



95 Wellington Street West  
Suite 1010, P.O. Box 44  
Toronto, Ontario  
M5J 2N7  
416-628-0216

September 20, 2019

Andrew Nakashuk  
Chairperson  
Nunavut Panning Commission  
P.O. Box 1797  
Iqaluit, NU  
X0A 0H0

Sent via Email: [submissions@nunavut.ca](mailto:submissions@nunavut.ca)

**Re: Comments on Draft Rules for Public Proceedings and Rules for Project Descriptions**

Dear Chairperson Nakashuk,

On July 26, 2019 the Nunavut Planning Commission (NPC) released for comment Draft Rules for Public Proceedings and Draft Rules for Project Descriptions pursuant to Section 38 of the Nunavut Planning and Project Assessment Act (NuPPA). TMAC Resources Inc. (TMAC) is providing this correspondence to the NPC in response to NPC's request for comment on the draft Rules proposed.

TMAC's comments on NPC's draft Rules for Public Proceedings are summarized in Attachment A. TMAC's comments on NPC's draft Rules for Project Descriptions are summarized in Attachment B. As a general comment, further consideration should be given to revising the draft Rules so that they are written in a plain language manner. Including complex and legalistic processes in the Rules increases uncertainty and could be challenging for participants and proponents to navigate. TMAC is also concerned that the NPC has retained significant discretion to extend timelines and procedures but has provided minimal guidance on when such discretion might be exercised. The Rules also generally do not provide information on overall timelines that proponents can rely on for planning purposes.

TMAC has also requested that the NPC give further consideration to the appropriate level of information on anticipated environmental impacts that should be required at the land use plan conformity determination stage from project proponents. TMAC is concerned that the draft Rules for Project Descriptions could be interpreted in a manner that would require a significant investment in environmental assessment at a premature stage of project permitting. TMAC is of the view that given the roles delegated to the NPC and the Nunavut Impact Review Board (NIRB) under the Nunavut Agreement, the NPC conformity determination stage requires relatively minimal information on these

matters as compared to the NIRB environmental assessment stage. The final Rules for Project Descriptions should reflect that clear distinction.

Interested parties were invited to submit comments on the draft Rules within 60 days of publication, or by September 24, 2019. This is the minimum comment period allowed under NuPPA. Given that over half of the statutory comment period (37 days) elapsed over the summer months, TMAC suggests that NPC should give consideration to extending the comment period a minimum further 60 days, in order to ensure that interested parties, including Inuit organizations, communities, governmental organizations and other proponents have a fair opportunity to provide their feedback to NPC.

As per Section 38 (2) and (3) of NuPPA, TMAC looks forward to the NPC's response to this letter and TMAC's comments on both draft Rules, prior to NPC's issuance of final Rules for Public Proceedings and Rules for Project Descriptions. It is our hope this will provide an opportunity for constructive dialogue on our submission prior to the new rules coming into force

Should you have any questions please feel free to contact me at:  
[Oliver.Curran@tmacresources.com](mailto:Oliver.Curran@tmacresources.com).

Sincerely,



**Oliver Curran**

Vice-President, Environmental Affairs TMAC Resources Inc.

Cc:

Geoff Clark, Kitikmeot Inuit Association, Director, Environment, Lands & Resources

Carson Gillis, Nunavut Tunngavik Inc., Lands Director

Alex Buchan, TMAC, Vice President, Corporate Social Responsibility

Adam Grzegorzczak, TMAC, Manager, Land Tenure and Reclamation

Attachments

Attachment A: TMAC Comments on NPC Draft Rules for Public Proceedings

Attachment B: TMAC Comments on NPC Draft Rules for Project Descriptions

Attachment A:  
TMAC Comments on NPC Draft Rules for Public Proceedings

On July 26, 2019 the Nunavut Planning Commission (NPC) released for comment Draft Rules for Public Proceedings pursuant to Section 38 of the NuPPA. The tables below summarize TMAC's comments on these proposed Rules.

<b>Comment ID</b>	<b>TMAC-01</b>
Subject	Distribution of Information for Comment to Public and Interested Parties
Reference	All
Requirement	-
Review Comment	TMAC is concerned that relevant interested parties may not be receiving notification on key documentation from the NPC, such as these draft Rules. In the case of this distribution, it is unclear how parties obtain membership to the 'Nunavut Distribution List', who the notice was sent to and where on NPC website the notice was posted so interested parties would be aware of it (beyond posting on NPC public registry at a location that would take active investigation to find). The current 'Nunavut Distribution List' list may include out of date contact information for some individuals and organizations.
Recommendation/ Request	<p>TMAC requests clarification on the process the NPC uses to determine what constitutes reasonable best efforts to notify as many people potentially interested or affected by the Rules as possible; how that process is communicated to parties so they are aware of it; and what process is used to determine when notices are posted to the NPC website as well as to the Public Registry.</p> <p>TMAC also requests that NPC staff carry out a review of the Nunavut Distribution List to ensure that potential interested parties were made aware of the 60 day comment period on the draft Rules.</p>

<b>Comment ID</b>	<b>TMAC-02</b>
Subject	Rule 3. Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Item (2)
Requirement	<p>Rule 3(2): "Notice to Participants" means written Notice to Participants which may contain information not provided in a Notice to Public, that is sent to an Entity with Right to Standing or registered Participant:</p> <ul style="list-style-type: none"> <li>a. By personal delivery;</li> <li>b. By facsimile (fax), electronic mail, or other reliable electronic means, the use of which has been consented to by the Entity with Right to Standing or Participant; or</li> <li>c. By mail or courier, receipt of which shall be deemed to have occurred on the 10<sup>th</sup> day after posting, unless the Commission is satisfied that the Document was received</li> </ul>

<b>Comment ID</b>	<b>TMAC-02</b>
	on a later date;"
Review Comment	TMAC is concerned there may be potential for Notices to Participants to be perceived by the NPC as being received by the Participants when they may not have been.
Recommendation/ Request	TMAC requests that NPC take this review comment into consideration.

<b>Comment ID</b>	<b>TMAC-03</b>
Subject	Clarification
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 2, Item 2
Requirement	- Rule 2(2)states, "These rules are not applicable to regular meetings of the Commission under its bylaws, reviews of projects by the Commission, mapping and land use studies or other types of information gathering by Commission staff whether or not for the preparation of a draft land use plan."
Review Comment	Unclear.
Recommendation/ Request	Can the NPC clarify in what circumstances they would be conducting "reviews of projects by the Commission"?  Can the NPC clarify in what circumstances they would be conducting mapping and land use studies other than for preparation of a draft land use plan?

<b>Comment ID</b>	<b>TMAC-04</b>
Subject	Rule 3. Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Item (2); Page 5
Requirement	3(2): "Traditional Knowledge" means Inuit Qaujimajatuqangit and its principles, generally described as first-hand knowledge and values of Inuit society consisting of past, present and future experience obtained from knowledgeable Inuit Elders pertaining to language, culture, values and beliefs, survival skills, use of resources, humane and sustainable harvesting, and an understanding of society, ecology and environment."
Review Comment	Definitions of "Traditional Knowledge" vary from definitions used by other IPGs in Nunavut. For example, the NIRB distinguishes between Inuit Qaujimaningit and Inuit Qaujimajatuqangit.
Recommendation/ Request	TMAC requests NPC align definitions of Traditional Knowledge, Inuit Qaujimaningit and Inuit Qaujimajatuqangit, with other IPGs in Nunavut so expectations are clear and to ensure the planning process is systematic and integrated with all other planning processes and operations, including the impact review process contained in the Nunavut Agreement.

<b>Comment ID</b>	<b>TMAC-05</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public

	Proceedings; Rule 3, Definitions & Interpretation, "Commission"
Requirement	-"Commission" means the Nunavut Planning Commission established as an institute of public government pursuant to the Agreement and the NuPPA, and for clarity, includes the Chairperson or acting Chairperson, Commissioners, and Commission staff delegated by the Commissioners to conduct the Commission's business functions, as the context requires.
Review Comment	<p>While the Chairperson and Commissioners are members of the Commission, a decision made by individual members of the Commission should not be treated the same as a decision made by the entire "Commission".</p> <p>The definition of "Commission" should not include the phrase "and Commission staff delegated by the Commissioners to conduct the Commission's business functions, as the context requires". The scope of the delegated duties would be made clear in each delegation, and delegation to Commission staff should not include delegation of the Commission's decision making powers. If more clarity is to be granted around matters of delegation, this should not be included in the text of a definition but instead should appear as a separate rule.</p>
Recommendation/ Request	The definition of "Commission" should be simplified to "means the Nunavut Planning Commission established as an institute of public government pursuant to the Agreement and the NuPPAA".

<b>Comment ID</b>	<b>TMAC-06</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Definitions & Interpretation, "Evidence"
Requirement	- "Evidence" is information that tends to prove a fact and may be received by the Commission in a variety of ways, including by hearing from witnesses orally, receiving it in writing as opinions or papers, or organizing round-table discussions and visiting locations as determined by the Commission in accordance with these rules, and includes "Documents" or other physical objects and Traditional Knowledge.
Review Comment	This definition should be simplified. NIRB rules do not include a definition of "evidence" and it is not clear why this is considered necessary for this purpose.
Recommendation/ Request	Remove definition of "evidence".

<b>Comment ID</b>	<b>TMAC-07</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Definitions & Interpretation, "Hearing"
Requirement	-"Hearing" means an open forum meeting in which the Commission receives arguments, Documents and Evidence,

	and comments from Participants, Elders and others in accordance with rule 9(1), in an informal environment including but not limited to panels, round-table discussions, town hall meetings and Virtual Meetings, and is open to the public unless otherwise directed.
Review Comment	It is confusing to refer to a hearing as a "meeting" as a hearing has specific functions that a meeting does not have, and a hearing is not usually considered informal. The procedure and rules applicable to hearings are set out in the rules themselves, and it is not clear why a definition of "hearing" is considered necessary for this purpose.
Recommendation/ Request	Remove definition of "hearing".

<b>Comment ID</b>	<b>TMAC-08</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Definitions & Interpretation, "Information Session"
Requirement	-"Information Session" means a meeting intended to promote public participation in a Proceeding wherein Commission staff may explain matters including land use planning generally, the subject matter of a Proceeding, and answer questions.
Review Comment	It is suggested that where Information Sessions are held in respect of a particular project, the Proponent should be invited to participate and answer questions from the public. Project proposals can be complex and require subject matters experts to explain processes, concepts or technical matters specific to a proposal. NPC staff may not have sufficient understanding of a project to accurately answer questions and this can lead to unnecessary confusion and concerns. Proponents must have the opportunity to attend information sessions to explain, respond to and take home any outstanding concerns and have first hand experience the comments or questions being presented.
Recommendation/ Request	TMAC insists that Proponents be given the opportunity to attend Information Sessions being held in relation to a project, and that these sessions provide an opportunity for the Proponent to answer questions from the public.

<b>Comment ID</b>	<b>TMAC-09</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Definitions & Interpretation, "Interested Person" Part V. Forms, Form 1 - Registration as Participant
Requirement	-"Interested Person" means any Person who in the opinion of the Commission, has information, knowledge or a view useful for the resolution of a matter before the Commission.

Review Comment	<p>If appears that Interested Persons are granted Interested Person status upon submission of a completed Form 1.</p> <p>The NIRB requests additional information for intervenor status that must contain the following:</p> <p>(a) A brief summary of the reasons for the intervenor's interest in the hearing;</p> <p>(b) A concise statement indicating the nature and scope of the intervenor's intended participation, including whether the intervenor intends to make a written submission and/or appear at an oral hearing, whether the intervenor will be represented by counsel or an agent, and the language in which the person wishes to be heard; and</p> <p>(c) The name, address, telephone number and, if available, fax number and email address of the intervenor and, if applicable, of the authorized representative.</p> <p>On receiving and examining a request for intervenor status, NIRB may do one or more of the following:</p> <p>(a) Direct the intervenor to serve a copy of the request on the proponent and such other persons as the Board specifies, and solicit the views of the proponent and parties on the request;</p> <p>(b) Direct the intervenor to provide more information to the Board or otherwise revise the request in any manner the Board considers necessary;</p> <p>(c) Decide that the intervention will not be heard because the submission is frivolous, vexatious or of little merit; and</p> <p>(d) Decide that the intervention will be heard and notify the parties that the intervention will be heard.</p>
Recommendation/ Request	<p>Consideration should be given to the NIRB process for requests for Intervenor status and adopting this approach for NPC proceedings to ensure that the process for intervenor status is fair, consistent and awarded to appropriate persons.</p>

<b>Comment ID</b>	<b>TMAC-10</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Definitions & Interpretation, "Minor Variance"
Requirement	-"Minor Variance" means relief or reasonable deviation for a single project from certain terms of an applicable land use plan while not permitting additional uses or changing a land use plan.
Review Comment	It is unclear why it is thought that minor variances should only be available for a "single project". Granting a minor variance could permit an additional use, in situations where there is a "reasonable deviation".
Recommendation/	Suggest "Minor Variance" be reworded to: "means relief or

Request	reasonable deviation from certain terms of an applicable land use plan".
---------	--

<b>Comment ID</b>	<b>TMAC-11</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Definitions & Interpretation, "Participant"
Requirement	-“Participant” means an Entity with Right to Standing or an Interested Person who has filed a written Registration as Participant in Form 1 pursuant to rule 8(1) and may receive Notices to Participants and at the discretion of the Commission may be invited to take part in process and procedural steps relating to their specific views, knowledge and interests, including but not limited to making and responding to Motions and information requests and attending Virtual Meetings and other meetings;
Review Comment	The definition should be simplified and re-written in a plain language manner.
Recommendation/ Request	The definition of "Participant" should be simplified and re-written in a plain language manner.

<b>Comment ID</b>	<b>TMAC-12</b>
Subject	Definitions & Interpretation
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 3, Definitions & Interpretation, "Public Review"
Requirement	-“Public Review” means a review of an Amendment Application or proposed Minor Variance publicly through a written exchange of arguments, comments, Documents and Evidence without a Hearing including the collection and consideration of comments, argument, Documents and Evidence unless the Commission in its discretion decides to hold a Hearing in accordance with Part III of these rules, and is open to the public unless otherwise directed;
Review Comment	The definition should be simplified and re-written in a plain language manner.
Recommendation/ Request	The definition of "Public Review" should be simplified and re-written in a plain language manner.

<b>Comment ID</b>	<b>TMAC-13</b>
Subject	Official Languages
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 7, Notices & Remedies Part V, Forms
Requirement	- Rule 7(1) states, " The Commission shall make reasonable best efforts to notify as many people potentially interested or affected by the Proceeding as possible in Inuktitut, English, and French and may use various methods to distribute Notices to Public to potentially affected Persons having regard for the

	nature of the Proceeding."
Review Comment	The NPC rules do not include reference to Inuinniaqtun.
Recommendation/ Request	TMAC requests that the rules reference Inuinniaqtun.

<b>Comment ID</b>	<b>TMAC-14</b>
Subject	Rule 4. Interpretation & Flexibility of Rules; and Rule 5: Directions On Procedure
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 4, Item (2), Rule 5, Item (1)
Requirement	<p>Rule 4 (2) states "The Commission may on its own initiative or at the request of any Person, whether or not they are a Participant, and with or without a Hearing, lengthen or shorten the time for any action to be taken, make any decisions required consistent with these rules and any directions on procedure and establish any further procedures necessary for the just, expeditious and fair resolution of the issue subject to any conditions the Commission may impose."</p> <p>Rule 5 (1) states: "On its own initiative or at the request of a Participant, and with or without a Hearing, the Commission may at any time, either before or after the matter arises, give directions on procedure to supplement, vary or waive the application of these rules, whether generally on a short term basis or pertaining to individual Proceedings subject to these rules."</p>
Review Comment	Rule 4 and Rule 5 allow the NPC to change these rules and requirements on a discretionary basis without providing any constraints. This seems counterintuitive to the intent of these rules to provide more certainty in the process and clear direction to participants on expectations. Applying Rule 4 and Rule 5 essentially results in the rest of the rules being meaningless.
Recommendation/ Request	In an effort to provide participants clarity, TMAC requests NPC provide in the Rules clear criteria that must be met in order for the NPC to consider lengthening or shortening times for actions, establishment of further procedures, and/or the varying or waiving of the application of these rules.

<b>Comment ID</b>	<b>TMAC-15</b>
Subject	Filing Documents
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 10, Filing Documents
Requirement	- Rule 10(1) Documents to be filed with the Commission may be sent by courier service, ordinary mail, fax, electronic means or by any other means directed by the Commission, and Documents may be filed with the Commission by electronic means if: a. the electronic means is compatible with the

	Commission's information technology, equipment, software and processes; and b. the Commission confirms receipt of the Document
Review Comment	It is not clear what "electronic means is compatible with the Commission's information technology, equipment, software and processes".
Recommendation/ Request	TMAC requests the NPC provide further clarity on this point.

<b>Comment ID</b>	<b>TMAC 16</b>
Subject	Record of Proceedings - General
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 11, Record of Proceedings - General
Requirement	- Rule 11 (3) "The record shall be deemed correct as to the veracity of its details unless a Person challenging it can prove that it contains omissions, is inaccurate in some way or has been tampered with."
Review Comment	The definition should be simplified and re-written in a plain language manner.
Recommendation/ Request	TMAC requests the NPC issue a plain language version of this rule.

<b>Comment ID</b>	<b>TMAC 17</b>
Subject	Record of Proceedings - General
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 11, Record of Proceedings - General
Requirement	- Rule 11 (4) "Any gap in the record caused by a mechanical or technical dysfunction or error, weather, or other force majeure shall not invalidate the Proceedings or record of the Proceedings."
Review Comment	Whether or not the proceedings are invalidated by such an event would be dependent on the context.
Recommendation/ Request	TMAC requests the NPC give consideration to removing this rule.

<b>Comment ID</b>	<b>TMAC-18</b>
Subject	Rule 12. Disclosure Using Public Registry
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 12, Item (1)
Requirement	Rule 12(1) : "The Commission shall post arguments, Documents and Evidence filed in a Proceeding on its online public registry and the posting on the public registry will constitute notice to all Participants."
Review Comment	Rule 12 does not require the NPC to provide active notifications to relevant identified Participants and parties when arguments, Documents and Evidence are filed in a Proceeding on the Public Registry. It appears Participants are expected to monitor the Public Registry independently in order to determine if new

	documents are posted.
Recommendation/ Request	TMAC recommends the NPC provide active notification to relevant Participants when arguments, Documents and Evidence are filed in a Proceeding on the Public Registry rather than passive notification as proposed which in theory would require constant monitoring of Public Registry to ensure Participants are current on submissions. This could be accomplished by providing an email update with links to documents when posted. NIRB and NWB both follow a similar active notification procedure.

<b>Comment ID</b>	<b>TMAC-19</b>
Subject	Motions for Orders on Rules & Procedures
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 13(2)
Requirement	Rule 13: "The Commission may deal with the Motion by any means, and may provide a Notice to Participants informing them of a Motion, the details of any Hearing or Virtual Meeting or other means of dealing with the Motion, and invite Participants to file responses by a specified time."
Review Comment	Rule 13 allows for the commission to deal with a Motion by "any means" and allows NPC discretion if the motion needs to be communicated to other Participants.
Recommendation/ Request	In an effort to provide clarity, TMAC requests the NPC provide in the Rules clear options the NPC will consider when a motion is filed; what criteria will be used to evaluate and select the preferred option; and what process will be used to determine if the motion needs to be communicated to other Participants.

<b>Comment ID</b>	<b>TMAC-20</b>
Subject	Evidence
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 15, Item (2)
Requirement	- Rule 15 (2) "The Commission can receive material and relevant Evidence in any form that relates to the issues the Commission is considering, whether or not the Commission has specifically listed those issues."
Review Comment	It would increase transparency if the Commission provides notice to Proponents what issues they are considering, so that Proponents have an opportunity to provide evidence on the relevant issues.
Recommendation/ Request	The NPC should provide clear notice to Proponents as to what issues the NPC is considering.

<b>Comment ID</b>	<b>TMAC-21</b>
Subject	Meetings of Technical and Traditional Knowledge Experts
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 16, Item (1)

Requirement	<p>Rule 16(1) "For the purpose of allowing Participants to resolve ambiguities, gaps, and conflicting interpretations in technical Evidence and Traditional Knowledge in a Proceeding, the Commission may hold a meeting of Commission staff and Participants' experts, whether in person or by Virtual Meeting without prejudicing the position they may ultimately take in a Proceeding. A meeting of experts is not a Hearing before the Commissioners and is not open to the public unless directed otherwise."</p> <p>(2) "The Commission shall give Notice to Participants of a meeting under rule 16(1) at least 7 days before the meeting including the date, time, location, and a proposed agenda."</p>
Review Comment	Generally, 7 days notice of a meeting of this type would not be sufficient notice.
Recommendation/ Request	Proponents should be invited to any such meeting. A minimum 14-day notice period is recommended.

<b>Comment ID</b>	<b>TMAC-22</b>
Subject	Confidentiality
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 17, Item (1)
Requirement	- Rule 17(1) "A Participant or other Person who wishes to keep confidential any information in a Document or Evidence to be filed with the Commission, must, before filing the Document or Evidence, file a Motion with the Commission briefly describing the nature of information to be kept confidential and the specific harm that would result if the information were placed on the public record or not removed from the public record."
Review Comment	<p>The Rules do not clearly state what the NPC's process is should a request for confidentiality be granted. As an example, the NIRB Rules of Procedure include the following statements:</p> <p>"13.3 If the Board determines that the harm that would result if the document were placed on the public registry outweighs the public interest in the disclosure of the document, the Board may, after the hearing of the motion, grant a request for confidentiality on any terms that it considers appropriate."</p> <p>"13.4 Where a request for confidentiality is granted by the Board and the document is filed with the Board, the document or part of the document to which confidentiality is granted shall not be placed on the public registry. A party shall only receive a copy of the document or part of the document as the case may be if the party files an undertaking stating that the party will hold the document in confidence and use it only for the purpose of the proceeding with the Board."</p> <p>"13.5 Nothing in Rules 13.1 to 13.4 limits the operation of any statutory provision that protects the confidentiality of</p>

	information or documents."
Recommendation/ Request	NPC should provide better clarity as to their process in the event the NPC grants a request for confidentiality.

<b>Comment ID</b>	<b>TMAC-23</b>
Subject	Commencement of Public Reviews
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 19(2)
Requirement	<p>Rule 19(2) "A Notice to Public of Public Review shall generally contain:</p> <ul style="list-style-type: none"> <li>a. the purpose of the Public Review;</li> <li>b. an invitation to register as a Participant by a certain date, or to provide comments as a member of the public;</li> <li>c. timelines for filing arguments, Documents, and Evidence;</li> <li>d. the date of the closing of the record, which must not be less than 30 days after the date of the Notice to Public; and</li> <li>e. how to obtain more information and the Commission's contact information." <p>(3) "The Public Review period begins on the date the Commission elects in its sole discretion to hold a Public Review and ends on a date specified by the Commission in a Notice to Public."</p> </li></ul>
Review Comment	The Rules should not set a minimum 30 day notice period, as it is possible that in its discretion the NPC could determine a shorter notice is appropriate in the circumstances. Query why the Public Review period would not commence on the day the notice is published.
Recommendation/ Request	The Rules should not set a minimum 30-day notice period, as it is possible that in its discretion the NPC could determine a shorter notice is appropriate in the circumstances. Query why the Public Review period would not commence on the day the notice is published.

<b>Comment ID</b>	<b>TMAC-27</b>
Subject	Concluding a Public Review
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 25
Requirement	<p>Rule 25: (1) "The Commission may extend the closing of the record or reopen the record on its own initiative or at the request of a Participant.</p> <p>(2) Within the timelines set by the Commission, the Amendment Applicant or Proponent seeking a Minor Variance may respond in writing to any arguments, Documents, and Evidence filed in the Public Review and to any oral or written comments made</p>

	<p>by non- Participants.</p> <p>(3) If the Commission does not hold a Hearing as a component of a Public Review in accordance with Part III of these rules, following completion of a Public Review the Commission may:</p> <p>a. Make a decision in respect of the subject matter of the Public Review in the manner provided by the NuPPAA on the basis of the record without a Hearing; or</p> <p>b. Reopen the record to hold such further meetings and Information Sessions, and solicit such further comments, Documents, Evidence, argument and responses as the Commission considers appropriate before disposing of the subject matter of the Public Review.</p> <p>(4) After the record in the Public Review is closed the Commissioners may:</p> <p>a. Deliberate at one or more meetings, whether held in camera or in public;</p> <p>b. Give drafting instructions to Commission staff to prepare or amend materials for the Commission's consideration at one or more future Commission meetings, including instructions to amend materials drafted and reviewed at previous meetings; and</p> <p>c. Once a majority of the Commissioners are in agreement with materials prepared by staff, the Commission may by motion approve the material as its decision in the Public Review."</p>
Review Comment	<p>Rule 25 reduces clarity about timelines regarding the end of a Public Review. The NPC may extend the closing of the record or reopen the record on its own initiative or at the request of a Participant. TMAC understands there may be cases this is approach is required but there is no indication of the factors that the NPC would consider or criteria that must be met for a Public Review to extended.</p>
Recommendation/ Request	<p>Further details are requested about timelines following completion of a Public Review. TMAC requests the NPC provide in the Rules clear criteria that must be met to extend Public Reviews.</p>

<b>Comment ID</b>	<b>TMAC 28</b>
Subject	Questions in a Hearing
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 28
Requirement	28(1) "A Participant may ask any other Participant any relevant question, or ask for such further information as they consider necessary to permit a full and satisfactory understanding of an issue, orally at the Hearing or in writing prior to a Hearing, however Participants may decline to respond to such questions and requests.

	<p>(2) Any member of the Commission may invite, but not compel, any Participant to respond to any relevant question, or ask for such further information as they consider necessary to permit a full and satisfactory understanding of an issue, orally during a Hearing or in writing prior to or following a Hearing, including but not limited to explaining any conflicts or inconsistencies in the Evidence.</p> <p>(3) At the request of a Participant the Chairperson may ask staff to clarify an ambiguity or confirm a fact relevant to the subject matter of the Hearing, however as a general rule Commission staff may decline to respond to comments or questions."</p>
Review Comment	TMAC is of the view that it would support transparency if all participants and NPC were required to answer any questions raised within the process to the best of their availability. A rule that permits participants and NPC to decline to respond to comments or questions does not support open information exchange.
Recommendation/ Request	The NPC should give consideration to removing Rule 28.

<b>Comment ID</b>	<b>TMAC 29</b>
Subject	Commission's Authority Over Hearing
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 29
Requirement	<p>29(1) "The Commission may determine the order and time limits for oral submissions by any or all Participants and non-Participants at a Hearing.</p> <p>(2) The Commission may give oral or written directions on procedure for the conduct of the Hearing, before or at the Hearing.</p> <p>(3) The Commission may adjourn a Hearing from time to time, and may for any reason reopen a Hearing upon reasonable Notice to Participants for the purpose of receiving further arguments, Documents and Evidence.</p> <p>(4) The Commission may authorize one or more Commissioners to hold Hearings for the purpose of receiving arguments, Documents and Evidence from Participants, and comments from non-Participants, when a quorum is not present."</p>
Review Comment	<p>Quorum of Commissioners should be required to hold Hearings. Further details should be provided as to when it is anticipated the Commission might exercise its discretion to reopen a Hearing.</p> <p>Rule 29 allows for directions on procedure for the conduct of the Hearing to be given orally by the NPC prior to the Hearing.</p>
Recommendation/ Request	Quorum of Commissioners should be required to hold Hearings. Further details should be provided as to when it is anticipated

	<p>the Commission might exercise its discretion to reopen a Hearing.</p> <p>TMAC requests confirmation on how, in cases prior to the Hearing, the NPC will communicate oral directions on procedure for the conduct of the Hearing.</p>
--	---

<b>Comment ID</b>	<b>TMAC-30</b>
Subject	Transition and Retrospective Effect
Reference	NPC – Proposed for Public Comment: Rules for Public Proceedings; Rule 31
Requirement	31(1) "These rules of procedure shall apply immediately to all new Proceedings and retrospectively to any ongoing Proceedings before the Commission commenced under the former Rules of Procedure for Public Hearings and Public Reviews, as amended."
Review Comment	TMAC is concerned that retrospective application could cause delay to ongoing proceedings.
Recommendation/ Request	Consider removal of retrospective application to ongoing proceedings.

Attachment B:  
TMAC Comments on NPC Draft Rules for Project Descriptions

On July 26, 2019 the Nunavut Planning Commission (NPC) released for comment Draft Project Description Rules pursuant to Section 38 of the NuPPA. The tables below summarize TMAC's comments on these proposed Rules.

<b>Comment ID</b>	<b>TMAC-31</b>
Subject	Definitions
Reference	"Project Proposal"
Requirement	"Project Proposal" means an application submitted to the NPC for a "project" as that term is defined in NuPPAA to be carried out, in whole or in part, in the designated area, and includes an initiative to establish or abolish a park or a conservation area, in whole or in part inside the designated area, or to expand or reduce a park or a conservation area, in whole or in part within the designated area.
Review Comment	The phrase "Project Proposal" already has a defined meaning in the Nunavut Agreement: "Project proposal" means a physical work that a proponent proposes to construct, operate, modify, decommission, abandon or otherwise carry out, or a physical activity that a proponent proposes to undertake or otherwise carry out, such work or activity being within the Nunavut Settlement Area, except as provided in Section 12.11.1.
Recommendation/ Request	Consider removing this definition to avoid confusion between the two versions of this definition. Or provide justification as to why the Nunavut Agreement definition of a Project proposal is not sufficient.

<b>Comment ID</b>	<b>TMAC-32</b>
Subject	Definitions
Reference	"Waste"
Requirement	"Waste" means a substance, whether solid, liquid or gas, that is no longer being used for its original purpose or is a bi-product and includes but is not limited to: a) Rubbish, refuse, garbage, and litter; b) Paper, packaging, and containers; c) Human or animal excrement, and solid or liquid manure, offal, animal carcasses in whole or part; d) Biomedical waste; e) Hazardous Material; f) Tailings; g) Waste of domestic, municipal, mining, factory or industrial origin; h) Scrap and discarded material, articles, bottles or cans; i) Junk, or junked obsolete or derelict motor vehicles, or obsolete or derelict equipment, appliances or machinery; j) The whole or part of any article, raw or processed material, product, vehicle or other machinery or item that is dumped, discarded, abandoned or otherwise disposed of; k) Effluent, wastewater or sewage, sludge, slimes; l) Fumes, odours, smoke of mines, factories or other industrial

	works; or m) The run-off from such substances.
Review Comment	<p>"Waste" is defined in the <i>Nunavut Waters and Nunavut Rights Tribunal Act</i> as "means any substance that, by itself or in combination with other substances found in water, would have the effect of altering the quality of any water to which the substance is added to an extent that is detrimental to its use by people or by any animal, fish or plant, or any water that would have that effect because of the quantity or concentration of the substances contained in it or because it has been treated or changed, by heat or other means, and includes</p> <p>(a) any substance or water that, for the purposes of the Canada Water Act, is deemed to be waste;</p> <p>(b) any substance or class of substances specified by the regulations;</p> <p>(c) water containing any substance or class of substances in a quantity or concentration that is equal to or greater than that prescribed by the regulations; and</p> <p>(d) water that has been subjected to a treatment or change described by the regulations."</p>
Recommendation/ Request	If a definition of waste is required, consider using definition from the <i>Nunavut Waters and Nunavut Surface Rights Tribunal Act</i> for consistency.

<b>Comment ID</b>	<b>TMAC-33</b>
Subject	Interpretation
Reference	3.
Requirement	3. Unless otherwise provided or the context otherwise requires, words and phrases in these rules have the same meaning as in the NuPPAA.
Review Comment	The Nunavut Agreement should also be referenced.
Recommendation/ Request	The Nunavut Agreement should also be referenced.

<b>Comment ID</b>	<b>TMAC-34</b>
Subject	Project Proposal Descriptions
Reference	5(v)
Requirement	(v) Where a Proponent is applying to renew or amend a previous Project Proposal, all modifications made since the original Project Proposal was submitted.
Review Comment	As an example, for a major project with a Type A Water Licence, the number of modifications that are made to a project over time are substantial and would not be relevant to a conformity determination by NPC. This is an onerous request

	that adds no value to the submission. Requirements to submit irrelevant information to a proposal will be a distraction and add unnecessary information for NPC staff to process.
Recommendation/ Request	Give consideration to requiring proponents to only summarize relevant "significant modifications" since the original Project Proposal was submitted.

<b>Comment ID</b>	<b>TMAC-35</b>
Subject	Project Proposal Descriptions
Reference	5(h)
Requirement	(h) Information about Equipment used in carrying out the project including: i. Types of Equipment that will be present on the land; ii. Quantity of Equipment to be used; iii. Dimensions of Equipment; and iv. Proposed uses.
Review Comment	TMAC suggests that detailed information such as equipment dimensions should not required in order for NPC to make a conformity determination. Further, a proponent can not be expected to have determined these details prior to having a project approved and procuring or renting equipment. This should not be a requirement in a land planning process.
Recommendation/ Request	TMAC requests that the detailed information such as equipment dimensions should not required in order for NPC to make a conformity determination.

<b>Comment ID</b>	<b>TMAC-36</b>
Subject	Project Proposal Descriptions
Reference	5(n)
Requirement	Rules state: "(n) If applicable, a list of any projects related to the Project Proposal that the Proponent has previously submitted to the NPC, is carrying out, or plans to submit to the NPC in the foreseeable future, including any NPC or NIRB file numbers if available."
Review Comment	It is not clear why information respecting projects that a Proponent "plans to submit to the NPC in the foreseeable future" should be required in order for NPC to make a conformity determination.
Recommendation/ Request	It is not clear why information respecting projects that a Proponent "plans to submit to the NPC in the foreseeable future" should be required in order for NPC to make a conformity determination. TMAC requests that this requirement be removed as it is out of scope for a project submission.

<b>Comment ID</b>	<b>TMAC-37</b>
Subject	Project Proposal Descriptions
Reference	NPC – Proposed for Public Comment: Project Description Rules; Item 5, Part I)
Requirement	Rules state: "A statement of anticipated environmental impacts

	that may reasonably be anticipated to be caused by the carrying out of the project, whether to land, water, or natural resources including wildlife"
Review Comment	<p>The proposed Rules require submission of a statement of anticipated environmental impacts that may reasonably be anticipated to be caused by the carrying out of the project when submitting a Project Proposal. The requirement to submit 'a concise plain language summary of anticipated effects on land, including water and wildlife' as required in Item 5) Part d) ii of the Rules is consistent with the Nunavut Agreement and NuPPA.</p> <p>However, the requirement to include 'A statement of anticipated environmental impacts that may reasonably be anticipated to be caused by the carrying out of the project, whether to land, water, or natural resources including wildlife' potentially could be interpreted to require proponents to provide significant technical and IQ/TK information at the NPC conformity determination stage, akin to what would be required for NIRB screening or review.</p> <p>Land Use Plans should provide proponents with clear direction on where development can occur subject to environmental and socio-economic review from the NIRB. The NPC's role and expertise should not be to evaluate potential environmental effects. This is the role of the NIRB. Further, proponents can not be expected to provide this information prior to the NPC providing an indication that the Project should proceed to the NIRB for review.</p>
Recommendation/ Request	Only high level, summary statements on potential for environmental effects should be required to be included in project proposals, and NPC should focus on the location and description of project components in making its conformity determinations rather than on potential for environmental effects. Accordingly, TMAC suggests that item 5(l) should be removed from the Rules and the NPC should provide clarification as to the level of information that it expects proponents to provide in their application documents.

<b>Comment ID</b>	<b>TMAC-38</b>
Subject	Confirmation of licenses, permits, or other authorizations
Reference	NPC – Proposed for Public Comment: Project Description Rules; Item 8; Page 4
Requirement	Rules state: "The NPC may ask the Proponent to provide written confirmation from a land owner, regulatory authority or other agency that the Proponent has correctly identified the licenses, permits, or other authorizations that will be required, including

	the specific types or classes if applicable, and that the Project Proposal includes sufficient information to make such a determination."
Review Comment	<p>TMAC is concerned that this requirement is too onerous for the project proposal/NPC conformity stage. Based on previous experiences, TMAC is concerned that in early stages of project development, prior to detailed design, not enough information will be available at the NPC stage for regulatory authorities or other agencies to comprehensively confirm what licenses, permits, or other authorizations will be required.</p> <p>This requirement set forth by the NPC should not be a pre-requisite. The detail that is being requested by NPC can be provided at a preliminary level by the proponent, and would be confirmed by the involvement of Inuit and regulatory authorities during the NIRB stage once a positive conformity is issued. NPC is endeavoring to capture too much information up front in the process and by doing so is pre-empting processes that are governed by the NIRB, NWB and potential intervention from other federal parties. This requirement set forth by the NPC should not be a pre-requisite. In fact, it should be the role of the IPG's to determine what licences, permits or other authorizations may be required. This determination may only come after the environmental assessment or water licencing process is completed with the NIRB or NWB respectively.</p>
Recommendation/ Request	TMAC requests the NPC remove the Item 8 requirement from the draft Rules or revise the draft Rules so that independent written confirmation is not required.