct a detailed water quality study and monitoring program in the Yellowknife Bay to assure residents in Yellowknife that the water in Yellowknife Bay is suitable for drinking?

SURFACE REMEDIATION

Commitment to Land Use Plan

The City of Yellowknife maintains that the Developer has failed to address, what it has earlier defined as the essential Community Interests: Land Use, Visual and Cultural Settings, Socioeconomic Conditions, Transportation, and Local Resources. The Developer has recently agreed to completing a land use plan with the City, however the City is seeking a higher level of commitment from the Developer to ensure the plan is implemented.

In its efforts to work with the Developer the City has volunteered its resources to formulate a framework land use plan that can be used for public consultation. The Attachments to this letter reflect the start of a framework for such a Plan: Attachment "A" indicates existing conditions of the Giant Mine Site, Attachment "B" provides a proposed long-range conceptual plan, and Attachment "C" zooms in on the waterfront area including the Harbour, Townsite, and a waterside residential area.

In prior meetings the Developer has agreed to work with the City to create a land use plan and undertake a public consultation process that would serve to further define the Community Interests around this plan. Since the beginning of 2012 the City shared and discussed preliminary land use concepts with the Giant Mine Team. Based on that meeting the proposed concepts were completed to arrive at what the City believes is a practical land use strategy that balances future land use with the remediation plan.

Questions

1. Does the Developer agree with the general framework of the Conceptual Land Use Plan in Attachments "B" and "C"?
2. What challenges or limitations does the Developer foresee in implementing the proposed Long Range Conceptual Land Use Plan?
3. What alternatives does the Developer propose if components of the attached Land Use Plan are unviable?

4. Will the Developer work with the City to incorporate the Land Use Plan into the overall remediation plans?

Transportation

A practical land use strategy cannot be implemented without a planned transportation network. The proposed closure and realignment of Highway 4 is only one component of a long-range network for the site. As a means of evaluating the Community Interests identified AANDC, an internal transportation system for the site is essential. The attachments illustrate the use of existing road networks within the Giant Mine Townsite and provide proposed connections to residential, recreational, industrial, lands.

Questions

1. Does the Developer support the proposed transportation network illustrated in the Long Range Conceptual Land Use Plan(s)?
2. What challenges or limitations does the Developer foresee in implementing the proposed transportation network?
3. What alternatives does the Developer propose for incorporating usable roadways for motor vehicles to connect land uses and trail networks for pedestrians and cyclists to connect active and passive recreational areas?
4. Will the Developer work with the City to construct a transportation network to support a proposed land use plan?

Remediation to Residential Standard

The City has reiterated through the consultation process that remediation to the residential standard is essential to creating a balanced future development of the site. The townsite has been used historically for this purpose and there is significant cultural and heritage value in maintaining this land use. This position has been shared with the Giant Mine Working Group which resulted in the City further defining its interests. While the Developer has committed to “working” with the City on this matter, there have not been any firm commitments on the remediation standard in the context of a viable land use plan.

Question

1. Will the Developer commit to the residential remediation standard of the areas identified in the Long Range Conceptual Land Use Plan as “Residential” and “Mixed Use”?

Harbour Plan: Giant Mine Marina

During the Technical Sessions the City explained that it has completed the Yellowknife Harbour Plan and that both the Committee and Council endorsed Giant Mine as a potential permanent

Marina site. It was agreed at the time that the Developer would work with the City to explore the viability of this site as a Marina. The City's main concern on this matter is the disturbance of sediment contaminants on the shoreline lakebed as a result of (1) potential dredging required to provide adequate depth for boat mooring, and (2) the establishment of a breakwater for the marina. Illustrated in the Land Use Conceptual Plan is the Giant Mine Marina Concept. Significant resources are involved in the planning and engineering design of this marina while there is no certainty on what the environmental implications are. While the Developer has deemed this area to be out of scope, the bay area continues to be impacted with Remediation Plan components incorporated including the diffuser.

Questions

1. Does the Developer have any concerns or issues with the establishment of a Harbour Marina at the Giant Mine Townsite given the lakebed sediment contamination and the potential need for dredging and establishment of a breakwater?
2. Will the Developer assist the City in design and construction of the Harbour Marina to mitigate any environmental concerns?

Development and Building Permits

During the Technical Hearings it was agreed the Developer would acquire all necessary Development and Building Permits for the site works undertaken. To date the Developer has acquired some permits for building demolitions. The City has worked in a cooperative manner with the Developer to provide significant flexibility in approving development applications for small components of project (i.e. removal of structures). This piece-meal approach is not typical of the City's approval process as it does not consider the full and long-term implications of the proposed development.

With regards to Surface Remediation, the City's position is that the Developer's Remediation Plan is fundamentally incomplete in that it has not fully considered the future land use and legacy of the site. A complete Development Permit with grading, roadways, buildings, and so on is typically based on a Development Scheme approved by Bylaw which incorporates proposed Zoning Districts. These requirements have applied to Federal and Territorial developments in the past (i.e. the Greenstone Building) and there is no legal basis for the Giant Mine Remediation to be an exception to this. A piece-meal approach to submitting Development and Building Permits is contrary to good planning and the City's legislated approval process. Sensible development considers the long-term end use of the site and provides plans and permits which are developed prior to any site work taking place. This is typically the first step in the planning process and not the last.

Questions

1. What approach does the Developer intend on taking with regard to the future submission of Development and Building Permit Plans?
2. Will the Developer submit complete Development and Building Permit Plans for remediation which incorporate the long term use of the site in accordance with a prepared land use plan and transportation network?

Under the City's Zoning Bylaw it is legislated that all proposed developments will submit completed plans which incorporate a performance bond to ensure that work proposed on the plan is completed. A performance bond for the estimated costs of hard and soft landscaping, trails, roadway surfacing and so on is required to be provided to the City in the form of an irrevocable letter of credit or a certified cheque. As no land use plans were part of the Remediation Plan, there are no grounds for estimating a performance bond for a land use plan. Based on the City's experience it is estimated that such a bond could range from \$15 to \$30 million based on infrastructure required to support a land use plan.

Question

1. Will the Developer adhere to the City of Yellowknife's Zoning Bylaw and provide a performance bond for the submission of a complete Development Permit which incorporates a land use plan?

Public Consultation on Land Use Plan

During the review process the developer committed to working with the City on a land use plan and a public consultation process. The City envisioned this process to be in the form of a multi-day community design charrette involving key stakeholders, residents, and professionals. The purpose of the public consultation stage is to explore the proposed land use concept which addresses criteria for evaluating the Community Interest on the Giant Mine Remediation. This Community Interest criteria, as defined by AANDC, consists of Land Use, Visual and Cultural Settings, Socioeconomic Conditions, Transportation, and Local Resources. The land use public consultation session provides the opportunity for the public to review and buy-in to long term future use of the Giant Mine site. It will ensure the Remediation Plan is based on a land use strategy that is broadly supported by residents in the region.

Questions

1. Can the Developer reconfirm its commitment to hosting a Land Use Design Charrette in 2012?
2. Will the Developer commit to working with the City in estimating the performance bond required for a Development permit associated with the land use plan?

3. Will the Developer commit to implementation of final Land Use Plan which results from the public consultation process?

Sincerely,



Dennis Kefalas
A/Senior Administrative Officer

Doc#318874

Attachments: Attachment A: Giant Mine Existing Conditions
Attachment B: Giant Mine Overall Land Use
Attachment C: Giant Mine Townsite

ATTACHMENT A: GIANT MINE EXISTING CONDITIONS



0 500 1,000 Meters



ATTACHMENT B: GIANT MINE CONCEPTUAL LAND USE PLAN

- Water Bodies
- Existing Roads - HWY 4 Realignment
- Conceptual Roads
- Trails
- Green Space
- Recreational Facilities
- Nature Preservation Zone
- Growth Management Zone
- Industrial Zone
- Waterside Residential Zone
- Mixed Use Zone
- Giant Mine Marina Overlay

MAJOR RECREATION
(GOLF COURSE)

GROWTH
MANAGEMENT

NATURE
PRESERVE

MAJOR
RECREATION

INDUSTRIAL

RESIDENTIAL

MIXED USE

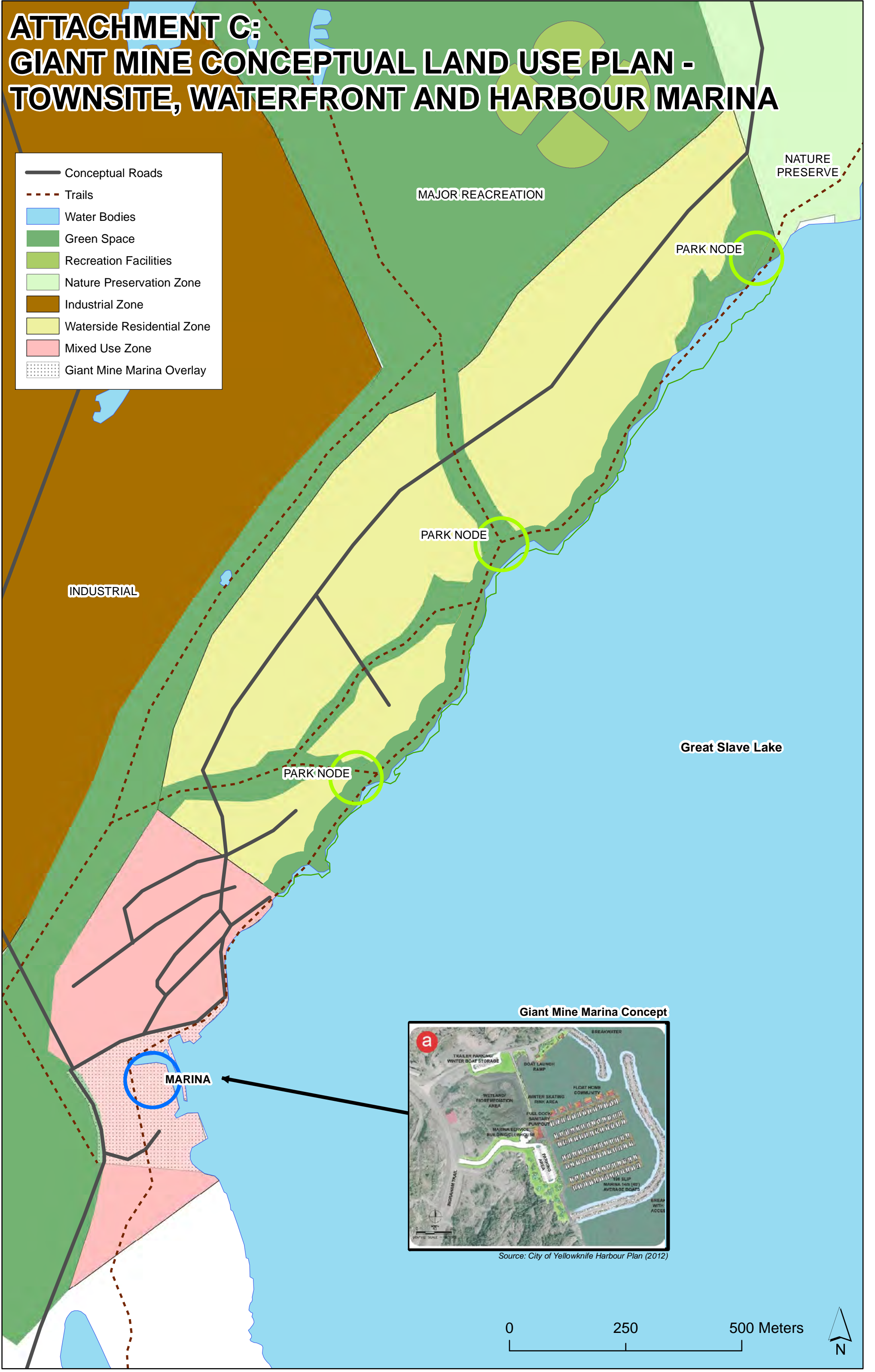
Great Slave Lake

0 250 500 Meters



ATTACHMENT C: GIANT MINE CONCEPTUAL LAND USE PLAN - TOWNSITE, WATERFRONT AND HARBOUR MARINA

- Conceptual Roads
- Trails
- Water Bodies
- Green Space
- Recreation Facilities
- Nature Preservation Zone
- Industrial Zone
- Waterside Residential Zone
- Mixed Use Zone
- Giant Mine Marina Overlay



Giant Mine Marina Concept



Source: City of Yellowknife Harbour Plan (2012)