

Highlights Document



for the Board's Reconsideration Report and Recommendations for Baffinland's Phase 2 Development Proposal

Baffinland Iron Mines Corporation Project Certificate No. 005

NIRB File No. 08MN053



May 2022

NIRB Report for the Mary River Phase 2 Development Proposal

On May 13, 2022, the Nunavut Impact Review Board (NIRB or Board) provided the Reconsideration Report and Recommendation to the Minister of Northern Affairs and Responsible Ministers after completing its assessment of the Phase 2 Development Proposal in accordance with its responsibilities in the *Nunavut Agreement* and the *Nunavut Planning and Project Assessment Act*. The Board recommends that the Phase 2 Development Proposal **should not be allowed to proceed at this time**.

The Board has made this recommendation as it has concluded that as assessed, the Phase 2 Development Proposal **cannot proceed in a manner that will protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and Canada in general, and would not be protective of the ecosystemic integrity of the Nunavut Settlement Area**. The Board’s Reconsideration Report details the assessment process, how the Board considered the potential benefits and impacts of the proposal, and the Panel’s recommendation to the Responsible Ministers.



The Board Panel assessing the Mary River Phase 2 Development Proposal

Highlights Document

This document describes key information and findings from the Board’s Reconsideration Report and Recommendations (the Report); however, the Report is the authoritative description of the assessment and recommendations. The references provided in this document guide the reader to the applicable section of the Report; please refer to the Report for the full details.

The NIRB’s Mission is to protect and promote the well being of the Environment and Nunavummiut through our work.

This document was created for the public as a summary and guide to the Nunavut Impact Review Board's (NIRB or Board) Reconsideration Report and Recommendations (the Report) for Baffinland Iron Mines Corporation's (Baffinland) Phase 2 Development Proposal (the Proposal), which proposed major changes to the approved Mary River Iron Mine Project (the Project).

How was the Proposal determined to need a Reconsideration?

- see Report section 1

The NIRB considered the Proposal to be a significant modification of the previously-approved version of the Project. On this basis, and as permitted under the *Nunavut Agreement* and *Nunavut Planning and Project Assessment Act (NuPPAA)*, the Board decided that a re-examination of the Terms and Conditions of Project Certificate No. 005 was necessary to assess the potential environmental and socio-economic impacts of the Proposal. This reconsideration process was also intended to allow interested parties to participate in this evaluation of the changes to the Project as proposed by Baffinland in the Proposal.

Continuing assessments during the COVID-19 pandemic

- see Report section 1.4.2

The COVID-19 pandemic affected everyone and resulted in restrictions to gatherings, travel, and changing public health directives.

The Board's events were held with online access and grouping of participants in several key locations which were linked by audio and video. This allowed the Board to ensure video and speaking access from Pond Inlet.

How did COVID-19 Affect the NIRB's Process?

The NIRB adapted its practices for the assessment during the pandemic to:

- Provide online and teleconference access to proceedings,
- Work with public health authorities to develop new meeting protocols to protect public health and safety, and
- To prioritize time for community participation.



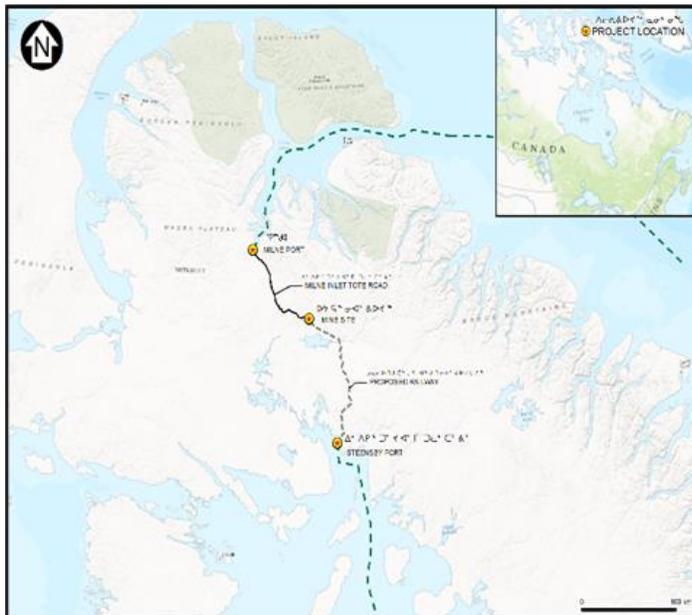
Mary River Project History and Summary of Activities

- see Report section 1.2

Baffinland is currently operating the Mary River Iron Mine located in the Qikiqtani region of Nunavut, approximately 150 kilometres southwest of Pond Inlet.

Due to the high iron concentration of the deposit, the ore is crushed and shipped directly to markets.

The Project as originally approved includes the Mary River Mine, a Tote Road to the North connecting the mine to Milne Port, and a Southern Railway to connect the Mine to the south with a port at Steensby Inlet, with year round shipping through Foxe Basin and Davis Strait.



Mary River Project (Approved in 2012)

- see Report section 1.2.3

- Mining of 18 million tonnes per year iron ore from Deposit No. 1,
- 150-kilometre Southern Railway from Mine Site to Steensby Inlet port to transport iron ore, and
- Year-round transportation and shipping activities.

Amendment 1 Early Revenue Phase (Approved in 2014)

- see Report section 1.2.4

- Truck transport of 4.2 million tonnes per year of iron ore along the Tote Road to Milne Port for crushing, stockpiling, and shipping during the open water season through Milne Inlet and Eclipse Sound.



Amendment 2 Production Increase Project (Approved in 2018)

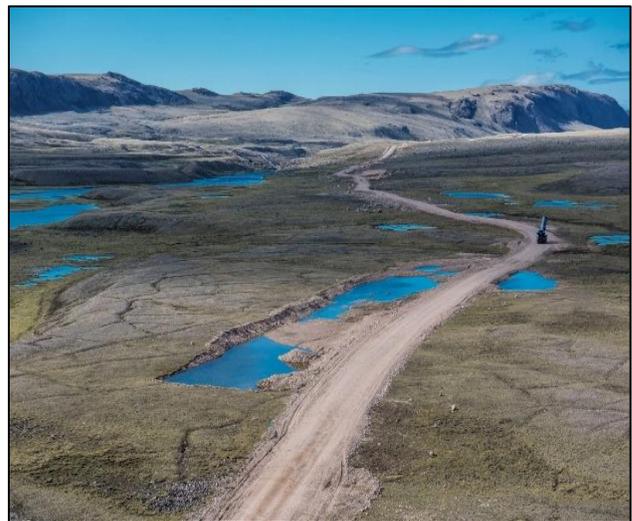
- see Report section 1.2.5

- Improvements to camp facilities and additional fuel storage at Milne Inlet, and
- Until December 31, 2019: truck transport of 6 million tonnes per year of iron ore along the Tote Road for crushing, stockpiling, and shipping through Milne Inlet and Eclipse Sound during the open water season.

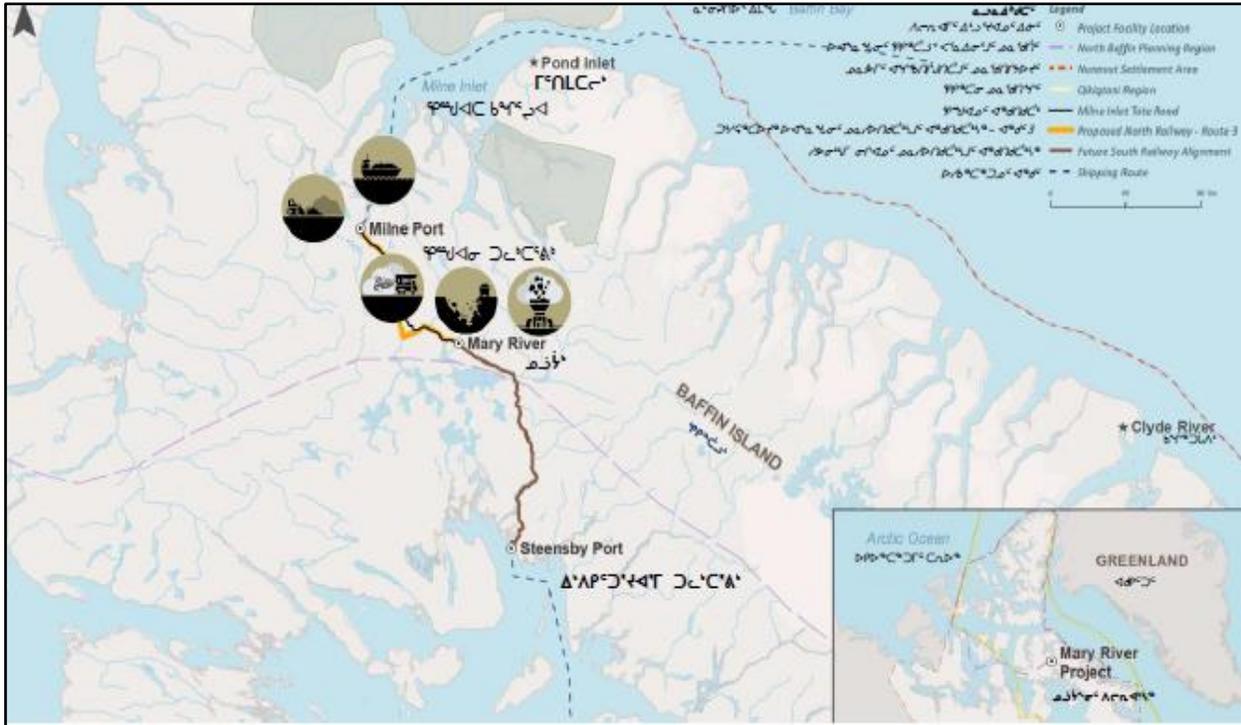
Amendment 3 Extension Request to the Production Increase Project (Approved in 2020)

- see Report section 1.2.6

- Extend the trucking and shipping of 6 million tonnes of iron ore per year through Milne Inlet and Eclipse Sound during the open water season for an additional year. Board provided until December 31, 2021.

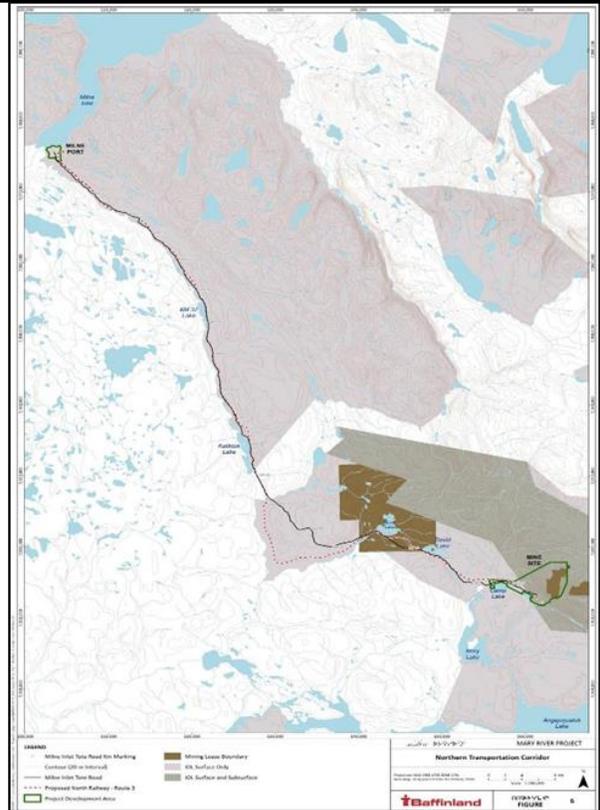


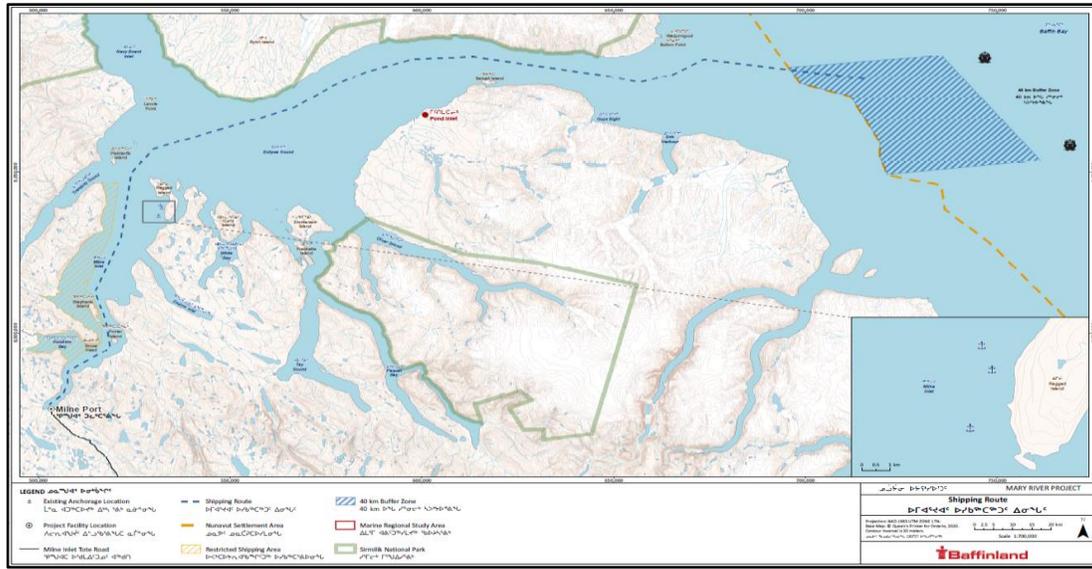
Phase 2 Development Proposal (2018) - see Report section 1.2.7



In October 2018, Baffinland submitted the Phase 2 Development Proposal (the Proposal) proposing to change the infrastructure and activities associated with the Mary River Project including:

- Increasing the amount of iron ore mined, transported, stockpiled and shipped through Milne Port from 4.2 to 12 million tonnes per year;
- Increasing the number of ore carrier transits from Milne Port to 168 per year during the open water season between July 15 and Oct 31; and
- Constructing and operating a 110 km Northern Railway to transport the ore from the Mine to Milne Port.





The Proposal would involve the following expansions/improvements to existing Project infrastructure:

- Changes to site infrastructure including expanding fuel storage as well as office and maintenance buildings.
- Enclosing the Ore crusher at Milne Port.
- Construction and operation of a second ore dock capable of receiving cape-size ore carriers.

Summary of Baffinland’s Impact Assessment – see Report section 2.0

In the impact statement submitted by Baffinland described the potential environmental and socio-economic impacts of the proposed changes to the current Mary River Project. Baffinland used the following three categories to describe the potential impacts:

No Change; not significant – effects may occur but with mitigation and the use of existing monitoring frameworks, the impacts would not be significant:

- **Air Quality**
- **Noise and Vibration**
- **Landforms, soils and permafrost**
- **Vegetation**
- **Terrestrial Wildlife, and wildlife habitat (including birds)**
- **Freshwater biota and habitat**
- **Freshwater quantity and quality**
- **Marine Environment – sea ice, marine water and sediment quality**
- **Economic development and contracting and self-reliance**

No change; significant positive – no residual impacts and the impact of benefits gained from specific programs would be positive:

- **Livelihood and employment**
- **Education and training**

Change; not significant – some changes may be permanent, but with the application of mitigation and monitoring, and compliance with regulatory requirements the effects would not be significant:

- **Contracting and business opportunities**
- **Population demographics**
- **Cultural, archaeological, and paleontological resources**
- **Human health and well-being**

Baffinland’s Conclusions from its impact statement:

The results of the environmental assessment found that with planned mitigation, the Phase 2 Development Proposal would not cause long-term significant negative effects on the biophysical and socio-economic environment.

Baffinland made 258 commitments to communities and parties through the assessment.

Registered Intervenors – see Report section 3.0

- Nunavut Tunngavik Incorporated (NTI)
- Qikiqtani Inuit Association (QIA)
- Government of Nunavut (GN)
- Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)
- Environment and Climate Change Canada (ECCC)
- Fisheries and Oceans Canada (DFO)
- Health Canada (HC)
- Natural Resources Canada (NRCan)
- Parks Canada (PC)
- Transport Canada (TC)
- Hamlet of Pond Inlet
- Mittimatalik Hunters and Trappers Organization
- Hamlet of Igloodik/Igloodik Working Group
- Sanirajak Hunters and Trappers Organization
- Hamlet of Sanirajak
- Hamlet of Clyde River
- Nangmautuuq Hunters and Trappers Association
- Hamlet of Arctic Bay
- Ikajutit Hunters and Trappers Association
- Amaruq Hunters and Trappers Organization
- Nunavut Independent Television Network (NITV)
- Oceans North (ON)
- World Wildlife Fund (WWF)

Procedural Steps of NIRB's Assessment – see Report section 1.4

Nunavut Planning Commission referred Proposal to NIRB on May 29, 2018

NIRB Accepted Impact Statement on October 12, 2018

NIRB Information Sessions held in North Baffin Communities from January 15-30, 2019

In-Person Technical Meetings in Iqaluit April 8-10, 2019 and as Agenda not completed, meetings continued June 17-19, 2019

Public Hearing announced August 21, 2019
Intervenor Status awarded September 6, 2019
Intervenors Submit Final Written Statements on September 27, 2019

In-Person Public Hearing held in Iqaluit November 2-9, 2019
**Motion to suspend proceedings received prior to community roundtable in Pond Inlet - Board required additional Technical Meeting and Pre-Hearing Conference to resume Hearing proceedings*

Teleconference Technical Meeting - September 14-18, 2020
In-Person Pre-Hearing Conference and Community Roundtable - September 28-October 1, 2020

Resumed In-Person Public Hearing January 25-February 6, 2021
**Motion to extend proceedings*

Extended In-Person Public Hearing April 12-21, 2021
**suspended by Chief Public Health Officer April 15, 2021*

Resumed Extended In-Person Public Hearing November 1-6, 2021

Final Closing Statements – January 10, 2022
Baffinland Final Closing Statement – January 24, 2022
Public Hearing Record Closes – January 28, 2022

NIRB Issues Reconsideration Report and Recommendation to the Responsible Ministers – May 13, 2022



Community Information Session



2019 Public Hearing in Iqaluit - broadcast



Elder speaking

The Board took additional time to ensure the decision reflected **Ingalangaittuq** - observe the process and evidence with a cautious view, in a holistic and comprehensive manner.

Public Consultation Opportunities – see Report section 4.1

Community Members or Organizations:

- Information Sessions in North Baffin communities (afternoon open houses and evening meetings).
- Community Roundtables:
 - During Pre-Hearing Conference,
 - And during Public Hearings held in 2019 and 2021.
- Written comments accepted at Public Meetings and Hearings.

Intervenor and Regulators:

- Opportunities for written feedback:
 - Information Requests,
 - Technical Review Comments,
 - Final Written Submissions, and
 - Final Closing Statements.
- 3 Technical Meetings;
- 1 Pre-Hearing Conference; and
- 4 Public Hearing sessions.



November 2019 Public Hearing



2020 Pre-Hearing Conference and Community Roundtable



January 2021 Resumed Public Hearing in Pond Inlet



January 2021 Resumed Public Hearing in Iqaluit



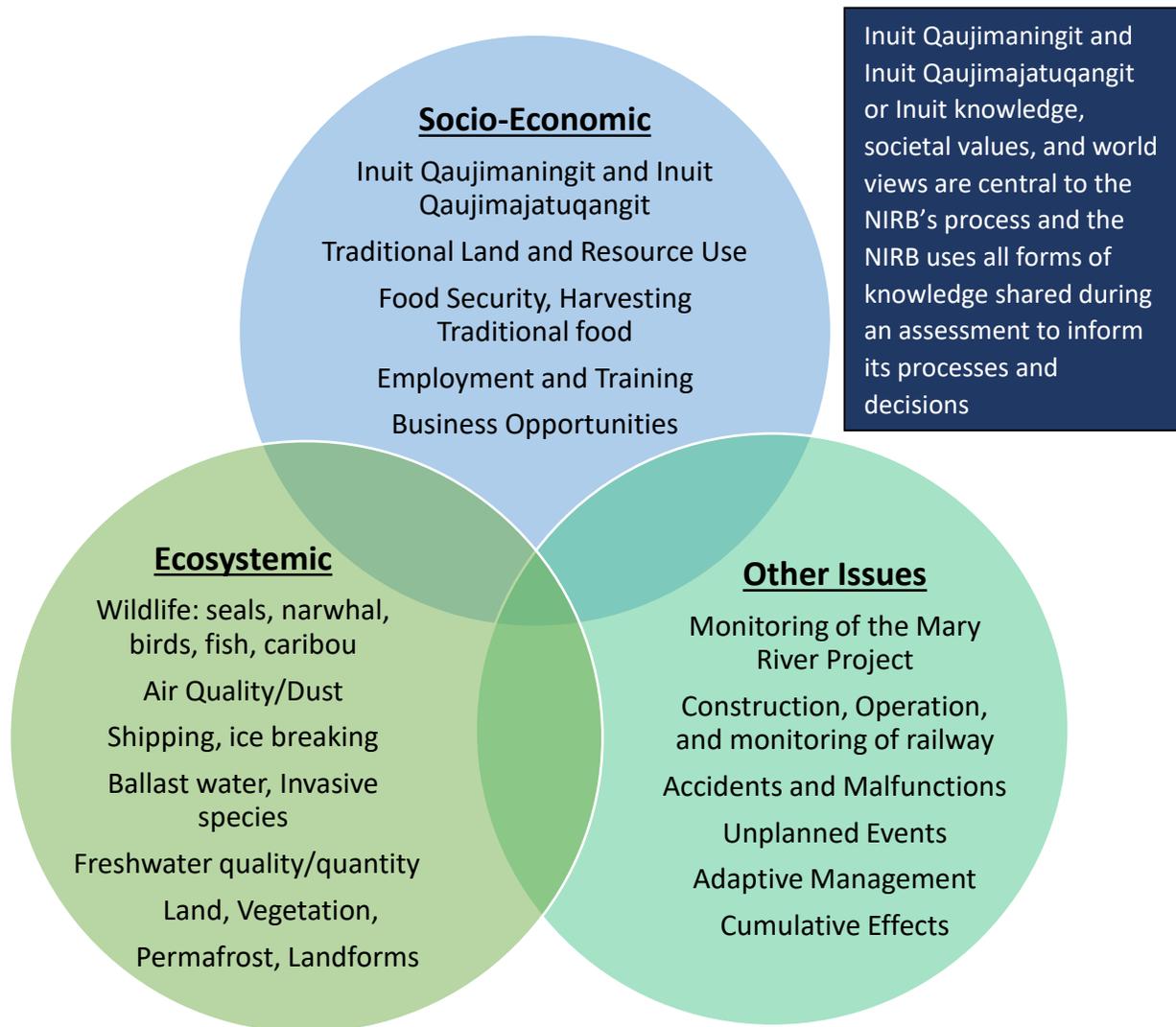
April/November 2021 Extended Public Hearing – Iqaluit (Pond Inlet venue shown on the right screen)

Participation at the NIRB Public Hearings – see Report section 1.4

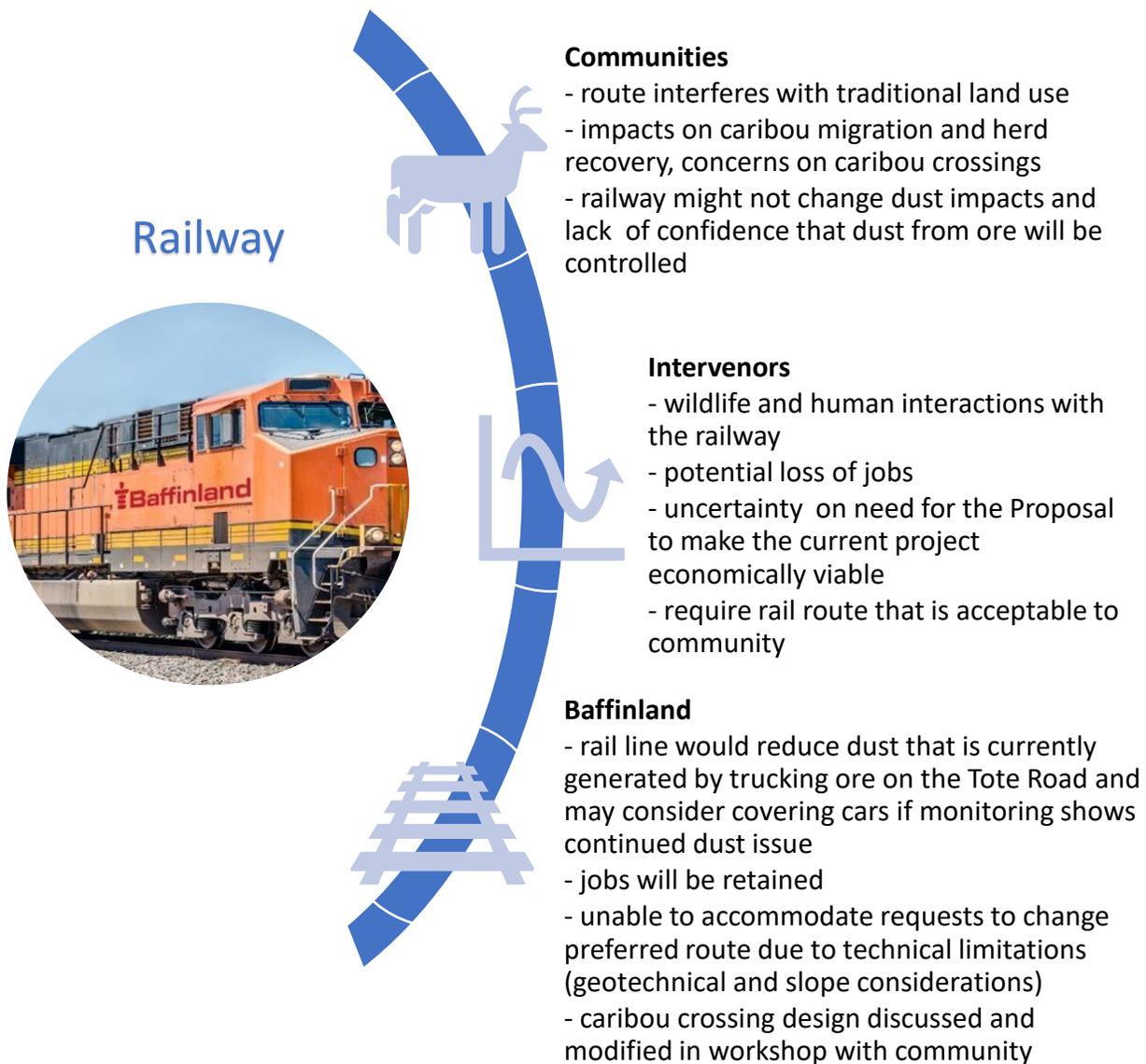
The Board tracked participation in the Hearing proceedings through in-person attendance as well as online access. The following are general numbers from each event:

	In-person -Pond Inlet	In-person -Iqaluit	Online
November 2019	Session suspended	135-171 people	*general broadcast
January 2021 Resumed Public Hearing	43-90 people	Max 100 by invitation	122-164 Zoom; 38-186 teleconference
April 2021 Extended Public Hearing	6-15 people	Max 100 by invitation	150-162 Zoom; 43-52 teleconference
November 2021 Resumed Extended Public Hearing	24-46 people	Max 100 by invitation	114-170 Zoom; 18-34 teleconference

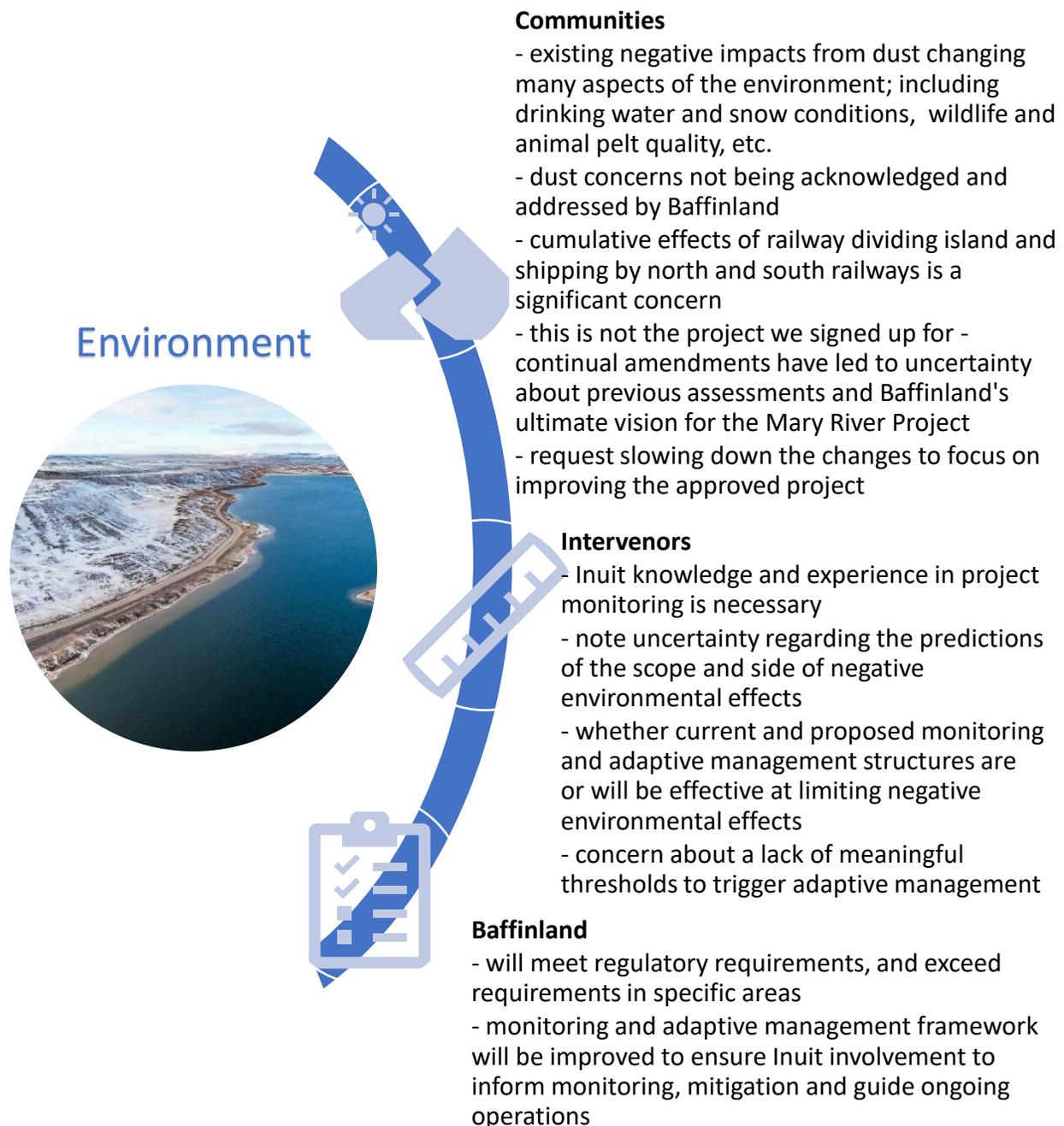
Summary of Key Issues Heard by the Board from Community Representatives – see Report section 4.1.1



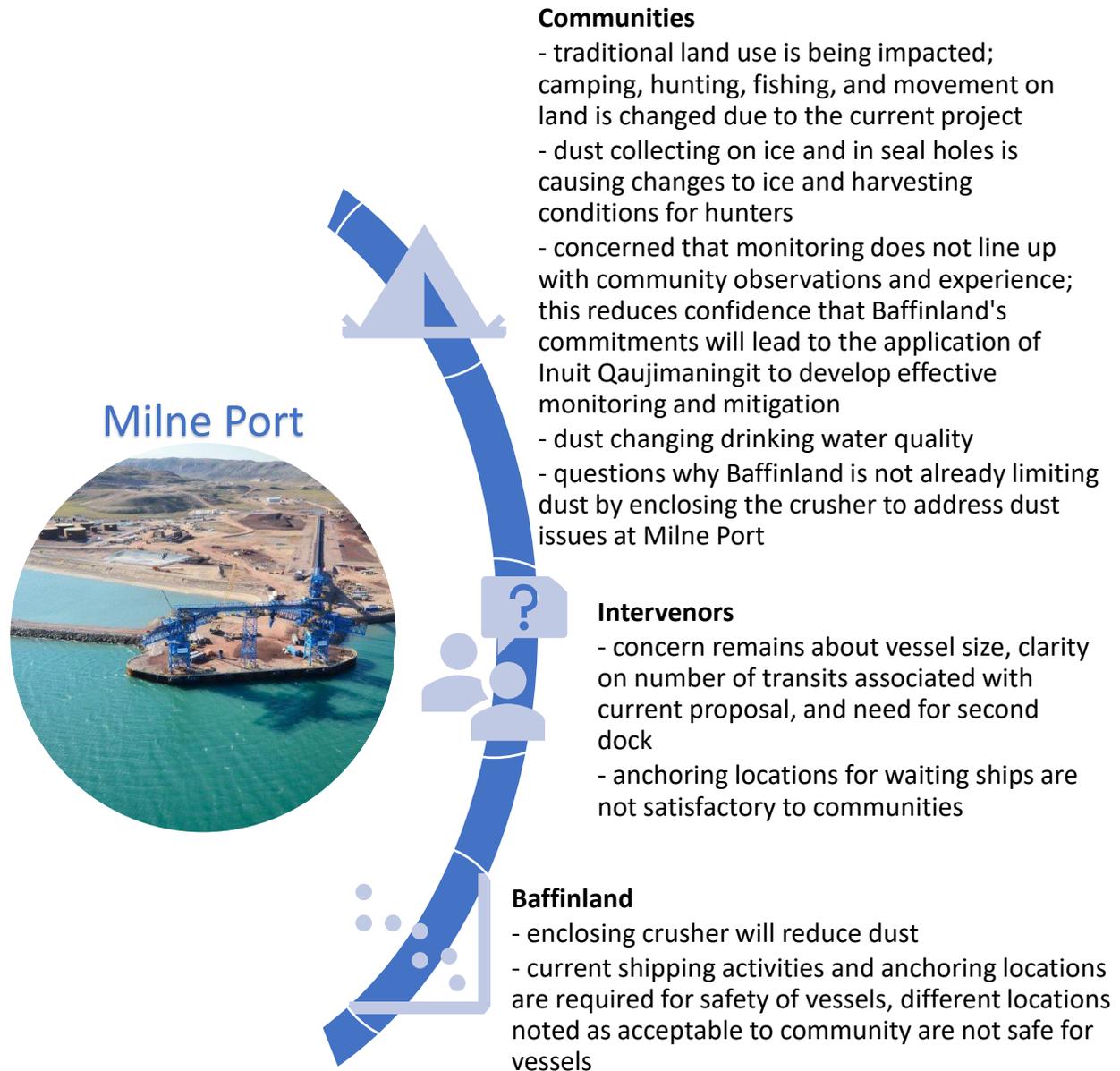
Issues the Board Heard on Benefits and Impacts of the Mary River Phase 2 Development – see Report sections 3, 4 and 5



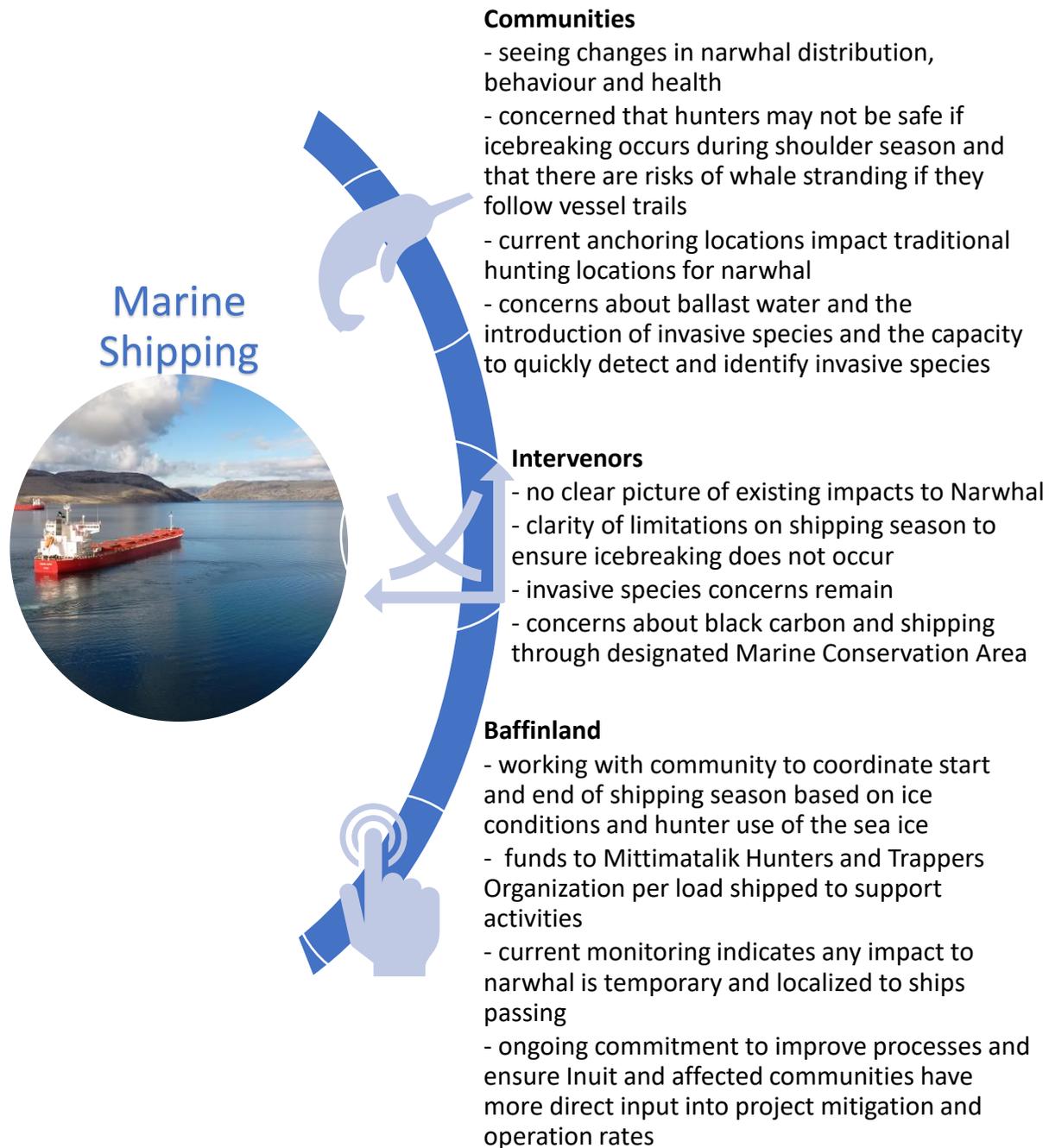
Issues the Board Heard on Benefits and Impacts of the Mary River Phase 2 Development – see Report sections 3, 4 and 5



Issues the Board Heard on Benefits and Impacts of the Mary River Phase 2 Development – see Report sections 3, 4 and 5

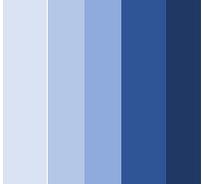


Issues the Board Heard on Benefits and Impacts of the Mary River Phase 2 Development – see Report sections 3, 4 and 5



Issues the Board Heard on Benefits and Impacts of the Mary River Phase 2 Development – see Report sections 3, 4 and 5





Conclusions and Recommendations of the Board – see Report sections 5, 6, and 7

Through the Board’s assessment of potential ecosystemic effects, the Board heard that despite the experience gained with the current version of the Mary River Project since the Board’s assessment of the original Mary River Project in 2012, there are still significant gaps in understanding, regional monitoring, and regulatory capacity that lead to high levels of uncertainty remaining with respect to:

1. Baseline conditions in the terrestrial and marine environment;
2. Whether effects predicted during the Board’s assessments of the original Mary River Project and modifications under the Early Revenue Phase, the Production Increase Proposal and the Extension of the Production Increase Proposal accurately reflect the effects being seen in the North Baffin Communities; and
3. Whether Baffinland’s current and proposed mitigation and monitoring measures are and/or will be effective to prevent and manage the potential for significant adverse effects from the Phase 2 Development alone or in combination with the effects of Baffinland’s current and future operation of the Mary River Project.

Where there is uncertainty, the Board has applied the “precautionary principle”, which prevents uncertainty being used as a reason not to act. For effects on marine mammals, fish, and caribou the Board has applied a high standard of the precautionary principle. This requires that a “safety margin” be built into monitoring, mitigation and adaptive management plans for a Project. It requires that where there is a risk of significant and lasting impacts, monitoring programs are designed to provide early warning signs, and that plans are in place to respond quickly to prevent and limit effects if early warning signs are detected.

As was the case in the Board’s previous assessments of the Mary River Project and subsequent modifications, given the importance of marine mammals, fish, and caribou to Inuit, the vulnerability and sensitivity of marine wildlife and caribou to disturbance and disruption, and uncertainty regarding the baseline conditions and potential effects of the Phase 2 Development Proposal, the Board has applied a high standard of the precautionary principle to its assessment of the potential for effects on these valued ecosystem components.

The Board determined that the articles of the ICA relating to monitoring and mitigation of the effects of the Phase 2 Development were relevant to the Board’s assessment and should be considered by the Board. As proposed, the ICA reflects a novel, made-in-Nunavut process, with the potential to ensure Inuit knowledge and experience plays a central role in project monitoring, adaptive management and mitigation programs for the current Mary River Project if the Phase 2 Development Proposal were to proceed. However, during the Technical Meeting and Community Roundtable conducted in the fall of 2020, the Board heard that there was limited trust in, and

Inuit Certainty Agreement (ICA)

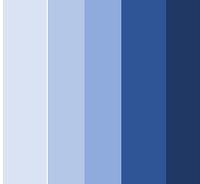


Signed in 2020 by Baffinland and the Qikiqtani Inuit Association, the ICA proposed a new Inuit-led and Inuit-informed approach to monitoring, mitigation, and adaptive management for the Phase 2 Development Proposal.

support for the ICA amongst the North Baffin communities. Important questions remained about how an independent, voluntary agreement without a clear linkage to regulatory and enforcement mechanisms would be effective. Some parties were skeptical that the new Committees proposed through the ICA could work well, noting that the Working Groups already established for the approved Project are not functioning effectively. During this assessment and the monitoring of the Mary River Project, the Board has noted that the existing Terrestrial Environmental Working Group and Marine Environment Working Group have been unable to come to agreement about important components of adaptive management for the current Mary river Project, such as the selection of Early Warning Indicators. The Board observed that the trust necessary for effective collaboration has eroded and important working relationships between the communities, Inuit Organizations, regulators, and Proponent have been damaged in the decade after the Board approved the original Mary River

Project. It is also unclear how the ICA could be implemented successfully in light of the Qikiqtani Inuit Association’s statement that they do not support the Phase 2 Development Proposal, but would honor the commitments in the ICA if the Phase 2 Development Proposal was approved to proceed. Consequently, the Board has serious concerns about the heavy reliance of the Proponent and parties on the ICA being implemented as envisioned to address uncertainty, ensure Inuit knowledge and experience occupies a central role in the adaptive management of the Project, and supports community-led and culturally relevant monitoring.

However, the potential for economic benefits that the Phase 2 Development Proposal represents must be considered in a holistic way that takes into account the potential for significant adverse ecosystemic effects and socio-economic effects. As explained in greater detail and for the reasons contained in this Report, the Board has concluded the following:

- 
-
- The voluminous record filed in respect of the assessment highlighted that a high degree of uncertainty still remains in terms of the potential for the Phase 2 Development Proposal to have significant adverse effects in the marine and terrestrial environments; and
 - There are significant gaps in the application and understanding of Inuit knowledge and experience by the Proponent and regulators, which have eroded the trust and confidence in the measures being developed and implemented to effectively mitigate, adaptively manage and monitor the effects of the existing Mary River Project. In the current context, the Board is not confident that these gaps can be effectively bridged under the ICA, and as a result is not confident that the potential for significant adverse effects resulting from the Phase 2 Development Proposal can be mitigated.

After careful consideration, the Board has concluded that **there is potential for the Phase 2 Development Proposal to have significant and lasting adverse effects on marine mammals and fish, caribou and other terrestrial wildlife, along with vegetation and freshwater. The Board also finds that these ecosystemic effects may in turn lead to significant adverse socio-economic effects on Inuit harvesting, culture, land use and food security.**

The Board has decided that despite the best efforts of all involved in the development of more than 250 commitments and the ICA, the potential for these significant adverse ecosystemic and socio-economic effects cannot be adequately mitigated to allow the Phase 2 Development Proposal to proceed at this time.

The Board has therefore concluded that the Phase 2 Development Proposal as assessed cannot proceed at this time in a manner that will protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and Canada in general, and would also not be protective of the ecosystemic integrity of the Nunavut Settlement Area.

Next Steps

After receiving the Board's Report and Recommendation, the Responsible Ministers will review the Report and issue their decision in respect of the Proposal. Because the Board Panel's recommendation for this assessment is that it should not proceed, within 90-180 days of the Ministers' receipt of the Report, the Ministers must:



Responsible Ministers

Agree

- Agree with the Board's reconsideration decision and recommendations

Reject or Vary

- Reject or vary the Board's reconsideration decision and recommendations in any manner the Ministers consider appropriate