

DE BEERS GROUP

September 24, 2019

Andrew Nakashuk
Chairperson
Nunavut Planning Commission
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Mr. Nakashuk:

Re: Submission of Comments on the Draft Rules for Public Proceedings and Rules for Project Descriptions

On 26 July 2019, the Nunavut Planning Commission (the Commission) released two documents for review: Draft Rules for Public Proceedings and Rules for Project Descriptions. De Beers Canada Inc. (De Beers) would like to congratulate the Commission on the development of these rules and to thank-you for the opportunity to provide our comments. De Beers is providing comments on both sets of rules for your consideration.

Should you require further information, please do not hesitate to contact me at (403) 464-2596 or by email colleen.prather@debeersgroup.com.

Sincerely,



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Regulatory Specialist

cc: Sarah McLean
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1. DRAFT RULES FOR PUBLIC PROCEEDINGS

As noted in the document "Draft Rules for Public Proceedings", these rules apply to Amendment Applications, Minor Variances, Hearings on draft land use plans, and Hearings associated with periodic reviews of land use plans before the Commission, and do not apply to regular meetings of the Commission.

1.1. TOPIC RULE 10. FILING DOCUMENTS

10(2) Documents are deemed to have been filed with the Commission when received by the Commission, or in the case of electronic means when the Commission confirms receipt, unless it is received after five o'clock pm (17:00) Eastern time, in which case the Document is deemed to have been filed on the next business day.

1.1.1. Comment and recommendation:

Given that there is the option of submitting documents electronically, it is recommended that documents received up to 11:59 pm Eastern time should be considered to have been filed on the current business day.

1.2. TOPIC RULE 15. EVIDENCE

15(1) The Commission may allow the admission of Evidence that would not normally be admissible under the rules of Evidence.

1.2.1. Comment and recommendation:

It would be helpful to have a better understanding about the type of Evidence that the Commission would not normally be admissible but may be allowed.

It is recommended that the Commission provide example(s) or circumstance(s) of Evidence that is not normally admissible may be admissible.

1.3. TOPIC RULE 17. INFORMATION SESSIONS AND PARTICIPANT MEETINGS

17(1) Commission staff may conduct Information Sessions, whether in person or by Virtual Meeting, prior to or during a Proceeding, and Participants and the public are encouraged to discuss the issues and subject matter of the Proceeding with Commission staff and invite staff to answer questions and is open to the public unless otherwise directed but is not a Proceeding.

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1.3.1. Comment and recommendation:

Timeline and notice for the Information Sessions was not provided. Under Rule 17(2) clarification of timeline for procedural meetings was stated as "...by giving a Notice to Participants a reasonable amount of time beforehand, specifying the date, time, place, purpose and Participants invited to take part...".

It is recommended that Rule 17(1) including wording related to timelines for Information Sessions. The same wording as used under Rule 17(2) could also be used for Rule 17(1).

1.4. TOPIC RULE 17. CONFIDENTIALITY

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.

1.4.1. Comment and recommendation:

Note: There are two rules numbered 17.

The need to maintain confidentiality with documents is reasonable. If there is a case where some information within a Document or Evidence needs to be kept confidential, *it is recommended that the proportion of confidential information within the document is substantially small such that there is sufficient publically available information to support the argument.*

1.5. TOPIC RULE 21. INFORMATION SESSIONS IN A PUBLIC REVIEW

21(1) The Commission may hold an Information Session as part of a Public Review.

1.5.1. Comment and recommendation:

Do the same clauses as under "Rule 17. Information Sessions and Participant Meetings" apply to this rule?

If yes, it is recommended to refer to those clauses. If not, it is recommended to add applicable clauses.

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2. DRAFT RULES FOR PROJECT DESCRIPTIONS

2.1 TOPIC 5. PROJECT PROPOSAL DESCRIPTIONS

Section 5 of the Rules is a listing of information that Proponents must provide in their Project Proposal submissions.

2.1.1 Comment and recommendation:

Some of the information that is required to be provided by a Proponent in their Project Proposal submission to the Commission are very specific (e.g., types and quantities of equipment; fuel type and number and volumes of fuel containers). Depending upon the stage of the Project, these details may not yet be known. A Proponent may wish to submit a Project Proposal to initiate in the regulatory process in Nunavut, and to confirm that the Project in general conforms with the Land Use Plan prior to engaging in years of studies and planning. Once it is confirmed that a Project in general conforms to the Land Use Plan then a Proponent may be ready to complete the necessary studies to develop a robust Project Proposal that would then be suitable to move through the rest of the regulatory process (i.e., Nunavut Impact Review Board and Nunavut Water Board).

It is recommended that there is some flexibility in the specificity of details required in a Project Proposal that is submitted to the Commission. There should be sufficient information in the Project Proposal to confirm that the Project in general aligns with the Land Use Plan.

2.2 TOPIC 8. CONFIRMATION OF LICENCES, PERMITS OR OTHER AUTHORIZATIONS

Section 8 of the Rules states that the NPC may require the Proponent to provide written confirmation from a land regulatory authority that the Proponent has correctly identified the licences, permits or authorizations required.

2.2.1 Comment and recommendation:

The NPC is the window into the Nunavut Regulatory process. Other regulatory agencies and permit issuance agencies are subsequent to the NPC application as per NUPPA. Confirmation letters are a service that other regulatory agencies may not have the ability nor the inclination to provide to support the NPC process. This is an expectation of the NPC that the Proponent may not be able to comply with as agencies are reluctant to issue letters in advance of receipt of applications.

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It is recommended that there is some flexibility in the information required from other agencies to confirm correct identification of other licenses, permits, or authorizations that may be required should a Project be allowed to proceed.