

17 November 2023

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Introduction

I represent Greenfields Exploration Limited, an Australian mineral explorer and project developer. We have been engaged in several projects within Greenland since 2017.

We thank the MMR for the opportunity to comment on the bill 'Inatsisart permit on local mineral activities' (the **Bill**). We recognise that the Bill exists in an environment with complex and sometimes opposing viewpoints. We also recognise that it is an expressed political wish that locals should be able to extract minerals commercially in areas covered by exploration licences. We want to work productively to ensure a positive outcome that benefits all stakeholders.

However, the Bill as proposed has several practical problems which may cause serious consequences. We describe these and offer suggestions on how to improve the Bill below.

Executive summary

If the existing Bill is going to be retained with modification, we propose the following changes:

1. All local miners should be required to inform the licence holder before entering an exploration licence.
2. All local miners should need a permit and have reporting requirements. The permitting system should include:
 - a requirement that local miners to inform licence holders of their plans in advance so that safety and operational arrangements can be made;
 - a requirement to keep everything seen on an exploration licence confidential;
 - a requirement to report on health, safety, and environmental incidents; and

- a requirement to report on geological findings.
- 3. Licence holders should have a right to compensation where assistance is given to local miners.
- 4. There should be a limit on the number of local miners within a particular area.

Further, the guidance provided by MMR to industry should be updated to include references to the relevant sections in the Bill. This will allow industry to have a better understanding of the Bill. In particular, sections which apparently indemnify licence holders against damages should be explicit and positive.

Finally, the initial call for consultation asked industry whether or not the proposed Bill makes Greenland a less attractive destination for mining investment. In our opinion, the answer is that it does make Greenland a less attractive investment destination.

We will only comment on the issues which will impact us as an exploration company. However, we acknowledge the comments made by other companies who either operate under an exploitation licence or intend to do so.

Notification and presence of locals in an exploration licence

Our key concern is that the Bill will permit local mineral activities in an exploration licence without the knowledge of the licence holder. The biggest problem is safety. Most mining activities are dangerous. Mining exploration uses heavy machinery, helicopters, vehicles, and explosives. It is not always easy to see when there is a danger.

We have rules about clothing, behaviour, and communications for our workers. Everyone knows where the other team members are, and everyone is in communication at all times. This is essential to make sure that everyone is as safe as possible. These rules are common across the mining industry. Modern, professional mining has some of the strictest safety standards of any industry.

Under the Bill, local miners will be allowed to enter an exploration licence at any time without informing the licence holder. They will not be required to meet any safety standards.

We have been informed by the Government that under the Bill:

- locals will not be legally permitted to interfere with operations under the exploration licence;
- locals must respect safety instructions from a licensee; and
- the licence holder will not be held liable for any damage.

It is not clear to us where these rules are included in the Bill. We have reviewed a translation of the Bill and have not been able to find any of these rules. This is particularly important for the question of liability, as this needs to be a positive statement that companies are not liable, not just silence. If there is no statement about who has the liability, the legal situation is very different.

We will assume that these rules are included in the Bill, and we have missed them. These are all reasonable rules. However, they cannot be practically managed. There is no realistic way for a licence holder to ensure that the work is safe if locals are permitted to enter the area without notification.

The licence holder can only give safety instructions if they know the local miner is there. Under the Bill they will not know this.

If the licence holder does find out that the local miner is there, they may be able to give safety instructions. However, there is no way to be sure that the instructions will be understood across a language and culture barrier.

If the licence holder can give understandable safety instructions, this will take a long time and will require the service of senior safety officers. Field seasons in Greenland are extremely expensive and short. Every hour counts. An hour spent explaining safety rules, possibly through a translator (if available, especially in East Greenland), could mean the difference between a successful campaign and an unsuccessful one.

If the safety instructions are given and understood, there is no way for the licence holder to ensure that the instructions are followed. The local miner can simply ignore them. It is a different situation for licence holders and local miners. If a licence holder violates the conditions of their licence, MMR can fine them or cancel the licence. This is because there is a reporting structure in place and the licensee has something to lose. The local miners will be operating without a licence and there will be no reporting. There are apparently no consequences under the mining law for failing to comply with the rules. In fact, we don't even see any requirement in the Bill that they comply. They are explicitly outside the mining law.

There is no way to physically make sure a local miner complies with safety rules. For example, what happens if a local miner is working on an exploration licence in an area where the licence holder is planning to use explosives or set up a drill rig? The local miner refuses to move, because in their opinion (which might be reasonable), the new law does not require them to do so. In this situation, presumably the licence holder would call the police to enforce the rules. This is not realistic on a remote mine site. It is easy to imagine a situation where an exploration program is delayed for days because of the presence of a local miner. In this situation the licence holder cannot continue with their planned works because the works will be putting the local miner in danger.

If, after all of the above, there is a safety accident, it will not be enough for a company to simply say that they are not responsible under the laws.¹ Any incident – environmental or safety - will be international news. The licence holder's actions and instructions will be scrutinized, and the company will face the 'court of public opinion'. It will not matter that the local miner, and not the

¹ This will be particularly important if the Bill does not include a clear ruling that the miner is not responsible for any incident. This appears to be the case.

licence holder, is at fault. The simple, popular story will be extremely negative towards the licence holder.

If there is an incident, the licence holder will face significant financial consequences. However, the bigger problem might be the personal impact on the workers for the licensee. It is not fair to expect them to take moral responsibility and blame for people they cannot see or know about.

Across the world, it is an unfortunate fact that artisanal miners regularly die because they enter mining worksites without the knowledge of the mining company. The mine worker who sets off the explosives or operates the earthmoving equipment will carry the weight of the accident with them for their lives. We find it troubling that the Bill as it is currently drafted seems to actively encourage an environment where these unfortunate incidents will be more likely to occur.

The risks can be mitigated if the local miners meet safety standards. At the very least, the locals should be required to inform the licence holder of their intentions to enter the exploration licence. Then the licence holder can know about the problem and can address it. From a company perspective, this is still not a good outcome, but it is less likely to end in disaster.

A comment was made on the consultation call that local miners cannot be expected to maintain the same safety standards as an international corporate licence holder. We respectfully disagree. Safety is the responsibility of everyone in a work area, and most of the precautions are not expensive or difficult. One of the most important is simple: communication. The only way to ensure a safe work site is if every person is in communication with each other. The only way this can be achieved is if the licence holder is notified.

Therefore, at a minimum, we propose that a notification requirement is added to the Bill.

We note the comments that the proposed situation is no different to existing rules about hunting and fishing. It is true that hunters and fishers have access to some mining areas and are present in them. This situation is different. Under the Bill, local miners will be actively encouraged to go into new and different areas. These areas might not have been interesting for hunters or fishers. If an area is interesting for exploration companies, it might be interesting for local miners too. There will be more people on exploration licences under the Bill. This is one of the key goals of the Bill.

Permitting and reporting for local miners

Local miners should need a permit, so licence holders have some information about their activities, and the MMR has some power to enforce the rules. Under the Bill, local miners are permitted to work in areas which are under an exploitation licence if they have a valid written agreement with the owner of the licence. This idea should be expanded to cover exploration licences as well.

The permit does not need to be complicated or difficult to acquire. However, to get a permit, local miners should be required to demonstrate minimum standards of safety and communication so that they can remain safe while on someone else's worksite.

Requiring a permit also means that there is an incentive for the local miner to follow the rules. Under the Bill as currently drafted, local miners are specifically outside the mining law. If they break one of the rules,² there are no consequences under the mining law. Local miners will not lose their rights. Therefore, there is no reason for them to actually follow any of the rules around safety and following instructions.

At the same time, we acknowledge that there is a political wish that the local miners are not subject to the full range of mineral licensing requirements that the rest of the industry is subject to.

There is a way to balance these interests. For example, in Western Australia, a 'fossicker' (which is similar to a local miner) can apply for a permit to work on someone else's exploration licence. The licence holder does not need to give them permission - the permit is given by the government.

However, as part of the application process the licence holder can raise important safety issues which might become a problem. For example, they can tell the fossicker that blasting is scheduled to occur at a certain time and place, so the fossicker knows to avoid this risk. This ensures the safety of both parties.

It is also common for the licence holder to make arrangements with the fossicker to work together depending on their individual incentives. This is a win/win scenario.

Most importantly it means that the licence holder can be confident that they are setting up a safe work environment because everyone in the area is known and informed. They also know that the fossicker has an incentive to follow the rules. This significantly reduces the risk of unfortunate consequences while also allowing for combined benefit. From an investment perspective, it is a clear improvement over the structure proposed by the Bill.

Access Requirements

The permitting system should include a system where the local miners apply for access to the exploration licence with sufficient notice. A period of several weeks will be sufficient for the licensee to receive, interpret and respond to the request. The application should include specific plans about where the local miner intends to be, and when. The Government can then consult the licence holder about whether or not the licence holder's plans will interact with the local miner's plans.

This information is commercially sensitive. It should therefore not be shared outside of the Government. Otherwise, there is the potential for access applications to be used by competitors

² On our reading of the Bill, these rules do not apply to local miners anyway. We would appreciate clarity on this point.

to find out information about proposed fieldwork. The information should only be used by the Government to decide whether or not to allow the access onto the exploration licence.

Confidentiality

As part of the permitting process, the local miners should be subject to confidentiality requirements. Around the world, whenever the market thinks that a discovery is going to be made on a particular licence, it is extremely common for third parties to try to find out more information about what is happening there. For example, planes are often used to take photos of drilling operations.

Under the proposed Bill, local miners will have the right to enter exploration licences and observe the activities. They will probably see commercially sensitive information. When a discovery has been made (or is likely) this information will be commercially valuable. Licensees have a responsibility to manage the release of information around their projects in line with legal requirements. If this information is released without the knowledge of the company, the consequences can be drastic, both legal and financial. Local miners on an exploration licence should therefore have an obligation not to disclose any information they uncover. The only way for this to be effectively managed is with a permitting system.

Reporting requirements – health, safety, and environment

The permitting system can also include reporting requirements. Even if these requirements are less detailed than the requirements for a company, a local miner should still have an obligation to report environmental or safety incidents to the authorities. These reports can then be used and studied to create a safer environment for all miners. The only way to ensure that these reports are made is if it is a condition on their permit.

Without a reporting requirement, it will be impossible for the Government to know whether a particular issue was caused by local miners or a licence holder. Exploration companies are held to extremely high standards where even minor environmental damage must be prevented and/or reported. The level of damage which must be reported is the type of damage which could easily be caused by hand tools. If the local miners are not required to report their activities, the regulators will have no way of finding out who the responsible person is.

Some basic environmental reporting will also let the Government confirm that a local miner's activities are actually in compliance with the laws. The Bill sets the threshold for local mining at work which would cost less than 250,000 DKK to undo. There do not appear to be any rules about how this is calculated or who makes the decision. If a local miner is required to report on their activities, it will give the Government useful information to check that the miner's activities are in fact below the 250,000 DKK threshold. This is clearly not a flawless system but it is better than nothing.

In our view it is natural for a mining company to be worried that they will be required to 'take the blame' for any damage that occurs on their licence, even if they have no knowledge of it and were

not responsible. There is no way to completely remove this concern, but if everyone – licence holders and local miners - is required to report on their actions, it would help.

Reporting requirements - geology

Finally, the permitting system should have a requirement that local miners report on their findings. This does not need to be a complex or detailed report like licence holders are required to submit. However, basic information around what the local miners have found will have at least three benefits:

- it will help the Government to confirm that the value of materials which are being extracted is in accordance with the law;
- it will assist the licence holder to develop their mineral prospects; and
- it will contribute to developing the understanding of Greenland's geology for other projects.

We propose that a permitting system with the features listed above is introduced for local miners who wish to operate on areas subject to an exploration licence.

Compensation for assistance given to local miners

If there is an emergency involving a local miner on an exploration licence, the licence holder will probably be called on to assist. The licence holder is likely to have the best ability to assist, particularly in remote areas. While the preservation of life is the highest priority, this assistance will be expensive. This work would normally be the role of the Government and it is reasonable to expect that the licensee should not be disadvantaged if there are now many more people on the exploration licence as a result of the Bill. Diverting a helicopter and medical officers would most likely require a stop to all exploration activities. This would result in direct costs (helicopter, wages), indirect costs (subsequent helicopter flights, wages for the field team which cannot move), and opportunity costs (lost field hours).

This is different to an indemnity where the company is held blameless for an incident which occurs (which, again, does not appear to be explicit in the bill). This should be an explicit right to compensation where there are costs created due to a situation caused by the Bill.

Limitation on numbers of local miners

Under the Bill there is no cap on the number of local miners permitted in a particular area from time to time. This was also discussed on the consultation call. While we acknowledge the remoteness and low population in Greenland, in areas around the world where artisanal mining is common, it is common to see hundreds or thousands of local miners in certain areas. Any increase in numbers makes the other problems of the Bill even worse, particularly added stress on the environment and safety concerns. There should therefore be a limit on the number of local miners who are permitted within a particular area, at a particular time.

Public perception

The letter from MMR dated 25 October 2023 said that the Ministry '*would like the industry's point of view regarding [whether] it would make Greenland a less attractive jurisdiction for mining companies and investors*'. The simple answer to this question is: **yes**.

Mining companies will see the Bill as impacting the exclusivity of an exploration licence.³ Many will see it as expropriation, others as a breach of contract for existing licence holders. We understand that the Government's view is that this is not the case. However, we hope that the Government can acknowledge that this is a complicated issue. The opposite opinion is reasonable.

This opinion might be based on the facts that:

- under the Bill, an exploration licence holder cannot prevent other groups from entering their licence area to conduct mining activities;
- the licence holder will not be informed about these activities; and
- other groups are allowed to sell minerals gathered on an exploration licence.

The decision on whether or not the Bill impacts the market perception of Greenland ultimately comes down to the market. It will be a decision made internally by companies when they are making decisions on whether to invest in Greenland. We understand there are a number of justifications for the Bill and arguments which can be made as to why it is, or is not, necessary and desirable.

However, investors will assess the Bill conservatively, internally, and based on its text. The Government will not be consulted during this process. We have some familiarity with this process of internal assessment, having experienced it several times. The lack of exclusivity proposed by the Bill is likely to be a significant 'red flag' for any incoming investor. Incoming investors will not make multi-million-dollar investments if there is a legal possibility that they will not receive exclusive rights. The practical reality is almost irrelevant.

This is particularly true in a developing jurisdiction like Greenland. Established jurisdictions such as Canada and Australia have some quirks in their laws, but also have centuries of precedent to make investors comfortable that the practical reality will be OK. It is perhaps unfair, but Greenland does not have this luxury of relying on precedent, so in our experience the laws must be extremely clear to make Greenland an attractive jurisdiction for investment.

The attractiveness of mining jurisdictions is assessed by many groups. As you are no doubt aware, one leading group is the Fraser Institute.⁴ The first question in their survey on investment attractiveness asks investors whether there is any 'uncertainty concerning the administration,

³ In addition to its negative impacts on safety, environmental outcomes, community relations, and fieldwork.

⁴ We note that Greenland is not currently assessed by this publication.

interpretation, or enforcement of existing regulations'. This is therefore one of the main concerns of mining companies in assessing whether or not to invest in a jurisdiction.

The Bill effectively introduces a new class of mining 'licence' which operates in the same area as existing licences and is not regulated. While artisanal mining is common around the world, it is unusual to have a particular classification of mining which is expressly stated to be outside the mining law. There is no clear regulation of this group. None of this regulation can be enforced. Under the Bill, there will be *uncertainty concerning the administration, interpretation, or enforcement of the existing regulations*. This will be the first question on the market standard assessment of Greenland as a mining jurisdiction. The Bill will have a negative impact.

Fraser Institute reports regularly identify artisanal mining as causing a negative impact on the attractiveness of a jurisdiction. The Bill could be seen to actively create and encourage artisanal mining within Greenland. Again, the reality on the ground may not present any problems for miners. The impacts may be limited. However, it will be reasonable for survey respondents to say that Greenland is actively encouraging artisanal mining on granted exploration licences. This will have a negative impact and invite unfortunate comparisons to troubled jurisdictions with lower standards than Greenland.

Another less obvious negative impact of permitting artisanal mining is the impact that it has on local communities. Greenland has exceptional mineral potential, much of it on the surface. It is entirely possible that a discovery of gold or native copper, accessible with hand tools, might be made on an exploration licence, even one which is focusing on something else. In that situation it would be understandable for local miners to take advantage of the Bill and move into the area and make money. The problem is that when the licence holder then looks to build a mining project on the site, the company will be seen as taking away a source of income from the local community. This would be a negative outcome for the community, the company, and Greenland's reputation. This is unfortunately not a hypothetical example but has been seen across the world. With the benefit of hindsight, investors have learned to be wary of any countries with extensive artisanal mining. This is part of why artisanal mining has such a negative impact on investment attractiveness. It is unfortunate, because with properly targeted regulations, a mineral discovery should be a win-win for both investors and the local community.

We understand the context of the Bill, the goals it is trying to achieve, and the arguments raised by the Government in support of it. We agree with many of them. However, we do have regular insight into how Greenland is seen as a destination for foreign investors, and in our view the Bill will have a significant negative impact.

A side note on the international perception: an English translation of the new consolidated Mining Act from the changes earlier this year has not been published. Now that Act is being changed again. A large part of the appeal of Greenland for foreign investors has always been that the relevant laws are clear and available in English. As an explorer who regularly introduces new companies to Greenland, we have been able to point to these documents as clear guidance for incoming investors about what rules will apply to them. This is no longer the case.

Currently there is nowhere to find the mining laws of Greenland in English. The proposed Bill will only make this more complicated and uncertain to incoming investors, and it will have a negative impact on investment. Again, this may not be fair, but in a challenging international investment environment it is the reality.

On behalf of Greenfields Exploration, I thank you for your consideration of the above points. We look forward to continuing to play an active role in the responsible development of the mining industry within Greenland.

If there are any questions or clarifications which we can provide in relation to these or any other matters, please contact the undersigned.

Sincerely

A handwritten signature in black ink, appearing to read 'Lindsay Dick', followed by a small dot.

Lindsay Dick
Executive Director
Greenfields Exploration Limited