



## **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 ICM’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.”

*ICM, 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**

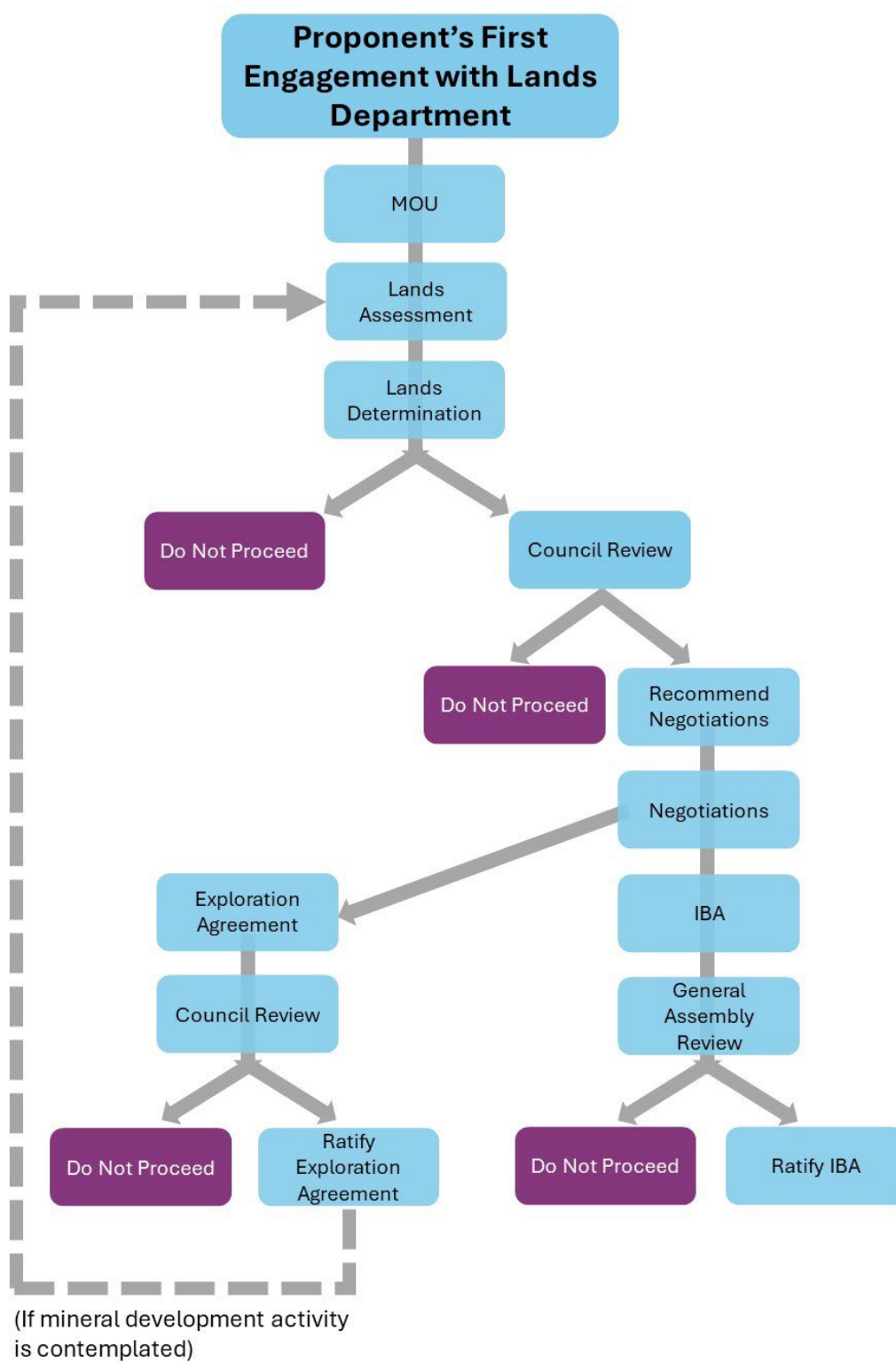
- 5.22 If Lands refers proposed Mineral Activity to Council, Lands shall provide information about the proposed Mineral Activity to Council for their review and consideration.

- 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.

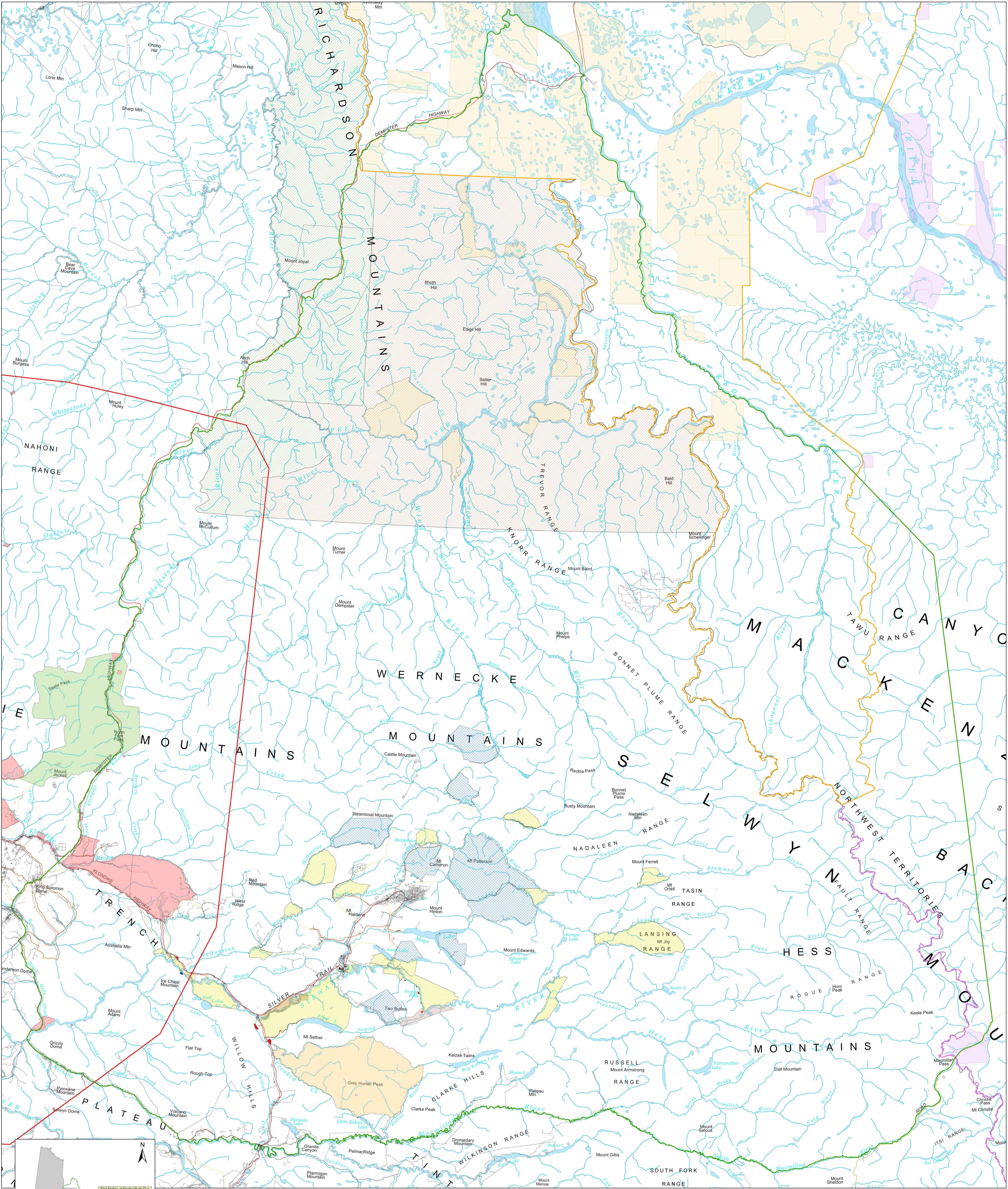
**9.0 Review of Policy**

- 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**



# First Nation of Nacho Nyak Dun Traditional Territory



Digital Data Sources and Disclaimers:  
National Topographic Data Base (NTDB) compiled by Natural Resources Canada at 1:250,000. Reproduced under license from Her Majesty the Queen in Right of Canada, with permission of Natural Resources Canada.

- |   |   |   |   |
|---|---|---|---|
| <ul style="list-style-type: none"><li>NND Traditional Territory</li><li>NNDNF Land Selections<ul style="list-style-type: none"><li>Category A - 2,407.88 sq. km</li><li>Category B - 2,332.27 sq. km</li><li>Community Lands</li><li>Reserve</li><li>Site Specifics</li></ul></li></ul> | <ul style="list-style-type: none"><li>Gwich'in Settlement Area</li><li>Gwich'in Settlement Lands</li><li>Tettit Gwich'in Primary Use</li><li>Tettit Gwich'in Secondary Use</li><li>Sahtu Settlement Area</li><li>Sahtu Settlement Lands</li></ul> | <ul style="list-style-type: none"><li>Trondek Hwech'in Traditional Territory</li><li>Trondek Hwech'in Settlement Lands</li><li>Tombstone Territorial Park</li></ul> | <b>Habitat Protection Areas</b> <ul style="list-style-type: none"><li>Big Island</li><li>Dhaw Ghro</li><li>Devil's Elbow</li><li>Horseshoe Slough</li></ul> |
|---|---|---|---|



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



First Nation of Na-Cho Nyak Dun  
P.O. Box 220  
Mayo, Yukon Y0B-1M0  
Phone: (867) 996-2265  
Fax: (867) 996-2107



## CHIEF AND COUNCIL RESOLUTION

**Resolution:** #081-2024

**Subject:** First Nation of Na-Cho Nyäk Dun Mining Policy and Related Documents

**Date:** June 24, 2024

### WHEREAS:

1. The Traditional Territory of the First Nation of Na-Cho Nyäk Dun ("FNNND") provides the lands and resources upon which our First Nation has survived and thrived since time immemorial.
2. FNNND's stewardship of the Traditional Territory is guided by the four principles of Dän Ki ("Our Way"), which includes Respect (Nátats'int'ra), Care (Łek'ats'ete), Share (Łeyáts'ele), and Teach (Häts'edän).
3. Development, including mineral development, is adversely and cumulatively impacting the Traditional Territory of FNNND and the exercise of FNNND's constitutionally-protected Aboriginal and Treaty rights.
4. In particular, the FNNND Traditional Territory has been ground zero for mining activities, with over a century of destructive and unsustainable mining practices that have caused irrevocable harm to the lands, waters, plants, and animals here.
5. Of particular urgency is today's news of the heap leach failure at the Victoria Gold Mine and its potential catastrophic effects on the surrounding waters and wildlife in the FNNND Traditional Territory.
6. The *United Nations Declaration on the Rights of Indigenous Peoples* has been incorporated into the law of Canada and affirms that industrial development must not occur on the Traditional Territory of an Indigenous people without that people's free, prior, and informed consent.
7. The *Nacho Nyak Dun Final Agreement* is a constitutionally-protected modern treaty that promises that development in the FNNND Traditional Territory will be Sustainable Development, which is defined as, "beneficial socio-economic change that does not undermine the ecological and social systems on which communities and societies are dependent."
8. A core objective of the *Nacho Nyak Dun Final Agreement* is to respect FNNND's inherent and Treaty right to co-govern and co-manage the Traditional Territory with public government, including through Chapter 11 regional land use planning that determines whether and where development can take place.
9. FNNND has sought to engage public government in a Chapter 11 land use planning process for nearly three decades, yet this process is still in its nascent stages.
10. The mining currently occurring in the FNNND Traditional Territory is not Sustainable Development and does not respect FNNND's governance role.
11. The calls by FNNND to its Treaty partners to cease authorizing destructive and unsustainable mining activities and to embrace FNNND as partners in governance have fallen on deaf ears, in breach of these core promises of the Final Agreement and in violation of the honour of the Crown.

Several handwritten signatures in blue ink are visible at the bottom right of the page. There are approximately five distinct signatures, some appearing to be initials or first names, and others more elaborate.

12. In the absence of land use planning and in the face of an onslaught of mineral activity, FNNND must take all necessary steps to exercise our self-governance, and protect and defend our Aboriginal and Treaty rights and our Traditional Territory.

**THEREFORE BE IT RESOLVED THAT** Council hereby:

1. Adopts the FNNND Mining Policy with amendments as discussed to set forth FNNND's approach to mining in the Traditional Territory and provide clarity and transparency to proponents and our Treaty partners regarding FNNND's principles and procedures for mineral activity in the Traditional Territory.
2. Adopts the agreements and protocols referenced within and related to the FNNND Mining Policy, including the Memorandum of Understanding, Exploration Agreement, Communications Protocol, and Implementation Plan.
3. Directs FNNND's Lands and Resources Department, administration, and outside counsel to undertake the activities set forth in the Implementation Plan to ensure proponents and our Treaty partners understand, respect, and adhere to the FNNND Mining Policy.
4. Directs FNNND's Lands and Resources Department, administration, and outside counsel to undertake a yearly review of the implementation of the Mining Policy and its related documents, and recommend any necessary amendments to Council for approval.

**Moved By:** Paul Profeit

*PP*

**Seconded By:** Geri-Lee Buyck

**Decision:** Passed By Consensus: x

Passed By Majority:

Defeated:

**In Favour:**

**Opposed:**

**Abstained:**

<i>R. Hape</i>		
<i>T.B.</i>		
<i>OK</i>		
<i>Paul Profeit</i>		
<i>Robert Hape</i>		

**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

First Nation of Na-Cho Nyak Dun  
P.O. Box 220  
Mayo, Yukon Y0B-1M0  
Phone: (867) 996-2265  
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## **FIRST NATION OF NA-CHO NYAK DUN OCTOBER 2022 GENERAL MEETING RESOLUTION # 003**

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

**WHEREAS** the Traditional Territory of the First Nation of Na-Cho Nyäk Dun (“FNNND Traditional Territory”) provides the lands and resources upon which our First Nation has survived and thrived since time immemorial;

**AND WHEREAS** we are stewards of the FNNND Traditional Territory and have a sacred obligation to preserve and protect it for future generations;

**AND WHEREAS** development, including mineral development, is adversely impacting the FNNND Traditional Territory and the exercise of our constitutionally-protected Aboriginal and treaty rights;

**AND WHEREAS** the cumulative impacts of development are compounded by the climate crisis, lack of land use planning, and the increasing degradation of the lands and waters of the FNNND Traditional Territory;

**AND WHEREAS** the way in which mining activities have been conducted on the FNNND Traditional Territory for more than a century has been destructive and unsustainable, and has caused irrevocable harm to the lands, waters, wetlands, plants, animals, and fish of the FNNND Traditional Territory;

**AND WHEREAS** the *United Nations Declaration on the Rights of Indigenous Peoples* has been incorporated into the law of Canada and affirms that industrial development must not occur on the traditional territory of an Indigenous people without that people’s free, prior, and informed consent;

**AND WHEREAS** the *Nacho Nyak Dun Final Agreement* is a constitutionally-protected modern treaty that promises that development in the FNNND Traditional Territory will be Sustainable Development, which is defined as, “beneficial socio-economic change that does not undermine the ecological and social systems on which communities and societies are dependent”;

**AND WHEREAS** the mining currently occurring in the FNNND Traditional Territory is not Sustainable Development;

**AND WHEREAS** our calls to our treaty partners to cease authorizing destructive and unsustainable mining activities have fallen on deaf ears, in breach of this core promise of the Final Agreement and in violation of the honour of the Crown;

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**THEREFORE, BE IT RESOLVED THAT** the Assembly directs that new mining activities in the FNNND Traditional Territory will only be considered by FNNND if they abide by the following principles:

1. No new open pit mining will occur.
2. No new roads or trails will be constructed.
3. Moratorium on new mining activities of any kind, including claim staking, will occur on FNNND Settlement Land until a regional land use plan has been adopted and fully implemented.
4. All proponents of proposed new mining activities will seek the consent of FNNND and will not proceed unless and until that consent is freely given.
5. All proposed new mining activities will be undertaken in a spirit of partnership and respect for FNNND's role as stewards of the Traditional Territory; all proposed new mining activities will ensure a fair proportion of all mineral wealth extracted from FNNND's Traditional Territory is shared with FNNND.

**THEREFORE, BE IT FURTHER RESOLVED THAT** the Assembly directs that an engagement protocol, setting out the foregoing principles and establishing the process by which all mining proponents are to work with FNNND, be developed and implemented without delay;

**THEREFORE, BE IT FURTHER RESOLVED THAT** the Assembly directs the principles set forth above, and the engagement protocol once developed, be widely shared with industry and public government to ensure notice is given of these principles and the obligation to respect them.

**THIS RESOLUTION** being duly approved by the First Nation of Na-Cho Nyäk Dun General Assembly duly convened at Mayo, Yukon, this 22nd day of October 2022.

**Moved By:** Millie Olsen

**Seconded By:** Teresa Samson

**Decision:**  
Passed By Consensus: x  
Passed By Majority:  
Defeated:

**I HEREBY CERTIFY THAT** this is a true copy of the Resolution adopted by the First Nation of Na-Cho Nyäk Dun General Assembly as set out above.



**First Nation of Na-Cho Nyak Dun**  
**P.O. Box 220**  
**Mayo, Yukon Y0B-1M0**  
**Phone: (867) 996-2265**  
**Fax: (867) 996-2266**



Chair of the Assembly Ruth Massie



FNNND Chief Simon Mervyn



FNNND Deputy Chief Roberta Hager



**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.



# **The Lands and Resources Act of the First Nation of Nacho Nyak Dun**

1<sup>st</sup> Reading: October 16, 2010

Moved by Ed Champion

2<sup>nd</sup> by Art Hoogland

Passed by consensus at 1:50 pm with 36 citizens in attendance

2<sup>nd</sup> Reading: February 5, 2011

Moved by

2<sup>nd</sup> by

Passed by consensus with 34 citizens in attendance

# **The Lands and Resources Act of the First Nation of Nacho Nyak Dun**

## *Preamble*

WHEREAS:

- A. Since time immemorial, the people of the First Nation of Nacho Nyak Dun have lived together in our traditional territory, having accepted the unique responsibilities bestowed on us by God, to serve for all time as custodians of the territory's lands, waters and resources, and have therefore ever governed ourselves and our affairs so as to the respect the spirit, needs and inter-dependence of each and every living thing;
- B. The Assembly of the First Nation of Nacho Nyak Dun on August 21, 1992 approved and enacted by consensus the Constitution of the First Nation of Nacho Nyak Dun (the "Constitution") in which is set out all of the fundamental principles by which the First Nation of Nacho Nyak Dun (the "Final Agreement");
- C. The First Nation of Nacho Nyak Dun on May 29, 1993 entered into an agreement with Her Majesty the Queen in Right of Canada ("Canada") and the Government of the Yukon (the "Yukon") which sets out the aboriginal and treaty rights, titles and interests of the First Nation of Nacho Nyak Dun (the "Final Agreement");
- D. The First Nation of Nacho Nyak Dun on May 29, 1993 entered into an agreement with Canada and the Yukon in which Canada and the Yukon recognized and affirmed the inherent right of the First Nation of Nacho Nyak Dun to govern ourselves and our lands (the "Self-Government Agreement");
- E. The Final Agreement and Self-Government Agreement confirm the authority and jurisdiction of the First Nation of Nacho Nyak Dun as an order of government empowered to engage in government-to-government relations with Canada, the Yukon, other first nations, or any other government;

*Now therefore the Assembly of the First Nation of Nacho Nyak Dun, under the authority of our Constitution and on the recommendation of the Council of the First Nation of Nacho Nyak Dun, enacts as follows:*

### ***Introduction***

#### ***Short Title***

1. This Act may be cited as the Lands and Resources Act.

#### ***Commencement***

2. This Act shall come into force on the Effective Date.

#### ***Definitions***

3. In this Act
  - (a) “Act” means an enactment passed by the Assembly containing rules intended to have the force of law, and includes the Constitution and this Act;
  - (b) “Assembly” means the body of Citizens having overall responsibility for government powers and responsibilities of the First Nation of Nacho Nyak Dun, constituted and duly assembled in accordance with the Constitution;
  - (c) “Citizens” means a person who meets the criteria of subsection 17.1 of the Constitution but is not a person to who subsection 19.1 of the Constitution applies;
  - (d) “Council” means that body of Citizens which is duly appointed or elected by the Assembly, from time to time, in accordance with the Constitution, having overall responsibility for the administration of the government of the First Nation of Nacho Nyak Dun;
  - (e) “Effective Date” means the date on which the Final Agreement and the Self-Government Agreement takes effect;
  - (f) “Elders Council” means that body of Citizens constituted in accordance with the Constitution and having the primary responsibility of ensuring the continuity of our values and traditions, by providing advice and assistance to our Government Bodies;

- (g) “Fish” means all saltwater and freshwater species of fish, shellfish, crustaceans, marine animals and marine plants except Exotic Species or Transplanted Population (both as described in the Final Agreement) including portions and all juvenile stages, and all fish products and by-products as are prescribed in section 34 of the Fisheries Act, R.S.C. 1985, c. F-14;
- (h) “Forest Resources” means all flora in a wild state;
- (i) “Governing Body” means the Assembly or the Council;
- (j) “Harvesting” means gathering, hunting, trapping or fishing in accordance with the Final Agreement or a Trans-Boundary Agreement, as defined in the Final Agreement;
- (k) “Heritage Resources” means
  - i. Moveable non-documentary works or assemblies of works of people or of nature that re of scientific or cultural values for their archaeological, paleontological, ethnological, prehistoric or aesthetic features, including moveable structures,
  - ii. An area of land which contains any of the items listed in paragraph 3(k)i, or which is of value for aesthetic or cultural reasons, and
  - iii. Records, regardless of physical form or characteristics, that are of heritage significance, including correspondence, memoranda, books, plans, maps, drawings, diagrams, pictorial or graphic works, photographs, films, microforms, sound recordings, videotapes, machine-readable records, and any copy thereof;
- (l) “Law” means any Act or Regulation enacted or passed by a Governing Body, including any amendment thereto;
- (m) “Minerals” means precious and base metals and other non-living, naturally occurring substances, whether solid, liquid or gaseous, and includes coal, Petroleum and Specified Substances;
- (n) “Mines” means mines, opened and unopened;
- (o) “Non-Settlement Land” means all land and water in the Yukon Territory other than Settlement Land, including Mines and Minerals in Category B Settlement Land and Fee Simple Settlement Land, other than Specified Substances;

- (p) “Petroleum” means
- i. Crude oil, regardless of gravity, produced at a well head in liquid form, and any other hydrocarbons except coal and Gas and, without limiting the generality of the foregoing, including hydrocarbons that may extracted or recovered from deposits of oil sand, bituminous sand, oil shale or from any other type of deposits on the surface or subsurface, and
  - ii. Natural gas and all substances other than those listed in paragraph 3(p)i that are produced in association with natural gas;
- (q) “Regulation” means an enactment containing rules intended to have the force of law, passed by the Council under the authority of an Act of the Assembly;
- (r) “Resources” means all natural resources, whether renewable or non-renewable, and includes Fish, Forest Resources, Heritage Resources, Minerals, Specified Substances, Water, and Wildlife;
- (s) “Settlement Land” means Category A Settlement Land, Category B Settlement Land and Fee Simple Settlement Land, all as defined in the Final Agreement;
- (t) “Specified Substances” means any of carving stone, flint, limestone, marble, gypsum, shale, slate, clay, sand, gravel, construction stone, sodium chloride, volcanic ash, earth, soil, diatomaceous earth, ochre, marl and peat;
- (u) “Traditional Territory” means the geographic area identified as the traditional territory of the First Nation of Nacho Nyak Dun, shown in Appendix B – Maps to the Final Agreement as “First Nation of Nacho Nyak Dun Traditional Territory, (NNDTT)”;
- (v) “Water” means waters in any river, stream, lake or other body of inland water on the surface or underground;
- (w) “Wildlife” means a wild, vertebrate animal of any species or sub-species, but does not include Fish, or Exotic Species or Transplanted Population (both as defined in the Final Agreement); and
- (x) “Yukon Indian Person” means a person enrolled under one of the Yukon First Nation Final Agreement.

### ***Interpretation***

4. All Acts, Regulations and agreements referred to in this Act include any amendments made to them.
5. The words “our”, “ourselves”, “us” and “we”, were used in this Act, refer to the First Nation of Nacho Nyak Dun.
6. References to sections, subsections and paragraphs, unless otherwise stated, refer to sections, subsections and paragraphs in this Act.

### ***Purpose***

7. The purpose of this Act is to enact into First Nation of Nacho Nyak Dun Law such standards, processes and means as will honour and confirm our traditional principles of conservation, preservation and enhancement of the natural environment, as applied to the use, occupation, management and economic development of Settlement Land, and any other lands or resources over which we have authority, ownership, control, jurisdiction, co-management or custodial powers or responsibilities.

## **PART 1**

### **CONSENT**

#### ***Consent required***

8. Subject to section 10 and the Final Agreement, no person may use, occupy, traverse, or purport to exercise any right on Settlement Land without having first obtained the consent of the First Nation of Nacho Nyak Dun.
9. Every person must produce evidence of the consent described in section 8, upon the request of any person authorized by the First Nation of Nacho Nyak Dun.
10. Any Citizen who used, occupied or exercised a right on Settlement Land on the Effective Date is not deprived of his or her continued enjoyment of same solely by the operation of section 8 of this Act, but shall use, occupy or exercise such right subject to our Laws.

## **PART 11**

### **LANDS AND RESOURCES DEPARTMENT**

#### ***Creation of the Lands and Resources Department***

11. We establish a Land and Resources Department of the First Nation of Nacho Nyak Dun.

#### ***Objectives***

12. The Lands and Resources Department shall operate for the benefit of all Citizens, in a manner designed to further the purposes of this Act and to achieve the following objectives:

- (a) To preserve and enhance all the Resources found on Settlement Land or any land for which the First Nation of Nacho Nyak Dun has authority, ownership, control, jurisdiction, co-management or custodial powers or responsibilities;
- (b) To integrate the management of all Resources owned, controlled or co-managed by the First Nation of Nacho Nyak Dun;
- (c) To preserve and enhance those aspects of our culture, identity and values that are related to land and Resources;
- (d) To promote and manage economic activity related to or based on Resources found on Settlement Land;
- (e) To honour our harvesting and management customs, taking into account the knowledge and experience of our Citizens;
- (f) To deal fairly with all persons who are authorized to use Resources, where the activities of these persons impact on Resources or Settlement Land;
- (g) To protect and preserve those sites, of whatever nature and wherever located, which have spiritual or cultural significance to use; and
- (h) To protect, preserve, monitor and manage all waters flowing or found within, through, on, or adjacent to Settlement Land to such standards of quantity, quality and

rate of flow as we require for our purposes and for the enhancement of all water-related aspects of the ecosystem.

### ***Responsibilities***

13. The Land and Resources Department shall be responsible for administering our Laws respecting:

- (a) The management or protection of land and Resources found within our Traditional Territory;
- (b) The use, occupation or exercise of rights by any persons on Settlement Land;
- (c) The activities of Citizens on Non-Settlement Land where such activities affect land and Resources;
- (d) The Harvesting activities of Yukon Indian Persons within our Traditional Territory;
- (e) Such other activities, as may be directed by the Council, related to the management of land and Resources.

14. Without restricting the generality of section 13, the Lands and Resources Department is authorized to:

- (a) Participate with Governing Bodies in the development and implementation of regulations, policies, programs and land use plans for the effective administration of our Laws respecting land, Resources and any activities related to such land or Resources;
- (b) Under the direction of the Council, create and maintain the Register of Settlement Land;
- (c) Recommend that the Council issue, give, or agree to the issuing or giving of any licence, permit, consent, or decision document related to land or Resources;
- (d) Under the direction of the Council, enforce this Act and its Regulation;
- (e) Collect fees or penalties set or levied by the Council;
- (f) For the better administration and management of Resources or Settlement Land



- i. Conduct research and monitoring programs, and
  - ii. Maintain a record of harvesting or other information,
- All under the direction of the Council;
- (g) Recommend to the Council that the First Nation of Nacho Nyak Dun participate in a regulatory or other process which may affect land or Resources in our Traditional Territory; and
  - (h) Do such other things as may be directed by the Council from time to time.

### ***Reporting***

- 15. The Land and Resources Department shall report to the Council as required, but no less than twice annually.

## **PART 111**

### **REGISTERING OF SETTLEMENT LAND**

#### ***Creation of Register of Settlement Land***

- 16. Under the direction of the Council, the Land and Resources Department shall create and maintain, in accordance with this Part III, a Register of Settlement Land.

#### ***Contents***

- 17. The Register of Settlement Land shall contain the following information for each parcel or Settlement Land:
  - (a) Whether the parcel of Settlement Land is Category A Settlement Land, Category B Settlement Land, or Fee Simple Settlement Land, all as defined in the Final Agreement;
  - (b) Any of the following exceptions or reservations to which the parcel of Settlement Land is subject:

- i. A right, title or interest less than the entire fee simple existing at the date the land became Settlement land;
  - ii. A licence, permit or other right, issued by Canada or the Yukon for the use of land or other resources, existing at the date the land became Settlement Land;
  - iii. A renewal or replacement of a right, title or interest, licence or permit described in paragraph 5.4.2.1 or 5.4.2.2 of the Final Agreement;
  - iv. A new licence, permit or other right in respect of Petroleum or of Mines or Minerals, which may be granted in accordance with 5.4.2.4 of the Final Agreement to a person holding a right, title or interest described in paragraphs 5.4.2.1, 5.4.2.2. or 5.4.2.3 of the Final Agreement;
  - v. A right-of-way, easement, reservation, exception, restriction or special condition made pursuant to 5.3.1 of the Final Agreement;
  - vi. A public right of access for Wildlife Harvesting;
  - vii. A public right-of-way along navigable water, pursuant to 5. 15.0 of the Final Agreement;
  - viii. A flooding right pursuant to 7.8.0 of the Final Agreement;
  - ix. A right granted to Canada or the Yukon in a Quarry, as defined in the Final Agreement, pursuant to section 18.2.0 of the Final Agreement;
  - x. A reservation pursuant to 5.7.4.2 of the Final Agreement, agreed to by the First Nation of Nacho Nyak Dun; and
  - xi. Where available, copies of all relevant survey plans.
18. The Register of Settlement Land may also contain the following information respecting our Traditional Territory, whether on Settlement Land or Non-Settlement Land:
- (a) Licences or permits of any nature issued or renewed by the First Nation of Nacho Nyak Dun;
  - (b) Any areas to which our zoning regulations apply;

- (c) Any applicable land use plans;
- (d) The location of fish camps, hunting camps or traplines;
- (e) Any areas of First Nation of Nacho Nyak Dun traditional use or occupation, including any historical data or patterns of such use or occupation;
- (f) The name of any person who has the consent of the First Nation of Nacho Nyak Dun to use, occupy or exercise a right on Settlement Land, and the nature of such use, occupation or exercise of a right;
- (g) The location of any Moveable or Non-Moveable Heritage Resources, and of Burial Sites, all as defined in the Final Agreement;
- (h) The location of any sites, of whatever nature, which have spiritual or cultural significance to the First Nation of Nacho Nyak Dun;
- (i) Those sites, routes, habitats or areas which the Land and Resources Department, in consultation with the Elders Council and others, has determined as being important, strategic or necessary for the proper management, protection and utilization of land or Resources by the First Nation of Nacho Nyak Dun; and
- (j) Such other information as the Council may deem appropriate from time to time.

***Register of Settlement Land creates no rights***

- 19. The Register of Settlement Land is a record of information only and does not create, deprive, increase or diminish any rights it records.

***Registrar***

- 20. The Council may name a person to maintain and manage the Register of Settlement Land (the “Registrar”).
- 21. The Registrar shall:
  - (a) Make reasonable efforts to maintain the accuracy of the Register of Settlement Land;
  - (b) Implement policies and procedures governing the operation and management of the Register of Settlement Land, as determine by the Council;

(c) Provide to the public the information described in section 17 and other information as the Council may authorize; and

(d) Report to the Council from time to time.

***No liability***

22. Notwithstanding section 21(a), neither the First Nation of Nacho Nyak Dun, its Governing Bodies, the Land and Resources Department, the Registrar, nor their authorized representatives, employees or agents shall be liable for information contained in the Register of Settlement Land which is not accurate.

***Location***

23. The Register of Settlement Land shall be located either at the offices of the First Nation of Nacho Nyak Dun or at the offices of the Land and Resources Department.

***Access of Register of Settlement Land***

24. The Register of Settlement Land shall be available for review by the public in accordance with policies set by the Council from time to time.

***Security***

25. The Council, in consultation with the Land and Resources Department shall develop policies and procedures designed to protect the security of the Register of Settlement Land.

***Regulations***

26. The Council may make such regulation as are necessary for the purpose of carrying out any provision of this Act.

**First Nation of Na-Cho Nyäk Dun**

P.O. Box 220  
Mayo, Yukon Y0B 1M0  
Tel: (867) 996-2265  
Fax: (867) 996-2267  
E-mail: [main@nndfn.com](mailto:main@nndfn.com)  
Website: [www.nndfn.com](http://www.nndfn.com)



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**First Nation of Nacho Nyäk Dun  
Annual General Assembly  
June 23, 24, 2017**

**Resolution #: 006-2017**

**RE: Regional Land Use Planning**

**WHEREAS** the First Nation of Nacho Nyäk Dun ("NND") considers the protection, management and responsible development of our Traditional Territory – both on and off settlement lands – to be of the highest priority; and

**WHEREAS** the Land Use Planning Process and the establishment of a Land Use Plan is fundamental to ensuring sustainable development can occur; and

**WHEREAS** Land Use Plans have not been developed for the NND Traditional Territory.

**THEREFORE BE IT RESOLVED THAT:**

1. A moratorium be placed on new developments in the NND Traditional Territory until a land use plan is approved by NND.

**MOVER:** Adrienne Hill  
**SECONDER:** Florence Pilon  
**VOTE:** Passed by majority

This Resolution being duly approved by the First Nation of Nacho Nyäk Dun Assembly duly convened at Mayo, Yukon this 25th day of June, 2017.

Chair of the Assembly

Chief

Deputy Chief

**First Nation of Na-Cho Nyäk Dun**

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Mayo, Yukon Y0B 1M0  
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**First Nation of Nacho Nyäk Dun**

**Annual General Assembly**

**June 23, 24, 2017**

**Resolution #: 007-2017**

**RE: New Roads and Trails**

**WHEREAS** there are increased demands for access trails and roads throughout the Traditional Territory of the First Nation of Nacho Nyäk Dun ("NND"); and

**WHEREAS** increased access will impact the land, wildlife and NND's Aboriginal rights.

**THEREFORE BE IT RESOLVED THAT:**

1. NND does not support the development and construction of new trails and roads within our Traditional Territory until a land use plan is approved by NND.

**MOVER:** Frank Patterson  
**SECONDER:** Nancy Hager  
**VOTE:** Passed by consensus

This Resolution being duly approved by the First Nation of Nacho Nyäk Dun Assembly duly convened at Mayo, Yukon this 25th day of June, 2017.

Chair of the Assembly

Chief

Deputy Chief

**First Nation of Na-Cho Nyäk Dun**

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Website: [www.nndfn.com](http://www.nndfn.com)



RECEIVED  
July-26-2018

First Nation of Nacho Nyäk Dun

Annual General Assembly

June 22, 23, 24, 2018

**Resolution #: 003-2018**

**RE: Affirmation of Land Protection Resolutions**

**WHEREAS** the 2017 Annual Meeting of the Assembly passed resolutions that:

- A. established a moratorium on new developments in the traditional territory of the First Nation of Na-Cho Nyäk Dun until a land use plan is approved by the Na-Cho Nyäk Dun (resolution #006-2017); and
- B. opposed the development and construction of new trails and roads within the Na-Cho Nyäk Dun's traditional territory (resolution #007-2017).

**THEREFORE BE IT RESOLVED THAT** the Assembly reaffirms the two Resolutions and calls on the Yukon Government to work with the Na-Cho Nyäk Dun to implement these resolutions.

MOVER: Dawna Hope

SECONDER: Joella Hogan

VOTE: Consensus

This Resolution being duly approved by the First Nation of Nacho Nyäk Dun Assembly duly convened at Mayo, Yukon this 24th day of June, 2018.

Chair of the Assembly

*Reed Mosier*

Chief

*Shawn*

Deputy Chief

*Muller*

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



**COMMUNICATIONS PROTOCOL (the “Protocol”)**

**BETWEEN**

**First Nation of Na-Cho Nyäk Dun (“FNNND”)**

**AND**

**[COMPANY NAME]**

(each a “Party” and collectively, the “Parties”)

**Effective as of [DATE]**

**WHEREAS**, the First Nation of Na-Cho Nyäk Dun (“FNNND”) is a self-governing First Nation who represents the most northerly community of the Northern Tutchone language and culture group;

**AND WHEREAS**, the FNNND have used, occupied, and been sustained by their Traditional Territory since time immemorial;

**AND WHEREAS**, the FNNND hold constitutionally protected Aboriginal and Treaty rights, including those enshrined in the *First Nation of Na-Cho Nyäk Dun Final Agreement* and the *First Nation of Na-Cho Nyäk Dun Self-Government Agreement*;

**AND WHEREAS**, [COMPANY NAME] is a company with headquarters located in [LOCATION]; and

**AND WHEREAS**, the [COMPANY NAME] seeks to undertake mineral activities on FNNND’s Traditional Territory (the “Project”);

**AND WHEREAS**, the Parties seek to set forth mutual understandings to ensure a collaborative and positive working relationship is maintained through effective, informed, constructive, and respectful communication.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained within this Protocol and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

**1.1 PURPOSE**

- 1.1 The Parties have established this Protocol to govern all communications with or about FNNND for purposes related to the Project, including statements in

traditional and social media about the Project; commemorative items that reference FNNND; and posters and other displays about the Project.

1.1.1 Note that this Protocol does not purport to apply to nor restrict any statements or filings legally required of [COMPANY NAME], such as disclosures required by securities law.

1.1.2 Note further that this Communications Protocol does not purport to apply to nor restrict any communications between FNNND and their community.

1.2 This Communications Protocol is intended ensure effective, informed, constructive, and respectful communication that will facilitate:

1.2.1 sharing and receipt of information between both Parties; and

1.2.2 a relationship based on trust and respect between the Parties.

## **2.0 GOVERNING PRINCIPLES OF COMMUNICATION**

2.1 The Parties recognize and respect each other's respective communication and decision-making processes with respect to the Project.

2.1.1 [COMPANY NAME] understands and respects that FNNND is guided by the four principles of Dän Ki ("Our Way"), which include Respect – Náfats'int'ra, Care – Łek'ats'ete, Share – Łeyáts'ele, and Teach – Häts'edän.

2.2 The Parties recognize that effective and respectful communication between them is essential to ensure adequate information is obtained about the Project to support FNNND's review of the Project.

2.3 Among other things, FNNND must effectively communicate to [COMPANY NAME]:

2.3.1 the Project's impacts on Aboriginal and treaty rights; and

2.3.2 feedback and guidance on the planning and implementation of the Project.

2.4 Among other things, [COMPANY NAME] must effectively communicate to FNNND:

2.4.1 operational and planning updates and reports;

2.4.2 emergency protocol;

- 2.4.3 accessible, non-technical, and digestible information required for consultation, assessment, or regulatory purposes, including reportable events; and
  - 2.4.4 any other information required to ensure informed FNNND feedback and engagement with respect to the Project.
- 2.5 The Parties agree that effective communication is a two-way street that requires the Parties to engage with each other in a mutually beneficial way and foster a relationship of trust.
- 2.6 To ensure effective communication, the Parties agree to:
  - 2.6.1 provide all information and materials in a timely manner; and
  - 2.6.2 engage only in informed, constructive, and respectful communications.
- 3.0 TIMELY PROVISION OF INFORMATION AND MATERIALS**
- 3.1 All technical and substantive information related to planning, approval, or implementation of the Project will be provided in writing.
- 3.2 No substantive information, feedback, decision, or other response to any information or materials shared between the Parties will be required from the receiving Party less than fourteen (14) days after the information or materials are shared and received.
- 3.3 Calls, meetings, or other in-person, telephone, or video discussions between all representatives of the Parties will be scheduled at least fourteen (14) days in advance of the discussion.
- 3.4 Where one of the Parties wishes to or is required to provide information or materials to the other for discussion, the information or materials will be provided at least fourteen (14) days in advance of the discussion.
- 3.5 The Party that proposes a call, meeting, or other discussion will propose a preliminary agenda at least fourteen (14) days in advance of the discussion.
- 3.6 The Parties will agree to an agenda for all calls, meetings, or other discussions at least seven (7) days in advance of the discussion. Agendas shall be prepared collaboratively and shall reflect the interests and priorities of both Parties.
- 3.7 Minutes of meetings between the Parties, including community engagement sessions, shall be circulated within ten (10) business days of each discussion. Unless otherwise specified, [COMPANY NAME] shall be responsible for circulating draft minutes, which shall be subject to FNNND's review and

approval. Where FNNND identifies changes are required, [COMPANY NAME] shall make said changes and provide updated minutes.

- 3.8.1 The timelines above apply unless:
  - 3.8.2 otherwise agreed by the Parties;
  - 3.8.3 otherwise lawfully directed by an appropriate authority; or
  - 3.8.4 the matter to be discussed is both unforeseen and urgent.

#### **4.0 INFORMED, CONSTRUCTIVE, AND RESPECTFUL DIALOGUE**

- 4.1 In all calls, meetings, or other discussions between the Parties, the representatives of the Parties will:
  - 4.1.1 review all relevant information and materials in advance to ensure informed engagement;
  - 4.1.2 raise all relevant issues in advance for inclusion in the agenda;
  - 4.1.3 only engage on issues identified on the agenda, unless otherwise agreed;
  - 4.1.4 acknowledge and engage respectfully and civilly with all representatives of the Parties; and
  - 4.1.5 provide informed and constructive feedback on information and materials exchanged.
- 4.2. If representatives of the Parties are for any reason unable to engage in an informed, constructive, and respectful manner as set out above and in accordance with the timelines set out above, then the discussion will be rescheduled.

#### **5.0 PUBLIC COMMUNICATIONS**

- 5.1 [COMPANY NAME] will seek FNNND's review and obtain FNNND's prior approval of public communications that reference FNNND and will only issue such public communications with FNNND's written consent.
  - 5.1.1 For greater certainty, FNNND must provide affirmative consent in writing, via e-mail or otherwise, for [COMPANY NAME] to issue a public communication that references FNNND. Any lack of response from FNNND shall not be construed as consent.
- 5.2 To facilitate this, [COMPANY NAME] will provide FNNND with a copy of communications that reference FNNND no later than 15 business days prior to [COMPANY NAME]'s proposed public release of such communication and

FNNND will identify any issues or concerns in writing to [COMPANY NAME] within 10 business days, after which [COMPANY NAME] will make all necessary revisions to address FNNND's concerns to FNNND's satisfaction.

- 5.3 For greater certainty, "public communications" includes [COMPANY NAME]'s communications in traditional and social media. "Public communications" does not include [COMPANY NAME]'s communications with public government, regulatory, or assessment bodies or public statements required to be made to comply with securities law or other legal/regulatory obligations.

## **6.0 REGULATORY FILINGS**

- 6.1 The Parties shall undertake best efforts to provide each other with an advance copy of all regulatory submissions prior to filing. This includes all submissions from either Party to YESAB, the Yukon Water Board, and other Crown agencies and entities.

## **7.0 NOTICE**

- 7.1 The contact information for any communication required or permitted to be given in accordance with this Communication Protocol is:

For FNNND:  
Director of Lands and Resources  
Department of Lands and Resources  
PO Box 220  
Mayo, Yukon Y0B 1M0  
Tel: 867-996-2265, ext. 144  
[Lands.director@nndfn.com](mailto:Lands.director@nndfn.com)

For [COMPANY NAME]:

[CONTACT]  
[ADDRESS]  
[PHONE]  
[EMAIL]

- 7.2 Any communication that is mailed shall be deemed to have been received on the fifth (5<sup>th</sup>) business day after the date of mailing. Any communication that is emailed will be deemed to have been received on the first (1<sup>st</sup>) business day after the date of transmission. The term "business day" means Monday to Friday, excluding statutory holidays in the Yukon.
- 7.3 The Parties may change their contact information for delivery of any communication by providing written notice of such change.

## **8.0 GENERAL PROVISIONS**

- 8.1 This Communication Protocol does not create legally enforceable obligations and shall not be construed as recognizing, denying, extinguishing, abrogating, derogating from, defining, interpreting, or otherwise affecting the rights, obligations, or jurisdictions of either of the Parties, including any of FNNND's Aboriginal or Treaty rights as recognized and affirmed by section 35 of the *Constitution Act, 1982*.
- 8.2 Nothing in this Communication Protocol is intended to fulfill or substitute for any Crown consultation or information provision obligations of the Government of Canada or Yukon Government.
- 8.3 The Parties agree that this Communication Protocol takes effect on the date that it is signed by duly authorized representatives of both parties and remains in effect until terminated by either Party.
- 8.4 This Communication Protocol may be amended by the written consent of both Parties.

**IN WITNESS HEREOF** the Parties have signed the Communications Protocol effective as of the date first written above.

On behalf of FNNND:

Name: \_\_\_\_\_  
Title/Position: \_\_\_\_\_

On behalf of [COMPANY NAME]:

Name: \_\_\_\_\_  
Title/Position: \_\_\_\_\_

## **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.