

February 10, 2023

Nunavut Planning Commission
P.O. Box 1797
Iqaluit, NU X0A 0H0

Re: Final Written Comments on the 2021 Draft Nunavut Land Use Plan

Dear Commissioners and NPC Staff,

Further to the Nunavut Planning Commission (**NPC**)'s notice of November 23, 2022, Baffinland Iron Mines Corporation (**Baffinland**) welcomes the opportunity to provide its final written comments on the 2021 Draft Nunavut Land Use Plan (**2021 DNLUP**), to help aid NPC in drafting the next iterative draft land use plan that will be presented to signatories.

Introduction

Baffinland is very supportive of the NPC's efforts, role and responsibility under Article 11 of the Nunavut Agreement (**NA**) to prepare and circulate draft land use plans.

NPC staff have been generous with their time in explaining the intent of the provisions included in the 2021 DNLUP. We would like to express our sincere appreciation for their responsiveness, professionalism, thoughtfulness and respect in soliciting and receiving submissions from Inuit and Government, and inviting participation from proponents and other stakeholders alike. NPC has made clear that their doors are open to all and that they view this approach as fundamental to achieving a plan that reflects a balanced approach to achieving the essential goals of the NA.

NPC's understanding of the need for transparency, consistency and timeliness of decision-making processes to the viability of natural resources projects and their associated benefits to Inuit, Nunavummiut and more broadly Canadians is evident. In addition to being a requirement of the NA, we believe that with NPC's final guidance and advice a final Nunavut Land Use Plan (**NLUP**) will be achieved that can help build trust in the regulatory system for all participants, provide better clarity and will support key NA principles. The 2021 DNLUP represents a key milestone towards the ultimate goal of respecting the rights and values of Inuit as well as the rights of stakeholders such as mineral tenure holders.

Under Article 11 of the NA, land use plans are intended to establish objectives and guidelines for short term and long-term development, taking into account factors such as existing patterns of natural resource

use.¹ Our suggestions for NPC's consideration are focused on this "objectives and guidelines" approach as well as the options presented by various participants in these proceedings and NPC's supporting guidance documents.

During the public hearing held in Pond Inlet in October 2022 and in Iqaluit in November 2022, Baffinland presented on a summary of benefits of the Mary River Project, our approach to engagement, and our mitigation and monitoring programs that have been developed and refined utilizing the Institutions of Public Government established under the NA (including the Nunavut Impact Review Board (**NIRB**) and Nunavut Water Board (**NWB**)). We provided various suggestions for NPC to consider in revisions to the 2021 DNLUP. For efficiency, we have avoided repeating large sections of these documents in this final submission. Baffinland encourages the NPC to review and rely on the materials filed and transcripts from these presentations as well as the previous submissions we have made on the 2021 DNLUP (including the full submission filed on October 8, 2021 and available on the NPC registry).

The Mary River Project

Baffinland is committed to developing the Mary River Project in a way that demonstrates environmental stewardship and respect for all. We are incredibly thankful to all of the North Baffin communities, and especially the Mary River Project Inuit employees for all of the knowledge they have shared with us to help develop and improve our project since operations began in 2015. We are asking the Commissioners to recognize the significant investment in Nunavut that Baffinland has made to date, which includes over \$3 billion dollars expenditures and over \$100 million dollars in wages to Inuit alone. We continue to have serious concerns about certain aspects of the 2021 DNLUP which have the potential to significantly impact on the ability to continue this work.

With the development of the Steensby railway and port, Nunavut is poised to become one of the leading producers of high-grade iron ore in North America. The resources available at Mary River have the possibility to carry on a multi-generational mine. Mary River's high grade iron ore is also of great strategic importance in the global low carbon, green energy transition. The exceptionally high quality iron ore found in Nunavut will be a critical part of the production of green steel.

Baffinland understands that Inuit must be meaningfully engaged to make this vision a reality. As one example of our commitment, we have recently hired Inuit Knowledge Holders and Community Relations

¹ Article 11.3.1, Nunavut Agreement A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following: (a) demographic considerations; (b) the natural resource base and existing patterns of natural resource use; (c) economic opportunities and needs; (d) transportation and communication services and corridors; (e) energy requirements, sources and availability; (f) community infrastructural requirements, including health, housing, education and other social services; (g) environmental considerations, including Parks and Conservation Areas, and wildlife habitat; (h) cultural factors and priorities, including the protection and preservation of archaeological sites and outpost camps; and (i) special local and regional considerations.

Guides to ensure we provide relevant and culturally appropriate services to the communities that are impacted by the Project. In addition to our existing practices of hiring as many Inuit as possible to directly participate in Baffinland-led monitoring programs, we have also recently committed to fund independent Inuit led monitoring programs through the QIA's Inuit Stewardship Plan, which will help implement adaptive management triggers developed in collaboration with Inuit based on IQ and the best available western science.

Baffinland wishes to continue to provide long lasting jobs to Nunavummiut and support to the communities. As one example of our continuing commitment to increase Inuit employment in Nunavut, Baffinland has extended our partnership with the Qikiqtani Skills and Training for Inuit Partnership (**Q-STEP**) for an additional five years. Our contribution of \$3.1 million will support education and training opportunities which provide Inuit with certifiable and transferrable employment skills. Graduates from our Pre-Trades Training Program, in trades including carpenter, electrician, heavy duty mechanic, plumber and welder, may be hired as apprentices as the next step in their new career. In partnership with Q-STEP, we also deliver Work Ready Training (**WRT**) programs in the communities and at the mine site. The Q-STEP programs are offered in partnership with the Qikiqtani Inuit Association (**QIA**), as part of our commitments in the Inuit Impact Benefit Agreement (**IIBA**). Baffinland looks forward to this continued partnership.

Protecting Caribou at Mary River

Baffinland provided evidence to NPC of the approach to caribou protection that is in place at Mary River, developed in collaboration with QIA, Inuit, GN and stakeholders through the NIRB process. These measures collectively work together to ensure protection of caribou and caribou habitat during ongoing project exploration and development activities.

While there are currently few caribou in the area, we know from IQ that the caribou will return and the project has been designed to account for that eventuality. For the caribou protection areas that have been identified in the 2021 DNLUP that overlap with the project, these measures should be formally acknowledged and supersede the current proposed prohibitions.

Baffinland continues to emphasize the following key points included in its submission of October 8, 2021:

- Our understanding is that NPC based the Baffin Island caribou calving and post calving polygons on information submitted by the Qikiqtaaluk Wildlife Board (**QWB**), which has been subject to limited technical review, and does not appear to consider other sources of existing information, both scientific and IQ, which have become available since 1998. At this time there is disputably low consensus in the polygons included in the 2021 DNLUP.

While the QWB Nov. 2018 Submission and subsequent statements presents an important perspective, more work is needed before its recommendations respecting geographic boundaries are included and attached to specific requirements or prohibitions. Generalized references to

science and IQ do not provide the necessary transparency for designations which such significant negative economic consequences to Inuit and to proponents with existing mineral tenure rights.

- Based on our understanding from IQ that has been shared with us by knowledge holders as well as western science derived from our extensive assessments and monitoring programs, geographic-area based land use prohibitions may not be the most appropriate or effective protection for Baffin Island caribou. Mobile protection measures are already applied at Mary River and will be advanced in sync with the return of North Baffin caribou, to protect them when and wherever they happen to be located.
- Given the uncertainty in the geographic areas identified, the behavioral nature of Baffin Island caribou, and the merits of mobile protection measures, the currently designated “Limited Use” areas are an unnecessary restriction on land uses that are already regulated and managed with existing protection tools, including the management of Inuit Owned Lands by the QIA in accordance with their stringent land use policies.

Baffinland also reiterates its recommendations:

- Baffinland recommends that the caribou calving areas currently proposed as “Option 1 — Limited Use” (25) on Map A should be revised and re-designated in the NLUP as “Option 4 – Information on Valued Components (VCs)” This approach acknowledges geographic areas that the QWB Nov. 2018 Submissions identify as important to caribou, ensures that proponents and regulatory authorities would be made aware of the importance of the sites, and that the NPC would consider this information when determining whether there are potential cumulative impact concerns regarding project proposals.
- Baffinland recommends that the NPC establish a focused and formal opportunity for individual Inuit, Inuit organizations, Institutions of Public Government with expertise on mitigation and monitoring measures, communities, regional wildlife boards, HTOs, the Government of Nunavut, technical advisors and industry representatives to work together to share their respective information and knowledge on the topic of caribou calving and post calving in the Qikiqtani Region. Baffinland further suggests that this process need not occur within the bounds of the timeline to develop the first generation NLUP. The additional work required to better understand North Baffin caribou is extensive.
- Baffinland agrees that the NLUP should identify areas that communities and scientists have identified as particularly important for caribou, including high priority areas for caribou. It is particularly important that the IQ provided to the NPC is reflected in the final draft. However, respectfully in our view it is not appropriate for these areas to be designated as “Limited Use” at this time. Exploration and development activities are already currently prohibited/not permitted to proceed unless proponents obtain the required regulatory and other approvals necessary to proceed with an activity. For most activities, this requires at minimum a Crown or Inuit issued surface rights approval as well as successful completion of the NIRB and/or NWB process

established under the NA. Perceived gaps in protection in the DNLUP can be addressed by clearly identifying community concerns and information in the NLUP and requiring that the proponent address such gaps in its applications to NIRB and others. Baffinland encourages the NPC to take into consideration the broad tools and number of parties with jurisdiction over caribou matters in Nunavut, which have been described in detail by other participants in this process including the Government of Nunavut.

- Should it apply a Limited Use or Conditional Use designation to caribou calving grounds located in the North Baffin, Baffinland recommends that the NPC give greater weight to and recognition of mobile caribou protection measures,. The NPC has been in receipt of the jointly developed Mary River Caribou Protection Measures since 2014, and Baffinland is confident that its monitoring programs will support the effectiveness of the mobile protections contained within and evolved from that submission.

Baffinland echoes submissions of other participants that the NLUP should not essentially create conservation areas without following the defined steps in the NA, which includes the requirement to negotiate IIBAs and to follow the established federal and territorial legal steps for designation of conservation areas. The NLUP should also acknowledge the differences between barren ground caribou in the Qikiqtaaluk Region and caribou in the Kivalliq and Kitikmeot Region. The concept of “calving grounds” among the herds in Nunavut is quite distinct, and calving areas should not be treated the same way in the NLUP across all regions.

Prohibitions and exclusions are not always the correct answer. Every project proponent needs to understand where they are working and develop mitigations that respond to the unique features of each project area and each landscape. This understanding requires regulatory approvals, careful planning and collaboration, evaluation of risk, and development of mitigations to reduce potential adverse effects. With a commitment by involved stakeholders, the result can be a project that coexists with caribou. At that same time, Inuit can still have opportunities for a consistent sustainable harvest. The protection measures implemented at this and other Nunavut mining projects show Nunavut’s leadership in environmental protection and resource development. The NPC is encouraged to acknowledge these existing approaches within the context of the NLUP.

Existing Rights

The NPC has been presented with evidence that current and proposed benefits to Inuit, communities and governments from the development of Deposit 1 at Mary River are significant, and consistent with the intention behind the selection of Inuit Owned Lands in the Nunavut Agreement. As the 2021 DNLUP is currently written, the multigenerational potential of the Mary River mine is impacted through the imposition of additional Limited Use areas and treatment of existing rights. The NLUP should reflect that a very small fraction of the land mass of Nunavut is currently taken up by mineral exploration and

development, and the Mary River Project is an even smaller subset of this area. However, the economic benefits to the territory compared to the footprint impact are immense.

Baffinland encourages the NPC to avoid an “exemption” approach in the final version of the DNLUP that is presented to signatories. Our concern is that community members and some participants in the regulatory process could interpret this as suggesting that mineral exploration and development is somehow “exempt” from the requirement to proceed with development in a manner that is protective of the environment, when this is clearly not the case.

Baffinland submits that mineral tenures in existence at the time the NLUP is brought in the force should not be designated as “Limited Use” areas. Our suggestion is that the 2021 DNLUP be revised to reflect that mineral exploration and development of existing mineral tenures in areas that communities have flagged to be of concern are subject to the “Option 4” recommendation described in the NPC’s Options and Recommendations document and permitted to proceed to the NIRB regulatory stage for further consideration.

Plan amendments should not be required when development of mineral properties require expansion in areas near their existing rights but not within the mineral tenure footprint, or when they are required to expand the existing footprint in order to build (for example) linear infrastructure or quarries required for mineral exploration or development. The right of mineral tenure holders to access their mineral tenures should be acknowledged and protected by the NLUP. If existing rights to explore and develop mineral tenures are grandparented or protected, but the need to access those tenures are not, existing rights risk becoming stranded by surrounding limited use areas.

We recommend that protection and grandparenting of all rights granted by previous conformity determinations and existing approvals, including mineral tenures, should be explicitly acknowledged in the DNLUP draft to be circulated to signatories. These protections and grandparenting should not be lost in the event a project is subject to a “significant modification”. We also believe that the approach to determining “significant modifications” of existing approved project would benefit from greater transparency and clarity.

Proposed Tallurutiup Imanga Marine Conservation Area (TINMCA)

QIA’s submissions of June 24, 2022 request that NPC include reference to requirements included in the Interim Management Plan (IMP), however, respectfully inclusion of this information in the NLUP would be premature as the IMP has not yet been publicly released for consultation and comment and so is not yet final. There are a number of other steps that must be completed before the TINMCA will be established.

The NPC should give consideration to whether the 2021 DNLUP approach to designations of proposed parks effectively establishes those areas without following the legal steps that are required to establish them. An alternative approach would be to identify such pending areas as areas of special interest, but not to include restrictions/prohibitions within such areas in the NLUP.

Mary River-Milne Inlet Linear Infrastructure Corridor

The Mary River Milne Inlet Linear Infrastructure Corridor currently referenced in the 2021 DNLUP should be renamed the Mary River Transportation Corridor (or such other suitable Inuit place name as identified by community members to NPC).

Baffinland suggests that rather than being designated a Limited Use area, the Mary River Transportation Corridor should be designated as a Valued Socio-Economic Component. Consistent with Appendix P of the NBRLUP, language in the 2021 DNLUP should be included that states that the location of the Mary River Transportation Corridor as shown on Map A Site #136 is approximate, and minor adjustments shall not require amendment to the land use plan.

On Ice Travel Routes

Baffinland also identified that ice bridging requirements over on-ice travel routes may not be feasible in a number of cases, and that a more site-specific approach is needed. Baffinland requests that the NPC:

- Revise the 2021 DNLUP to clarify that the conditional use provision is only required in Upingaaq if shipping is proposed to occur while land fast ice is present.
- Revise the 2021 DNLUP to replace specific guidance to develop an “ice bridging plan” with a general requirement to engage relevant communities in the development of a Safe Travel Policy. If ice bridging continues to be referenced it should be clearly acknowledged that this mitigation may not be feasible and that alternative mitigations exist, such as development of communication protocols, that would also conform to the NLUP. This policy can take unique features of the proposed activities, local and seasonal ice conditions, as well as the local community priorities into consideration to develop solutions that are safe, effective, and achievable.
- Revise the 2021 DNLUP to remove blanket requirements for geographic-based consultation with all municipal councils, hunters and trappers organizations and regional wildlife organizations within a 300 km radius of the route, and clarify consultation obligations by specifically identifying communities that have identified that they use the designated on ice travel routes, and requiring proponents to engage with those communities and relevant organizations within those communities that utilize on ice travel routes.

Conclusion

Baffinland appreciates the continued efforts of the NPC and all participants in the land use planning process to develop a NLUP in accordance with and as required by the NA. Baffinland reiterates its

commitment to participation in this process, and looks forward to continued engagement opportunities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Megan Lord-Hoyle".

Megan Lord-Hoyle
Vice President, Sustainable Development
Baffinland Iron Mines Corporation