

NUNAVUT PLANNING COMMISSION
REVISED APPLICATION TO DETERMINE CONFORMITY
WITH THE NORTH BAFFIN REGIONAL LAND USE PLAN

All applicants for a project proposal shall comply with the requirements listed below.
The relevant sections of the plan are noted in each requirement.

2. **Environmental Protection:** s3.13.8: The applicant undertakes to prevent any new occurrences of pollution, garbage and contamination at the site of the development.

Yes

No

3. **Removal of Fuel Drums:** s3.13.8: The applicant undertakes to remove all drums safely from the site and dispose of the drums in a safe manner.

Yes

No

4. **New Site Restoration and Clean Up:** Appendix H, s1: The applicant undertakes to clean up the site and restore the site to its natural condition to the greatest extent possible.

Yes

No

5. **Old Site Restoration and Clean Up:** s3.13.2 and Appendix H, S1: The applicant undertakes to clean up the site and restore the site to its original condition to the greatest extent possible, including any work required due to the applicant's action prior to this application.

Yes

No

6. **Low-Level Air Flights:** Appendix H, s3: Will the applicant avoid all low-level flights?

Yes

No

- i. If not, explain why such flights are or may be absolutely necessary.

Low level flights will be avoided to the extent possible and subject to safety considerations during poor weather and or visibility.

- ii. If such flights are or may be absolutely necessary, will they avoid disturbance to people and wildlife?

Yes

No

Mitigation measures for aircraft flights have been assessed and approved under Project Certificate No. 005. All mitigations are subject to safety considerations.

- iii. If not, explain why it is not possible to avoid such disturbance.

- 7. Caribou Protection Measures.** *s3.3.7 and Appendix I:* Will the applicant comply with the Caribou Protection Measures outlined in section 3.3.7 and in Appendix I?

Yes

No

- 9. Polar Bear Denning Areas and Walrus Haul-outs:** *s3.3.8:* Will the applicant keep its activities away from any polar bear denning area or walrus haul-out?

Yes

No

HERITAGE RESOURCES

- 10. Reporting of Archaeological Sites:** *s3.11.3 and Appendix H, s2 and s8:* Will the applicant immediately report the discovery of all suspected archaeological sites to the Department of Culture and Heritage (GN)?

Yes

No

MINING

- 11. Mining Development:** *s3.6.5:* Is the proposal for mining development?

Yes

No

If yes, include with the application a mine closure and restoration plan and the proof of complete financial guarantees for the abandonment and restoration of the site.

The Preliminary Mine Closure and Reclamation Plan which was Appendix 10G of the Final Environmental Impact Statement, has been approved by the Nunavut Water Board under Part B, Section 14 of the Water Licence issued June 12, 2013 (the Water Licence is still pending approval by the Minister). Subsequently, the Interim Abandonment and Reclamation Plan is provided in the Addendum to FEIS as Appendix 10G. The Plan

includes a closure and reclamation plan for all aspects of the Mary River Project including the mine site, and Milne Inlet.

The Water Licence also includes, as Part C, conditions applying to security under which the initial total security amount of approximately \$36 million to cover closure and reclamation of the current works and undertakings. The Water Licence provides for an Annual Security Review as set out in Schedule C of the Water Licence and will require Baffinland to provide an updated Abandonment and Reclamation Plan on an annual basis along with a calculation of security for the highest level of reclamation liability for land and water for the upcoming year. Additional security will be posted annually as necessary. Currently, as shown in Attachment 3, a Letter of Credit (LOC) has been issued in favour of the Qikiqtani Inuit Association in the amount of \$26,200,000.00 and a second LOC has been issued in favour of Aboriginal Affairs and Northern Development Canada in the amount of \$6,738,216.00. As per Part C, Item A of the Type A Water Licence issued by the Nunavut Water Board to the Minister, Baffinland will be required to post additional credit of \$4,311,784 once the Type A Water Licence is issued. The total of all LOC's would cover all security costs associated with planned activities in 2013.

The ERP, if approved by the Nunavut Impact Review Board, will be a modification of the Mary River Project and the above requirements for the Abandonment and Reclamation Plan and for security will continue to apply to the Project as amended.

12. Negative Effects: s3.6.6: Has the applicant planned to minimize the negative effects of its activity on the environment?

Yes

No

Include with the application the mitigative measures developed.

The Project Certificate issued for the Mary River Project by the Nunavut Impact Review Board on December 28, 2012 includes extensive requirements for minimizing the negative effects of the Project on the environment. The Project Certificate contains 182 terms and conditions and requires the implementation of management plans for all aspects of the environment including water, vegetation, the aquatic environment, terrestrial wildlife and habitat, birds, the marine environment and marine wildlife and marine habitat.

13. Hunting Restrictions: s3.6.9: The applicant is informed of any special hunting restrictions that may apply to the area and will strictly enforce them at its mine sites and along transportation routes.

Yes

No

Term and Condition No. 62 of the Nunavut Impact Review Board Project Certificate for the Mary River Project specifies that the proponent shall prohibit project employees from transportation of firearms to site and from operating firearms in project areas for the purpose of wildlife harvesting. These requirements are incorporated into the Environmental Management Plans for the Project and will continue to apply to the modifications proposed for the ERP. The IIBA will include provisions for beneficiaries pursuant to the NLCA.

14. Carving Stone Deposits: *Appendix H, s9.* Will the applicant report any discoveries of carving stone deposits to the Qikiqtani Inuit Association?

Yes

No

A soap stone deposit at Mary River is a resource harvested by residents of North Baffin for carving purposes. Like all soapstone deposits, it is protected under the Nunavut Land Claims Agreement (NLCA), giving Inuit inherent harvesting rights. Figure 3-2.3 in Volume 3 of the FEIS indicates the location of the deposit.

MARINE AND TERRESTRIAL TRANSPORTATION

21. Corridor: *s3.5.11, s3.3.5.12:* Does the proposal consider the development of a transportation and/or communications corridor?

Yes (see below – NPC request of August 6, 2013)

No

If yes, include with the application an assessment of alternate routes, the cumulative effects of the preferred route and options for other identifiable transportation and utility facilities.

Terrestrial Transportation

Terrestrial Transportation will take place along the existing Tote Road between the Mary River Mine Site and Milne Inlet. The Tote Road has been in existence as a transportation corridor for many years (back to the 1960s) and is recognised as a public access easement under Article 21, Part 4 (Section 21.4.1) of the Nunavut Land Claim Agreement. Accordingly, the Early Revenue Phase (ERP) does not include the development of a new transportation corridor. The Tote Road has previously been included as part of the bulk sampling program which received a positive conformity determination from the NPC on January 22, 2007, and continues to form part of the Mary River Project, which received a positive conformity determination from the NPC, on April 30, 2008.

As indicated in the Project Proposal for Early Revenue Phase, which is Attachment 1 to our letter of June 12, 2013, the ERP will result in increases in the volume of traffic along the Tote Road. Under the Mary River Project, the Tote Road traffic included vehicles for equipment and supplies between Milne Inlet and the Mary River Mine Site. Under the ERP, additional traffic will include ore trucks transporting ore from the Mine Site to Milne Inlet. The Addendum to the FEIS for the ERP includes an assessment of the potential effects of the increase in traffic along the existing Tote Road transportation corridor, for review by the Nunavut Impact Review Board.

Marine Transportation Corridor

The Marine Transportation Corridor to Milne Port has been used since the establishment of the port at Milne Inlet and the Tote Road. The Marine Transportation Corridor is shown on Figure 1-1.1 in both the FEIS and the Addendum to the FEIS for the ERP

(Attachment 2 to this correspondence). This Marine Transportation Corridor has been established for many years and will not be changed under the ERP. As indicated in the Project Proposal for Early Revenue Phase which is Attachment 1 to our letter of June 12, 2013, the number of ship transits to and from Milne Port will increase. The Mary River Project included transits to and from Milne Port for ships bringing supplies and equipment. Under the ERP, shipping will also include ore carriers. This shipping will take place during the open water season, which Baffinland understands is in conformity with the North Baffin Regional Land Use Plan.

The shipping route into Milne Port was a component of the bulk sampling program which received a positive conformity determination from the NPC on January 22, 2007, and was also included as part of the Mary River Project, which received a positive conformity determination from the NPC on April 30, 2008.

The Addendum to the FEIS for the ERP includes an assessment of the potential effects of the shipping to Milne Port for review by the Nunavut Impact Review Board.

NPC Request of August 6, 2013

By letter dated August 6, 2013, the NPC requested an application for the development of a transportation corridor pursuant to Section 3.5.11 of the NBRLUP, prior to making a conformity determination. We request that the Commission accept this Revised Application to Determine Conformity as including an application for an amendment to the NBRLUP required under Section 3.5.11 of the NBRLUP and Appendices J and K. The Application includes the Project Description and Addendum to the Final Environmental Impact Statement for the Mary River Project, which Addendum includes, in Appendix 1B-4 a table showing concordance with the EIS Guidelines and Appendices J and K of the NBRLUP. We trust this Application satisfies the August 6, 2013 request of the NPC.

22. Code of Good Conduct for Land Users: *Appendix H:* The applicant undertakes to adhere to the code of Good Conduct at all times.

Yes

No

I, Erik Madsen (Baffinland) (name of applicant), certify that the information I have given in this application is true and correct and hereby make the above undertakings which form part of my application for a project proposal within the meaning of the Nunavut Land Claims Agreement.



Date: 8 August 2013

Signature of Applicant: _____

North Baffin Regional Land Use Plan
Appendix H
Code of Good Conduct for Land Users

1. The landscape of each camp and other land use sites will be restored to its original condition to the greatest degree possible. Water quality will be preserved and no substances that will impair water quality will be dumped in water bodies. When possible and feasible, old sites will be restored to the natural state.
2. All land users shall assist communities and government(s) in identifying and protecting archaeological sites and carving-stone sites, as required by law.
3. Generally, low-level flights by aircraft at less than 300 metres should not occur where they will disturb wildlife or people. If such flights are necessary, they should only take place after consultation with the appropriate communities. All land users are responsible for reporting to the land managers any illegal or questionable low-level flight.
4. All activities on the land will be conducted in such a fashion that the renewable resources of the area in question are conserved.
5. Whenever practicable, and consistent with sound procurement management, land users will follow the practice of local purchase of supplies and services.
6. Land users will establish working relationships with local communities and respect the traditional users of the land.
7. During the caribou calving, post-calving and migrating seasons, land use activities should be restricted to avoid disturbing caribou, in general, and activities will be governed more specifically by caribou protection measures such as those contained in Appendix I.
8. Artifacts must be left where they are found. All land users are responsible for reporting the location of, or any removal or disturbance of artifacts, to Department of Culture and Heritage.
9. The mining industry is encouraged to assist in identifying local carving-stone deposits and report any discoveries to the QIA. Industry is also encouraged to identify and report old waste sites that need to be cleaned up.
10. All land users shall obey the laws of general application applying to land use.