



October 29, 2019

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**RE: Response to Comments on Nunavut Planning Commission Draft Rules for Public Proceedings released for comment July 26, 2019**

Thank you for your comments on the Commission's Draft Rules for Public Proceedings (**Draft Rules**) received September 24, 2019. The Commissioners have considered your comments of the Draft Rules, as well as the comments of others received within the 60-day period for public comment, and as a result of those comments will be making revisions to the Draft Rules. Please be advised that pursuant to section 38(4) of the *Nunavut Planning and Project Assessment Act* (Canada) (**NuPPAA**), the Commission will not be publishing any further notices before enacting amended Rules for Public Proceedings.

Please note that the Commission anticipates some rules will be renumbered due to the comments received, and this response addresses the comments made based on the original numbering of the draft rules released for public comment on July 26, 2019.

The Commission considered your comments and provides the following responses:

- In response to the comment that rule 3 of the Draft Rules on either reinserting rule 21 from the *Rules of Public Hearings and Public Reviews* or expanding the definition of Information Sessions, the Commission will be amending the definition of "Information Session" to include community consultations and to allow for the solicitation of comments and Evidence including Traditional Knowledge and technical information, and as noted below will also amend rule 17 to provide that Information Sessions and meetings held under that rule will be open to the public unless directed otherwise, and that audio and video and any transcripts made of those meetings will form part of the record of a Proceeding.
- In response to the comment in respect of rule 3 that the definition of "Inuktitut" in the NuPPAA includes Inuinnaqtun, the Commission received other comments on the definition and will be removing the definition of Inuktitut entirely, and that term will have the meaning given to it by the Act.
- In response to the comment in respect of rule 3 that the definition of "Traditional Knowledge" be harmonized with other Institutions of Public Government, the Commission will be amending and enacting the rules based on the comments received, and takes note of your recommendation that it engage in a collaboration with other IPGs to consider a future amendment to the rules. In response to other comments received, the Commission will also make that definition "inclusive" and will add an express reference to traditional knowledge of other Aboriginal Peoples listed in Article 40 of the Nunavut Agreement in addition to Inuit Qaujimagatuqangit.

- In response to the comment that rule 6 should refer to directions on procedure and that all activities should be conducted in a manner that encourages Inuit participation and is respectful of Inuit culture and practices, the Commission will be amending the rules as requested, noting that the defined term “Commission” will be used in subrule 6(2) instead of “Commission and staff” on the basis that the term includes staff as they may be delegated by the Commissioners.
- In response to the comment that rule 7 set a minimum timeframe, the Commission notes the Draft Rules already provide that the record in respect of Public Reviews and Hearings will close not less than 30 days after a Notice to the Public. The Commission will not be amending the rules to add an additional timeframe to rule 7 which would duplicate the times set out elsewhere in the rules.
- In response to the comment that rule 11 of the Draft Rules should provide more information on reasonable fees for providing physical copies, the Commission received multiple comments on this rule and will be amending the rule to provide that the Commission may at its discretion charge fees for physical copies rather than for all requests for physical copies. With respect to NTI’s inquiry about the practice of other IPGs on charging fees to provide physical copies, the Commission notes both the Nunavut Impact Review Board and the Nunavut Water Board receive hearings-based funding in addition to their core budgets, whereas the Commission only receives core funding and must seek discretionary supplementary funding for Proceedings. The Commission therefore cannot guarantee that it can provide physical copies of any document on the record to any Participant on demand.
- In response to the comment that Rule 11 of the Draft Rules, and others, should be written in plain language, the Commission received multiple comments on this rule and will amend rules 11(3) and (4) to simplify the wording and to remove technical terms, and will make other amendments to these subrules based on other comments received. This comment did not identify other specific rules containing overly technical language or provide suggested wording for other specific rules, and the Commission will only be making changes resulting from comments received during the public comment period.
- In response to the comment that rule 12 of the Draft Rules be amended to add that the Commission shall notify Participants if the Commission declines to post their materials to the public registry, a description of the materials and the reason, the Commission will amend the rule to provide notice to the Participant whose materials are not being included in the registry and the reason, although not require the Commission to notify all Participants or to provide a description of the materials.
- In response to the comment on rule 15 of the Draft Rules that Traditional Knowledge should always be considered the equal to scientific information, the Commission received multiple comments on this issue and will amend the rule to make it clear Traditional Knowledge shall be considered an equal to scientific information.
- In response to the comments on rule 16(1) suggesting the removal of the list of purposes of a Meeting of Technical & Traditional Knowledge Experts and to clarify the meeting is to allow Participants to clarify technical Evidence and Traditional Knowledge, the Commission will be implementing this comment. The Commission received multiple other comments on this rule and will be making other amendments as well.
- In further response to the comments on rule 16(2) suggesting notice at least 14 days prior to a Meeting of Technical & Traditional Knowledge Experts, the Commission received other comments and will be amending the rule to provide 21 days notice and will include a list of invited participants, and will furthermore provide that the Amendment Applicant or Proponent seeking a Minor Variance will always be invited to attend such meetings held in a Public Review under the rule.
- In further response to the comments on rule 16, suggesting that Participants be required to respond to an invitation to a Meeting of Technical & Traditional Knowledge Experts as soon as practicable, the Commission will amend the rules to implement this comment.
- In response to the comment on rule 17(2) on posting notices of a procedural meeting in the public registry, the Commission will amend the rules to implement this comment.

- In response to the comment on rule 17(3) suggesting removing the wording limiting the purpose of a procedural a meeting to "soliciting comments, resolving ambiguities, gaps, and conflicting interpretations in arguments, Documents, and", the Commission will amend the rules to implement this comment with a modification to also remove "...Evidence including Traditional Knowledge and technical information...".
- In response to the comment that the rules should be amended to say that procedural meetings are not public consultations or community meetings, the Commission will be amending the definitions of "Hearings" and "Information Sessions" to include community consultations, which will clarify procedural meetings and Participant meetings under rule 17 are not community consultations. The Commission will make other amendments to rule 17 based on other comments received to provide that Information Sessions, procedural meetings and Participant meetings are open to the public, and that they will form part of the public record, unless otherwise directed.
- In response to the comment that rule 17 of the Draft Rules was repeated, the Commission will be amending the rules to fix the numbering of hearings, and based on other comments received will be moving the standalone rule on confidentiality to the rule relating to disclosure of materials using the public record.
- In response to the comment that rule 24 should require the Commission to accept oral comments, and that oral comments be transcribed, the Commission will amend the rule to require oral comments be accepted and that any transcripts or summaries prepared by the Commission will be posted on the public registry and included in the record.
- In response to the comment on Part III that the term "Hearing" includes "town hall meetings" and that the rules should address town hall meetings and community meetings/public consultations, referencing the comment on Information Sessions, the Commission will not be adding specific rules governing community consultations or town hall meetings as these are meant to be informal and flexible. In the event a community consultation or town hall is called, the Commission may give directions on procedure for the Hearing. As noted above, the Commission will also amend the definition and rules relating to an "Information Session" to allow the solicitation of comments and Evidence including Traditional Knowledge and technical information from communities to include on the record, to enable Inuit, Elders, communities, members of the public, and others an opportunity to be heard through informal proceedings.
- In response to the comment that the Commission amend rule 28 of the Draft Rules to require that it collect and record all questions by Participants and responses provided, the Commission will be amending the rules accordingly.
- In response to the comment that the Commission amend rule 28 of the Draft Rules to remove the phrase "including but not limited to explaining any conflicts or inconsistencies in the Evidence", the Commission will be amending the rules accordingly.
- In response to the comment that the Commission add a rule on the roles and responsibilities of Commissioners in maintaining a welcoming environment and remaining neutral, the Commission notes that under the Introduction and Purpose section, the Draft Rules say the "rules are intended to ensure that the Hearings and Public Review processes and procedures meet the administrative law requirements of fairness as may be required in the circumstances", and that the roles and responsibilities of Commissioners, as well as their jurisdiction under the *NuPPAA*, depends on the specific subject matter and type of the Proceedings, and the Commission will not be amending the rules to attempt to codify principles of administrative law or procedural fairness.
- In response to the comment that the Commission should amend rule 29 of the Draft Rules to require the Commission to notify Participants of the order for submissions and time limits, recognizing that there may be circumstances beyond its control that preclude the Commission from advising Participants of these matters in advance, the Commission will be amending the rule to require the Commission undertake reasonable best efforts to ascertain what Participants will make oral submissions and to provide the order of submissions and time limits in advance of a Hearing.

On behalf of the Commission, I want to thank you again for your input. The Commission will publish the notices required by section 38(5) of the *NuPPAA* when it makes the Rules amended based on the comments received. If you also provided comments on the Commission's Draft Rules for Project Description, the Commission will be considering and responding to those comments separately in due course.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Nakashuk". The signature is written in a cursive, flowing style.

Andrew Nakashuk  
Chairperson  
Nunavut Planning Commission