



January 22, 2014

Nunavut Tunngavik Incorporated
P.O. Box 638,
Iqaluit, Nunavut X0A 0H0

Attn: James T. Arreak, Chief Executive Officer

Delivered By Electronic Mail

Re: Implementation Recommendation 8.2.3 Structured Decision Making (SDM)

Dear Mr. Arreak,

Thank you for your January 21, 2014 letter in response to my October 15, 2013 email regarding implementation of the Independent Third Party Review (ITPR) Recommendation 8.2.3.

The ITPR places the responsibility for implementation of recommendation 8.2.3 with the Government of Canada, Government of Nunavut and Nunavut Tunngavik Incorporated.

ITPR 8.2.3 Responsibilities: We recommend that NPC be part of this process, although its role should be somewhat different from that of the other Parties. In our opinion, it would be useful for NPC to be at the table to offer its perspectives on substantive and procedural issues and to hear the dialogue among the other Parties. As the planning experts, NPC may be best positioned to help identify ways that the plan can address the other Parties' expectations and respond to their underlying interests. In particular, extensive GIS mapping information compiled by NPC can be used as an analytical tool to identify different types of land use conflicts. However, the focus is on clarifying the core interests and expectations of the Parties that have ultimate authority to approve or reject the draft plan. The results of this step are input to NPC as it exercises its responsibility to develop the plan.

Our January 17, 2014 letter to the Parties suggests that the Structured Decision Making (SDM) process would be best implemented as part of the joint approval under Part 53 of the Nunavut Planning and Project Assessment Act (NUPPAA). The reasons for this are set out below.

- In accordance with standard land use planning practice the NPC is currently conducting public consultations on the draft Nunavut Land Use Plan (DNLUP).

NUPPAA 50(2) The Commission must solicit written and oral comments on the draft land use plan from appropriate departments or agencies, appropriate designated Inuit organizations, affected municipalities, interested corporations and organizations, Inuit and other residents of the designated area and the general public.

- Mandatory public hearings are standard land use planning practice and serve as a critically important part of the public consultation process. This process provides important opportunities for the public and specifically Inuit to inform the Commission.

NUPPAA 51(2) The Commission must take all necessary steps to promote public awareness of, and public participation in, the public hearing, including through the choice of the date, time and place of the hearing, notice given in relation to them and measures taken to disseminate any relevant information.

NUPPAA: 51(3) In conducting a public hearing, the Commission must give great weight to the Inuit traditions regarding oral communication and decision-making and must accord to the designated Inuit organization full standing to appear at a public hearing for the purpose of making submissions on behalf of the people it represents.

- The results of the DNLUP public consultations being undertaken under Part 50(2) NUPPAA must be taken into account by the Commission during the public hearing process.

NUPPAA: 52. After the public hearing is held, the Commission must consider any comments made in respect of the draft land use plan under subsection 50(2) or submissions made during the hearing and make any revisions to the draft land use plan that it considers appropriate.

- Final decisions on the content of a draft plan are made by the Commission. These decisions will not be publically available until the Commission takes into account the results of the public hearing and makes appropriate revisions to the DNLUP.

NUPPAA: 53. The Commission must submit the original or revised draft land use plan, which it must make public, and a written report of the proceedings at the public hearing held in respect of it, to the federal Minister, the territorial Minister and the designated Inuit organization.

In review, standard land use planning practices are reflected in NUPPAA and as noted the public consultation process is not complete until after the public hearing is concluded. Following the public hearing the Commission must prepare a final plan and a report of the proceedings that will be submitted to the federal Minister, territorial Minister and the designated Inuit organization. The parties must then jointly accept or reject the submitted plan. Until the approval bodies review a final draft plan and supporting materials summarizing the public consultation it is impossible for the NPC staff to predict if there will be disagreements among the approval bodies that may impede approval.

In closing the NPC is committed to assist with implementation of the 8.2.3 recommendation in the role of a technical resource. The onus is of course on the Parties to determine if the content of a final draft plan is acceptable. In our view these decisions must be based upon the Commission's final plan and the complete record of public consultations. To implement the ITPR 8.2.3 recommendation before completion of a final draft plan would require the SDM process to be based upon hypothetical issues and imaginary conflicts. However, if the SDM process is used to facilitate the joint review of a final draft plan the facilitator would focus on actual disagreements arising during the approval stage. In this way the SDM could assist the approval bodies in resolving those matters and the NPC could provide technical support to resolve specific conflicts that impede plan approval.

If you would like to discuss this matter in more detail please do not hesitate to contact me directly.

Respectfully,



Sharon Ehaloak
Executive Director

cc: Ian Grey, Regional Director General, AANDC
Steve Pinksen, A/Deputy Minister, DoE
Navarana Beveridge, Executive Director, QIA
Steve Hartman, Executive Director, KivIA
Paul Emingak, Executive Director, KitIA