



# **First Nation of Na-Cho Nyäk Dun**

## **Mining Policy**

**JUNE 24, 2024**

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## Definitions

**“Assessment”** is the assessment the FNNND Lands and Resources Department undertakes of the proposed Mineral Activity.

**“Consent”** is freely given, or withheld, without coercion, intimidation, or manipulation, sufficiently in advance of commencing activities, and is grounded upon sufficient, accessible, and relevant information to ensure an informed decision can be made by FNNND.

**“Council”** is FNNND’s elected leadership body, with the rights and responsibilities established by FNNND’s Constitution.

**“Determination”** is the finding the FNNND Lands and Resources Department makes regarding how FNNND should view the proposed Mineral Activity or if Council review is required.

**“Do Not Proceed Notice”** is a notice issued by FNNND to a Proponent, seeking the Proponent not move forward with its proposed project at this time.

**“Exploration Agreement”** is an agreement between FNNND and a Proponent with terms, conditions, and measures with which the Proponent’s exploration activities may occur in FNNND Traditional Territory with FNNND’s support.

**“First Nation of Na-Cho Nyäk Dun or FNNND”** is the governing body for the Na-Cho Nyäk Dun, with the rights and responsibilities established by FNNND’s Constitution.

**“FNNND Businesses”** are businesses that are majority owned and operated by FNNND citizens.

**“FNNND Mining Officer”** is the staff member responsible for leading FNNND’s work to implement the Policy and engage with Proponents on the basis of the Policy.

**“General Assembly”** is FNNND’s regular convening of their citizens, with the rights and responsibilities established by FNNND’s Constitution.

**“Impacts and Benefits Agreement”** is a comprehensive agreement between FNNND and a Proponent regarding how mineral development can proceed in the FNNND Traditional Territory with FNNND’s support.

**“Lands”** is the FNNND Lands and Resources Department.

**“Mineral Activity”** is all activity seeking to identify and extract minerals and includes mineral exploration and mineral development.

**“Na-Cho Nyäk Dun”** is loosely translated as “the families who come from these ancestral waters” and is the most northerly community of the Northern Tutchone language and culture group.

**“Policy”** is FNNND’s Mining Policy, developed to communicate FNNND’s approach to mining in the FNNND Traditional Territory.

**“Proponent”** is an individual or company who seeks to conduct work in the FNNND Traditional Territory to explore or develop mineral resources.

**“Reclamation”** is the return of disturbed land to a safe, stable, non-polluting and non-contaminating landform in an ecologically and socially sustainable manner that is productive and/or self-sustaining and is consistent with the agreed post-mining land use / protection.

**“Reclamation and Restoration Plan”** is a plan developed by Proponents to achieve Reclamation and Restoration of disturbed lands, and is shared with Lands for review and approval.

**“Restoration”** is any action or intervention intended to establish or re-establish ecosystem structure and function and promote the recovery of that ecosystem towards a reference model.

**“Support”** is support from FNNND and can include a variety of mechanisms demonstrating FNNND would like the Mineral Activity to proceed.

**“Traditional Territory”** is the lands and waters upon which the Na-Cho Nyäk Dun have depended on since time immemorial. A map of the FNNND Traditional Territory is attached as Appendix A.

## **1.0 About the First Nation of Na-Cho Nyäk Dun**

- 1.1 The First Nation of Na-Cho Nyäk Dun (“FNNND”) is a self-governing First Nation that represents the most northerly community of the Northern Tutchone language and culture group: the Na-Cho Nyäk Dun.<sup>1</sup>
- 1.2 FNNND supports sustainable development in the FNNND Traditional Territory when it is founded in FNNND’s ancient principles of reciprocity, is respectful of FNNND’s rights and interests, and is consistent with FNNND’s traditional use and ways of living in FNNND’s Traditional Territory.

## **2.0 Purpose of this Policy**

- 2.1 FNNND has developed this Mining Policy (the “Policy”) to communicate FNNND’s approach to mining in the FNNND Traditional Territory.
- 2.2 The Policy aims to provide clarity and transparency to Proponents seeking to conduct mineral exploration and development in the FNNND Traditional Territory, from staking a claim, to exploration activities, to constructing and operating a mine, to closure, Reclamation, and ecological Restoration (“Mineral Activity”).
- 2.3 The Policy seeks to ensure Proponents understand FNNND’s principles and procedures for Mineral Activity in the FNNND Traditional Territory.
- 2.4 The Policy reflects and applies best practices from the mining industry, including the Yukon Chamber of Mines’ Mineral Engagement & Consultation Tool,<sup>2</sup> the International Council on Mining and Metals’ Good Practice Guide on Indigenous Peoples and Mining,<sup>3</sup> and guidance from the Klondike Placer Miners’ Association.<sup>4</sup>
- 2.5 The Policy sets out:
  - 2.5.1 Recognition and respect for FNNND’s inherent, Aboriginal, and Treaty rights and title;
  - 2.5.2 FNNND’s guiding principles and approach to Mineral Activity in the FNNND Traditional Territory, which is rights-based and consent-based;

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<sup>1</sup> More information about FNNND is available on their website: <https://www.nndfn.com/>.

<sup>2</sup> Yukon Chamber of Mines, “Mineral Engagement & Consultation Tool,” <https://yukonmineralengagement.ca/bestpractices>.

<sup>3</sup> International Council on Mining and Metals, “Good Practice Guide: Indigenous Peoples and Mining,” <https://www.icmm.com/en-gb/guidance/social-performance/2015/indigenous-peoples-mining>.

<sup>4</sup> Klondike Placer Miners’ Association, “Responsibility,” <https://www.kpma.ca/responsibility/>.

- 2.5.3 Procedures for Proponents' engagement with FNNND, setting out how and when FNNND expects to engage with Proponents in each stage of the process, including staking, exploration, operation, closure, Reclamation, and Restoration; and
- 2.5.4 A framework for how FNNND will review and make decisions regarding proposed Mineral Activity in the FNNND Traditional Territory.

### **3.0 Application of Policy**

- 3.1 The Policy applies to all existing and new Mineral Activity in the FNNND Traditional Territory. A map of the Traditional Territory is attached as Appendix A.
- 3.2 The FNNND Traditional Territory spans parts of what is now known as the Yukon Territory ("Yukon") and the Northwest Territories. The Policy applies to proposed Mineral Activity in both jurisdictions.
- 3.3 At this time, FNNND shall not consider nor allow Mineral Activity on Settlement Lands, including both Category A and Category B Settlement Lands.
  - 3.3.1 At this time, use of Settlement Land to access Mineral Activity on Non-Settlement Land is not generally supported. This is an interim policy measure and FNNND will assess specific situations based on potential impacts and incurred risks to lands, waters, fish and wildlife, habitats and human health and well-being as they are interrelated and impact the exercise of FNNND rights.
  - 3.3.2 Note, however, the Policy applies to proposals involving accessing Settlement Land to facilitate Mineral Activity on Non-Settlement Land.
- 3.4 At this time, FNNND shall not consider and will strongly oppose Mineral Activity on wetlands.
- 3.5 The Policy applies to all Proponents—whether individuals, corporations, or other legal entities—who seek to stake a claim, explore mineral resources, or develop mineral resources in FNNND Traditional Territory.
- 3.6 The Policy takes effect as of June 24, 2024. A copy of FNNND Chief and Council Resolution #081-2024 approving the Policy is attached as Appendix B.
- 3.7 The Policy will be reviewed by FNNND periodically and revised as appropriate, such as in response to new mineral legislation, land use planning efforts, and evolving understandings of climate impacts.
- 3.8 The Policy is a living document and is subject to change at any time by FNNND, at FNNND's sole discretion.

#### **4.0 FNNND's Guiding Principles for Mining-Related Decisions**

- 4.1 FNNND hold an inherent right to steward their Traditional Territory with the sacred obligation to preserve and protect it for future generations.
- 4.2 The FNNND Traditional Territory provides the lands and resources upon which the Na-Cho Nyäk Dun have survived and thrived since time immemorial.
- 4.3 FNNND are guided by the four principles of Dän Ki ("Our Way"), which includes:
  - 4.3.1 Respect – Nálats'int'ra: Treat people the way you would like to be treated, using kindness in your heart. Behave as you would like others to behave. Never assume, always ask, tell the truth, be honest, be patient, and show compassion to one another.
  - 4.3.2 Caring – Lek'ats'ete: Take care of yourself, your family, pets, and community. This was a value taught to us from our ancestors, it is our duty as First Nation citizens to carry on this virtue with caring for our people.
  - 4.3.3 Sharing – Leyáts'ele: Share your traditional knowledge to the younger generation. As First Nation's people, we were taught to share with others, especially the youth so that our traditional ways are never lost.
  - 4.3.4 Teaching – Häts'edän: Ensure your children know their traditional values by teaching them. If you do not know, ask an Elder. It is important to know who you are as a First Nation citizen so that you can pass on this virtue to the next generation.

##### ***i. FNNND Rights and Obligation to Govern their Traditional Territory***

- 4.4 FNNND have held an inherent and inalienable right to govern their Traditional Territory since time immemorial and exercise their governance rights across the FNNND Traditional Territory.
- 4.5 The *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP") requires the free, prior, and informed consent of affected Indigenous peoples before undertaking projects that affect Indigenous peoples' rights to land, territory, and resources, including mining.<sup>5</sup> UNDRIP has now been adopted into law in Canada.
- 4.6 FNNND exercise constitutionally protected Aboriginal and treaty rights, including those enshrined in the *First Nation of Nacho Nyak Dun Final Agreement* (the "Final

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<sup>5</sup> See, e.g.: *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UNGAOR, 61st Sess, Suppl no 49, UN Doc A/RES/61/295 (2 October 2007), Article 32(2).

Agreement”)<sup>6</sup> and the *First Nation of Nacho Nyak Dun Self-Government Agreement* (the “Self-Government Agreement,” and together, the “Treaty”).<sup>7</sup>

- 4.7 FNNND’s Treaty affirms their right to determine, with public government, how land and resources are used, and to benefit from development of their Traditional Territory.
- 4.8 The Final Agreement commits to ensuring all development in the FNNND Traditional Territory shall be Sustainable Development, defined as “beneficial socio-economic change that does not undermine the ecological and social systems on which communities and societies are dependent.”<sup>8</sup>
- 4.9 The Final Agreement sets out tools of co-governance between FNNND and public government to ensure Sustainable Development. One such tool is regional land use planning, pursuant to Chapter 11 of the Final Agreement, which seeks to ensure FNNND determines, in partnership with public government, whether, where, and how development can take place in the FNNND Traditional Territory.
- 4.10 FNNND, in partnership with Yukon Government and pursuant to the provisions of Chapter 11 of the Final Agreement, has recently commenced a land use planning process for the FNNND Traditional Territory within Yukon outside of overlap areas. FNNND seeks to ensure the integrity of their land use planning process, by ensuring that the objectives and provisions of the ultimate FNNND land use plan can be implemented and honoured. To that end, FNNND’s General Assembly adopted a resolution in October 2022, attached as Appendix C, which directs that new mining activities in the FNNND Traditional Territory will only be considered if they abide by certain principles, including respect for FNNND’s role as stewards of their Traditional Territory.
- 4.11 The Yukon Court of Appeal recently affirmed FNNND’s concern that authorizing development in the absence of a land use plan risks jeopardizing the future land use plan.<sup>9</sup> This underscores the need to ensure mineral activity proceeds only if—and when—FNNND provides free, prior, and informed Consent for such Mineral Activity.

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<sup>6</sup> *First Nation of Nacho Nyak Dun Final Agreement*, <https://www.rcaanc-cirnac.gc.ca/eng/1294431204858/1542818525983>.

<sup>7</sup> *First Nation of Nacho Nyak Dun Self-Government Agreement*, <https://www.rcaanc-cirnac.gc.ca/eng/1100100030751/1542818964374>.

<sup>8</sup> *First Nation of Nacho Nyak Dun Final Agreement*, <https://www.rcaanc-cirnac.gc.ca/eng/1294431204858/1542818525983>.

<sup>9</sup> *First Nation of Na-Cho Nyak Dun v. Yukon (Government of)*, 2024 YKCA 5, para. 159.



*ii. FNNND's Core Principles for Mineral Activity*

- 4.12 FNNND will exercise their decision-making rights and authority to ensure that all Mineral Activity in the FNNND Traditional Territory is consistent with FNNND's Core Principles, which include:
- 4.12.1 Protect and advance FNNND's Aboriginal and treaty rights, UNDRIP, and inherent rights, title, interests, and ways of living;
  - 4.12.2 Ensure Sustainable Development of the FNNND Traditional Territory with a holistic and integrated view of cumulative effects and socio-cultural and socio-economic impacts, such that FNNND's relationships with their land, waters, and wildlife are protected and preserved;
  - 4.12.3 Advance FNNND self-governance and self-determination, including by providing meaningful economic benefits to FNNND and their people.
- 4.13 FNNND seeks to work in partnership with their treaty partners, the Yukon Government and the Government of Canada, to share decision-making over Mineral Activity in the FNNND Traditional Territory.
- 4.14 FNNND endorses the vision articulated in the First Nation Youth Climate Action Fellowship's Reconnection Vision,<sup>10</sup> including the following with respect to extraction activities in FNNND Traditional Territory:
- 4.14.1 FNNND grandchildren will have a relationship with everything they need, and the current models of extraction will be transformed;
  - 4.14.2 Mining policies will be reformed to support the local economy and reflect reciprocity; and
  - 4.14.3 Return on FNNND's investments will be transformed to prioritize the health and well-being of the communities that are part of these networks.
- 4.15 FNNND will consider working collaboratively with Proponents who seek a relationship with FNNND based on:
- 4.15.1 Recognition and respect for FNNND's Aboriginal and treaty rights, title, interests, and ways of living; and
  - 4.15.2 A commitment to abide by FNNND's Core Principles, including protecting and advancing FNNND's Aboriginal and treaty rights, title, interests, and

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<sup>10</sup> Yukon First Nation Youth Climate Action Fellowship, *Reconnection Vision* (2023), <https://reconnection.vision/>.

ways of living; ensuring Sustainable Development in the FNNND Traditional Territory; and advancing FNNND's self-governance and self-determination.

“ICMM company members commit to:  
Engage with potentially impacted Indigenous Peoples with the objectives of i) ensuring that the development of mining and metals projects fosters respect for the rights, interests, aspirations, culture and natural resource-based livelihoods of Indigenous Peoples; (ii) designing projects to avoid adverse impacts and minimizing, managing or compensating for unavoidable residual impacts; and (iii) ensuring sustainable benefits and opportunities for Indigenous Peoples through the development of mining and metals projects.”  
*ICMM, Indigenous Peoples and Mining, Good Practice Guide*

## 5.0 Procedures for FNNND's Decisions Regarding Mineral Activity

- 5.1 Proponents are advised to maintain all contact with the FNNND Mining Officer in the Lands & Resources Department (“Lands”) at [development@nndfn.com](mailto:development@nndfn.com).
- 5.2 FNNND expects Proponents to engage FNNND prior to submitting any project proposals to assessment or regulatory bodies.

“Engagement should begin before a project is designed in order to include First Nation perspectives at a point where it will impact that design. By doing so, these perspectives will then have impact at all stages and scales of exploration work.... Ideally, industry engagement with First Nations will begin before applications are made to government.”  
*Yukon Chamber of Mines, Mineral Engagement and Consultation Tool*

- 5.3 FNNND's working relationship with Proponents will be framed by one or more written agreements to ensure FNNND's Core Principles are protected and advanced by the Proponent's work in FNNND Traditional Territory.
- 5.4 FNNND expects Proponents to be transparent, accountable, and forthcoming in all communications and engagement with FNNND.

“Developing positive relationships with First Nations based on transparent and open communications will help bring build investor certainty and facilitate a predictable assessment and permitting process.”  
*Yukon Chamber of Mines, Mineral Engagement and Consultation Tool*

- 5.5 FNNND's actions, perspectives, and decisions under the Policy will be based on the best available Traditional Knowledge, other scientific information, and expert opinion.
- 5.6 Where FNNND's Traditional Knowledge or land use information is shared with a Proponent, FNNND shall seek to conclude a written agreement for the use, handling, and security of the information which provides:

- 5.6.1 Such information will be handled in a manner consistent with the First Nations' principles of ownership, control, access, and possession ("OCAP®");<sup>11</sup>
- 5.6.2 The information is acknowledged as FNNND's intellectual property;
- 5.6.3 The only permissible methods for accessing, retaining, using, disclosing, and disposing of such information; and
- 5.6.4 Any costs to FNNND in the production or transfer of the information are recovered from the Proponent.
- 5.7 Proponents will generally be required to fully support FNNND's costs for reviewing proposals, engaging with Proponents, and participating in assessment, regulatory, and consultation processes, including for FNNND's expert technical and legal assistance:
  - 5.7.1 FNNND will obtain legal and expert technical advice at FNNND's discretion; and
  - 5.7.2 FNNND will obtain legal and expert technical review of draft agreements before they are considered for approval by Council and the General Assembly.

#### **STEP 1: MOU with FNNND**

- 5.8 A Proponent seeking to undertake proposed Mineral Activity in the FNNND Traditional Territory shall submit a written request for FNNND's Consent and Support to the FNNND Mining Officer in the Lands & Resources Department at [development@nndfn.com](mailto:development@nndfn.com), along with the following information:
  - 5.8.1 Details about the type of Mineral Activity proposed, including nature of exploration and prospecting activities, management of waste, camp size and type, aircraft and ground equipment, etc.;
  - 5.8.2 Proposed date of entry and duration of occupation;
  - 5.8.3 Location of all proposed activities demarcated on an appropriately scaled map(s) which include:
    - 5.8.3.1 Claim boundaries (if applicable) or boundaries of proposed activities;
    - 5.8.3.2 Activity locations and accompanying legend;

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<sup>11</sup> First Nations Information Governance Centre, "First Nations Principles of OCAP®," <https://www.fnigc.ca/OCAP-training/>.

- 5.8.3.3 Existing infrastructure such as cabins, camps, existing roads/trails, drill pads, etc;
- 5.8.3.4 Identification of scale and regional inset if applicable;
- 5.8.3.5 Any mapped wetland areas, known wildlife areas, special habitats, heritage/archaeological sites or other locations of interest; and
- 5.8.3.6 Accompanying spatial file (.shp, .kml, or a .ZIP containing a FileGDB or shapefiles).
- 5.8.4 Overview of any preliminary and/or baseline sampling, studies, and other work which has been conducted in the proposed work area to date (i.e., water and environmental sampling programs, fish and wildlife surveys, permafrost and terrain assessments, socio-economic studies, heritage studies, etc.);
- 5.8.5 Whether the Mineral Activity is in conformity with any land use plans, fish and wildlife management plans, climate adaptation plans, or other plans that exist for the project location, whether in draft form or approved;
- 5.8.6 Proposed mode and frequency of access to the FNNND Traditional Territory;
- 5.8.7 Proposed number of people who will be in the FNNND Traditional Territory and duration of their stay;
- 5.8.8 Types of impacts anticipated, including environmental, socio-cultural, socio-economic, and cumulative;
- 5.8.9 Status of proposal in assessment process, if any;
- 5.8.10 Regulatory approvals expected to be required;
- 5.8.11 Any proposal for benefits to FNNND and their community, including but not limited to, direct ownership in Mineral Activity, revenue sharing and related calculation methods, direct ownership in critical infrastructure and equipment, career development and hiring, and/or contracting and development of FNNND Businesses;
- 5.8.12 Proposed procurement plan for use of FNNND Businesses;
- 5.8.13 Plans for terminating activity, Reclamation and ecological Restoration, and exiting the FNNND Traditional Territory, including lifecycle timelines and associated budgets for doing so;
- 5.8.14 Overview of the Proponent's history of work in the Yukon and elsewhere, if applicable, and with Indigenous communities;

- 5.8.15 Statement of qualifications for key personnel working on the Mineral Activity, with particular attention to the applicability of their qualifications in working with self-governing First Nations, and in climates such as that of the FNNND Traditional Territory;
  - 5.8.16 Identification of appropriate company contact person(s), including primary and secondary contacts;
  - 5.8.17 Confirmation the proposed activity shall not move forward without Consent from FNNND; and
  - 5.8.18 Other information that would be relevant to FNNND decision making regarding the proposed project.
- 5.9 Lands will invite Proponents to enter into a Memorandum of Understanding (“MOU”) with FNNND, which sets out fundamental aspects of FNNND’s relationships with Proponents.
- 5.10 This MOU will confirm that the Proponent will not move forward with the proposed Mineral Activity without FNNND’s Consent. Such a commitment enables FNNND’s review and consideration to proceed more effectively and efficiently.

“In ICMM’s view, FPIC comprises a process and an outcome.  
Through this process Indigenous Peoples are:

- able to freely make decisions without coercion, intimidation or manipulation
- given sufficient time to be involved in project decision making before key decisions are made and impacts occur
- fully informed about the project and its potential impacts and benefits.”

*ICMM, Good Practice Guide*

- 5.11 The FNNND Mining Officer shall respond in writing to the Proponent within 20 business days to confirm receipt of the signed MOU and provide next steps, and shall also:
- 5.11.1 Provide the Proponent with FNNND’s guiding documents for land and resource management in the FNNND Traditional Territory, including those identified in Appendix D;
  - 5.11.2 Provide the Proponent with FNNND’s Communications Protocol, as set out in Appendix E; and
  - 5.11.3 Inform Proponents that FNNND’s Consent and Support must be formally obtained from FNNND, and communications for such purposes should be through the FNNND Mining Officer or through other contacts which they may advise.

“Become familiar with the First Nation’s existing engagement guidelines and protocols. In many cases the ‘how to engage’ will change depending on the phase of exploration. If a good foundation is set early, a comfort level built on familiarity and respect will evolve to the benefit of the First Nation and the company.”

*Yukon Chamber of Mines, Mineral Engagement and Consultation Tool*

## **STEP 2: Lands’ Assessment of Proposed Mineral Activity**

- 5.12 Upon receiving a signed MOU from Proponents, Lands will initiate an assessment of the proposed activity and give full and fair consideration to the information received from the Proponent (the “Assessment”).
- 5.12.1 As part of the Assessment, Lands may work with the Proponent to obtain drone photos to gather baseline data and inventory water, wetlands, soils, and fish and wildlife within the proposed project area.
- 5.13 If Lands determines additional information is required for the Assessment, Lands shall request such information from the Proponent in writing. It is the expectation of FNNND that the Proponent will be forthcoming with this information in a timely manner.
- 5.14 Once Lands has the information required to conduct an Assessment, they shall do so and shall consider:
- 5.14.1 The location of the project site or activity;
- 5.14.2 The nature and scale of the proposed activity;
- 5.14.3 The management intent for the proposed project’s location, as developed by FNNND’s land use planning efforts;
- 5.14.4 The proposed project’s potential impacts on the FNNND Traditional Territory, including the lands, waters, and wildlife, individually and combined with the cumulative impacts of development on the FNNND Traditional Territory;
- 5.14.5 The proposed project’s potential impacts on the exercise of FNNND’s Aboriginal and treaty rights and ways of living thereupon, individually and combined with the cumulative impacts of development on the FNNND Traditional Territory;
- 5.14.6 The adequacy and sufficiency of the proposed Reclamation and Restoration activities for the proposed project;
- 5.14.7 Whether the proposed activity is likely to impact, hinder, or obstruct FNNND’s land use planning efforts or other ongoing and forthcoming

management efforts and programs such as maintenance of reference sites, habitats, and waters for long-term monitoring; and

- 5.14.8 Whether the proposed activity is consistent with FNNND's Core Principles.
- 5.15 In conducting the Assessment, Lands may engage individual FNNND citizens and families who may hold Traditional Knowledge or information relevant to the proposed activity.
- 5.16 Lands may also engage legal or technical advisors, including FNNND's development corporation, as needed, to conduct the Assessment.

"Part of maintaining a sustainable placer mining industry in the territory requires building and maintaining relationships with First Nation governments to ensure ecological sustainability, social equity and economic vitality."

*Klondike Placer Miners' Association, Responsibility*

### **STEP 3: Lands' Determination on Proposed Mineral Activity**

- 5.17 Upon concluding the Assessment of the proposed Mineral Activity, Lands shall make a Determination on whether FNNND could give Consent and Support for the proposed activity, based on whether the proposal is consistent with FNNND's Core Principles, guiding documents for land and resource management in the FNNND Traditional Territory, and/or other relevant policies, guidelines, or land use plans developed by FNNND.
- 5.18 Lands may determine the proposed activity is inconsistent with FNNND's Core Principles and approach to Mineral Activity. Lands will then issue a Do Not Proceed Notice to the Proponent.
- 5.19 Where the Proponent demonstrates compliance with a Do Not Proceed Notice, FNNND shall consider providing public support to Proponents, such as through press releases or other media communications.
- 5.20 If the Proponent fails to comply with a Do Not Proceed Notice, FNNND shall consider and may pursue appropriate action, legal or otherwise, to enforce this direction.
- 5.21 Lands may also refer the proposed activity to Council for their review.

### **POTENTIAL NEXT STEPS: Review by Council and/or Citizens**

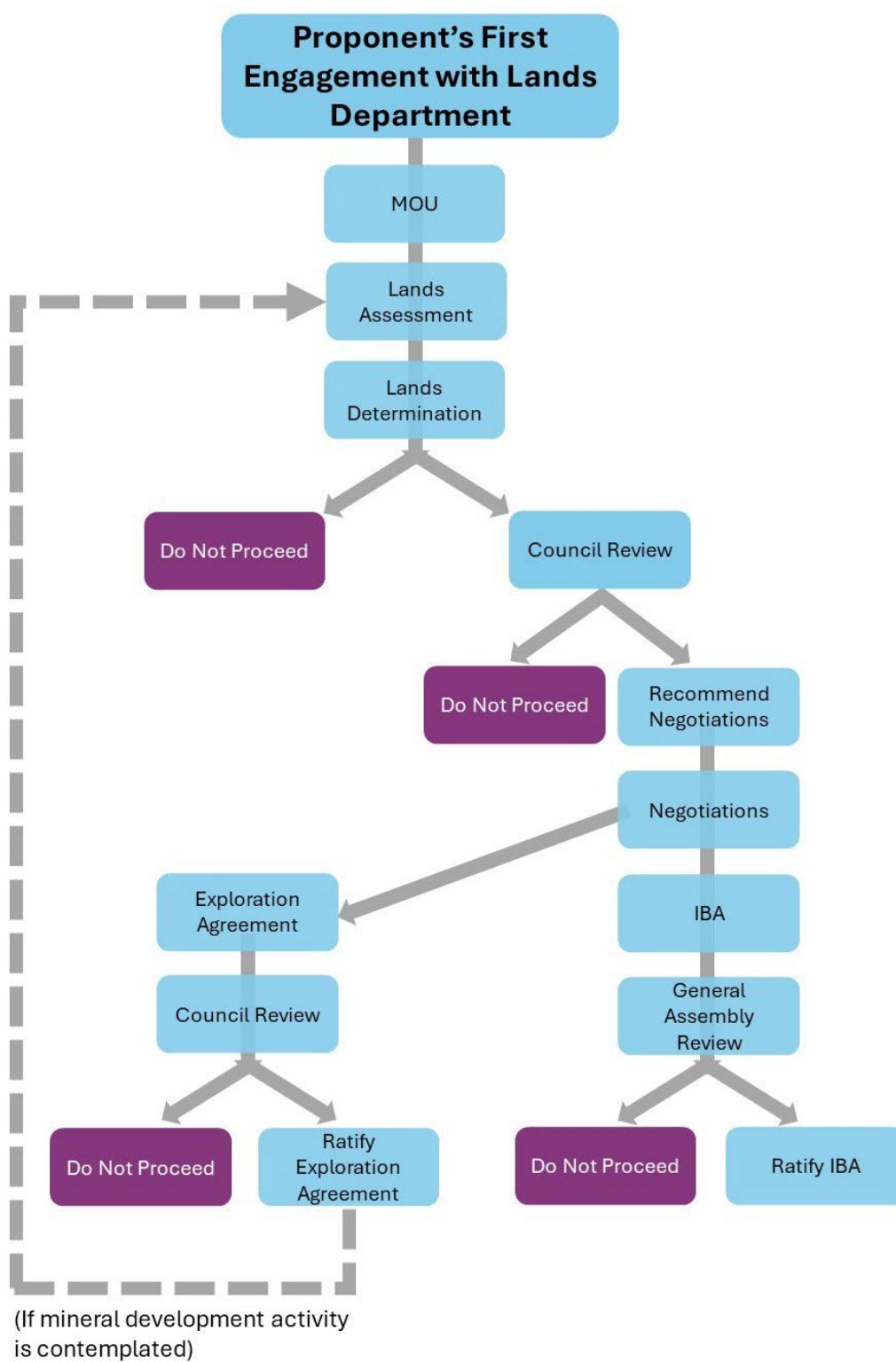
- 5.22 If Lands refers proposed Mineral Activity to Council, Lands shall provide information about the proposed Mineral Activity to Council for their review and consideration.

- 5.23 Council may determine negotiations with the Proponent are required towards an Exploration Agreement or an Impacts and Benefits Agreement (“IBA”) (collectively, an “Agreement”), depending on the scope and scale of the proposed activity.
- 5.24 FNNND will seek to ensure it has the necessary technical, legal, and financial resources and capacity to develop a rights-respecting Agreement. FNNND may enter into an interim arrangement with the Proponent and/or a government entity, on a without prejudice basis, to acquire the necessary resources and capacity.
- 5.25 Developing an Agreement may require further information from the Proponent, either in writing, through meetings with the Proponent, or both.
- 5.26 Developing an Agreement may also require the Proponent to conduct current baseline or other studies, field investigations, or other work to address uncertainty about the potential effects of the activity or necessary terms and conditions of an authorization or agreement.
- 5.27 An Agreement shall advance FNNND’s Core Principles, and may include:
  - 5.27.1 The standard provisions in Appendix F;
  - 5.27.2 Terms of entry to the FNNND Traditional Territory, including the following:
    - 5.27.2.1 Description of work to be undertaken, including equipment to be used;
    - 5.27.2.2 Access routes and methods for the program;
    - 5.27.2.3 Timing and duration of entry and exploration activity;
    - 5.27.2.4 Size and location of workforce;
    - 5.27.2.5 Access and inspection fees to be paid to FNNND;
    - 5.27.2.6 Onsite FNNND presence; and
    - 5.27.2.7 Security and/or bonding;
  - 5.27.3 Monitoring and site inspections, including FNNND’s role in the same;
  - 5.27.4 Plans for compensation to FNNND or their citizens for any disturbance or interference with FNNND land use activities or interests that may be affected by exploration;
  - 5.27.5 Environmental protection measures, including waste management;
  - 5.27.6 Reporting requirements to FNNND;



- 5.27.7 Terms for leaving the FNNND Traditional Territory, including closure, Reclamation and Restoration measures, and performance security;
  - 5.27.8 Mechanisms for negotiating the next stage of the relationship between the parties if subsequent exploration and development work is to be undertaken by the Proponent in future years;
  - 5.27.9 Economic benefits to FNNND and community members, including direct ownership in the project, direct ownership in key infrastructure, business, employment, education, and training opportunities; and
  - 5.27.10 Other such measures as FNNND and the Proponent agree.
- 5.28 If an Exploration Agreement is concluded successfully, Council will review and may ratify it.
- 5.29 If a Proponent with an Exploration Agreement with FNNND then seeks to undertake mineral development activity, the Proponent shall engage Lands to facilitate a new Assessment of the proposed development activity.
- 5.29.1 Lands may determine the proposed development activity is inconsistent with FNNND's Core Principles and approach to Mineral Activity. Lands will then issue a Do Not Proceed Notice to the Proponent.
  - 5.29.2 Alternatively, Lands may refer the proposed development activity to Council for their review.
    - 5.29.2.1 Council may determine the proposed development activity is inconsistent with FNNND's Core Principles and approach to Mineral Activity. Lands will then issue a Do Not Proceed Notice to the Proponent.
    - 5.29.2.2 Alternatively, Council may determine negotiations are required towards an IBA with the Proponent, reflecting a shared understanding of how the proposed development activity can proceed with FNNND's Consent and Support.
- 5.30 If an IBA is concluded successfully, a convening of FNNND's members (i.e., a General Assembly, Special Assembly, General Meeting, etc) will review and may ratify it.

### Flowchart for FNNND's Mining Related Decisions



## **6.0 Yukon Environment and Socio-economic Assessment Board Assessments**

- 6.1 FNNND expects Proponents to submit project applications to Yukon Environment and Socio-economic Assessment Board (“YESAB”) and/or the Crown and/or regulatory bodies only with FNNND’s Consent and Support.
  - 6.1.1 For greater certainty, FNNND expects Proponents to engage with FNNND prior to submitting applications to assessment or regulatory bodies.
- 6.2 Regardless of FNNND’s Determination or ultimate decisions on proposed Mineral Activity, FNNND shall determine, in their sole discretion, the nature and scope of their involvement in all YESAB, Crown, and regulatory proceedings on proposed activity.
- 6.3 For greater certainty, nothing in this Policy purports to restrict FNNND’s rights and ability to advance any good faith views, positions, perspectives, or concerns in YESAB, Crown, and regulatory proceedings.
- 6.4 FNNND shall seek to ensure its participation in the YESAB assessment process is adequately resourced by the Proponent and/or the Crown.

## **7.0 Reclamation and Ecological Restoration**

- 7.1 FNNND expects Proponents working in the FNNND Traditional Territory to undertake state-of-the-art progressive Reclamation and ecological Restoration and follow international best practices.
- 7.2 FNNND expects Proponents to develop a Reclamation and Restoration Plan, which is shared with Lands for review and approval.
- 7.3 In developing a Reclamation and Restoration Plan, the Proponent must address: Reclamation and Restoration objectives; baseline data; timelines; positive and negative environmental, socio-economic, cultural, and rights-based impacts of operations and Reclamation and Restoration work; proposed mitigations; specified methods; monitoring plans; completion criteria; land use planning or other objectives for the project area; and costs for Reclamation and Restoration.
- 7.4 Reclamation and Restoration Plans must be informed by reference ecosystems while considering environmental change and seek the highest level of ecosystem recovery attainable.
- 7.5 Reclamation and Restoration Plans must identify measurable indicators that will measure progress and cumulative value over the life of the project to meet completion criteria.
- 7.6 Reclamation and Restoration Plans must integrate community and FNNND guidance in articulating objectives around returning land uses and defining when Reclamation or

Restoration is deemed complete, including monitoring and management provisions to reach those objectives.

- 7.7 Reclamation and Restoration Plans must include provisions for annual reporting of Reclamation and Restoration activities which may include the following elements:
  - 7.7.1 Current digital, spatial data of all linear and surface disturbance and its status;
  - 7.7.2 Outline of progress on achieving Reclamation and Restoration goals;
  - 7.7.3 Summary of ongoing monitoring of Reclamation and Restoration activities, including all measurable indicators against clear goals and completion criteria defined in the plans; and
  - 7.7.4 Articulation of plans and next steps in further advancing Reclamation and Restoration efforts, including changes to methods and timing, in order to better achieve agreed goals and completion criteria.
- 7.8 Reclamation and Restoration Plans must provide inventory of existing liabilities on site and define methods and costs for their remediation.
- 7.9 Reclamation and Restoration Plans must clearly articulate responsibilities for legacy infrastructure and disturbances on site and define responsibilities and liabilities in the case of sale or transfer of assets, tenure, and operations. This should be clearly defined in transparent communication with FNNND.
- 7.10 Reclamation and Restoration Plans must create avenues for businesses owned by FNNND to partake in Reclamation and Restoration operations at every possible project stage and prioritize FNNND Businesses over other businesses for available work.

## **8.0 Relationship of Policy to Aboriginal, Treaty, and UNDRIP Rights**

- 8.1 The Policy and its procedures are without prejudice and shall be construed as:
  - 8.1.1 Upholding Aboriginal and treaty rights recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as abrogating or derogating from them;
  - 8.1.2 Upholding the rights protected by the *United Nations Declaration on the Rights of Indigenous Peoples*, which has now been legally adopted in Canada, and not as abrogating or derogating from them; and
  - 8.1.3 Not limiting or fettering the right of FNNND to advocate before assessment bodies, courts, or Crown bodies, regarding the existence, nature, or scope of any Aboriginal treaty or inherent right of FNNND, or of any fiduciary or other legal duty or obligation owed by the Crown to FNNND.

**9.0 Review of Policy**

- 9.1 FNNND shall review and make any necessary changes to the Policy periodically as required, in FNNND's sole discretion.

**Appendix A**  
**Map of FNNND Traditional Territory**

**Appendix B**  
**Chief and Council Resolution #081-2024 Approving the Mining Policy**

**Appendix C**  
**Principles to Govern Mining in the**  
**Traditional Territory of the First Nation of Na-Cho Nyäk Dun**

Resolution passed by October 22, 2022 General Assembly



**Appendix D**  
**Guiding Documents for Land and Resource Management of the**  
**FNNND Traditional Territory**

- *Nacho Nyak Dun Final Agreement;*
- *Nacho Nyak Dun Self-Government Agreement;*
- Mining Policy;
- FNNND's *Lands and Resources Act*;
- Reconnection Vision, Yukon First Nation Climate Action Fellowship (2023);
- October 2022 General Assembly Resolution #3;
- June 2018 Annual General Assembly Resolution #3;
- 2017 Annual General Assembly Resolution #6; and
- 2017 Annual General Assembly Resolution #7.

**Appendix E**  
**Communications Protocol with Proponents**

**Appendix F**  
**Standard Terms in FNNND's Agreements with Mining Proponents**

FNNND's mining-related agreements with Proponents will generally include:

1. Objectives of the agreement;
2. Description of the parties and project;
3. Principles to guide the parties' work together;
4. Protocols for communication and ongoing engagement;
5. Information governance protocols consistent with OCAP®;
6. Measures to respect the land use planning process and eventual land use plan;
7. Mechanisms for environmental monitoring and adaptive management;
8. Mechanisms for progressive ecological Restoration;
9. Mechanisms for financial benefits to FNNND and community members;
10. Resource revenue sharing arrangements;
11. Mechanisms for reviewing and amending the agreement;
12. Mechanisms and funding for implementation;
13. Dispute resolution process;
14. Principles to guide interpretation of the agreement;
15. Term;
16. Termination rights and mechanisms; and
17. Other matters to which the Parties agree.