

NUNAVUT PLANNING COMMISSION
DRAFT NUNAVUT LAND USE PLAN

April 14, 2022

**ADDITIONAL COMMENTS OF
MITTIMATALIK HUNTERS AND TRAPPERS ORGANIZATION**

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(MHTO)**

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I. ADDITIONAL COMMENTS

1. The MHTO provides these additional comments to the Nunavut Planning Commission in the context of its members' firsthand experience of the adverse impacts arising from icebreaking in their territory.
2. Icebreaking, or "shipping through ice", has significant adverse environmental impacts on wildlife & the Inuit who are dependant on that wildlife, as is evidenced through our submissions. MHTO categorically opposes the use of icebreaking, except as required for emergency response and community resupply, in Milne Inlet & Eclipse Sound.
3. While MHTO is of the view that the DNLUP provisions are inadequate with respect to preventing harmful icebreaking activities, MHTO is supportive of the following minimum components of the DNLUP:

Section 2.2.5, which identifies caribou sea ice crossings as a Valued Ecosystem Component, and designates several as Conditional Use areas, "within which, except as required for safe navigation, no person is to conduct icebreaking activities" during the indicated seasons.

Section 2.7.2–2.7.3, which identifies polynyas and floe edges as known Valued Ecosystem Components, where icebreaking can have negative impacts on polynya structure or other characteristics, can prevent formation of floe edges, or cause early break-up. Transboundary considerations are highlighted with regards to the Sarvarjuaq/Pikialasorsuaq (North Water) Polynya, which is also designated as a Conditional Use area within which no icebreaking activities are to be conducted.

Section 4.1.1–1 , which designates ice travel routes as Conditional Use areas based on their importance to communities, requiring proponent consultation with municipal councils, hunters and trappers organizations, and regional wildlife organizations within a 300 km radius of the route for any project that will disrupt or destroy on ice travel routes during designated seasons.

4. Although Baffinland seeks to limit the scope of section 4.1.1, MHTO opposes those limitations. The NPC should build off the work done in these sections to protect the invaluable resource of sea ice & ensure directly affected communities have a final say on any icebreaking activities in their territory.

5. Consistent with MHTO's submissions to the Nunavut Impact Review Board (NIRB or the "Board") regarding icebreaking activities in Baffinland Iron Mines Corporation (Baffinland) Mary River Phase 2 Proposal (the "Project"), we provide the following submissions.¹
 6. The marine environment and the sea ice are critically important to the ability of Inuit to harvest and to travel to areas traditionally used for camping, fishing, hunting, and gathering. It further serves as important habitat for marine mammals on which Inuit depend for sustenance and cultural continuity.
- (i) Lack of Assessment and Authorization for Icebreaking**
7. In 2017, Baffinland provided correspondence to the NIRB indicating that they would be using an ice-breaker vessel to safely escort ships through the Northern Shipping Route during the shoulder season. However, as the NIRB noted in the 2019-2020 Annual Report, through the Early Revenue Phase, Production Increase, and Production Increase Extension Request, "no formal assessment of the potential effects of these activities has occurred."²
 8. In response to the unauthorized icebreaking, the Board requested that:

Baffinland provide an assessment of the ongoing ice-management activities using the icebreaker (MSV Botnika) including the potential effects of these activities on noise levels and marine mammal activity along the Northern Shipping Route within 60 days, subject to the outcome of the Marine Monitoring Workshop recommendations. Also within the 60 day time frame, Baffinland must update a management plan of their choosing to include this additional information on impacts along with historical ice-information in order to inform the use of the ice-breaker vessel.³
 9. Despite these requirements from the NIRB, the extent of the impacts of the marine shipping and icebreaking operations remain poorly understood. Baffinland has not provided information, data and/or analyses to support its conclusion of "not significant" effects. The construction of a railway to Milne Port and shipping of ore via the Northern Shipping Route was originally rejected as a viable alternative due to the risks of shipping through the ice.⁴

¹ NIRB Public Registry Identification: 337609

² 2020-12-23 Nunavut Impact Review Board 2019-2020 Annual Monitoring Report, The Mary River Project, p. 43 (Filing ID 332232).

³ 2020-12-23 Nunavut Impact Review Board 2019-2020 Annual Monitoring Report, The Mary River Project, p. 43 (Filing ID 332232).

⁴ 2018-10-03 TSD 1-Alternatives Analysis Report, PDF p. 15 (Filing ID 320552).

10. In its application before the NPC, Baffinland withdrew its proposal for a winter sealift from December 1 to February 28 due to concerns from the community about icebreaking.⁵
11. As such, the prospect of icebreaking outside the winter sealift was not considered by the NPC.
12. In the conformity decision for the Project, the NPC summarized the shipping for the Project as only encompassing the following “ore shipping season is proposed to be from July 01 to November 15, but would be adapted annually in consultation with the Pond Inlet Hunters and Trapper Organization (HTO) based on ice conditions and thickness.”⁶ The NPC went on to note “that winter sealift is not included in this proposal, because on October 24, 2017, due to concerns expressed by the communities regarding ice breaking, the proponent has removed the winter sealift component from the original application.”⁷
13. As amended, the Mary River Transportation Corridor in Appendix P to NBRLUP is currently restricted to “transportation by road, rail, and open water shipping and navigation, including for the purpose of servicing the operation of the Mary River Mine Site”.⁸ The NPC expressly states that “the marine component of the Mary River Transportation Corridor does not include winter shipping through ice.”⁹
14. In the amendment decision for the NBRLUP, the NPC emphasized that even if a transportation corridor exists, a proponent must apply to amend the corridor “to add any new transportation uses to the corridor that were not previously considered”.¹⁰ In the amendment, the NPC emphasized that it is only for “the purposes of road, rail, and open water transportation projects proposed within the Mary River Transportation Corridor, section 3.5.11 and 3.5.12 of the North Baffin Regional Land Use Plan are considered satisfied, and no further applications to amend the plan for development of a corridor are required”.¹¹ The NPC noted that it “has not publicly reviewed an application for a winter sealift (icebreaking) corridor and doesn’t recommend the NBRLUP include a winter sealift corridor.”¹²

⁵ 2018-05-29 Nunavut Planning Commission Conformity Determination, p. 3 (Filing ID 318134)

⁶ 2018-05-29 Nunavut Planning Commission Conformity Determination, p. 3 (Filing ID 318134)

⁷ 2018-05-29 Nunavut Planning Commission Conformity Determination, p. 3 (Filing ID 318134)

⁸ 2018-05-29 Notice of Approval of Amendment No. 3 to the North Baffin Regional Land Use Plan, PDF p. 6

⁹ 2018-05-29 Notice of Approval of NBRLUP Amendment No. 3, PDF p. 6

¹⁰ 2018-03-18 Nunavut Planning Commission – North Baffinland Land Use Plan Amendment Application – Report on Public Review – Amendment Application relating to Mary River Project, paras. 88-89

¹¹ 2018-05-29 Notice of Approval of NBRLUP Amendment No. 3, PDF p. 7

¹² 2018-03-18 Nunavut Planning Commission – North Baffinland Land Use Plan Amendment Application – Report on Public Review – Amendment Application relating to Mary River Project, paras. 88-89.

15. Thus, despite undertaking icebreaking activities, Baffinland has not directly put icebreaking before the NPC or the NIRB. The undertaking of any icebreaking would be a new use that would require a new amendment application and conformity decision. As such, if any approval for the Project is provided, it must be restricted to open water shipping, and include clear language that Baffinland must apply for separate approval if it wishes to engage in any icebreaking activities.

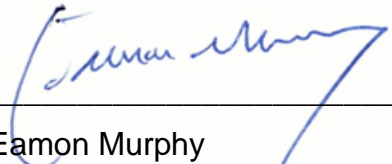
(ii) Impacts of Marine Shipping and Icebreaking are Already Significant

16. As detailed below, Inuit have reported that key species such as narwhal and seal have moved out of the area since shipping and the use of ice-breakers began and that they are experiencing significant adverse impacts to harvesting. Baffinland has ignored these concerns from Inuit about the decline in marine mammals available for harvesting and has suggested other factors are responsible for these impacts without providing any evidence to support its theories.
17. Without integration of the community reported impacts, Baffinland's conclusions with respect to marine shipping and use of ice-breakers lack sufficient support and underestimate the impacts of shipping and consequent icebreaking. Inuit do not support the conclusion of "not significant" effects to narwhal, seal, and Inuit harvesting from shipping and use of ice-breakers.
18. Inuit Qaujimajatuqangit ("IQ") reports that the existing project has had a significant role in decreasing marine mammal abundance. This must be grappled with prior to considering vastly expanding shipping and the use of ice-breakers with the Project.
19. Baffinland has not demonstrated that it can prevent, manage or mitigate the significant adverse impacts of increased marine shipping and use of ice-breakers, which would unduly prejudice the ecosystemic integrity of the area, contrary to the objectives of the Nunavut Agreement and NuPPAA.¹³ Inuit are experiencing significant adverse impacts at the current levels of shipping that have not been mitigated. These impacts should be understood and addressed before considering any expansion.

¹³ Nunavut Agreement, Article s. 12.5.5; NuPPAA, ss. 103(1)(b), (c), (e), (f), (g), (h), (i), 103(2)

20. Shipping should be restricted to the open water season only, and shipping during the shoulder seasons (where ice management is required) and icebreaking must be avoided.¹⁴ Further, IQ and ecological factors should be used to determine the open and closing of the shipping season.

All of which is respectfully submitted this 14th day of April, 2022



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¹⁴ See also the recommendation of DFO that Baffinland implement the most conservative mitigation measure and avoid shipping during the shoulder seasons and ice-breaking activities; only ship during the open water season: 2021-01-15 Fisheries and Oceans Canada Updated Written Submission – Baffinland Iron Mines Corporation Mary River “Phase 2 Development” Project Proposal, p. 29 (Filing ID 332524).