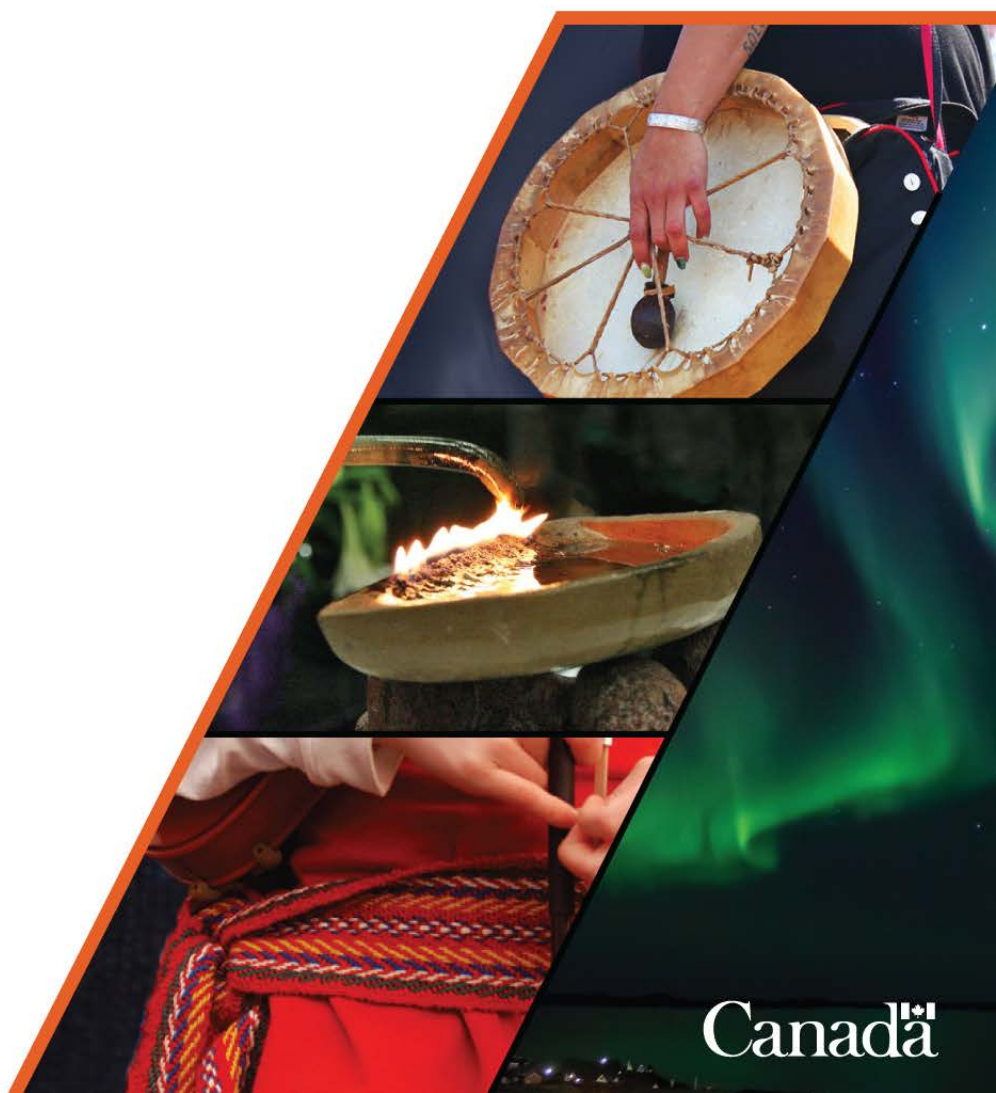




GOVERNMENT OF CANADA COMMENTS TO NUNAVUT PLANNING COMMISSION

Re: Notice of Release of Draft Rules for Public Proceeding and Rules for Project Descriptions



Sharon Ehaloak
Executive Director
Nunavut Planning Commission
P.O. Box 1797, Iqaluit NU
X0A 0H0

SEP 24 2019

Dear Ms. Ehaloak,

Re: Notice of Release of Draft Rules for Public Proceeding and Rules for Project Descriptions

On July 26, 2019, the Nunavut Planning Commission (the Commission) invited parties to comment on the "Draft Rules for Public Proceedings" and "Draft Rules for Project Descriptions". Government of Canada agencies and departments¹ have reviewed these documents and are pleased to provide the accompanying comments for the Commission's consideration.

Comments are divided into two sections, the first for the "Draft Rules for Public Proceedings" and the second for the "Draft Rules for Project Descriptions" and both sections follow the order of the corresponding document.

We appreciate the opportunity to provide comments and look forward to working with the Commission to ensure a planning process that provides clarity for participants and proponents. Should you have any questions, please contact Spencer Dewar at (867) 975-4546 or by e-mail at spencer.dewar@canada.ca.

Sincerely,



David Rochette
Regional Director General
Nunavut Regional Office
Crown-Indigenous Relations and Northern Affairs Canada

¹ Crown-Indigenous Relations and Northern Affairs Canada, Canadian Coast Guard, Department of Justice, Department of National Defence, Environment and Climate Change Canada, Fisheries and Oceans Canada, Global Affairs Canada, Natural Resources Canada, Parks Canada, and Transport Canada



1. NUNAVUT PLANNING COMMISSION PROPOSED FOR PUBLIC COMMENT: RULES FOR PUBLIC PROCEEDINGS

Comment Number:	GoC - #1
Reference:	Rule 2. Application
Issue:	The use of wording “reviews of projects by the Commission” may create confusion.
Background/ Rationale:	Beginning at section 76(1), NuPPAA uses the title “Review by Commission”, this title applies to both conformity determinations and minor variances. If the Rules for Public Proceedings are meant to apply to minor variances but not conformity determinations alternative wording should be used for this rule to avoid confusion.
Recommendation to Address Issues:	Amend Rule 2(2) as follows (changes emphasized): “These rules are not applicable to regular meetings of the Commission under its bylaws, conformity determinations in accordance with subsection 77(1) of the NuPPAA , 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.”

Comment Number:	GoC - #2
Reference:	Rule 3. Definitions – “Evidence”
Issue:	Definition includes types of evidence that would be acceptable, this information would be better suited under Rule 15 rather than in the definition.
Background/ Rationale:	Definitions should be used to clarify the meanings of terms. Prescriptions and/or standards of conduct associated with the term should be established in the actual provisions of the Rules.
Recommendation to Address Issues:	Remove types of acceptable evidence from definition (i.e. remove everything from “and may be received by...”), move this information to Rule 15 and reference the Rule in the definition.

Comment Number:	GoC - #3
Reference:	Rule 3. Definitions – “Hearing” and “Public Review”
Issue:	Unclear why the phrase “is open to the public unless otherwise directed” is included in these definitions.
Background/ Rationale:	<p>The intent of hearings and public review should be to solicit information from the public.</p> <p>Under NuPPAA, the Commission has a duty to take all necessary steps to promote public participation in a hearing.</p> <p>Under NuPPAA the Commission has the authority to determine if a public review is necessary but if they do decide to conduct one it must be done in such a way as to promote public participation.</p> <p>Any exception to the public nature of public reviews and hearings should be clearly set out in the Rules and should be referenced in these definitions.</p>
Recommendation to Address Issues:	Modify phrase to (changes emphasized): “is open to the public unless otherwise directed under these Rules ” or remove phrase entirely.



Comment Number:	GoC - #4
Reference:	Rule 3. Definitions – “Interested Person”
Issue:	Term is not used in the document
Background/ Rationale:	The defined term is only used in the definition of “Participant” and could create confusion with the term “Interested Corporation or Organization defined in NuPPAA.
Recommendation to Address Issues:	Remove definition.

Comment Number:	GoC - #5
Reference:	Rule 3. Definitions – “Inuktitut”
Issue:	Definition is redundant.
Background/ Rationale:	Rule 3 (1) already states that “words and phrases in these rules have the same meaning as in the Agreement and the NuPPAA”.
Recommendation to Address Issues:	Remove definition.

Comment Number:	GoC - #6
Reference:	Rule 3. Definitions – “Minor Variance”
Issue:	Definition may create confusion.
Background/ Rationale:	<p>NuPPAA does not define the term “Minor Variance” but does set out under subsections 48(3) and 81(2) that the Commission can only authorize a minor variance if the applicable land use plan provides for the granting of a variance and if the conditions set out in the land use plan for the granting of such minor variance are met. The concept of “reasonable deviation” is very broad and may not reflect the specific conditions set out in a land use plan nor the concept of “Minor Variance” as contemplated in the Nunavut Agreement and NuPPAA.</p> <p>It should also be noted that the Draft Rules definition refers to relief or deviation only from “terms” of a land use plan. Under NuPPAA, relief can also be obtained from prohibitions if allowed in the applicable land use plan.</p>
Recommendation to Address Issues:	<p>Amend definition as follows:</p> <p>“relief or deviation from a land use plan prohibition or deviation from a land use plan term and condition that the Commission may consider and grant pursuant to the applicable land use plan.”</p>

Comment Number:	GoC - #7
Reference:	Rule 3. Definitions – “Notice to Public”
Issue:	Definition contains redundancies and should be broadened from “non-Participants” to “all”.



Background/ Rationale:	List of means for announcement appears to be covered earlier in definition. As Notice is a public document it would be seen by both Participants and non-Participants.
Recommendation to Address Issues:	Amend definition to the following (changes emphasized): “means Notice to <u>general public</u> which may include a press release <u>and/or an</u> announcement in internet-based media, newspaper or periodical, radio, community poster, or other public means”.

Comment Number:	GoC - #8
Reference:	Rule 3. Definitions – “Participant”
Issue:	Definition goes beyond providing the meaning of the term and adds activities that would be better suited to be included under Rule 8.
Background/ Rationale:	Definitions should be used to clarify the meanings of terms. Prescriptions and/or standards of conduct associated with the term should be established in the actual provisions of the Rules.
Recommendation to Address Issues:	Limit definition to who it covers and remove process steps from definition (i.e. remove everything from “and may received Notices...”), move this information to Rule 8 and reference the Rule in the definition.

Comment Number:	GoC - #9
Reference:	Rule 5. Directions on Procedure
Issue:	Rule does not require a public comment period for directions on procedure.
Background/ Rationale:	<p>The Government of Canada generally agrees that it may be useful to provide the Commission with discretion to depart should from these Rules as circumstances may require, but only in respect of a specific proceeding.</p> <p>The Government of Canada does not recommend providing discretion for general deviations as the impacts that such deviations will have on participants in any given Commission proceeding is difficult to assess. A proceeding could be invalidated due to an unintended adverse effect resulting from a general modification that is not closely tailored to a specific proceeding.</p> <p>It should also be noted that Rule 5(3) of this Rule cannot change the meaning of NuPPAA provisions relating to the requirements for a public comment period. Depending on the nature, scope and duration of any direction to generally depart from the Rules, it could constitute the adoption of Rules and require a comment period.</p> <p>These Rules should also provide that participants that could potentially be affected by a direction will be provided with an opportunity to provide comments.</p>
Recommendation to Address Issues:	<p>Remove phrase “whether generally on a short term basis or” from Rule 5(1).</p> <p>Remove Rule 5(3).</p> <p>Include new section with proposed wording “Where directions on procedure deviate from the Rules in such a way that there is a potential to affect participants or other Persons, the Commission should give those parties a meaningful opportunity to provide their views. The Commission may also, at its discretion, solicit public comment on directions on procedure in other circumstances.”</p>



Comment Number:	GoC - #10
Reference:	Rule 7. Notice and Remedies
Issue:	"People" is not a defined term.
Background/ Rationale:	As the term "Person" is defined in the Rules it should be used in place of "people".
Recommendation to Address Issues:	Amend Rule 7(1) to the following " The Commission shall make reasonable best effort to notify Persons potentially interested ..."

Comment Number:	GoC - #11
Reference:	Rule 8. Becoming a Participant
Issue:	<ul style="list-style-type: none"> a) Further clarity needed for process to become a participant. b) Misabeled reference.
Background/ Rationale:	<ul style="list-style-type: none"> a) It is unclear when reading Rule 8 if Persons automatically become Participants upon filling out Form 1 or if the Commission retains some discretion in allowing standing. We note that the definition of "Participant" refers to an exercise of discretion by the Commission. b) Information on Participants is found in Form 1 not in Rule 8(1).
Recommendation to Address Issues:	<ul style="list-style-type: none"> a) Move criteria from definition of "Participant" to this Rule, see comment #8 above. Provide additional clarity regarding the Commission's discretion to allow participation. b) Change reference in Rule 8(2) to the information listed in Form 1 rather than the information listed in Rule 8(1).

Comment Number:	GoC - #12
Reference:	Rule 11. Record of Proceedings - General
Issue:	<ul style="list-style-type: none"> a) Process for challenging the record is undefined. b) Gaps in the record could occur for reasons other than those listed that should not invalidate the proceedings unless there is a potential to seriously prejudice a party.
Background/ Rationale:	<ul style="list-style-type: none"> a) The record is key to decision-making by the Commission and any uncertainty in respect of the record risks undermining the quality of the Commission's decision-making. b) Gaps may occur between when information is presented and when it is made publicly available especially in the case of oral evidence. This should not in and of itself invalidate a proceeding unless the information gap is significant enough to cause potential prejudice to another party.



Recommendation to Address Issues:	<p>a) Set out the process through which someone can challenge the record in Rule 11(3). In our view, it would be advisable to require that a formal motion be filed to ensure that any such request be subject to adequate scrutiny and that a formal decision be made by the Commission clarifying the content of the record.</p> <p>b) Provide further clarity in Rule 11(4) as to whether additional causes of gaps would not invalidate proceedings. A timeframe to address any gaps may be needed.</p> <p>In addition, we recommend that in Rule 11(4) where a dysfunction has the potential to cause serious prejudice to a party, this party be given an opportunity to be heard again or to resubmit their Documents or Evidence if necessary.</p>
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Comment Number:	GoC - #13
Reference:	Rule 12. Disclosure Using Public Registry
Issue:	<p>a) Agree with the need for Rule 12(1).</p> <p>b) Typographical corrections.</p> <p>c) Participants without Internet access should receive notices through alternative means.</p>
Background/ Rationale:	<p>a) Rule 12 (1) is very important given the number of participants typically involved in the development of a land use plan. A system requiring personal service of submissions, documents and evidence would impose too much of a burden on participants.</p> <p>b) Typographical corrections.</p> <p>c) If a Participant is unable to access the Internet they should be able to request that the Commission send them any notices related to the proceedings by alternate means.</p>
Recommendation to Address Issues:	<p>a) No changes recommended for Rule 12(1).</p> <p>b) We recommend the following amended wording for Rule 12(2 (changes emphasized):</p> <p>The Commission may decline to post materials on its public registry, including on the grounds it is confidential, irrelevant to the Proceeding, frivolous or vexatious, or that the potential for harm in making such materials public outweighs the public interest.</p> <p>c) We recommend alternative arrangements detailed in Rule 12(3) should also cover the sending of notices by alternative means where a person is unable to access the notices through the online registry.</p>



Comment Number:	GoC - #14
Reference:	Rule 13. Motions for Order on Rules & Procedures
Issue:	Commission should be required to provide a Notice to Participants regarding any Motions.
Background/ Rationale:	Participants should be informed of any proposed Motions and should be given the opportunity to comment as a default.
Recommendation to Address Issues:	Modify Rule 13(2) by changing “may provide a Notice to Participants” to “will” or “shall” provide a Notice to Participants”.

Comment Number:	GoC - #15
Reference:	Rule 15. Evidence
Issue:	<ul style="list-style-type: none"> a) Types of Evidence that is admissible should be provided under this Rule. b) Unclear wording in Rule 15(2). c) Rule 15(4) may not provide the Commission enough flexibility to consider Evidence on a case-by-case basis.
Background/ Rationale:	<ul style="list-style-type: none"> a) See Comment #2 above b) In Rule 15(2), it is unclear how the form of evidence can “relate to the issues the Commission is considering”. c) Rule 15(4) may not provide the Commission enough flexibility when considering and weighing Evidence. In certain instances it may be necessary to consider Traditional Knowledge to a greater or lesser extent than scientific information. Per subsection 11.4.17 of the Nunavut Agreement, “In conducting its hearings, the NPC shall: (a) at all times, give weighty consideration to the Inuit traditions regarding oral communication and decision making.”
Recommendation to Address Issues:	<ul style="list-style-type: none"> a) We recommend including in Rule 15 (1) the details on the various types of evidence the Commission may admit as currently included in the definition of evidence. b) We recommend amending the wording of Rule 15(2) as follows (changes emphasized): “The Commission will accept evidence in any form that the Commission deems acceptable considering the nature of the proceeding”. c) We recommend modifying Rule 15(4) to more closely reflect language found in the Nunavut Agreement.

Comment Number:	GoC - #16
Reference:	Rule 16 Meetings of Technical & Traditional Knowledge Experts
Issue:	Rule does not allow for additional materials to be added to the public record following such meetings.



Background/ Rationale:	Information from these meetings could impact the positions of other Participants not present. It would be useful to provide an option that new or amended information produced can be submitted for the Commission to add to the public registry.
Recommendation to Address Issues:	Propose allowing Participants to submit any additional materials needed to clarify positions or resolve gaps, ambiguities or conflicts to the Commission to add to the public record following such meetings.

Comment Number:	GoC - #17
Reference:	Rule 17 Information Sessions and Participant Meetings
Issue:	<p>a) There are two Rule 17s listed.</p> <p>b) Rule does not allow for additional materials to be added to the public record following such meetings.</p> <p>c) It is unclear why these steps are described as not “proceedings”</p>
Background/ Rationale:	c) Each sub-rule refers to the fact that the described steps are not “proceedings”. What is entailed by this statement is not clear. In particular, we note that Rule 2 - Application of Rules does not appear to depend on whether a step is a proceeding. Further clarification may be needed in Rule 2.
Recommendation to Address Issues:	<p>a) See comment #18 below regarding re-numbering.</p> <p>b) See comment #16 above regarding publishing additional material following meetings.</p> <p>c) In Rule 17 (1), we recommend making the clause “and is open to the public unless otherwise directed but is not a Proceeding” a separate sentence reading: “An Information Session is open to the public unless otherwise directed by Commission staff.”</p> <p>In Rule 17(2) and Rule 17(3), we recommend making the clause “, but is not itself a Proceeding, and is not open to the public unless directed otherwise” a separate sentence reading: “Such a meeting is not open to the public unless Commission staff directs otherwise.”</p>

Comment Number:	GoC - #18
Reference:	Rule 17. Confidentiality
Issue:	There are two Rule 17s
Background/ Rationale:	Rule 17 Confidentiality could be moved under Rule 12 as it relates to disclosure of information. It should be noted that any exemptions from disclosure must be compliant with the NuPPAA.
Recommendation to Address Issues:	Renumber Rule 17 Confidentiality and all subsequent Rules or move this Rule to under Rule 12.



Comment Number:	GoC - #19
Reference:	Rule 19. Commencement of Public Reviews
Issue:	<ul style="list-style-type: none"> a) Rule title does not match Rule contents. b) Some redundant wording is used in Rule 19 (1)(b). c) No requirement for timeline for Information Requests or responses by Proponents or Amendment Applicants.
Background/ Rationale:	<ul style="list-style-type: none"> a) Rule title is "Commencement of Public Review" but Rules also speak to close of Public Review period. b) Rule 19(1)(b) provides a list of possible means of publication for Notices to Public. This list is already captured in the definition of this term and could be removed to avoid redundancy. c) Including timelines for these items could reduce undue delays in Proceedings.
Recommendation to Address Issues:	<ul style="list-style-type: none"> a) Change Rule title to "Public Review Period". b) Remove list of options for Notice to Public from Rule 19(1)(b). c) Amend Rule 19(2)(c) as follows (changes emphasized): "timelines for <u>Information Requests</u>, for filing arguments, Documents, and Evidence <u>and for responses by Proponent's or Amendment Applicants to these items as applicable.</u>"

Comment Number:	GoC - #20
Reference:	Rule 20. Parties Entitled to Standing in a Public Review
Issue:	Rule title does not correspond to Rule contents.
Background/ Rationale:	The current title creates the expectation that all Parties entitled to standing in a public review will be enumerated but the Rule contents only deal with the Proponent or Amendment Applicant.
Recommendation to Address Issues:	Change the title of this Rule to "Standing of Amendment Applicant and Proponent seeking a Minor Variance".

Comment Number:	GoC - #21
Reference:	Rule 21. Information Sessions in Public Review
Issue:	Rule is redundant.
Background/ Rationale:	Provisions in this Rule are covered in Rule 17 Information Sessions and Participant Meetings.
Recommendation to Address Issues:	Remove Rule.



Comment Number:	GoC - #22
Reference:	Rule 22. Written Questions & Information Requests
Issue:	Timelines for when Information Requests can be made should be set out in any Notices for the Proceedings.
Background/ Rationale:	Last minute Information Requests risk causing delays in processing an application. Wording to address timeline concerns for Information Requests has been included in comment #19c) above.
Recommendation to Address Issues:	See wording proposed in comment #19 c) above. Additions to this Rule are not recommended if comment #19 c) is accepted.

Comment Number:	GoC - #23
Reference:	Rule 23. Amendments to Application Materials
Issue:	<p>a) Rule does not allow for further Information Requests following an amendment to application materials or for Proponents or Amendment Applicants to respond to any new information provided by Participants.</p> <p>b) Incorrect reference included.</p>
Background/ Rationale:	a) Following an amendment to an application additional Information Requests may be needed before Participants can submit amended or further Documents or Evidence. If new or amended Documents and Evidence are submitted, the Proponent or Amendment Applicant should be given the opportunity to respond.
Recommendation to Address Issues:	<p>a) Following an amendment, Participants will be given the opportunity to make further Information Requests in respect of the amendment. We also recommend providing that the Proponent be given the opportunity to respond to any amended arguments made by the Participants or further documents and evidence filed by the Participants.</p> <p>b) Rule 23(3) should refer to Rule 23(1) not 23(2) and a comma should be added after "23(1)".</p>

Comment Number:	GoC - #24
Reference:	Rule 24. Oral Evidence in a Public Review
Issue:	<p>a) This Rule speaks to both Public Reviews and Hearings and should be moved to Part 1 of the document.</p> <p>b) Rule does not speak to access to oral evidence by other Participants.</p>
Background/ Rationale:	<p>a) Oral evidence may be provided as part of a Public Review or a Hearing and this Rule should therefore be moved into the General Rules section of the document.</p> <p>b) Access to oral evidence is important not only for the Commission but also for other Participants.</p>
Recommendation to Address Issues:	a) Move this Rule to under Rule 15, rephrase as needed to reflect general nature of Rule.



	b) This Rule should provide for a way for the Proponent and Participants to have access to the actual evidence provided orally if they were not present. Oral evidence should be recorded and filed as an audio or video record in addition to the written summary to give all participants access to the best available evidence.
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Comment Number:	GoC - #25
Reference:	Rule 25. Concluding a Public Review
Issue:	<p>a) Factors considered when re-opening or extending the record are not provided.</p> <p>b) If further Information Sessions or meetings are held, no clause to include the Proponent or Amendment Applicant is included.</p>
Background/ Rationale:	<p>a) It would be useful to set out some factors to guide Participants' expectations as well as the exercise of its discretion by the Commission in respect of an application to extend the timelines for closing of the record and in respect of an application for the reopening of the record.</p> <p>b) Proponents or Amendment Applicants should be allowed to be present if further discussions relating to their application are held and they should be allowed to respond to any new submissions.</p>
Recommendation to Address Issues:	<p>a) Factors to consider when reopening the record or extending the timeline for closing could include: the availability of the evidence while the record was opened, the diligence of the requesting Participant, or considerations of public interest in allowing the filing of the evidence would be relevant.</p> <p>b) In Rule 25(3)(b), the Proponent and other participants should be entitled to be present at any meeting or information session, and to make submissions in response to any further arguments or responses provided by Participants.</p>

Comment Number:	GoC - #26
Reference:	Rule 26. Commencement of Hearings
Issue:	<p>a) Rule title does not match Rule contents.</p> <p>b) Some wording repeats section heading and definitions and is redundant.</p> <p>c) Rule 26 (3) uses an undefined term.</p>
Background/ Rationale:	<p>a) Rule title is "Commencement of Hearings" but Rules also speak to the close of the Hearing period.</p> <p>b) Rule 26(1) contains the same phrasing as the introduction to Part III Hearings listed above, to avoid redundancy this text can be removed. Rule 26(1)(b) provides a list of possible means of publication for Notices to Public. This list is already captured in the definition of this term and could be removed to avoid redundancy.</p> <p>c) The term "notice of Proceedings" used in Rule 26(3) is not defined, it appears that this should read "Notice to Public".</p>



Recommendation to Address Issues:	<p>a) Change Rule title to “Hearing Period”.</p> <p>b) Remove the following from Rule 26(1) “of a draft land use plan under NuPPAA, or elects to hold a Hearing in respect of a periodic review of a land use plan under NuPPAA or as a component of a Public Review under Part II of these rules,”.</p> <p>Remove list of possible means of publication for Notices to Public from Rule 26(1)(b).</p> <p>c) Change “notice of Proceedings” to “Notice to Public” in Rule 26(3).</p>
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Comment Number:	GoC - #27
Reference:	Rule 29. Commission’s Authority over Hearing
Issue:	Holding Hearings without quorum per Rule 29(4).
Background/ Rationale:	<p>The Government of Canada agrees that allowing the Commission to receive evidence without quorum in the development of a land use plan may be acceptable if the Evidence is made available to a quorum for the purpose of decision-making based on this evidence.</p> <p>In the context of a proposed amendment to a land use plan or a request for a minor variance, which are more adversarial in nature, the absence of a quorum may put a decision based on the evidence received without a quorum at risk of judicial challenge.</p>
Recommendation to Address Issues:	Include qualifiers to Rule 29(4) as to how Evidence heard during these Hearings will be made available to a quorum and that these type of Hearings will not be used during Hearings held for plan amendments or minor variances.

Comment Number:	GoC - #28
Reference:	Rule 30. Concluding a Hearing
Issue:	Inconsistency in wording of Rule 30(2).
Background/ Rationale:	<p>Rule 30(2) indicates that the record is still open but actions listed in subsection (a) and (b) of this Rule appear to contradict this.</p> <p>Subsection (a) speaks to decision making but as a general principle, closing the record before starting the decision-making phase appears to be preferable in order to avoid last minute filing of documents and ensure timely decision-making.</p> <p>If subsection (a) is meant to explain that the Commission can make a decision “from the bench”, then this should be stated more clearly as it is advisable to close the evidential record before making an “on the bench” decision.</p> <p>The first action in subsection (b) is “Reopen the record” which would not be necessary if the record is still open.</p>
Recommendation to Address Issues:	Provide further clarity as to whether the record is open or closed for the purpose of this Rule.



2. NUNAVUT PLANNING COMMISSION PROPOSED FOR PUBLIC COMMENT: PROJECT DESCRIPTION RULES

Comment Number:	GoC - #29
Reference:	Rule 1 Definitions – “Hazardous Materials”
Issue:	Structure of definition could be simplified
Background/ Rationale:	<p>Structuring this definition with subparagraphs will make it easier to understand.</p> <p>The current text (emphasis added) is “material which, by reason of its quantity, concentration or physical, chemical or infectious characteristics, either individually or in combination with other materials is existing or potential hazard to health or to the environment and which is explosive gaseous, flammable poisonous, radioactive, corrosive, oxidizing or leachable, or is designated or classified by any applicable law as being dangerous or hazardous to health or to the environment”. The use of “and” has the effect of requiring both conditions to be met for a material to be considered hazardous waste while the emphasized “or” creates a separate category.</p> <p>The Government of Canada has assumed that the “and” in the current definition was used in error and has separated these requirements into two separate categories in our recommendation below in addition to the previous stand alone category.</p>
Recommendation to Address Issues:	<p>Amend definition to the following:</p> <p>“means any material which is:</p> <ul style="list-style-type: none"> a) designated or classified by any applicable law as being dangerous or hazardous to health or to the environment; b) explosive, gaseous, flammable, poisonous, radioactive, corrosive, oxidizing or leachable; or c) otherwise an existing or potential hazard to health or to the environment by reason of its quantity, concentration or physical, chemical or infectious characteristics, either individually or in combination with other materials.”

Comment Number:	GoC - #30
Reference:	Rule 1 Definitions – “Proponent”
Issue:	Definition in draft Rules differs from definition under NuPPAA.
Background/ Rationale:	Proponent is a defined term under NuPPAA, to avoid confusion the same definition should be used in the Rules.
Recommendation to Address Issues:	Change the definition to be consistent with NuPPAA.

Comment Number:	GoC - #31
Reference:	Rule 1 Definitions – “Waste”
Issue:	Typographical error.
Background/ Rationale:	Typographical error.



Recommendation to Address Issues:	Change “bi-product” to “by-product” in definition.
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Comment Number:	GoC - #32
Reference:	Rule 5 Project Proposal Descriptions
Issue:	<ul style="list-style-type: none"> a) Project renewals do not require a new Project Proposal b) Redundancy of clauses c) Project impacts could extend beyond project location d) Typographical errors and clarity issues e) The Commission could request additional information relating to physical activities or physical works that will be carried out and information on types of transportation that will be used by the project
Background/ Rationale:	<ul style="list-style-type: none"> a) Under NuPPAA a project proposal does not need to be submitted if the project is being “renewed” (or if its authorizations are), if there are no changes to the project. An amendment or a modification to a project might require a project proposal, which appears to be caught by the words “Amendment” in Rule 5(a) and “amend” in Rule 5(d)(v). b) There is considerable overlap between Rule 5 (d)(ii) and Rule 5(l). Rule 5(l) contains broader phrasing that captures the intent of Rule 5(d)(ii). c) It would be useful for the NPC to know where impacts are anticipated, this may be over a broader area than the strict location of the project. d) Correct typographical errors and improve clarity. e) This would be consistent with the definition of “project” in NuPPAA, help NPC better understand what will actually take place as part of the project, help conformity determinations (as prohibitions may relate to specific types of activities), and help coordinate with NIRB the information that it may need to conduct a screening. In addition, the methods, frequency and seasonality of transportation for a project are often important components for NPC to consider, especially for identifying cumulative effects concerns.
Recommendation to Address Issues:	<ul style="list-style-type: none"> a) Remove the word “Renewal” from Rule 5(a) and “renew” from Rule 5(d)(v). b) Remove Rule 5(d)(ii). c) Modify Rule 5 (d)(iii) as follows (changes emphasized): “An indication of where the project is to be carried out <u>and where its impacts are expected;</u>”. d) Modify Rule 5 (f)(ii) as follows (changes emphasized): “The <u>geographic</u> location of the project being proposed, <u>by means of</u> uploaded shapefiles, coordinates, or other map tools made available through NPC’s online Proponent Portal.”. <p>Remove the first “anticipated” from Rule 5 (l).</p>



	<p>Modify Rule 5(m)(v) as follows (changes emphasized):</p> <p>“How Waste will be treated by the Proponent, and if applicable, <u>at what location</u>”.</p> <p>e) Add a clause under Rule 5 that requires proponents to provide information about the physical activities or physical works that will be carried out and a clause requiring information on the types of transportation that will be used by the project, either separately or as part of the description of physical activities.</p>
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Comment Number:	GoC - #33
Reference:	Rule 6 Time Limits
Issue:	Refers to incorrect paragraph.
Background/ Rationale:	Rule 6 refers to information requirements for proponents which is explained under paragraph 5 not paragraph 4.
Recommendation to Address Issues:	Change reference from “paragraph 4” to “paragraph 5”.

Comment Number:	GoC - #34
Reference:	Rule 8 Confirmation of licenses, permits, or other authorizations
Issue:	Involvement of the federal departments and agencies
Background/ Rationale:	<p>Federal departments and agencies can confirm with proponents which of the department or agency's licenses, permits and authorizations would likely be required. Confirmation would be made to the best ability of the department or agency, recognizing that information provided in a project description may be limited and that additional information provided later in the regulatory process could change the requirements.</p> <p>It should be noted that departments and agencies can only determine if their own requirements have been met and would not provide an exhaustive list of all potential federal licenses, permits or authorizations required.</p>
Recommendation to Address Issues:	<p>Modify Rule 8 as follows (changes emphasized):</p> <p>“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 <u>likely</u> be required, including specific types or classes if applicable, <u>based on the information provided in the Project Description</u>.”</p>



Comment Number:	GoC - #35
Reference:	Rule 11 Park or Conservation Areas
Issue:	<ul style="list-style-type: none"> a) Typographical errors and clarity issues b) Consultation referenced in Rule 11(c) should not affect a land use planning conformity determination c) Impacts may go beyond the boundary of a park or conservation area
Background/ Rationale:	<ul style="list-style-type: none"> a) Correct typographical errors and improve clarity. b) In our view, whether consultations were undertaken and whether they demonstrate support is not relevant to the Commission making a land use plan conformity decision. c) We believe it would be useful for the Commission to know about all the anticipated impacts inside or outside of the park or area to determine whether the proposal conforms to the land use plan.
Recommendation to Address Issues:	<ul style="list-style-type: none"> a) Change title of Rule to “Park<u>s</u> and Conservation Areas” Modify Rule 11(b) as follows (changes emphasized): “The <u>proposed</u> final boundaries of the park or conservation area, <u>by means of</u> uploaded shapefiles, coordinates, or other map tools made available through NPC’s Proponent Portal”. b) Remove Rule 11(c). c) Modify Rule 11(b) as follows (changes emphasized): “A description of how the affected area will be managed once the initiative is complete including consideration of impacts on wildlife, economic and social values <u>both within and outside the park or conservation area</u>,”

