

Social Protection Regime and land use measures and may advise responsible concerned governments on the implementation of the environmental and social protection and land use regimes”.

Thus, pursuant to Section 23.5 of the JBNQA, the KEAC should have been consulted during the regional tour, as well as during the preliminary consultation on the proposed amendments in June 2023, in which only the Fédération québécoise des municipalités, the Union des municipalités du Québec and the delegated regional county municipality were approached. Preliminary consultation prior to the publication of a draft regulation, as well as meaningful exchanges with the KEAC and other regional partners such as the Kativik Regional Government (KRG), the Makivik Corporation and the Hunting, Fishing and Trapping Coordinating Committee would avoid unforeseen impact on the rights of the Inuit, Naskapi and Cree.

Additionally, the MRNF document entitled *Guidelines to Structure the Sale of Lands in the Domain of the State for Personal Use* sets out a standard, fair approach for the Ministry to help structure decisions concerning the sale of lands in the domain of the State for private vacation, principal residence and other personal uses, including housing developments and vacation centres. This document clearly states that it does “not change the constitutional duty to consult and, where necessary, accommodate the Indigenous communities concerned, in cases where the Ministère is considering a measure that is likely to have a detrimental effect on an existing or credibly claimed ancestral or treaty right”.

Finally, as a further breach of this duty to consult, it should be noted that the KEAC was not officially informed by the MRNF that the draft Regulation had been published in the Gazette officielle du Québec for a 45-day consultation period. This information came from our regional partner, the KRG. Despite this, the KEAC has been able to review the proposed modifications and wish to provide the following comments on **specific articles** in relation to its application in Nunavik.

In **Article 2** of the English version of the Regulation, the second paragraph misspells the work “Kativik”.

Articles 21, 24 and 35.2 refer to the method of fixing the rent of leases and provide for the annual indexation of the rent of certain leases. For Nunavik, it should be highlighted that Article 177 of the *Act respecting the land regime in the James Bay and New Québec* notes that Category III lands, representing all the lands in the territory situated north of the 55th parallel not included in Category I, Category IB-N, Category II and Category II-N lands, remain lands in the domain on the State with the exception of lands granted in full ownership. As such, the KEAC recommend that should a parcel of Category III land be considered for sale or lease it must not remove lands from traditional activities as per the protection of the rights and guarantees of the Native people established by Section 24 of the JBNQA. Furthermore, the Inuit Naskapi and Cree communities should benefit from this increase in revenues, since they are collected from the exploitation of the treaty territories.

Amendment to **Article 26 of the Regulation** will allow the Minister to modify the rights and obligations of the new tenant in relation to those of the original tenant. As we understand, this would make it possible to enforce the new environmental clauses that the MRNF wishes to incorporate into leases. The anticipated impact of making lease transfers conditional on compliance is a reduction in the number of transfers involving non-compliance. It will enable the MRNF to refuse a lease transfer request for which a non-conformity has been

identified, and to require that the situation be rectified before proceeding with the transfer. This amendment will make it possible to enforce the new environmental clauses that will require, for many commercial and industrial leases, a characterization study prior to the transfer of lease rights.

Given the number of contaminated sites abandoned by the mining and outfitting industries in Nunavik, this amendment could enable the Ministry to require the lessee to carry out a characterization study, as well as rehabilitate the site as part of the lease, which is very positive.

However, the Committee would like to better understand the outcome should the characterization show contamination and the lessee refuses to carry out a site rehabilitation or if the current/future tenant does not have the means to do so. In this situation, who would ultimately be responsible for the cleanup? If the ministry suspects contamination, it should have the power to request that the owner take immediate action.

The **sections under Article 36** refer to campsites and the exclusion of certain equipment and roads on lands in the domain of the State. The KEAC recommend that any prohibition regarding admission to “public lands” set about in the Regulation must not be directed at Inuit, Naskapi and Cree or infringe on the rights of to access their territories or exercise their ancestral rights.

The modification to **Article 39** implies the Minister will now authorize the purchase or lease of land for commercial or industrial purposes based on its analysis of the repercussions of the project in terms of sustainable development. The KEAC are of the opinion the notion of sustainable development cannot be fully implemented without considering the repercussions on the rights and interests of the Inuit, Naskapi and Cree who occupy and practice subsistence activities on the Nunavik territory.

Moreover, with the removal of the second paragraph, the question arises as to whether the Minister still has the discretionary power to refuse a project. The KEAC recommend the Minister retain this discretion.

Additionally, the requirement for applicants to submit a business plan for their project has been removed from **Article 39**. This requirement would generally be restricted to certain larger projects with more significant impacts on the territory. The KEAC requests that criteria for “significant impact” be defined.

In **Article 40**, the use of the term “Indian Reserve” is colonial. The KEAC recommends an alternative such as “reserve land of a First Nation”.

Following the repeal of the **sections under Article 46**, the applications concerned will instead be authorized under sections 54 and 55 of the *Act respecting the lands in the domain of the State*. This change will give the Minister greater flexibility in terms of the duration and conditions of authorizations, which can be both positive and negative. Here the KEAC would like to draw a parallel with current proposed modification to the *Mining Act* in which Article of said law would state that “The holder of an exclusive exploration right shall not erect or maintain any construction or permanent facility on lands in the domain of the State without obtaining an authorization under the Act respecting the lands in the domain of the State (chapter T-8.1).” Under the proposed modification to the Mining Act, the Minister can impose on a holder of an exclusive exploration right, and when granting a mining lease appropriate conditions and requirements pertaining to limiting impacts

on local and Indigenous communities and the prioritization or reconciliation of uses and preservation of the territory. The KEAC recommend similar conditions be considered when issuing a land lease or extending an existing one.

Conclusion

The KEAC is concerned regarding the lack of consultation on behalf of the MRNF under its 2019-2023 Strategic Plan and the modifications to *Regulation respecting the sale, lease and granting of immovable rights on lands in the domain of the State*. The JBNQA provides for a unique land regime and defines rights and obligations within Category III lands, including consultation mechanisms that should be respected. Under this context, it is important to develop close collaboration between northern stakeholders, responsible government departments and the region's residents with a view of sustainable land use planning and development in Nunavik.

Best regards,



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cc. Hilda Snowball, President, KRG
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