



May 18, 2017

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Dear Spencer,

Re: Additional Agenda Items for Working Group Meetings May 25 – 26, 2017 and Working Draft of Rules for Project Descriptions under *Nunavut Planning and Project Assessment Act* section 17(1)(e)

Thank you for inviting the Nunavut Planning Commission (NPC) to the *Nunavut Planning and Project Assessment Act* (NuPPAA) Working Group meetings on May 25 and 26, 2017. I received the proposed agenda you circulated on April 28, 2017. I write to propose the addition of several implementation issues that the NPC has identified for discussions with the Working Group, and to provide a working draft of the rules the NPC prepared pursuant to section 17(1)(e) of the NuPPAA which is listed as an agenda item.

The NPC generally supports the NIRB's draft agenda dated October 17, 2016, which proposed the following issues for discussion at the NuPPAA workshop (which for reference we code #NIRB-1 to #NIRB-5):

- [#NIRB-1.] The implications of a lack of *de minimis* threshold in the definition of "project proposal" under the amended NLCA contrasted with the definition of "project" under NuPPAA;
- [#NIRB-2.] The process and technical considerations associated with making a determination that a project proposal should be excluded from the definition of "project" under s. 2(1) of NuPPAA because the proposal involves manifestly insignificant adverse ecosystem effects;
- [#NIRB-3.] The factors and thresholds associated with referral for NIRB screening of project proposals/projects that would otherwise be exempt from NIRB screening due to cumulative effects concerns;
- [#NIRB-4.] Opportunities for alignment and streamlining of content in respect of project proposal and application materials required by the Nunavut Planning Commission, Nunavut Impact Review Board and permitting and authorizing agencies such as the Nunavut Water Board, Nunavut Research Institute, Indigenous and Northern Affairs Canada and Regional Inuit Associations;
- [#NIRB-5.] Discussion of respective roles, responsibilities, process and thresholds associated with determining when changes constitute "significant modifications" as that term is used under NuPPAA.

The NPC proposes the following additional issues for consideration and discussion by the *NuPPAA* Working Group:

- [#NPC-6.] Mineral Exploration and Confidentiality
- [#NPC-7.] Can NPC decline to review renewals, extensions and amendments if received
- [#NPC-8.] Issuance of licences permits and authorizations for exploration and development permits
- [#NPC-9.] NuPPAA provisions for “significant modifications” s. 145 and Nunavut Agreement s. 12.4.3, and use of word “or” in Nunavut Agreement 12.4.3(a)
- [#NPC-10.] Suspected Contraventions of *NuPPAA*
- [#NPC-11.] Existing Regional Plans Require Plan Amendments and Public Reviews as Conformity Requirements
- [#NPC-12.] Stoppages of Projects Approved under Nunavut Agreement
- [#NPC-13.] How should IPGs handle an incorrect NIRB screening referral by the NPC

I attach a working draft of the rules prepared pursuant to section 17(1)(e) of the *NuPPAA* for discussion by the Working Group only. These draft rules are affected by several of the *NuPPAA* implementation issues that will be discussed next week, and have not yet been distributed for public comment and should not be distributed beyond the Working Group. The NPC considered it necessary to meet with the Working Group to address these *NuPPAA* implementation issues before finalizing the draft rules for public comment.

Finally, please confirm whether the Working Group discussions are being conducted on a “without prejudice” basis to promote frank discussions, and what groups will be in attendance.

Respectfully,



Sharon Ehloak, Executive Director
Nunavut Planning Commission

Encl. Working Draft of Rules for Project Descriptions under Nunavut Planning and Project Assessment Act section 17(1)(e)

NUNAVUT PLANNING COMMISSION

Notice is given that the Nunavut Planning Commission, pursuant to section 38 of the *Nunavut Planning and Project Assessment Act* (S.C. 2013, c. 14, s. 2), proposes to make the annexed Rules For Project Proposal Descriptions. Interested persons, including corporations and other organizations, may make written comments with respect to the proposed Rules within 60 days after the date of publication of this notice. All written comments must cite the date of publication of this notice, and be addressed to [ΔNPC STAFF MEMBER AND COMPLETE CONTACT INFORMATIONΔ].

[ΔCITY ISSUEDΔ], [ΔDATEΔ]

[ΔNPC STAFF MEMBER NAME AND TITLEΔ]

PROPOSED RULES FOR PROJECT PROPOSAL DESCRIPTIONS

These rules are made pursuant to section 17(1)(e) of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (**NUPPAA**).

1. In these rules, the following definitions apply:

“Equipment” means items necessary for carrying out the works and activities described in the Project Proposal Application, and includes machinery, tools and vehicles.

“Fuel” means any form of material used to generate energy, whether by combustion or oxidation.

“Hazardous Material” means any material which, by reason of its quantity, concentration or physical, chemical or infectious characteristics, either individually or in combination with other materials, is an 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 hazardous to health or to the environment, and without limiting the generality of the foregoing, includes:

- (a) Dangerous goods as defined in section 2 of the *Federal Transportation of Dangerous Goods Act*, 1992, and;
- (b) Hazardous waste meeting the criteria of section 2.1 of the *Federal Dangerous Goods Regulations* as well as PCBs, waste oil, substances containing dioxin or asbestos, waste pest control product containers and wastes containing pest control products, including wastes produced in the production of treated wood products using pest control products, leachable toxic waste, substances containing tetrachloroethylene, and waste containing polycyclic aromatic hydrocarbon.

“NPC” means the Nunavut Planning Commission.

“Project Proposal Application” means an application submitted to the NPC for a “project” as defined in *NUPPAA*, or a “project proposal” as defined in the Nunavut Agreement dated May 25, 1993, as amended, to be carried out, in whole or in part, in the designated area.

“Proponent” means the individual or entity submitting the Project Proposal Application, whether on their own behalf or through an employee, officer, or agent.

“Proponent Portal” means the online tool used by proponents to submit Project Proposal Applications to the NPC via the Land Use Implementation Tool, available online at: <http://nunavut.ca/>.

“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, smoke of mines, factories or other industrial works; or
 - m) The run-off from such substances.
2. These rules apply to all Project Proposal Applications received by the NPC.
3. Unless otherwise provided or the context otherwise requires, words and phrases in these rules have the same meaning as in the *NUPPAA*, and to the extent of any conflict or inconsistency between the *NUPPAA* and the Nunavut Agreement, words and phrases in these rules have the same meaning as in the Nunavut Agreement.
4. Proponents must provide the following information in the Project Proposal Application:
- a) Whether the Project Proposal Application being submitted is a new Project Proposal Application or a Renewal/Amendment of another Project Proposal Application.
 - b) A name for the Project Proposal Application.
 - c) The following information about the Proponent submitting the Project Proposal Application:
 - i. Name;
 - ii. Address;
 - iii. Daytime telephone number;
 - iv. Facsimile number, if applicable; and
 - v. E-mail address.

- d) A non-technical description no more than 2 pages of the project proposal in English and in the regional languages, which include Inuktitut (Kivalliq, North/South Baffin, Eastern Kitikmeot), Inuinnaqtun (for Cambridge Bay, Kugluktuk, Umingmaktok and Bathurst Inlet) and French (for projects in the City of Iqaluit Area only). The project description should outline the following:
- i. The proposed physical works and activities, their necessity and duration including the timing of the project including any long term developments;
 - ii. Number of people involved;
 - iii. Method of air and/or ground transportation;
 - iv. Type of equipment to be used;
 - v. Type of fuel to be used and storage method(s);
 - vi. Describe any structures that will be erected (permanent/temporary) including any camps and associated structures, docks, piers, and/or airstrips;
 - vii. Type of local resources to be used including local accommodation(s);
 - viii. Location of the project to the nearest community(ies) (include distance(s) to communities);
 - ix. Location of the project in relation to sensitive areas including archaeological sites, national/territorial parks and/or bird sanctuaries;
 - x. A brief history of the site if known;
 - xi. Any alternatives considered;
 - xii. Any anticipated effects on land, water, and wildlife;
 - xiii. Summary of any community consultation conducted including a summary of concerns expressed and strategies employed to address any concerns; and
 - xiv. Whether Inuit or other members of the public will be excluded from accessing any lands identified for use in the Project Proposal Application, and if so, when access to lands would be restricted.
- e) The following details:
- i. Project start date;
 - ii. Project end date;
 - iii. Whether the project is annual or seasonal;
 - iv. Number of personnel that will be on site;
 - v. Estimated number of days on site;
 - vi. Number of person days on site;
 - vii. Types of land use(s).
- f) Information about the land on which the physical works and activities will be carried out including:
- i. What is the Land Status (i.e. who is the legal owner of the land(s)) where the activities will take place; and
 - ii. The Geographic location of the physical works and activities being proposed, whether using uploaded shapefiles, coordinates, or other map tools made available through NPC's online Land Use Implementation Tool, Proponent Portal.

- g) Information about the licenses, permits, or other authorizations that will be required including:
 - i. A list of all regulatory authorities and other agencies from whom the Proponent will require licenses, permits, or other authorizations to carry out the physical works and activities;
 - ii. A list of all licences, permits, and other authorizations, including the specific type(s) or class(es) if applicable, required from regulatory authorities identified in the Project Proposal Application.
- h) Information about the equipment to be used in carrying out the physical works and activities including:
 - i. Equipment type that will be present on the land;
 - ii. Quantity of equipment to be used;
 - iii. Dimensions of equipment;
 - iv. Proposed use(s).
- i) Information about Fuel to be used in carrying out the physical works and activities, if applicable:
 - i. Fuel type;
 - ii. Number of containers and amounts;
 - iii. Proposed use(s).
- j) Information about Hazardous Materials to be used or produced in carrying out the physical works and activities, if applicable:
 - i. Type(s) of Hazardous Material;
 - ii. Number of containers and amounts;
 - iii. Proposed use(s).
- k) Information about water to be used in carrying out the physical works and activities, if applicable:
 - a. Amount of water used at project site(s),
 - b. Proposed location of water use
 - c. Water retrieval methods
- l) A statement of anticipated environmental impacts that may reasonably be anticipated to be caused by the carrying out of the physical works and activities, whether to land, water, or natural resources including wildlife.
- m) Types of Waste that will be produced and how those materials will be handled, including:
 - i. Work or activity expected to produce Waste;
 - ii. Waste type that will be produced;
 - iii. Quantity of Waste to be produced;
 - iv. How the Waste will be disposed of, and if applicable the location of the disposal site;
 - v. How Waste will be treated by the Proponent, and if applicable, at the disposal site.

- n) If applicable, a list of any projects related to the Project Proposal Application 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.
 - o) Any additional information required by applicable land use plans.
5. The time limit for completion of a conformity determination provided in the *NUPPAA* does not begin to run until the Proponent submits a completed Project Proposal Application to the NPC containing all of the information required in paragraph 4 above.
 6. Notwithstanding the required information listed in paragraph 4 above, NPC staff may request Proponents to provide any additional information that is necessary to carry out a review.
 7. The NPC may ask the Proponent to provide written confirmation from a regulatory authority or other agency that the Proponent has correctly identified the licenses, permits, or other authorizations that will be required, including the specific type(s) or class(es) if applicable, and that the Project Proposal Application includes sufficient information to make such a determination.
 8. Unless specifically agreed to by the NPC, Project Proposal Applications must be submitted to the NPC electronically using the NPC's Proponent Portal.
 9. Proponents may not submit a Project Proposal Application to the NPC until they either:
 - a) Agree to the Terms of Use for the Proponent Portal; or
 - b) Negotiate a separate agreement with the NPC.