



January 18, 2019

Sharon Ehaloak, Executive Director
Nunavut Planning Commission
P.O. Box 2101
Cambridge Bay, NU
X0B 0C0

Dear Ms. Ehaloak,

Re: Completion of Amendment to the NBRLUP to reflect a 35 km portion of the Railway to Steensby Inlet located within the NBRLUP Boundary

We write in response to the letter from the Nunavut Planning Commission (**NPC**) to Baffinland Iron Mines Corporation (**Baffinland**) dated September 28, 2018 in relation to the proposed amendment to the North Baffin Regional Land Use Plan (**NBRLUP**) respecting a corridor for that portion of the proposed railway from Mary River to Steensby Inlet located within the NBRLUP. Approximately 35 kilometres of the 180 kilometre long Steensby railway corridor is located within the boundaries of the NBRLUP. The remainder of the railway (approximately 150 kilometres) from the southern border of the NBRLUP to Steensby Inlet lies outside of the NBRLUP. In this letter and enclosed materials, Baffinland refers to the 35 km corridor to be added to the NBRLUP for the purposes of transportation by rail as "**Amendment No. 1**".

As noted by the NPC, the NPC issued a recommendation to the Minister of Aboriginal Affairs and Northern Development (**AANDC**) and the Government of Nunavut (**GN**) on December 9, 2013 to approve Amendment No. 1 on specified terms. In 2014, the Minister and GN referred the proposed amendment back to the NPC with recommendations for revisions to the terms of the amendment. The NPC did not respond to those recommendations and the amendment process was therefore not advanced. As indicated in your letter of August 23, 2018, Baffinland asked the NPC to complete the Amendment No. 1 process in March of 2018. We are pleased to note that in its August 23, 2018 letter, the NPC indicated that it "*intends to complete and re-submit Amendment No. 1 for consideration by the signatories*". The letter went on to seek input on the process to complete Amendment No. 1.

Since the December 2012 approval of the Mary River Project, the Mary River Project has been modified by the Early Revenue Phase Proposal, the Production Increase Proposal and the Phase 2 Proposal. As the NPC initially determined that the Early Revenue Phase Proposal and Phase 2 Proposal did not conform to the NBRLUP, the NPC also completed related amendments to the NBRLUP, which culminated in the issuance of Amendment No. 2 and Amendment No. 3 to the NBRLUP. Amendments No. 2 and 3 establish a Northern transportation corridor within the NBRLUP suitable for transportation by road and rail (the **North Railway**). The NPC subsequently issued positive conformity determinations with respect

to the Early Revenue Phase Proposal and Phase 2 Proposal. The Phase 2 Proposal is now under review by the Nunavut Impact Review Board (NIRB) and the Nunavut Water Board (NWB).

In response to the September 28, 2018 letter from NPC, this letter attaches Schedule 1 which provides the NPC with a summary of the history of NBRLUP amendments related to the Mary River Project. Schedule 1 also provides updates on the materials filed in support of Amendment No. 1 (during the period of 2008 through 2014) and materials reflecting changes in the Mary River Project, including consideration of the North Railway included in Amendment No. 3. As requested, Baffinland has also enclosed suggested revisions to the wording of Amendment No. 1 (Schedule 2).

As per its previous correspondence to the NPC, Baffinland requests that the Amendment No. 1 process be completed by the NPC as soon as possible, and emphasizes the following points.

- Baffinland has been transparent in all of its subsequent applications and in participation in related public processes that it intends to proceed with the South Railway and that the Early Revenue Phase and Phase 2 North Railway are not alternatives to the approved Mary River Project. Since the Mary River Project was approved in December 2012, each of the additional subsequent project modifications have been additive, and the NIRB and NPC processes triggered by those modifications have considered the potential for cumulative impacts at every step. The South Railway was included as a project component in the positive conformity determinations issued by the NPC in relation to the Mary River Project, Early Revenue Phase (Amendment No. 2), and Phase 2 (Amendment No. 3). The requirements to include information on potential for cumulative effects under section 3.5.11 of the NBRLUP was met by Baffinland in relation to its applications for all of Amendments No. 1, 2 and 3, and the NPC has already accepted those applications as meeting the requirements of Appendices J and K.
- As the NPC is aware and as described in the enclosed summary, the NPC referred the Phase 2 Proposal to the NIRB in May 2018. The potential for cumulative effects, including those from the operation of the South Railway and the North Railway, are currently being considered in detail by NIRB in its current Mary River Phase 2 reconsideration process. Baffinland will not be permitted to proceed with Phase 2 until that process is complete. The issues raised by Nunavut Tunngavik Incorporated (**NTI**) in its letter of September 20, 2018 are being thoroughly considered by NIRB within the regulatory process established by the Nunavut Agreement and referenced in the NBRLUP. In the enclosed summary, Baffinland has provided a description of the information on cumulative effects that NIRB is currently considering as part of the Phase 2 reconsideration process, in order to address some of the topics outlined by the NTI in its September 20, 2018 letter. However, the Phase 2 Addendum cumulative effects assessment has not been provided to the NPC with the enclosed materials. Baffinland emphasizes that this information is not necessary or appropriate for the NPC or the signatories to consider in relation to the issuance of Amendment No. 1. As the NPC acknowledged in its Reasons for Decision accompanying its recommendation to proceed with Amendment No. 3, the NPC's role is not to consider the potential effects of individual project proposals. To the extent that potential for regional cumulative effects is a consideration under the NBRLUP when adding transportation corridors, the NPC has already confirmed that the Amendment No. 1 application materials met the information requirements of the NBRLUP, including those respecting cumulative effects.

- Baffinland does not agree that a public review is required in respect of Amendment No. 1 at this time. In particular, it would not be fair, useful or appropriate to now undertake a public hearing on Amendment No. 1 given the time that has elapsed as well as the previous determinations by NIRB and the NPC. The Mary River Project (which has always included the South Railway) was thoroughly and publicly reviewed by the NPC and NIRB, culminating in project approval and a recommendation by the NPC that the NBRLUP be amended to include the 35 km portion of the South Railway located in the NBRLUP, respectively. The rejections by the Government of Canada and the GN of the original version of Amendment No. 1 were based on the limited scope of the proposed amendment. They did not challenge the NPC's positive determination or recommendation that the amendment should be issued.
- Baffinland believes that the revised wording of Amendment No. 1 attached to this letter is generally consistent with the wording of Amendment No. 3 as approved by the signatories in May 2018. Baffinland suggests that the appropriate next steps are for the NPC to consider Baffinland's enclosed suggested revised wording on Amendment No. 1 (which is based on the wording of Amendment No. 3), make any additional changes that the NPC considers appropriate, and circulate the draft wording of Amendment No. 1 for review and comment to the designated signatories.

We trust that this response will be helpful to the NPC in completing the Amendment No. 1 process.

Yours truly,



Lou Kamermans
Approvals Manager

Enclosures: Schedule 1 – Chronology and history of the Mary River Project and NBRLUP Amendments
 Schedule 2 – Proposed Draft Amendment No. 1
 Schedule 3 – Index of Documents referred to in Schedule 1

cc. Hannah Uniuqsaraq, Nunavut Tunngavik Inc.
 Joe Savikataaq, Government of Nunavut
 Steve Pinksen, Government of Nunavut
 Amy Robinson, Government of Nunavut
 David Rochette, Crown-Indigenous Relations and Northern Affairs Canada
 Spencer Dewar, Crown-Indigenous Relations and Northern Affairs Canada
 Lihua Huang, Crown-Indigenous Relations and Northern Affairs Canada
 Jonathan Savoy, Nunavut Planning Commission
 Ryan Barry, Nunavut Impact Review Board

Solomon Amuno, Nunavut Impact Review Board
Grant Goddard, Baffinland Iron Mines
Megan Lord-Hoyle, Baffinland Iron Mines