

## REVIEW COMMENT TABLE

## EA1819-01 Diavik PK deposition - Draft Scoping Document and Workplan (MVEIRB)

**File(s):****Proponent:** Diavik Diamond Mines (2012) Inc.**Reviewer Comments Due By:** Mar 22, 2019**Proponent Responses Due By:** Mar 29, 2019**Documents:** [Draft Scoping Document and Workplan](#) 310 kB**Item For Review Distributed On****Item Description**

The Mackenzie Valley Environmental Impact Review Board (the Review Board) has decided on its own motion, under subsection 126 (3) of the Mackenzie Valley Resource Management Act, to conduct an environmental assessment (EA) on a proposal by Diavik Diamond Mines Inc. (Diavik) to deposit processed kimberlite into its mine workings.

Under the current closure plan, and consistent with the 1999 approval of the Diavik Mine, Diavik would fill the mine workings with freshwater and breach the dykes that currently surround the pits, so that they are reconnected with Lac de Gras (which now surrounds the mine and pits). Diavik now proposes to put processed kimberlite, a mine waste, into the mine workings and cover the processed kimberlite with water before breaching the dykes and reconnecting the flooded pits to Lac de Gras.

The Review Board is currently seeking input from parties and the public on a draft Scoping document and Workplan for this EA, which will be conducted concurrently with the Wek'èezhì Land and Water Board's water licence amendment process for WL2015L2-0001.

**General Reviewer Information**

The draft Scoping Document is the Review Board's initial identification of issues that will be examined during the EA. The draft Scoping Document is based on evidence from the water licence amendment process on the WLWB's public registry and the Comprehensive Study Report from the original Diavik Mine EA. The draft Workplan is a proposed timeline for key process steps. The Review Board requests input from parties, the public and the developer on the draft Scoping Document and Workplan. Some questions to consider in your review include:

1. Does the proposed scope of development include all activities and infrastructure necessary for the development to proceed?
2. Does the proposed scope of assessment include the valued components that should be assessed?
3. How should the Review Board prioritize the issues to be examined during the EA?
4. What specific changes should be made to the proposed Scoping document to ensure that a focussed, efficient and effective EA can be conducted?

5. Do you have any comments or concerns with the proposed draft Workplan?

In addition to comments received on the ORS, the Review Board will hold an in-person [scoping meeting](#) in Yellowknife on March 18th, 2019. Based on input received on the draft Scoping Document and Workplan, the Review Board will issue a final Scope of Assessment and Workplan, which will guide the EA for this development.

\*\*\*Please note that the deadline for public comments has been extended to March 22, 2019. The deadline for developer comments has been extended to March 29, 2019\*\*

**Contact Information**

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**Comment Summary**

Diavik Diamond Mines (2012) Inc. (Proponent)				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
2	General File	<p><b>Comment</b>  Cover Letter in support of DDMI's submission of comments and recommendations on MVEIRB's Draft Scoping Document and Draft Workplan for the Processed Kimberlite to Mine Workings Proposal.</p> <p><b>Recommendation</b></p>		
1	Date for in person scoping meeting	<p><b>Comment</b> MVEIRB Staff requested preferences on a meeting date between March 7 and 19. DDMI's preference is for March 7. If that is not possible then March 18. Thank you.</p> <p><b>Recommendation</b> na</p>		<p><b>Mar 5:</b>  After canvassing parties about availability, Review Board staff have scheduled the scoping meeting from 9am-12pm on Monday, March 18, 2019. A notice of proceeding has been posted on the public registry and is attached to this comment.</p>
Canadian Northern Economic Development Agency: Agnes Simonfalvy				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
4	General File	<p><b>Comment</b>  Government of Canada Comments on the Draft Scope Document and workplan</p> <p><b>Recommendation</b></p>		
1	2.0 Scope of	<p><b>Comment</b> Fisheries and Oceans Canada -</p>		

	Development	<p>Fisheries Protection Program (DFO-FPP) understands the scope of development for this environmental assessment (EA) includes the transportation, deposition and storage of processed kimberlite (PK) material into mine workings, specifically the A418 pit with the possible transferability to other pits/mine workings by Diavik Diamond Mines (2012) Inc. (DDMI).</p> <p><b>Recommendation</b> DFO-FPP recommends the scope of development include/ensure the assessment of transportation, deposition and storage of PK material to any of the mine workings (A154N, A514S, A418, and A21) and not be limited to the A418 to understand potential environmental impacts and how they could differ across pits.</p>		
2	3.0 Scope of Assessment	<p><b>Comment</b> DFO-FPP understands the scope of assessment identifies and prioritizes the issues and potential of the development that will be examined in EA and that it also considers potential impacts of the development on valued components of the biophysical and human environment as defined by the Mackenzie Valley Environmental Impact Review Board through the scoping process.</p> <p><b>Recommendation</b> DFO-FPP recommends the scope of assessment identify and prioritize the issues and potential of the development on fish and fish habitat (including cumulative impacts), ensuring the inclusion of all available sources i.e. Indigenous Knowledge (IK) and western science.</p>		
3	3.3 Geographic Scope	<p><b>Comment</b> DFO-FPP understands the geographic scope of assessment will be adapted to reflect the characteristics of each valued component being assessed.</p> <p><b>Recommendation</b> DFO-FPP recommends that the geographic scope as it relates to impacts to fish and fish habitat include all waters connected to DDMI's mining operations such</p>		

		as the Coppermine River and include the cumulative effects of other mining activities.		
<b>Diavik Diamond Mines (2012) Inc.: Kofi Boa-Antwi</b>				
<b>ID</b>	<b>Topic</b>	<b>Reviewer Comment/Recommendation</b>	<b>Proponent Response</b>	<b>Board Staff Response</b>
1	Scope of Development (Section 2 of the Draft Scoping Document)	<p><b>Comment</b> DDMI agrees that the scope of development should include transporting, depositing and storing processed kimberlite into mine workings, and closure and reclamation of any mine infrastructure related to the transport, deposition and storage of processed kimberlite into mine workings. DDMI confirms that the scope of development should not include the re-mining of processed kimberlite from the Processed Kimberlite Containment Facility as noted in DDMI's February 11, 2019 response to Information Requests during the preliminary screening stage of the Water Licence Amendment review process for the Proposal.</p> <p><b>Recommendation</b> DDMI agrees that the scope of development should include all activities associated with the transport, deposition, and storage of processed kimberlite in all mine workings at Diavik. DDMI requests that the scope of development should not include the re-mining of processed kimberlite from the Processed Kimberlite Containment Facility.</p>		
2	Scope of Assessment (Section 3 of the Draft Scoping Document)	<p><b>Comment</b> The Board's "Reasons for Decision" to order an Environmental Assessment (EA) on the Proposal only refer to aspects related to post-closure impacts of deposited processed kimberlite (PK) material in mine workings. DDMI found no evidence of concern or consideration to support inclusion of "construction" or "operations" related to the transportation and deposition of PK within the scope of assessment.</p> <p><b>Recommendation</b> DDMI recommends that the scope of assessment be for the Closure phase only, or specifically storage of processed kimberlite in mine workings, since the key</p>		

		mitigation proposed to manage potential impacts of the deposition and storage of Processed Kimberlite in mine workings is associated with closure i.e. the proposed minimum 50 metre freshwater cap for pit lakes.		
3	Scope of assessment considerations required by the Mackenzie Valley Resource Management Act (Section 3.1 of the Draft Scoping Document)	<p><b>Comment</b> The Mackenzie Valley Environmental Impact Review Board has included impacts associated with malfunctions or accidents in the scope of the assessment of the Processed Kimberlite to Mine Workings Proposal.</p> <p><b>Recommendation</b> DDMI recommends that for this environmental assessment scope, an "unanticipated mixing event" be considered the "malfunction".</p>		
4	Geographic scope of assessment (Section 3.3 of the Draft Scoping Document)	<p><b>Comment</b> The Draft Scoping Document includes a description of the spatial bounds to be considered in the assessment of potential impacts to valued components, including fish and fish habitat, water quality, and wildlife.</p> <p><b>Recommendation</b> For consistency with the Comprehensive Study Report (CSR) issued by the Canadian Environmental Assessment Agency in 1999, following its review of the Diavik Diamond Mine Project, DDMI recommends continued use of definitions of "Spatial Scope" (Section 5.1.4 of the CSR), and of other key Environmental Assessment terms and concepts, including "Effects Criteria" (Section 2.4.2.2 of the CSR) and "Significance of Effects" (Section 2.4.3 of the CSR).</p>		
5	Scope of assessment considerations required by the Review Board (Section 3.2 of the Draft Scoping Document)	<p><b>Comment</b> The Board has identified "wildlife" as one of the valued components to be assessed as part of the environmental assessment for the Processed Kimberlite to Mine Workings Proposal. DDMI notes the Government of Northwest Territories' comment (GNWT-5) about the lack of a clear rationale for the scoping of wildlife into the effects assessment for the Processed Kimberlite to Mine Workings Proposal.</p> <p><b>Recommendation</b> DDMI recommends that</p>		

		Wildlife, as referenced in Section 3.2 of the Draft Scoping Document, be limited to Caribou as noted in the Board's "Reasons for Decision". DDMI suggests that the only potential for interaction with wildlife is post-closure consumption of pit lake water, and that this effect pathway can be assessed for completeness as part of the environmental assessment.		
6	Scope of assessment considerations required by the Review Board (Section 3.2 of the Draft Scoping Document)	<p><b>Comment</b> The Board has identified "cultural use of the area post-closure" as one of the valued components to be assessed as part of the environmental assessment for the Processed Kimberlite to Mine Workings Proposal.</p> <p><b>Recommendation</b> DDMI recommends that "cultural use of the area post-closure" as it relates to this proposal be linked to fishing within and or drinking water from the pit lake areas and Lac de Gras.</p>		
7	Baseline data in support of the Environmental Assessment	<p><b>Comment</b> Confirmation of baseline data requirements for the environmental assessment.</p> <p><b>Recommendation</b> DDMI recommends that collection of additional "baseline data" should not be a requirement for this Environmental Assessment – DDMI will provide a high-level summary of baseline collected to date and reference any existing data used in assessments as has been done with water license Information Requests.</p>		
8	Cumulative Effects Assessment (Section 3.2 of the Draft Scoping Document)	<p><b>Comment</b> The Board notes in the Draft Scoping Document that the Environmental Assessment will consider the potential for cumulative effects to valued components.</p> <p><b>Recommendation</b> DDMI recommends that cumulative effects of the proposed activities on a Valued Component (VC) should only be assessed where there is potential for residual impacts on the VC. Further, DDMI recommends that the scope of activities/projects to be included in the cumulative effects assessment</p>		

		be based on the cumulative effects assessment conducted for the Dominion Jay Project plus this Proposal.		
9	All mine workings versus A418	<p><b>Comment</b> Fisheries and Oceans Canada and the Tlicho Government both recommend that the scope of the development include all mine workings (DFO-1 and TG-5). However, the Environmental Monitoring Advisory Board recommends that the scope of development be limited to the A418 mine workings due to a lack of information on A154 and A21 mine workings to support an assessment of all mine workings (EMAB-11)</p> <p><b>Recommendation</b> DDMI requests that the scope of development include all mine workings, while recognizing A418 is the most likely option and would be the focus of the environmental assessment.</p>		
10	Consolidation of water and fish effects information	<p><b>Comment</b> The Environmental Monitoring Advisory Board recommends that DDMI be required to organize information submitted to date on fish and water into a single document that discusses project interactions with these valued components, proposed mitigations, impact predictions and proposed monitoring programs (EMAB-5). Similarly, the Government of Northwest Territories recommends a consolidated impact statement to follow the pathway to effect, effect analysis and mitigation (GNWT-13)</p> <p><b>Recommendation</b> DDMI plans to consolidate relevant information submitted to date for effects on water and fish. DDMI recommends that this be included as an Information Request.</p>		
11	Levels of information for Environmental Assessment, Water Licencing and subsequent Plan Approvals, including the Closure and Reclamation Plan	<p><b>Comment</b> Regarding the level of detail to be included at the environmental assessment stage of the Proposal, the Environmental Monitoring and Advisory Board recommends that DDMI be required to discuss how proposed mitigations for potential impacts would be triggered (EMAB-6). The Government of Northwest Territories recommends that the</p>		

		<p>scope of the environmental assessment should not duplicate ongoing Closure and Reclamation Plan reviews for the Diavik Diamond Mine Project (GNWT-1), but also recommends that DDMI be required to include a risk assessment that evaluates effects within Lac de Gras and cumulative effects to the Closure and Reclamation Plan (GNWT-1 and GNWT-9).</p> <p><b>Recommendation</b> DDMI recommends that the Mackenzie Valley Environmental Impact Review Board (MVEIRB) and the Wekeezhii Land and Water Board (WLWB) broadly outline expectations for where in the regulatory process different levels of review/approval are conducted. For example, potential impacts and mitigations would be discussed during the MVEIRB environmental assessment process but final trigger action levels would be more appropriate in the WLWB approval of a monitoring/management plan or may already be part of the current or future Closure and Reclamation Plan.</p>		
12	Temporal Scope of the Environmental Assessment	<p><b>Comment</b> The Environmental Monitoring and Advisory Board recommends that the temporal scope of the environmental assessment be longer than the 100 years proposed in the Draft Scoping Document (EMAB-12).</p> <p><b>Recommendation</b> DDMI notes that modelling conducted to date for 100 years of the storage of processed kimberlite in mine workings demonstrates the worst-case conditions, which is appropriate for the Environmental Assessment.</p>		
13	Processed kimberlite deposition method	<p><b>Comment</b> The Government of Northwest Territories recommends that DDMI be required to describe the deposition method from each source of Processed Kimberlite - operations or Processed Kimberlite Containment Facility (GNWT-2)</p> <p><b>Recommendation</b> DDMI notes that the planned deposition method would be the same</p>		




		(pipeline) regardless of source (operations from Process Plant or closure from Processed Kimberlite Containment Facility dredging). DDMI reiterates that this Proposal does not include the re-mining of processed kimberlite from the Processed Kimberlite Containment Facility.		
14	Processed Kimberlite Containment Activities	<p><b>Comment</b> The Government of Northwest Territories recommends including possible Processed Kimberlite Containment Facility excavation activities within the scope of the assessment (GNWT-4 and GNWT-10).</p> <p><b>Recommendation</b> DDMI notes that it has requested the option to re-mine Processed Kimberlite from the Processed Kimberlite Containment Facility be removed from the scope of the Project under review as noted in DDMI's February 11, 2019 response to Information Requests during the preliminary screening stage of the Water Licence Amendment review process for the Proposal.</p>		
15	Draft Work Plan	<p><b>Comment</b> The Environmental Monitoring Advisory Board, the Government of Northwest Territories, and the Tlicho Government all recommend that the hearing or technical session for the Water Licence Amendment should follow an Environmental Assessment decision on the Proposal (EMAB-3, GNWT-17, and Tlicho Government Letter to the Boards dated March 22, 2019). During the Scoping Meeting, a party raised concerns about plans to conduct a water licence hearing before the Mackenzie Valley Environmental Impact Review Board (MVEIRB) issues its report on the Environmental Assessment. In response, MVEIRB noted that there are process tools that the Wekeezhii Land and Water Board (WLWB) could employ to deal with EA outcomes (e.g. post-EA project changes) and that there are a few steps after the Report of EA for input on the water licence. DDMI also requested if it could submit new evidence following the water</p>		

		<p>licence hearing if the record is closed. In response, WLWB staff said that in this case it would have to keep record open during that time (Scoping Meeting Summary EA1819-01).</p> <p><b>Recommendation</b> DDMI agrees with MVEIRB staff's recommendations and WLWB staff's approach to addressing new evidence following the water licence hearing as discussed at the Scoping Meeting. DDMI recommends that the WLWB keep the record of proceedings open for a period following the hearing to both advance the process and allow for unforeseen concerns.</p>		
16	Stakeholder engagement	<p><b>Comment</b> Environmental Monitoring Advisory Board notes that the DDMI presentation provided with the Engagement Records as part of the Water Licence Amendment process for the Processed Kimberlite to Mine Workings Proposal refers only to use of A418 pit (EMAB-14)</p> <p><b>Recommendation</b> During all community presentations DDMI stated that the most likely mine working to receive Processed Kimberlite was A418 based on the current mine plan. However, DDMI also clearly stated that if the mine plan were to change and, for example, another mine working would become available, a change could be considered. The diagrams presented and discussions that followed focused on the A418 example but it was stated that the same general concept could occur in another mine working, should one become available. DDMI acknowledges that the presentation and discussion that occurred with Environmental Monitoring Advisory Board (EMAB) was the very first engagement on this subject and the presentation was limited to A418. The change to the discussion was made subsequent to the EMAB presentation.</p>		
17	Processed Kimberlite Storage Options and Design	<p><b>Comment</b> The Yellowknives Dene First Nation (YKDFN-7) requested the following 1. a design workshop be hosted where the necessary</p>		

		<p>technical staff will define and explain Diavik’s project objectives, options and assessment of risks and impacts. 2. Diavik to provide references to similar projects and the outcomes 3. Diavik to detail how they apply to the proposed project 4. Diavik to detail restoration plans for ecological features predicted to be adversely impacted by the Project.</p> <p><b>Recommendation</b> Based on the Draft Workplan issued by the Mackenzie Valley Environmental Impact Review Board, DDMI is of the opinion that these types of requests for additional information are better suited for submission at the Information Request stage of the Review process.</p>		
18	General comments and quaries	<p><b>Comment</b> The Yellowknives Dene First Nation (YKDFN-8) requested that Diavik comment/provide information on 1. Dene Involvement in Project i.e. socioeconomic benefits to the First Nations from the Project; 2. List the sources of pre-mining data; 3. The need to update the Comprehensive Study Report for the Diavik Diamond Mine Project to represent current realities; 4. Diavik to outline rationale to limiting climate change influence on the Project to wind.</p> <p><b>Recommendation</b> Based on the Draft Workplan issued by the Mackenzie Valley Environmental Impact Review Board, DDMI is of the opinion that these types of requests for additional information are better suited for submission at the Information Request stage of the Review process.</p>		

**Environmental Monitoring Advisory Board: EMAB EMAB**

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
1	General File	<p><b>Comment</b>  EMAB Comment Letter</p> <p><b>Recommendation</b></p>		
2	Process/Workplan	<p><b>Comment</b> Information Requests The draft workplan provides for Information Requests (IR’s) by the MVEIRB and by the Parties. EMAB notes that previous IR’s related to this</p>		

		<p>proceeding have, in some cases, required further IR's where questions were not fully answered in the original response. EMAB requests that there be some flexibility in the workplan following the issuance of IR's if a similar situation occurs ie. the ability to push back intervention deadlines, hearing dates etc.</p> <p><b>Recommendation</b> In general EMAB notes that where new or updated technical information is provided, EMAB relies on technical consultants to provide an assessment which the Board then uses to make recommendations. This process requires preparation of a Terms of Reference by EMAB, preparation of an estimate by the consultant(s), approval of the estimate by the Board, actual review time by the consultant, review by EMAB staff and Board, so takes a minimum of three weeks, depending on the amount of material to be reviewed. EMAB requests that MVEIRB take this into account when revising the workplan.</p>		
3	Process/Workplan	<p><b>Comment</b> Coordination of Hearings As currently structured in the draft workplan, EMAB, and other Parties will not have the benefit of the Environmental Assessment (EA) hearing and EA decision report in preparing our intervention to the Water Licence (WL) hearing. During the WL proceeding, it appears the only opportunity Parties are being provided to address any additional issues raised in the EA hearings and Decision Report would be through closing arguments and/or comments on the draft water licence. We understand that the Wek'èezhii Land and Water Board (WLWB) is considering keeping the record of the proceeding open following the hearing so that new evidence can be submitted resulting from the MVEIRB Decision Report or other evidence submitted by other Parties following the Environmental Assessment hearing. EMAB's view is that this approach is not a good substitute for a hearing where all parties have the opportunity to ask questions to Diavik or</p>		

		<p>other Parties about additional issues or to receive clarification.</p> <p><b>Recommendation</b> EMAB would prefer to have the opportunity to address the EA Decision Report during its intervention at the WL hearing, so we recommend pushing the WL hearing back until after the EA Decision Report is released and Parties have had sufficient time to review the document.</p>		
4	Process/Workplan	<p><b>Comment</b> Community Participation in EA and WL proceedings EMAB is concerned about the relative lack of participation from Affected Communities in the WL proceeding to date. We are heartened by the level of participation at the scoping session. We encourage MVEIRB, and the WLWB, to structure the revised workplan in a way that is as accommodating of community schedules and decision-making processes as possible within any legislated requirements.</p> <p><b>Recommendation</b> We encourage MVEIRB, and the WLWB, to structure the revised workplan in a way that is as accommodating of community schedules and decision-making processes as possible within any legislated requirements.</p>		
5	Clarity and organization of Application	<p><b>Comment</b> The original water licence application, submitted in June 2018, included roughly half a page of information on potential environmental impacts of the proposal. Following comments on the application the WLWB issued an Information Request (IR) to Diavik on August 31, 2018. Diavik responded to this IR in November 2018. Comments were made on the IR responses by Parties including EMAB, and Diavik responded to these comments on January 8, 2019 with additional, substantive information, in the form of 10 attachments including a sensitivity analysis of the water quality model, and much other data and information. A Technical Session took place January 16 &amp; 17, 2019, very shortly after this new information was provided, and</p>		

		<p>additional new information was provided at that session. A number of additional IR's were made following the session and an additional 46 pages of information was received from Diavik in mid-February. It is EMAB's view that much of the information Diavik has provided to assist Parties in assessing the significance of the potential environmental effects of this project should have been included with the original application, and that the form the information has been provided in (multiple IR's, responses to comments on IR's, verbal responses at a Technical Session) is fragmented, making it difficult to link together and to identify gaps or inconsistencies.</p> <p><b>Recommendation</b> EMAB recommends this information be compiled and organized into one document that sets out the project and activities, the environment, valued components, project activities and linkages to VCs, predicted effects, mitigations, residual effects and monitoring, as well as assumptions and uncertainties. This would make it much easier for EMAB and other reviewers to understand and comment on the proposal, particularly those who have not fully participated in the review process to date. During the EA process MVEIRB would typically issue a Terms of Reference following scoping, that would lead to a Developer's Assessment Report. A DAR pulling all the material together would address EMAB's concerns about the fragmented nature of the information on this project.</p>		
6	Mitigation and Monitoring	<p><b>Comment</b> Mitigation In the various IR responses and Technical Sessions Diavik has referred to some mitigation strategies that have not been clearly presented for review, have not been engaged on, or assessed for potential environmental impacts.</p> <p><b>Recommendation</b> These mitigations should be discussed in relation to the potential impacts they would mitigate, how the mitigations</p>		

		would be triggered, and any associated impacts.		
7	Mitigation and Monitoring	<p><b>Comment</b> Mitigation If pit water quality is poor after filling of the pit lake Diavik may not re-connect the pits to Lac de Gras. The Closure Plan has always indicated intent to re-join the pit lakes with Lac de Gras.</p> <p><b>Recommendation</b> The scope should address what the effect of this reduction in fish habitat post-closure would be.</p>		
8	Mitigation and Monitoring	<p><b>Comment</b> Mitigation If pit water quality becomes poor due to unexpected de-stratification, Lac de Gras water will flush out the poor quality water; while this would significantly improve the pit water quality, it would move the contamination into Lac de Gras. EMAB's understanding is that communities have not been engaged on this.</p> <p><b>Recommendation</b> The scope should address what the potential environmental and socio-economic impacts of this would be.</p>		
9	Mitigation and Monitoring	<p><b>Comment</b> If a risk to Lac de Gras fish or water quality is detected after re-connection with Lac de Gras, Diavik would close the breaches in the dike to isolate the pit lake from Lac de Gras.</p> <p><b>Recommendation</b> This is a new idea/concept and requires a description of how it would be done. Would it be permanent; what would be the duration? What effects might be associated with this?</p>		
10	Mitigation and Monitoring	<p><b>Comment</b> Monitoring - Diavik and/or Parties have noted a number of monitoring requirements to verify the predictions and the actual effects of the project on fish and water quality. These should also be addressed in Diavik's proposal. a) Monitor fish use at various depths in the pit lake b) Monitor water quality throughout the pit lake water column on a regular basis prior to and after breaching the dikes c) Monitor pit wall for instability which could cause unanticipated destratification.</p>		

		<b>Recommendation</b> Monitoring requirements should be addressed in Diavik's proposal		
11	Scoping	<b>Comment</b> None <b>Recommendation</b> Geographic scope should include the A418 pit, Lac de Gras and effects on downstream users, in terms of fish and water quality as well as the communities of traditional users. Given the lack of information on the potential impacts in other pits, the proposal should be limited to A418 (see also comments on Engagement Record below).		
12	Scoping	<b>Comment</b> None <b>Recommendation</b> While the water quality modelling focused on a 100-year timeframe, given the ongoing diffusion of porewater towards the surface of the pit lake predicted by the model, it is reasonable to expect that this will continue to increase past the 100-year mark, so the timeframe should be extended to the point where an equilibrium is reached.		
13	Additional	<b>Comment</b> Diavik provided information to its Traditional Knowledge Panel in 2013 on removal of slimes from the PKC Facility, including a cost estimate in response to a request from the Panel (TK Panel recommendation 6.21 in TK Panel Report: Processed Kimberlite Containment Interim Report, 24-28 October 2013, p. 6.). <b>Recommendation</b> This information should be appended to the application.		
14	Additional	<b>Comment</b> Engagement Record in original application is a brief one-to-two sentence summary of the issues raised at engagements and DDMI's responses. The record indicates minutes were taken for each meeting, but these have not been provided. Note that the presentation provided with the Engagement Record refers only to use of A418 pit and does not address the possibility of PK porewater diffusing to surface, or possible turnover resulting in contaminated water at the bottom		



		<p>mixing with water above.</p> <p><b>Recommendation</b> These minutes would be of great assistance in confirming the context of the meeting and the accuracy of the issues raised. Also, please confirm correct information has been provided under issues raised for Jan 12/18, Jan 29/18 and Jan 23/18. The issues listed are identical for these three engagements.</p>		
15	Additional	<p><b>Comment</b> EMAB notes that during the scoping meeting Diavik requested that the MVEIRB assessment use the same definitions of significance for impacts as were used in the original Comprehensive Study Report. EMAB disagrees with this suggestion. Diavik has used these definitions recently as a rationale for proposing a one kilometer mixing zone around the East Island in which water quality would not have to meet aquatic health guidelines, and EMAB has stated this is unacceptable.</p> <p><b>Recommendation</b> None</p>		
<b>GNWT - Lands: Katie Rozestraten</b>				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
20	General File	<p><b>Comment</b>  Cover letter</p> <p><b>Recommendation</b></p>		
1	Scope - Closure and reclamation planning process	<p><b>Comment</b> The GNWT supports a focussed scope of development and scope of assessment for this EA. It is important to avoid duplication with the closure and reclamation planning process (CRP) being led by the Wek'èezhii Land and Water Board.</p> <p><b>Recommendation</b> The GNWT recommends that all parties familiarize themselves with the CRP process currently underway.</p>		
2	2 Scope of Development, page 2	<p><b>Comment</b> It is understood that the scope of development includes deposition of processed kimberlite (PK) material into the mine workings. The sources of PK are the process plant and existing PK from the PK containment facility (PKC facility).</p>		

		<b>Recommendation</b> Recommend that the scope includes a clearer description of deposition of PK to the underground from two sources: the process plant, and existing PKC facility.		
3	2 Scope of Development, page 2	<p><b>Comment</b> The scope of development identifies transporting as a key activity. Transporting will occur via piped transfer of PK from the process plant; however, transporting from the PKC facility will likely require digging/hauling activities.</p> <p><b>Recommendation</b> Recommend that 'transporting' under the scope of development is clarified by explaining the full scope of transportation options that Diavik intends to use.</p>		
4	3.1 Scope of assessment considerations required by the Act, Cumulative Impacts, page 2	<p><b>Comment</b> The Canadian Council of Ministers of the Environment (CCME) defines cumulative impacts as changes in the environment caused by multiple interactions among human activities and natural processes that accumulate across space and time. Consideration of cumulative impacts during the scoping of any project should not be limited to only the impacts from "the development in combination with other developments" as currently stated in the third bullet of Section 3.1. Both human disturbance, such as mining development, and natural factors, such as forest fires and climate change, can have equally important and compounding impacts on the environment and valued components.</p> <p><b>Recommendation</b> The GNWT recommends that when cumulative impacts are scoped into the project, that all potential contributing factors both from human development and natural processes, are included. As such, the third bullet in Section 3.1 should be expanded to include cumulative impacts that result from the development in combination with other developments and natural processes.</p>		
5	3.2 Scope of assessment	<b>Comment</b> Section 3.2 identifies wildlife as a component to be scoped in to the		

	<p>considerations required by the Review Board, Page 3</p>	<p>environmental assessment (EA). The GNWT notes that none of the review comments on the Wek'eezhii Land and Water Board (WLWB) online review system regarding this project raised wildlife concerns associated with this project. To support the inclusion of wildlife into this EA, the GNWT would be seeking information to identify whether the deposition of processed kimberlite (PK) into mine workings would create impacts that are additional to those previously scoped in and assessed through the original EA and addressed through existing monitoring and mitigation plans at the mine site. Recognizing that removal of the PK from the surface may help to address concerns regarding wildlife safety and movements post-closure and restorability of the area to usable habitat, it is unclear how the proposed activities might escalate the impacts to wildlife and wildlife habitat that are already associated with the mine and addressed in existing monitoring and mitigation plans.</p> <p><b>Recommendation</b> The GNWT recommends that the Review Board develop a scope for this EA that focuses on identifying additional adverse impacts to specific components of the proposed activity above and beyond those already captured in previous assessments and existing mitigation and monitoring plans. In the absence of clarity on what specific intensifying or new impacts should be considered, the GNWT recommends that wildlife be omitted from the scope.</p>		
<p>6</p>	<p>3.3 Geographic scope of assessment, page 3</p>	<p><b>Comment</b> In Section 3.3, the geographic scope of assessment for wildlife "will include relevant sources of cumulative effects", but the same is not stated for fish and fish habitat or water quality.</p> <p><b>Recommendation</b> The geographic scope of assessment for all Valued Components should include relevant sources of cumulative effects.</p>		
<p>7</p>	<p>3.4 Temporal scope of</p>	<p><b>Comment</b> In the MVLWB's Guidelines for the</p>		

	assessment, page 3	<p>Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories it is stated on page 16 that "When selecting closure options, proponents should be aware the expected design life of components is in the order of 1000 years rather than 100 years as in the past." Furthermore on page 13 of the Guidelines, it states that "Closure and reclamation will not be successful in the long-term (e.g., 1000 years) unless all physical structures are designed such that they do not pose a hazard to humans, wildlife, aquatic life, or environmental health and safety."</p> <p><b>Recommendation</b> The GNWT recommends that the Review Board provide additional rationale for the selection of a temporal scope of 100 years for this project, as opposed to the suggested design life of components as referenced in the MVLWB's guidelines.</p>		
8	Cumulative Effects Assessment	<p><b>Comment</b> The Review Board states that one consideration in the decision to proceed with an EA is that "the process has also not fully considered cumulative effects of the proposed activities in combination with other existing or planned projects in the area". The GNWT notes that the developer has indicated previously that a requisite Lac de Gras water quality model had not yet been constructed and/or parameterized. The GNWT notes that a Lac de Gras water quality model is necessary to determine and assess cumulative effects. The GNWT notes that it may be possible to use the existing Lac de Gras water quality model developed for the Jay Pit Licence EA and WL application.</p> <p><b>Recommendation</b> The GNWT recommends that the scope include water quality modelling for assessing cumulative effects of the proposed activities on Lac de Gras to better inform the EA.</p>		
9	Risk assessment	<p><b>Comment</b> The Review Board notes in its</p>		

		<p>Reasons for Decision for referral to EA that:          “The 1999 CEAA Comprehensive Study did not assess the placing of processed kimberlite in the pits and underground mine workings, including: whether doing this is acceptable, what the related effects may be, what the acceptable level of risk to Lac de Gras and other valued components is, and how to mitigate potential impacts.” During the water licensing process, reviewers discussed a risk assessment to quantify how an upset of meromixis would affect water quality in the pit lake and in the vicinity of the pit lake. This assessment should be done and should include water quality as a result of Jay Pit (presuming it is operational) and include the modeled seepage/leachate from Diavik’s waste rock storage area drainages to Lac de Gras. To date, DDMI has not completed an assessment that includes effects within Lac de Gras and cumulative effects to the Closure and Reclamation Plan. As the outcome of this work is highly relevant to assessing levels “of risk to Lac de Gras and other valued components” this work should be prioritized.</p> <p><b>Recommendation</b> The GNWT recommends the scope include an assessment of combined water quality influences on Lac de Gras based on these scenarios.</p>		
10	Changes to Proposed Scoping Document	<p><b>Comment</b> In the original water licence amendment request, DDMI proposed mining PK from the containment facility and depositing it in mine workings. This proposal was retracted by DDMI during the water licence process but DDMI did state that “DDMI may formally re-engage with stakeholders, including the WLWB, regarding this option in future” (Rio Tinto, 2019). This proposed activity and any associated activities or implications should be added to the Scoping Document (especially if it is related to PK slimes that are prone to suspension). Reference: Rio Tinto. 2019. DDMI Response to WLWB IRs re: Water Licence</p>		

		<p>W2015L2-0001 Amendment Request for the Deposition of Processed Kimberlite to Mine Workings.</p> <p><b>Recommendation</b> The GNWT recommends that the Review Board add the option to re-mining of PK and PK slimes from the PK containment facility if DDMI foresees this as a viable future option for closure.</p>		
11	General workplan consideration	<p><b>Comment</b> The Review Board has asked how to prioritize the issues to be examined during the EA. The GNWT provides the following suggestions for the consideration of the Review Board. Appropriate time in the workplan should be established for discussing and analyzing the water quality model selected for the pits; congruence between water quality models used (local vs. Lac de Gras models); and model requirements and inputs. It is unclear from the current workplan and scope of the EA that specific water quality assessments will be part of the assessment of impacts. The GNWT is concerned the current workplan does not provide an opportunity following the completion of the EA to address these issues.</p> <p><b>Recommendation</b> The GNWT recommends that the Review Board adjust the workplan to provide appropriate time to provide comments or concerns raised with the water quality model to assess the impacts of the proposed change on water quality within the pits.</p>		
12	Workplan - General timelines	<p><b>Comment</b> The timelines set out in the Draft Workplan are currently outdated; the scoping session was 18 March, 2019 and the party comments are due today, 22 March, 2019. Legislated timelines should be used for decision making process steps.</p> <p><b>Recommendation</b> Recommend all dates be adjusted. Where the timeline relates to the process step that involves government decision making, please refer to legislated timelines (5 months for an environmental assessment with hearing, and 45 days for a water licence).</p>		

13	Workplan - Information requests and scoping document	<p><b>Comment</b> MVEIRB is slated to issue its final scoping document and Information Requests simultaneously. After this step, the next steps are parties to provide information requests, and the developer to respond. There does not appear to be a response by the developer to the scoping document and information requests. It is unclear from the Draft Workplan what will constitute a developer's assessment report / impact statement and when parties will have an opportunity to review the assessment.</p> <p><b>Recommendation</b> The GNWT requests that the MVEIRB require a form of impact statement/effects analysis that can be reviewed by parties prior to parties issuing information requests to the developer. While much of the information likely exists on the public registry through the water licence process, this information should be consolidated so that parties can follow the assessment from pathway to effect, effect analysis, and mitigation. The GNWT highly recommends that Diavik produce a consolidated impact statement, even if MVEIRB chooses not to require such a statement.</p>		
14	Workplan - Information requests and scoping document	<p><b>Comment</b> Nowhere in the Draft Workplan is there an assessment of the adequacy of the responses provided by the developer. Moving forward through an environmental assessment without adequate information causes frustration on the part of reviewers and can add to timelines if multiple rounds of information requests are needed. If the assessment report that arises from MVEIRB's scoping document and information requests do not adequately address the requirements of the final scoping document or information requested in the information requests, moving forward through the environmental assessment becomes challenging.</p> <p><b>Recommendation</b> The MVEIRB should assess the adequacy of the response(s) provided by the developer as it relates to addressing the</p>		

		scope of the environmental assessment and the response to the information requests.		
15	Workplan - Information request and scoping document	<p><b>Comment</b> The Draft Workplan does not include a developer's assessment report or similar being produced by the developer. In a "typical" environmental assessment, this document contains the bulk of the information parties use in forming their own conclusions as to whether there will be impacts to the environment. If parties believe information is missing, information requests can be asked to fill the gaps. Depending on how MVEIRB addresses the request for an impact statement document, there should be an opportunity for parties to assess the information provided and ask for additional information via information requests if they feel data gaps exist.</p> <p><b>Recommendation</b> The developer's response to the scoping document and MVEIRB's information requests (the impact assessment document) should be provided, and deemed adequate, prior to the deadline for parties to provide information requests to the developer.</p>		
16	Workplan - Public hearing	<p><b>Comment</b> The GNWT notes that at the scoping session the MVEIRB and WLWB staff clarified that the hearings are coordinated, and not joint.</p> <p><b>Recommendation</b> The GNWT agrees that that the hearings should not be joint between the MVEIRB and the WLWB; structure and timing of the coordinated hearings should include the views of parties and the developer.</p>		
17	Workplan - Public hearing	<p><b>Comment</b> The GNWT has concerns with the proposed coordinated hearing process. The report of environmental assessment may contain measures that will impact discussions/mitigations/etc in regulatory. Without the outcome of the environmental assessment being finalized, the GNWT believes a hearing for the water licence proceedings is premature. Splitting the coordinated process may also reduce the potential for duplication of</p>		



		<p>information and discussions due to a water licence hearing occurring immediately following the hearing for the environmental assessment.</p> <p><b>Recommendation</b> The GNWT requests that the MVEIRB and the WLWB split the coordinated process prior to the public hearing phase. The water licence process could be reconvened after the responsible ministers' decision, with a hearing or technical session that allows for parties to ensure the measures and commitments from the environmental assessment are properly captured.</p>		
18	Workplan - Public hearing	<p><b>Comment</b> At the scoping session, there was discussion of community hearings and public hearings.</p> <p><b>Recommendation</b> The final workplan should include whether MVEIRB intends to hold community, as well as public, hearings for the environmental assessment. If this differs from the WLWB's intentions, this should be made clear in the workplan as well.</p>		
19	Workplan - EA decision	<p><b>Comment</b> The Draft Workplan has the Ministers' decision on the Report of EA occurring concurrently with the water licence comment period. The GNWT, as both decision maker (for both the environmental assessment and water licence), and a party in both processes, is concerned with having to provide comments on a draft water licence while still rendering a decision on the recommendation on the Report of Environmental Assessment. There is the possibility that participating in the water licence process at this stage, prior to a decision, could be seen as presupposing a decision on the Report of Environmental Assessment.</p> <p><b>Recommendation</b> The GNWT requests that the WLWB does not put the draft water licence conditions out for comment until after a decision is made on the Report of Environmental Assessment.</p>		

Tlicho Government: Tlicho Lands Regulatory				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
1	Culture	<p><b>Comment</b> The Tlicho Government considers cultural use of the area to be an important topic to have included in the scope of the EA.</p> <p><b>Recommendation</b> The questions the TG believes should be asked are: what was the nature of the cultural use and practice of rights in the region before mining? What do Indigenous people envision cultural use to be in the region after mining ends by Diavik? These two questions should be used to identify if the placement of processed kimberlite into the 418 pit, and the eventual breach of the dykes, will be an acceptable preferred future that continues to allow for the cultural use envisioned by the Tlicho.</p>		
2	Background for Culture	<p><b>Comment</b> The TG notes that there was a study done in preparation for the Panel review of Diavik, in addition to many other reports prepared with the West Kitimeot Slave Society (through 1996 onwards). Specifically the work by Legat et al. starting in 1999-2019 on caribou should be used as a base and referred too.</p> <p><b>Recommendation</b> These reports should be reconsidered in light of the question of what was the nature of cultural use and practice or rights in the region before mining.</p>		
3	Reconnecting Lakes at Closure	<p><b>Comment</b> The Board asked: are there any effects that may limit affect Diavik's plan to reconnect the lakes at closure.</p> <p><b>Recommendation</b> The TG recommends the Board test with elders what their vision of cultural use, and their preferred future for reclamation is. The TG recommends that a clear process for managing the EA review is clarified – is the Review Board posing the question: if this plan for closure will have adverse impact to water quality, and if it is not acceptable to elders or harvesters, is there other acceptable alternatives? Please clarify this in the scope.</p>		

4	Accidents and malfunctions	<p><b>Comment</b> The Board asked for guidance on this component.</p> <p><b>Recommendation</b> The types of accidents that could occur should be well described, and the effects of them considered in the 100 year timeframe set by the Board, including collapse of pit walls, overturn of the lake, among others.</p>		
5	Scope, including all pipes for deposition	<p><b>Comment</b> The TG notes that the proponent has mainly studied A418, and that the scope includes the other pipes.</p> <p><b>Recommendation</b> TG further notes the ECCC request that if "the Proponent is proposing to deposit tailings in A154 or A21, additional information be provided on site-specific factors, that may influence the deposit of PK into these pits. Site-specific analysis should be completed for PK deposit to other pits during both operations and closure." The TG recommends that there be requirements in the scope of assessment to consider these points.</p>		

**Yellowknives Dene First Nation: Machel Thomas**

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Response
5	Assessment of Environmental Risks and Impacts : Further scoping for Diavik	<p><b>Comment</b> 1. The objective of a waste disposal plan should be to meet the needs of the end users, in the case of the PK project, the end users are the members of the respective Dene groups and the wildlife that will once again roam the reclaimed lands. To do this, it is necessary to conduct wide ranging scoping of the effects of the project. It appears, though, as if enough consideration was not given to the concerns of the Dene in understanding or assessing the scope of potential effects. This is highlighted by the surface deep focus only on the potential impact to fish and fish habitat. This is an over simplification and shows a lack of in-depth analysis. 2. Indigenous rights and use, though acknowledged, no mention was made as to what exactly these rights and uses are. 3. What are the cumulative impacts of the project on Lac de Gras? At the scoping</p>		

		<p>meeting, it was highlighted that a cumulative impact assessment was conducted on Lac de Gras by Dominion Mines, to include the Diavik mining operations. 4. Community Engagement in January of 2018 not sufficient.</p> <p><b>Recommendation</b> 1. Traditional Knowledge Study (TK), to obtain among other things, the traditional pre-mine land use and any associated cultural significance which the project has the potential to alter. 2. Further traditional engagement is required to ascertain this. Diavik should compile from the outcome of its TK panel meetings (past and future), an inventory of Dene rights and uses. This is vitally important. It is also important to ensure that wherever and in whatever situation where TK is to be obtained (going forward), that technical staff members of the Dene groups are present. 3. Though a report maybe available, we think it is within reason for Diavik to have a public forum to present the results. Particularly, taking into consideration that when all the mining and restoration is completed, it is the intention of the Dene to use the lake. 4. Diavik needs to complete other community workshops relating to the project as it is deemed insufficient to rely solely on those conducted in January 2018, as highlighted in the presentation.</p>		
6	Restoration/ Reclamation/Closure	<p><b>Comment</b> 1. The reclamation process does not end with the completion of the physical restoration. Post project monitoring has a significant role to play before it can be said the land is restored. Further, land restoration and local Dene trust go together. There must be some monitoring plan provided by Diavik to the end users (i.e. Dene) to ensure that legacies are not compromised, in the sense, and to such an extent that it will affect the psyche of the Dene peoples and how we treat the land. 2. YKDFN advocates an indigenous approach to planning and development. This approach is predicated upon long-term learning through observation, the empowerment of community</p>		

		<p>through our cultural practices, and quite importantly the observance of our land tenure arrangements of inheritance, birthright and collective stewardship. Consequently, we are committed to ensuring enduring legacies in the relationship we have with our lands and how future generations will operate in relation to it. For this project it is no different. We want to know what impact does the proposed activity have on the prior closure plan of the mine? Will it lead to a recalculation, update, recalibration? Also, of interest are the project details with the potential to compromise or change how we deal with the land when the project is completed, so we can use this to inform how future generations will care for and treat the site after closure.</p> <p><b>Recommendation</b> 1. We think that a monitoring program/plan should be outlined, and that the Dene be a part of the entire process, to build and foster trust between ourselves and Diavik. Firsthand inclusion in any such process is considered by us as significant, based on the traditional belief that any gap in direct observation about any activity on the land will bring about a change in the way we will want to engage with the land, thus modifying our traditional relationship with it (the land). We also encourage the engagement of all stakeholders in a participatory process to develop the best and most robust outcomes. 2. YKDFN would like a Legacy Planning component as part of any Closure and Reclamation Plan. We firmly believe Diavik consider this concern by developing a Legacy Planning Chapter within the Reclamation/Closure Plan. This will show what can be reasonably expected after closure. e.g. How long after closure will it be safe to start fishing? What are potential contaminants, timeless etc.</p>		
7	PK Storage Options & Design	<p><b>Comment</b> 1. There appears to be a heavy-handed-top-down approach in how the</p>		

		<p>options were chosen and selected. 2. The Yellowknives Dene First Nations would like to be directed to completed projects of similar nature as that proposed by Diavik and the outcomes and effect on human and wildlife. 3. What exactly are the the environmental advantages and disadvantages of PK storage? 4. The lake was not the only ecological feature disturbed. Are there plans to restore other such features? Any restoration plan should address this.</p> <p><b>Recommendation</b> 1. a design workshop is suggested where the necessary technical staff will define and explain Diavik's project objectives, options and assessment of risks and impacts. 2. Diavik to provide references 3. Diavik to detail how they apply to the proposed project 4. Diavik to highlight course of action.</p>		
8	General Comments & Queries	<p><b>Comment</b> 1. Are there any socio-economic initiatives that would be beneficial to the first nations to be driven by the project? 2. What was the source of pre-mining data? 3. The CSR is outdated. 4. Climate change was identified as a factor that may have some impact on the project, however, only wind was considered. We, though, are of the opinion that this is not the only aspect of climate change that would impact upon the project.</p> <p><b>Recommendation</b> 1. Diavik to comment on Dene Involvement in Project 2. List to be provided 3. Should be updated to reflect or at least assess current realities.4. Diavik to outline how this was arrived at</p>		

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Mark Cliffe-Phillips  
Executive Director  
Mackenzie Valley Environmental Impact Review Board  
P.O. Box 938  
Yellowknife, NT X1A 2N7

27 March 2019

Dear Mr. Cliffe-Phillips:

**Subject: DDMI Comments and Recommendations on the Draft Scoping Document and the Draft Workplan for the Environmental Assessment of the Deposition of Processed Kimberlite into Mine Workings Proposal (MVEIRB File No.: EA1819-01)**

Diavik Diamond Mines (2012) Inc. (DDMI) is pleased to provide to the Mackenzie Valley Environmental Impact Review Board (MVEIRB or the Board) comments and recommendations on the the Draft Scoping Document and the Draft Workplan for the Board's Environmental Assessment of DDMI's Deposition of Processed Kimberlite into Mine Workings Proposal.

DDMI's comments and recommendations on the Draft Scoping Document and the Draft Workplan are focused on the following areas:

- The scope of the development:
  - Project components and activities (the Proposal) to be reviewed by the Board; and
  - Confirmation that the re-mining of processed kimberlite from the Processed Kimberlite Containment Facility is not part of the scope of development for the Review.
- The scope of the assessment:
  - Project phases;
  - Valued components;
  - Geographic/spatial scope of the assessment;
  - Baseline data requirements;
  - Cumulative effects assessment – conditions/scenarios that warrant such assessments; and
  - Scenario(s) to be evaluated/assessed under Accidents or Malfunctions.
- Definitions for key environmental assessment terms and concepts.
- The MVEIRB-Wek'èezhì Land and Water Board coordinated process and the timing of hearings by both Boards.

In addition, DDMI has provided its responses to some Party comments on the Draft Scoping Document and the Draft Workplan. We are submitting our comments and recommendations early to assist the Board with a timely and efficient review process for the Proposal.

Details of DDMI's comments and recommendations, including responses to some comments by parties, have been uploaded to the Board's Online Review System. Please do not hesitate to contact the undersigned or Kofi Boa-Antwi (867 447 3001 or [kofi.boa-antwi@riotinto.com](mailto:kofi.boa-antwi@riotinto.com)) if you have any questions related to this submission.

Sincerely,



Sean Sinclair  
Superintendent, Environment

cc: Catherine Fairbairn, MVEIRB  
Kate Mansfield, MVEIRB





5019 – 52<sup>nd</sup> Street  
Yellowknife, NT X1A 1T5

March 22, 2019

Kate Mansfield  
Senior Environmental Assessment Officer  
Mackenzie Valley Environmental Impact Review Board  
5102 – 50<sup>th</sup> Avenue  
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YELLOWKNIFE, NT X1A 2N7

**VIA ONLINE REVIEW SYSTEM**

Dear Ms. Mansfield,

**Government of Canada comments on the draft scoping document and workplan for Diavik's proposed deposition of processed kimberlite in pits and underground [EA1819-01]**

On behalf of the Government of Canada (Canada), thank you for the opportunity to provide comments and feedback on the Mackenzie Valley Environmental Impact Review Board's ("Review Board") draft scoping document and workplan for the environmental assessment of Diavik Diamond Mines Inc.'s ("DDMI") proposal to deposit processed kimberlite in pits and underground. Canada has reviewed all documents and the proposed workplan and provides the following primary concerns; additionally, Fisheries and Oceans Canada has provided comments on the draft scope document in the attached Appendix 1.

The proposed timelines set out in the draft workplan outline dates for a Ministerial Decision for the Environmental Assessment and Water Licence that do not respect the legislated timelines of the *Mackenzie Valley Resource Management Act and the Waters Act* ("MVRMA"). Canada agrees with the Government of the Northwest Territories (GNWT) submission that the dates in the final workplan should be adjusted to reflect the legislated timelines stipulated in the MVRMA; where the Review Board holds a public hearing for an environmental assessment, the Minister has five months to distribute their decision.

Canada supports the GNWT's request that the Review Board's environmental assessment process and the Wek'èezhìi Land and Water Board's ("WLWB") water licence process be divided, and that the water licence process be reconvened after the Responsible Ministers make their decision with respect to the Report of Environmental Assessment. With respect to this process, the draft water licence conditions should not be circulated prior to the Responsible Ministers' final decision on the Report of Environmental Assessment. Canada



also agrees with the GNWT that both the Review Board and the WLWB processes must be procedurally fair and able to fulfill the duty to consult, and provide appropriate opportunities for all parties to present evidence, ask questions, and make final submissions.

We look forward to participating in further stages of the review of this proposed project. Should you have any questions, please do not hesitate to contact Senior Project Manager Adrian Paradis at 867-669-2595 or by email at [adrian.paradis@canada.ca](mailto:adrian.paradis@canada.ca).

Sincerely,

Lisa Dyer  
Director General  
Northern Projects Management Office

cc:

Lorraine Seale, Director, Securities and Project Assessment, Department of Lands, Government of the Northwest Territories

Mathew Spence, Regional Director General, Crown Indigenous Relations and Northern Affairs Canada

Mary Taylor, Environmental Protection Operations Directorate Environment and Climate Change Canada

Thomas Hoggarth, Regional Director, Fisheries and Oceans Canada, Ecosystem Management Central and Arctic Region

Shari Currie, Regional Director General, Prairie and Northern Region, Transport Canada

Patrick O'Neill, Director General, Explosives, Safety and Security Branch, Natural Resources Canada

Chantal Roberge, Director, Environmental Health and Internationally Protected Persons, Health Canada

Mark Hopkins, Director General, Crown Indigenous Relations and Northern Affairs

## WORKING WITH THE PEOPLE FOR THE ENVIRONMENT



March 22, 2019

Mark Cliffe-Phillips  
Executive Director  
Mackenzie Valley Environmental Impact Review Board  
P.O. Box 938  
Yellowknife, NT X1A 2N7

### **Re: EMAB comments and recommendations on the draft scope of assessment and workplan for EA1819-01 Depositing Processed Kimberlite into Pits and Underground**

EMAB would like to thank the Mackenzie Valley Environmental Impact Review Board (MVEIRB) for the opportunity to provide comments on the scope and workplan for EA1819-01 Depositing Processed Kimberlite (PK) into Pits and Underground. Please see our comments below.

#### 1) Process/Workplan

##### a) Information Requests

The draft workplan provides for Information Requests (IR's) by the MVEIRB and by the Parties. EMAB notes that previous IR's related to this proceeding have, in some cases, required further IR's where questions were not fully answered in the original response. EMAB requests that there be some flexibility in the workplan following the issuance of IR's if a similar situation occurs ie. the ability to push back intervention deadlines, hearing dates etc.

In general EMAB notes that where new or updated technical information is provided, EMAB relies on technical consultants to provide an assessment which the Board then uses to make recommendations. This process requires preparation of a Terms of Reference by EMAB, preparation of an estimate by the consultant(s), approval of the estimate by the Board, actual review time by the consultant, review by EMAB staff and Board, so takes a minimum of three weeks, depending on the amount of material to be reviewed. EMAB requests that MVEIRB take this into account when revising the workplan.

##### b) Coordination of Hearings

As currently structured in the draft workplan, EMAB, and other Parties will not have the benefit of the Environmental Assessment (EA) hearing and EA decision report in preparing our intervention to the Water Licence (WL) hearing.

During the WL proceeding, it appears the only opportunity Parties are being provided to address any additional issues raised in the EA hearings and Decision Report would be through closing arguments and/or comments on the draft water licence. We understand that the Wek'èezhii Land and Water Board (WLWB) is considering keeping the record of the proceeding open

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following the hearing so that new evidence can be submitted resulting from the MVEIRB Decision Report or other evidence submitted by other Parties following the Environmental Assessment hearing. EMAB's view is that this approach is not a good substitute for a hearing where all parties have the opportunity to ask questions to Diavik or other Parties about additional issues or to receive clarification.

EMAB would prefer to have the opportunity to address the EA Decision Report during its intervention at the WL hearing, so we recommend pushing the WL hearing back until after the EA Decision Report is released and Parties have had sufficient time to review the document.

### c) Community Participation in EA and WL proceedings

EMAB is concerned about the relative lack of participation from Affected Communities in the WL proceeding to date. We are heartened by the level of participation at the scoping session. We encourage MVEIRB, and the WLWB, to structure the revised workplan in a way that is as accommodating of community schedules and decision-making processes as possible within any legislated requirements.

### 2) Clarity and organization of Application

The original water licence application, submitted in June 2018, included roughly half a page of information on potential environmental impacts of the proposal. Following comments on the application the WLWB issued an Information Request (IR) to Diavik on August 31, 2018. Diavik responded to this IR in November 2018. Comments were made on the IR responses by Parties including EMAB, and Diavik responded to these comments on January 8, 2019 with additional, substantive information, in the form of 10 attachments including a sensitivity analysis of the water quality model, and much other data and information. A Technical Session took place January 16 & 17, 2019, very shortly after this new information was provided, and additional new information was provided at that session. A number of additional IR's were made following the session and an additional 46 pages of information was received from Diavik in mid-February.

It is EMAB's view that much of the information Diavik has provided to assist Parties in assessing the significance of the potential environmental effects of this project should have been included with the original application, and that the form the information has been provided in (multiple IR's, responses to comments on IR's, verbal responses at a Technical Session) is fragmented, making it difficult to link together and to identify gaps or inconsistencies.

EMAB recommends this information be compiled and organized into one document that sets out the project and activities, the environment, valued components, project activities and linkages to VCs, predicted effects, mitigations, residual effects and monitoring, as well as assumptions and uncertainties. This would make it much easier for EMAB and other reviewers to understand and

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comment on the proposal, particularly those who have not fully participated in the review process to date.

During the EA process MVEIRB would typically issue a Terms of Reference following scoping, that would lead to a Developer's Assessment Report. A DAR pulling all the material together would address EMAB's concerns about the fragmented nature of the information on this project.

### 3) Mitigation and Monitoring

#### a) Mitigation

In the various IR responses and Technical Sessions Diavik has referred to some mitigation strategies that have not been clearly presented for review, have not been engaged on, or assessed for potential environmental impacts. These should be discussed in relation to the potential impacts they would mitigate, how the mitigations would be triggered, and any associated impacts.

- i) If pit water quality is poor after filling of the pit lake Diavik may not re-connect the pits to Lac de Gras. The Closure Plan has always indicated intent to re-join the pit lakes with Lac de Gras. The scope should address what the effect of this reduction in fish habitat post-closure would be.
- ii) If pit water quality becomes poor due to unexpected de-stratification, Lac de Gras water will flush out the poor quality water; while this would significantly improve the pit water quality, it would move the contamination into Lac de Gras. EMAB's understanding is that communities have not been engaged on this. The scope should address what the potential environmental and socio-economic impacts of this would be.
- iii) If a risk to Lac de Gras fish or water quality is detected after re-connection with Lac de Gras, Diavik would close the breaches in the dike to isolate the pit lake from Lac de Gras. This is a new idea/concept and requires a description of how it would be done. Would it be permanent; what would be the duration? What effects might be associated with this?

b) Monitoring - Diavik and/or Parties have noted a number of monitoring requirements to verify the predictions and the actual effects of the project on fish and water quality.

These should also be addressed in Diavik's proposal.

- a) Monitor fish use at various depths in the pit lake
- b) Monitor water quality throughout the pit lake water column on a regular basis prior to and after breaching the dikes
- c) Monitor pit wall for instability which could cause unanticipated destratification.

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### 4) Scoping

- a) Geographic scope should include the A418 pit, Lac de Gras and effects on downstream users, in terms of fish and water quality as well as the communities of traditional users. Given the lack of information on the potential impacts in other pits, the proposal should be limited to A418 (see also comments on Engagement Record below).
- b) While the water quality modelling focused on a 100-year timeframe, given the ongoing diffusion of porewater towards the surface of the pit lake predicted by the model, it is reasonable to expect that this will continue to increase past the 100-year mark, so the timeframe should be extended to the point where an equilibrium is reached.

### 5) Additional Information

- a) Diavik provided information to its Traditional Knowledge Panel in 2013 on removal of slimes from the PKC Facility, including a cost estimate in response to a request from the Panel (TK Panel recommendation 6.21 in TK Panel Report: Processed Kimberlite Containment Interim Report, 24-28 October 2013, p. 6.). This information should be appended to the application.
- b) Engagement Record in original application is a brief one-to-two sentence summary of the issues raised at engagements and DDMI's responses. The record indicates minutes were taken for each meeting, but these have not been provided. These would be of great assistance in confirming the context of the meeting and the accuracy of the issues raised.

Also, please confirm correct information has been provided under issues raised for Jan 12/18, Jan 29/18 and Jan 23/18. The issues listed are identical for these three engagements. Note that the presentation provided with the Engagement Record refers only to use of A418 pit and does not address the possibility of PK porewater diffusing to surface, or possible turnover resulting in contaminated water at the bottom mixing with water above.

- c) EMAB notes that during the scoping meeting Diavik requested that the MVEIRB assessment use the same definitions of significance for impacts as were used in the original Comprehensive Study Report. EMAB disagrees with this suggestion. Diavik has used these definitions recently as a rationale for proposing a one kilometer mixing zone around the East Island in which water quality would not have to meet aquatic health guidelines, and EMAB has stated this is unacceptable.

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We trust these comments are useful and urge you to give them full consideration. If you have questions or concerns, please contact John McCullum at 766-3682 or [emab1@northwestel.net](mailto:emab1@northwestel.net).

Sincerely,

Napoleon Mackenzie  
Chair

Cc Board Members and Alternates (by email)  
Parties to the Environmental Agreement (by email)  
Ryan Fequet, Executive Director, WLWB (by email)





MAR 22 2019

Kate Mansfield  
Senior Environmental Assessment Officer  
Mackenzie Valley Environmental Impact Review Board  
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YELLOWKNIFE, NT X1A 2N7

VIA ONLINE REVIEW SYSTEM

Dear Ms. Mansfield:

**Government of the Northwest Territories' comments on the draft scoping document and workplan for Diavik's proposed deposition of processed kimberlite in pits and underground [EA1819-01]**

The Government of the Northwest Territories (GNWT) has reviewed the Mackenzie Valley Environmental Impact Review Board's (Review Board) draft scoping document and workplan for the environmental assessment of Diavik Diamond Mines Inc.'s (DDMI) proposal to deposit processed kimberlite in pits and underground [EA1819-01]. This letter sets out the GNWT's primary concerns with the proposed workplan; additional comments on the scope and workplan have been uploaded to the Online Review System. The GNWT anticipates these comments will meaningfully inform the Review Board's final scoping document and workplan.

The Department of Lands (Lands) is coordinating GNWT's participation in the above noted environmental assessment and will support the Minister of Lands and other responsible ministers in the environmental assessment decision process. As the Department of Environment and Natural Resources (ENR) is the lead department on the water licensing process, Lands will be working closely with ENR throughout the environmental assessment. All GNWT departments with interests related to the environmental assessment of DDMI's proposed deposition of processed kimberlite into mine workings were provided with the opportunity to review and comment. Comments and recommendations were provided by the GNWT Departments of Lands, Justice, and Environment and Natural Resources. The departments of Health and Social Services, Education Culture and Employment, Industry, Tourism and Investment, Executive and Indigenous Affairs, and Municipal and Community Affairs reviewed and identified no concerns on the draft scoping document and workplan.

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The GNWT supports a timely and efficient process which minimizes duplication and which encourages active participation from interested Indigenous governments and organizations.

The proposed draft workplan sets out 45 days as the timeline for the responsible ministers' decision on the recommendation set out by the Review Board in the Report of Environmental Assessment; it also sets out 31 days as the timeline for a water licence decision. The GNWT notes that at the scoping session held on March 18, 2019, Review Board staff acknowledged the legislated timelines for both decisions as outlined in the *Mackenzie Valley Resource Management Act (MVRMA)* and the *Waters Act*. It is essential to the GNWT that the workplan reflect the legislated timelines for decision makers for both the environmental assessment and water licence decision.

The current workplan does not indicate that the developer is required to provide an impact statement, or other form of consolidated information that would address the final scope of the assessment that the Review Board issues. The GNWT requests that the Review Board require the developer provide an impact statement so that all parties to the environmental assessment can more easily find and assess whether the developer's assessments of pathways to effects, residual impacts, and mitigations measures agree with their own assessment. This will lead to more effective and efficient information requests, and a better overall environmental assessment.

During the March 18, 2019 scoping session, the Review Board and the Wek'èezhì Land and Water Board (WLWB) staff clarified that the environmental assessment and water licensing processes are being coordinated, and the boards are not in fact proposing a joint environmental assessment and water licence process. The GNWT is pleased to hear that the processes are not joint, as the GNWT is concerned that a joint process could lead to procedural fairness and Aboriginal consultation deficiencies with parties being requested to participate in a regulatory process while the environmental assessment decision is still being made. In order for the WLWB's water licensing process to be procedurally fair and be able to fulfill the duty to consult, there must be an appropriate opportunity for all parties to present evidence to the WLWB, ask questions of one another, and make submissions to the WLWB regarding the measure(s), if any, resulting from the environmental assessment process that are to be reflected in the amended Diavik water licence. To provide for the foregoing and to enable the environmental assessment process and environmental assessment

decision to be undertaken without a presupposition of the outcome, the GNWT suggests that all steps from the pre-hearing conference onwards in the water licensing process be delayed until after the responsible ministers have made any required environmental assessment decisions under section 130 of the MVRMA. This approach would also best ensure that the WLWB can complete the water licence process within the legislated nine month time limit.

We have discussed these primary concerns with representatives of the Government of Canada and understand that they will be submitting similar comments. If the boards or any participants in this environmental assessment have any questions regarding the GNWT's comments on the draft scope or workplan, please contact Melissa Pink, Manager, Project Assessment Branch, at [Melissa\\_Pink@gov.nt.ca](mailto:Melissa_Pink@gov.nt.ca) or 867-767-9180 ext. 24021, or Katie Rozestraten, Project Assessment Analyst at [Katie\\_Rozestraten@gov.nt.ca](mailto:Katie_Rozestraten@gov.nt.ca) or 867-767-9180 ext. 24022.

Sincerely,



for/ Lorraine Seale  
Director  
Securities and Project Assessment  
Lands

Attachment: Comments in ORS format

c Lisa Dyer  
Director General  
Northern Projects Management Office

Kim Pawley  
Manager  
Environmental Assessment, Land Use Planning and Conservation  
Crown-Indigenous Relations and Northern Affairs Canada

