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# **PART I: INTRODUCTION TO THE NUNAVUT IMPACT REVIEW BOARD**

## **The Jurisdiction of the Nunavut Impact Review Board**

The Nunavut Impact Review Board (NIRB or the Board) was established on July 9, 1996, pursuant to *the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada*, commonly referred to as the *Nunavut Agreement*. The NIRB's legislative base is found in the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*), which was proclaimed in force on July 9, 2015.

## **Functions and Primary Objectives of the Board**

The Nunavut Impact Review Board was established as an Institution of Public Government responsible for assessing the potential ecosystemic and socio-economic impacts of project proposals in the Nunavut Settlement Area as described in Articles 10, 11, 12 and 13 of the *Nunavut Agreement* and the project assessment provisions of the *NuPPAA*. Article 12, Section 12.2.4 of the *Nunavut Agreement* and s. 22 of the *NuPPAA* also authorizes the NIRB to carry out such additional functions as may be set out in legislation.


As set out in Article 12, Section 12.2.2 of the *Nunavut Agreement* and detailed in the *NuPPAA*, the primary functions of the NIRB are to:

- (a) screen project proposals in order to determine whether or not a review is required;
- (b) gauge and define the extent of the regional impacts of a project;
- (c) review the ecosystemic and socio-economic impacts of project proposals;
- (d) determine, on the basis of its review, whether project proposals should proceed, and if so, under what terms and conditions, and then report its determination to the Minister; and
- (e) monitor projects in accordance with the provisions of Article 12, Part 7 of the *Nunavut Agreement*.

In carrying out its functions, the primary objectives of NIRB are at all times to protect and promote the existing and **future well-being** of the residents and communities of the Nunavut Settlement Area, and to protect the ecosystemic integrity of the Nunavut Settlement Area. The

NIRB is also required to take into account the well-being of residents of Canada outside the Nunavut Settlement Area.

## **Power to Make Rules of Procedure**

The Board's power to make and publish these Rules of Procedure is set out in Article 12, Sections 12.2.23 to 12.2.27 of the *Nunavut Agreement* and ss. 26 and 38 of the *NuPPAA*. As outlined in the *Nunavut Agreement* and the *NuPPAA*, the Board's Rules of Procedure in relation to Hearings **must meet the requirements of natural justice and procedural fairness, but should also emphasize flexibility and informality.** In addition, in the conduct of Hearings the Board is not bound by the strict rules of evidence associated with court proceedings and **must also give due regard and weight to the tradition of Inuit oral communication and decision-making.** Reflecting the evolving requirements of natural justice and procedural fairness and the passage of *NuPPAA* in 2015, the Board has revised the original Board Rules of Procedure (issued on September 3, 2009) to produce this version. Prior to adopting this version of the Rules of Procedure, the Board conducted consultations and invited comment on the revised Rules from members of the public, signatories to the *Nunavut Agreement*, the other Institutions of Public Government established under the *Nunavut Agreement*, and Regulatory Authorities and other Intervenors who are frequent participants in Board Proceedings. The Board thanks all parties who provided comments and contributed to the Board's goal of building on the existing Rules to make this version easier to understand, more tailored to the NIRB's Proceedings, and more effective **and efficient.** 

## PART II: GENERAL

### Citation

1. These Rules may be cited as “the NIRB Rules of Procedure” or “the Rules”.

### Definitions

2. In these Rules:

“*Agreement*” or “*Nunavut Agreement*” means the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* that was ratified, given effect and declared valid by the *Nunavut Land Claims Agreement Act*, S.C. 1993, c. 29, which came into force on July 9, 1993, and includes any amendments to the *Agreement* made under it.

“*Authorizing Agency*” means a government agency, Designated Inuit Organization (DIO) or any other body that has the authority to issue a permit, lease, licence or grant approval to a Proponent to conduct some physical work or physical activity in relation to a project proposal and includes Regulatory Authorities as defined under *NuPPAA*.


“*Board*” or “*NIRB*” means the Nunavut Impact Review Board established as an Institution of Public Government pursuant to Article 12 of the *Nunavut Agreement* and s. 18 of *NuPPAA* and for the purposes of these Rules may also include a duly appointed Panel of the Board to which the Board has delegated its functions.

“*Board Order*” means project-specific guidance issued by the Board’s Chairperson in consultation with the Board, or specific Panel, regarding the scope, procedures and process associated with the Board or Panel’s decision-making functions during consideration of a project proposal or other Proceeding.

“*Community Representatives*” means the representatives of potentially affected communities agreeing to participate in the Board’s Proceedings. Typically, Community Representatives are chosen by the NIRB to participate in the Board’s Proceedings on the basis of recommendations from Hamlets and community organizations such as the local

Hunters and Trappers Organization, the Elders Society, youth groups and women's organizations.

“*Designated Inuit Organization (DIO)*” means:

- (a) Nunavut Tunngavik Incorporated;
- (b) In respect of a function under the *Agreement* or a provision under the *NuPPAA*, any organization designated in the public record, which is maintained by Tunngavik under the *Agreement*, as being responsible for the exercise of any power or the performance of any duty or function under the corresponding provision of the *Agreement* 
- (c) In respect of Inuit owned lands in the areas of equal use and occupancy, the corporation known as Makivik established by *An Act respecting the Makivik Corporation*, R.S.Q., c. S-18.1, representing the Inuit of northern Quebec, acting jointly with Tunngavik or an organization determined under paragraph (b).

“*Document*” has an expanded meaning and includes both information contained in a printed record and information in an audio, video or written record preserved in a fixed magnetic or digital form.

“*ecosystemic*” means relating to the complexity of a natural community of living organisms and its environment functioning as an ecological unit in nature.

“*Elder*” means any member of the community recognized as such in accordance with local culture, customs and traditions or someone recognized for their experience in Indigenous culture, customs and knowledge.

“*electronic transmission*” means transmitting contents of a document by email or other means of electronic connection.

“*Hearing*” or “*Public Hearing*” means any form of hearing associated with the Board's consideration of a project proposal, and can include the hearing of an individual motion, a Pre-Hearing Conference, or a Public Hearing, whether conducted in the community, via teleconference or in writing.

“*Hunters and Trappers Organization*”, “*HTO*”, “*Hunters and Trappers Association*” or “*HTA*” means an organization referred to in Sections 5.7.1 to 5.7.15 of the *Nunavut Agreement*.

“*Impact Statement (IS)*” (as referenced under the *Nunavut Agreement*) or “*Environmental Impact Statement (EIS)*”, means a documented assessment of the ecosystemic and socio-economic consequences and recommended mitigative actions of any project proposal expected to have significant environmental consequences, which is prepared by the Proponent. In the NIRB process, an EIS or IS can be received by the NIRB in *Draft* (DEIS or DIS) or *Final* (FEIS or FIS) form.

“*Information Request*” or “*IR*” means a written request for information or further particulars made by the Board, or a request from one party to another made through the Board.


“*Interested Corporation or Organization*” means a corporation or other organization that has given written notice to the Board of its interest in providing information or comments to the Board.

“*Intervenor*” means any party who has been granted standing under the *Nunavut Agreement* to intervene or who has applied for, and been granted, Intervenor status under Rules 58 - 60, thereby giving them the right to participate as a formal party in the Board’s consideration of a project proposal or other Board Proceedings. The term may refer to Regional Inuit Associations, government agencies providing technical expertise, Regulatory Authorities, Authorizing Agencies, non-governmental organizations, local HTOs and regional wildlife boards, an Interested Corporation or Organization, participants residing outside of Nunavut that may be affected by the transboundary impacts of a project proposal under consideration by the NIRB and any member of the public who applies for and is granted Intervenor status.

“*Inuit Qaujimaningit*” means both Inuit Traditional Knowledge (and variations thereof, or Inuit Qaujimajatuqangit), local and community knowledge, as well as Inuit epistemology as it relates to Inuit Societal Values and Inuit Knowledge (both traditional



and contemporary). Inuit Qaujimaningit is rooted in the daily life of Inuit and represents experience acquired over thousands of years of direct human contact with the environment.

“*Inuit Qaujimajatuqangit*” means guiding principles of Inuit social values including: respecting others, relationships, and caring for people; development of skills through practice, effort and action; working together for a common cause; fostering good spirit by being open, welcoming and inclusive; serving and providing for family and/or community; decision-making through discussion and consensus; being innovative and resourceful; and respect and care for the land, animals, and the environment. Inuit Qaujimajatuqangit refers to traditional values, beliefs, principles, and experience regarding the environment. 

“*Inuktitut*” means the forms of Inuit language in current usage in Nunavut, including Inuinnaqtun.

“*Minister*”, unless otherwise specified, means the federal or territorial Minister having the jurisdictional responsibility for authorizing a project to proceed; where there are multiple Ministers, the Government of Canada and Government of Nunavut may, within their respective jurisdictions, designate a single Minister to be responsible for NIRB and to perform all functions assigned to “the Minister”.

“*Monitoring Program*” means the project-specific monitoring program established by the NIRB under Article 12, Sections 12.7.1 and 12.7.2 of the *Nunavut Agreement* and s. 135 of the *NuPPAA* to:

- (a) measure the ecosystemic and socio-economic effects of a project;
- (b) assess whether the project is in compliance with the prescribed project terms and conditions;
- (c) share information with regulatory agencies to support the enforcement of land, water or resource use approvals and agreements; and
- (d) assess the accuracy of predictions contained in the impact statements.

“*NuPPAA*” means the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (as may be amended). *NuPPAA* implements certain provisions of Articles 10 to 12 of the *Nunavut Agreement* and came into force on July 9, 2015.

“*Panel*” means a panel of two or more Board Members to which the full Board has delegated specific Board powers, duties and functions (including decision-making powers), and that is constituted as required under Article 12, Section 12.2.14 of the *Nunavut Agreement* and s. 27 of the *NuPPAA*.

“*party*” or collectively “*parties*” means the participants involved in the Board’s consideration of a project proposal or other Board Proceedings and may include the Proponent, Designated Inuit Organizations, Regulatory Authorities, Authorizing Agencies, Intervenors, an Interested Corporation or Organization, or the public.

“*Procedural Direction*” means project-specific guidance issued by the Board’s Executive Director or designate addressing specific logistical or administrative matters arising during the Board’s consideration of a project proposal or other Proceeding.

“*Proceeding*” means a step conducted or otherwise facilitated by the Board during the Board’s consideration of a project proposal or other Board decision-making process.

“*project*” means the carrying out, including the construction, operation, modification, decommissioning or abandonment, of a physical work or the undertaking or carrying out of a physical activity that involves the use of land, waters or other resources. It does not include:

- (a) the undertaking or carrying out of a work or activity if its adverse ecosystemic impacts are manifestly insignificant, taking into account the factors set out in ss. 90(a) to (i) of the *NuPPAA*;
- (b) the undertaking or carrying out of a work or activity that is part of a class of works or activities prescribed by regulation; or
- (c) the construction, operation or maintenance of a building or the provision of a service, within a municipality, that does not have ecosystemic impacts outside the municipality and does not involve the deposit of waste by a municipality, the bulk

storage of fuel, the production of nuclear or hydro-electric power or any industrial activities.

*“Project Certificate”* means a certificate of approval issued by the NIRB pursuant to Sections 12.5.12 and 12.6.17 of the *Nunavut Agreement* and ss. 111 or 132 of the *NuPPAA*. Such a certificate authorizes a project, or a component of a project to proceed and contains specific terms and conditions which must be implemented.

*“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 Article 12, Section 12.11.1 of the *Nunavut Agreement*, but does not include the construction, operation or maintenance of a building or the provision of a service, within a municipality, that does not have ecosystemic impacts outside the municipality and does not involve the deposit of waste by a municipality, the bulk storage of fuel, the production of nuclear or hydro-electric power or any industrial activity.

*“Proponent”* means a person or entity, including a federal, provincial or territorial minister, department or agency, a municipality or a designated Inuit organization, that proposes the carrying out of a project.

*“public registry”* means the register of Documents maintained by the Board and accessible to the public via the internet and includes, at a minimum, the contents set out in s. 202 and, if applicable, s. 230 of the *NuPPAA*. The public registry is accessible from the NIRB website: [www.nirb.ca](http://www.nirb.ca).

*“Regulatory Authority”* means a minister—and other than a specialist or expert agency in receipt of a request to participate in the NIRB process under s. 197 of the *NuPPAA*—, a department or agency, a municipality or any other public body responsible for issuing a licence, permit or other authorization required by or under any other Act of Parliament or a territorial law for a project to proceed.

“*Traditional Knowledge*” means the accumulated body of knowledge, observations and understandings about the environment, and about the relationship of living beings with one another and with the environment, that is rooted in the traditional way of life of Indigenous peoples of the designated area.

3. Throughout these Rules, the Board has capitalized terms that may be “terms of art” or otherwise have meanings unique to these Rules and to the Board’s Proceedings. For example, “Document” is used to specifically denote that term solely as defined in these Rules, and “Proceedings” references only those types of Proceedings described in these Rules.


### **Application of These Rules**

4. These Rules apply to the Proceedings conducted by the NIRB under:
  - (a) the *Nunavut Agreement* Article 12: Part 4: Screening of Project Proposals;
  - (b) the *Nunavut Agreement* Article 12: Part 5: Review of Project Proposals;
  - (c) (dependent upon the scale and scope of a modification proposal) the Board’s reconsideration of the terms and conditions of an existing Project Certificate under the *Nunavut Agreement* Part 8: Flexibility in Relation to Certificates; and
  - (d) Parts 3, 4 and 5 of the *NuPPAA*.
5. These Rules are not applicable to Proceedings conducted under the *Nunavut Agreement*, Article 12, Part 6: Review by a Federal Environmental Assessment Panel and ss. 160-162 of the *NuPPAA*, unless these Rules are specifically adopted as the applicable procedural rules by a federal environmental assessment panel appointed under the *Nunavut Agreement* and (if applicable) the *NuPPAA*.

### **Interpretation**

6. Consistent with the *Nunavut Agreement*, the *NuPPAA* and the broad application of the principles of natural justice and procedural fairness, the Board may liberally construe these Rules in order to result in the just, expeditious and fair consideration of every Proceeding properly before the Board.


## **Power to Dispense With or Vary The Board's Procedural Guidance**

7. At any time in a Proceeding, where considerations of public interest and fairness so require, the Board may dispense with, or vary these Rules, any Board Orders, Procedural Directions or other form of procedural guidance offered by the Board. 
8. If the Board fixes a deadline or other timeline under the Rules, Board Orders, Procedural Directions or other form of procedural guidance, the Board retains the discretion to extend or abridge any such deadline or timeline as may be required in the circumstances, and may do so on the Board's own volition or in response to a request or motion by any party. The Board may consider an extension or abridgement at any time, even if the request to extend or abridge the time is received after the deadline or timeline set by the Board has lapsed.
9. In any Proceeding where the Board dispenses with or varies the Rules, Board Orders, Procedural Directions or other form of procedural guidance, the Board shall notify all parties and the public as soon as possible of such changes. The notification shall be provided in a manner that, in the Board's opinion, best reflects the circumstances, the requirements of natural justice and procedural fairness and transparency.

## **Conflict**

10. Where there is a conflict between these Rules or general procedural guidance provided in the Board's Guides and a specific Board Order or a Procedural Direction, the specific Board Order or Procedural Direction prevails. Where there is a conflict between a Board Order and a Procedural Direction, the Board Order prevails.

## **Non-Compliance**

11. Where a party fails to comply with these Rules, a Board Order, Procedural Direction or other form of procedural guidance, the Board may choose to:
  - (a) Adjourn or suspend any Proceeding until the Board is satisfied the party has complied; or 

- (b) Take any other steps the Board considers just and reasonable in order to conduct a fair Proceeding.
12. No Proceeding is invalid solely due to a defect or other irregularity in form.


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## **PART III: PROVIDING DOCUMENTS TO THE BOARD**

### **Content and Form of Documents Filed with the Board**



13. The Board may, in its discretion, direct that Documents filed with the Board be provided in printed form, electronic form or both.

### **Filing and Distribution of Documents**


14. Unless otherwise directed by the Board in a specific Board Order, Procedural Direction or other form of procedural guidance, Documents filed with the Board may be transmitted to the Board by way of personal delivery, ordinary mail, or electronic transmission.
15. Documents filed with the Board are deemed to have been filed when received by the Board, unless received after the close of the Board's regular business hours, in which case the Documents are deemed to have been filed with the Board on the Board's next business day.
16. The Board may require any party wishing to file, or directed by the Board to file Documents during a Proceeding to provide sufficient copies (in printed or electronic form) for distribution to the Board, other parties to the Proceeding, to Community Representatives and to members of the public.
17. The Board may direct that certain Documents be provided directly to the parties at a Proceeding by way of personal delivery, mail, electronic transmission or as otherwise directed by the Board and in accordance with timelines specified by the Board.
18. When required by the Board, proof of delivery of Documents may be provided in the form of documents showing electronic transmission and receipt by another party, or by any other reasonable means deemed acceptable to the Board.
19. The Board may refuse to file on the public registry and/or consider during Proceedings Documents that are:
  - (a) Clearly irrelevant to the Proceedings; 

- (b) Offered for an improper, vexatious or frivolous purpose; or
- (c) Where the potential for harm to the Board and its Proceedings, the parties, communities or the public associated with filing the material outweighs the public interest in the Board filing or considering the Documents. 

## Public Registry

- 20. The NIRB shall establish and maintain a public registry accessible through the Internet that includes, at a minimum, the required materials listed under the relevant provisions of s. 202 and s. 230 (if applicable) of the *NuPPAA*.
- 21. The Board may issue a Board Order or Procedural Direction respecting the extent to which, in any given case, posting of a Document on the public registry will constitute notice of such Document to all parties in a Proceeding.
- 22. Subject to the requirements of privacy or confidentiality as may be asserted by a party in Rules 23 and 24 and the limits in Rule 19, the NIRB will post all information provided to the Board during the consideration of a project proposal, or other Proceeding, on the public registry. 
- 23. If a party asserts that a Document provided to the Board should not be posted on the public registry on the basis of privacy or confidentiality concerns, the party may, before filing the Document,  a motion with the Board requesting that the Document, either in whole or in part, not be posted on the public registry. The motion to the Board should include:
  - (a) A brief statement describing, in general and non-confidential terms, the nature of the Document the party proposes to file;
  - (b) A description of the privacy or confidentiality interests associated with the Document;
  - (c) A brief statement regarding the rationale for why the Document should not be posted on the public registry, including identifying any specific harm that could result from such posting; and



- (d) An indication as to whether the party seeks to prevent posting of all or only part of the Document.
24. The Board may, upon considering a motion brought under Rule 23, grant or deny the motion on any terms it considers appropriate in the circumstances, and will advise **the party** regarding  the Board's decision. If considered necessary to implement the Board's decision, the NIRB may issue a specific Board Order or other form of procedural guidance regarding limitations on posting of any Document on the public registry.

### **Public Registry Access and Notification Requests**

25. Any party wishing to receive access to the Documents posted on the public registry and/or notification of the posting of Documents on the public registry shall register an account with the NIRB's registry system or otherwise make an access request to the NIRB. Unless the Board determines that the request is frivolous, vexatious or not made in good faith, the Board will take the steps necessary to provide the access or issue the notifications requested.

## **PART IV: FORMS OF PROJECT-SPECIFIC PROCEDURAL GUIDANCE**

26. Board Orders and Procedural Directions may be issued to provide project-specific procedural guidance in respect of the Board's conduct of:
- (a) A screening under the *Nunavut Agreement* Article 12, Part 4 and ss. 86-98 of *NuPPAA*;
  - (b) A review under the *Nunavut Agreement* Article 12, Part 5 and ss. 99-110 of *NuPPAA*;
  - (c) Project monitoring under the *Nunavut Agreement*, Article 12, Part 7 and s. 135 of *NuPPAA*; and
  - (d) The reconsideration of Project Certificate terms and conditions under the *Nunavut Agreement*, Article 12, Part 8 and ss. 112-114 of *NuPPAA*.
27. The Board may also issue specific Board Orders and Procedural Directions in relation to other types of non-project specific Proceedings.
28. Once issued, the Board may amend Board Orders or Procedural Directions as necessary.
29. A Board Order or Procedural Direction may adopt or vary, as necessary, any of the contents of the general Rules of Procedure, Board's Guides or forms which may be issued from time to time.
30. Any Board Order or Procedural Direction shall be filed on the public registry.

### **Board Orders**


31. A Board Order may be issued by the Board's Chairperson in consultation with the Board or Panel at any time during the Board or Panel's consideration of a project proposal under Article 12 of the *Nunavut Agreement* or Part 3 of the *NuPPAA* or other Proceeding, and shall give specific guidance regarding the scope, procedures and process associated with Proceedings supporting the Board or Panel's decision-making functions. Without limitation, Board Orders may provide direction in respect of the following:

- (a) The scope and type of Proceeding(s) required to support the Board or Panel's decision-making in respect of a given project proposal;
- (b) The format, scope, content and timing of the Board's reporting required to discharge the Board's obligations under the *Nunavut Agreement* and the *NuPPAA*;
- (c) Whether the Proceeding(s) will be conducted by the full Board or a Panel;
- (d) The process and extent of coordination of the NIRB's Proceedings with the Nunavut Planning Commission and/or Nunavut Water Board;
- (e) The format, venue and timing of Proceedings;
- (f) The required/requested participants (formal Intervenors, technical experts, Regulatory Authorities, Community Representatives, etc.) for a given Proceeding, including Board direction regarding issuing a summons to attend a given Proceeding as set out in Rules 61-63;
- (g) The Board's intention to retain an expert as set out under Rules 64 and 65, including setting out the details of the retainer, including rationale, scope, qualifications of the expert, deliverables and participation of the expert in the Proceedings;
- (h) The nature and extent of community engagement activities undertaken by the Board;
- (i) Any specific directions relating to Media participation in Proceedings;
- (j) Site Visits to locations which, in the opinion of the NIRB, are material to the issues in Proceedings;
- (k) The disposition of motions as set out under Rules 42 - 48; and
- (l) Establishing the scope and content of the Board's Record of Proceedings (such as the Public Hearing Record) to be considered by the Board in the exercise of decision-making powers.

## **Procedural Direction**

32. A Procedural Direction may be issued by the Board's Executive Director or delegate at any time during the Board's consideration of a project proposal under Article 12 of the *Nunavut Agreement*, and Part 3 of the *NuPPAA* or other Proceeding, and shall give further guidance on specific logistical or administrative matters arising during the

Board's consideration of a project proposal or other Proceeding. Without limiting the content of a Procedural Direction, a Procedural Direction may provide information about:


- (a) how Proceedings held in potentially affected communities may be scheduled and conducted;
- (b) whether and/or how the Board may distribute notices of Proceedings, including notices of Proceedings held in potentially affected communities;
- (c) how all parties, including interested members of the public, may provide input to the Board throughout all stages of the Board's Proceedings, including the provision of technical review comments and final written submissions;
- (d) whether and/or how parties may be required to file Documents with the Board, other parties and the public in advance of and during the course of Proceedings;
- (e) whether Documents, including project proposals, EIS or IS documentation and technical review submissions are complete and conform to the Board's requirements, and if not, identifying additional Information Requests and Documents required by the Board to address such deficiencies; and 
- (f) whether and/or how the Board may conduct a Monitoring Program, or any aspect of a Monitoring Program.

## **PART V: GENERAL CONDUCT OF BOARD PROCEEDINGS**

### **Interpretation and Application of Rules In Respect of Proceedings**

33. The interpretation and application of these Rules in respect of Proceedings will, to the extent consistent with the broad application of the principles of natural justice and procedural fairness, emphasize flexibility and informality and will:
- (a) Allow, where appropriate, the admission of evidence that would not normally be admissible under the strict rules of evidence; and
  - (b) Give due regard and weight to the tradition of Inuit oral communications and decision-making.


### **Burden of Proof**

34. Any party offering information and Documents in a Proceeding, whether provided in oral or written form, shall have the burden of introducing sufficient and appropriate information to support its position on the balance of probabilities. 
35. If there is conflicting evidence, the Board will weigh the evidence provided and will identify the evidence preferred by the Board, and the rationale for the Board's preference.



### **Relevance and Weight of Information**

36. In conducting any Proceeding the NIRB shall determine the relevance and weight to be given to any information and Documents provided to it or obtained by it. There is no presumption that scientific information, Inuit Qaujimaningit or Traditional Knowledge should be accorded greater or lesser weight based solely on the fact that the information is, respectively, scientific information, Inuit Qaujimaningit or Traditional Knowledge.
37. If a party wishes to have the technical, scientific, ecological, cultural, Inuit Qaujimaningit, Traditional Knowledge or community knowledge expertise of a witness considered to constitute “expert” information, the Board requires the party to file a summary of the background of that witness, including qualifications, relevant education and/or experience with the Board as an attachment to relevant written submissions or, if

appearing at a Public Hearing, the background statement about the witness must be filed with the Board at least 15 days prior to the commencement of the Public Hearing.

38. Notwithstanding compliance with Rule 37, the Board may direct parties to take additional steps to formally qualify expert witnesses at a Public Hearing.
39. Rules 37 and 38 do not apply to Elders. 

### **Inuit Qaujimaningit and Traditional Knowledge**

40. The Board will encourage the submission and consideration of any relevant Inuit Qaujimaningit and Traditional Knowledge, including oral history, at any stage of its Proceedings. 
41. The Board may make arrangements to hear from any Elder or the holder of relevant Inuit Qaujimaningit or Traditional Knowledge at any time prior to, during or after a Proceeding as the Board considers appropriate. 

### **Motions**


42. If a matter arises in advance of, or during a Proceeding that requires a decision, Board Order, Procedural Direction or other form of procedural guidance from the Board, a party may bring the matter before the Board by filing a motion with the Board.
43. To be considered, a motion filed by a party in advance of the oral component of a Proceeding (such as a Public Hearing) must:
- (a) Be in writing and filed at least 28 days prior to the start of the Public Hearing component of the Proceedings;
  - (b) If a party wishes to file a motion less than 28 days prior to the start of the Public Hearing component of the Proceedings, the motion must set out the reason for the delay in filing and must demonstrate why the motion should be accepted by the Board as being filed in a timely manner, giving consideration to when the matter arose in the Proceeding and considerations of procedural fairness to all parties;

- (c) Briefly describe the decision, Board Order, Procedural Direction or other Board guidance sought and the grounds on which the motion is made;
  - (d) Be accompanied by any Documents the party wishes to present in support of the motion;
  - (e) Be accompanied by a clear and concise statement of the facts relevant to the Board's consideration of the motion; and
  - (f) If applicable, provide the Board with information regarding any agreements related to the motion reached between the party bringing the motion, other parties to the Proceedings, Community Representatives, members of the public or any other relevant person, corporation, organization or authority.
44. For a motion filed in advance of the oral component of a Proceeding, the Board will give other parties and also the public an opportunity to respond to the motion in writing by filing a response with the Board within 14 days following the parties' receipt of the motion, or within such further time as the Board may allow.
45. A response filed under Rule 44 must:
- (a) Be in writing;
  - (b) Briefly state the position of the responding party in respect of:
    - i. the decision, Board Order, Procedural Direction or other form of procedural guidance sought;
    - ii. the basis for the Motion; and
    - iii. any Documents presented in support of the Motion;
  - (c) Be accompanied by any Documents the responding party wishes to present in response to the motion or Documents filed in support of the motion;
  - (d) Be accompanied by a clear and concise statement of the facts the responding party considers relevant to the Board's consideration of the motion; and
  - (e) If applicable, provide the Board with information regarding any agreements relevant to the motion reached between the party bringing the motion, other

parties to the Proceedings, Community Representatives, members of the public or any other person, corporation, organization or authority.

46. In addition to filing a motion under Rule 42 or a response under Rule 44 with the Board, the Board may also direct the party filing the motion or response to also transmit a copy to other parties by way of personal delivery, ordinary mail or electronic transmission.
47. If a party wishes to bring a motion during an oral component of a Proceeding (such as at a Public Hearing) the Board may, in its discretion, allow the motion, and may also allow the party to provide the information required under Rule 43 and the responding parties to provide the information required under Rule 45 orally during the Proceeding.
48. The Board may dispose of an oral motion in accordance with the oral directions of the Board provided during the Proceeding and/or as provided by the Board subsequently in writing.

### **Transcripts**


49. The Board may, at its discretion and for the Board's purposes, keep audio recordings of the oral component of Proceedings. If audio recordings are being kept solely for the Board's internal reference purposes, the Board will not generally make the recordings available on the public registry.
50. The Board may, at its discretion, direct that written transcripts of the oral component of Proceedings be prepared.
51. The Board shall make the final written transcripts prepared as directed by the Board under Rule 50 available on the public registry within a reasonable time after the conclusion of the oral component of Proceedings. 

### **Record of Proceedings**

52. Subject to the specific guidance regarding the scope and content of the Board's Record of Proceedings (such as the Public Hearing Record) to be considered by the Board in the



exercise of decision-making powers for a given project proposal that may be issued under Rule 31, in general, the Board's Record of Proceedings includes:

- (a) Written and oral submissions provided to the Board by the Proponent throughout the Board's consideration of a project proposal or other Proceedings, including the project proposal and draft and final Impact Statements, Addenda to Impact Statements, responses to technical review comments and Information Requests, motions, presentation materials, Exhibits and closing statements provided during Proceedings;
- (b) Written and oral submissions provided to the Board by formal Intervenors, including technical review comments, Information Requests, motions, presentation materials, Exhibits and closing statements provided during Proceedings; 
- (c) Written and oral submissions provided to the Board by Community Representatives including questions, comments and closing statements provided during Proceedings;
- (d) Written and oral submissions provided to the Board by members of the public or Interested Corporations or Organizations, including questions and comments provided during Proceedings;
- (e) EIS or IS Guidelines issued by the Board to govern the Proponent's assessment of the project proposal;
- (f) Board Orders, Procedural Direction or other procedural guidance provided by the Board in written or oral form throughout the Proceedings; and
- (g) Written transcripts of the oral component of Proceedings that the Board has directed to be prepared under Rule 50.

## **Languages of Proceedings**

53. The NIRB shall conduct its business in Canada's official languages as required by applicable legislation and policy. In addition, during proceedings the Board shall arrange for interpretation and/or translation services in Inuktitut or any other languages deemed necessary by the Board.

## Translation

54. The Board may direct a party to arrange for the translation of any information and documentation into Inuktitut or any other languages deemed necessary by the Board.

## Notice of Proceedings

55. As required under the *Nunavut Agreement* and the *NuPPAA*, and in accordance with the requirements of procedural fairness, the Board shall provide adequate public notice of Proceedings to the Proponent, interested parties, and the public in the form required by regulatory requirements and in a manner that encourages participation in Board Proceedings.
56. In any event, unless otherwise directed in a Board Order, the Board shall give notice of Proceedings to the Proponent and the project proposal distribution list at least:
- (a) 25 days before a community meeting, hearing of a motion, or other pre-hearing matter;
  - (b) 60 days before a Pre-Hearing Conference; and
  - (c) 60 days before a Public Hearing.
57. At a minimum, the Board's Notice of Public Hearings or other Proceedings being held in a potentially affected community shall include the following information:
- (a) The subject matter of the Proceeding;
  - (b) The date, time, place and nature of the Proceeding;
  - (c) The opportunity for interested members of the public to participate in the Proceeding, including any applicable requirements/time limits for parties wishing to be recognized as a formal Intervenor in the Proceeding or wishing to file written materials to be considered by the Board during the Proceeding;
  - (d) Direction regarding how information about the Board's consideration of the project proposal or other Proceeding can be accessed; and
  - (e) Any other information the Board considers relevant to the conduct of the Proceeding.

## **Formal Intervenors**



58. The Board shall, without request, allow full standing as formal Intervenors to all Authorizing Agencies.
59. A request for formal Intervenor status must be filed in writing with the Board within the time period set out in the Notice of Proceedings and in the form provided by the Board. At a minimum, the request for formal Intervenor status must contain the following:
- (a) A brief summary of the reasons for the applicant's interest in the Proceeding;
  - (b) A concise statement indicating the nature and scope of the applicant's intended participation, including whether the applicant intends to make a written submission and/or appear at a Proceeding conducted in an affected community, whether the applicant will be represented by counsel or an agent, and the language in which the applicant wishes to be heard; and
  - (c) The contact information for the applicant, including name, address, telephone number and, if available, fax number and e-mail address and, if applicable, the contact information for the authorized representative.
60. Upon receipt of a formal intervention request under Rule 59, the Board may do one or more of the following:
- (a) Request additional information from the applicant;
  - (b) Invite comment about the intervention request from the Proponent and/or existing Intervenors;
  - (c) Dismiss the intervention request in writing and advise the applicant regarding the basis for the Board's refusal to grant the applicant's request; and/or
  - (d) Accept the intervention request in writing, advise the applicant and all parties that the Board has accepted the intervention request and further advise the applicant as to upcoming timelines and process requirements applicable to formal Intervenors and associated with the next steps in the Board's consideration of the project proposal.

## **Summons**

61. At any stage in the Proceedings, if the Board on its own volition, or at the request of a party, determines that a person/party has information or Documents that are relevant to a Board Proceeding, and that the information or Documents are unlikely to be provided by any other participant in the Proceedings, the Board may issue a summons (signed by the Board's Chairperson) to that person/party requiring them to provide the information or Documents to the Board.
62. A summons shall be issued in the form required under the applicable public inquiries legislation and Rules of Court, and must, in all cases, clearly specify:
  - (a) The basis for the Board seeking the Documents from the person/party;
  - (b) The person/party to whom the summons is directed;
  - (c) Information regarding how the Board requires the person/party to whom the summons is directed to supply the information or Documents; and
  - (d) If the summons requires the person/party to whom the summons is directed to make an appearance before the Board during the oral component of a Proceeding, the summons shall provide details regarding the date, time and location of that appearance and any amounts payable by the Board to support the appearance of the person/party.
63. The person/party to whom a Board summons is directed shall receive a copy of the summons in accordance with the applicable rules for service and with sufficient advance notice to allow the person/party a reasonable time to prepare the required information and Documents and to travel to the Proceedings if a personal appearance is required.

## **Board Retention of Experts**

64. The Board may engage experts to provide information relevant to the issues raised in any Proceeding. The Board's intention to retain an expert, the identity of the expert, and any evidence received from the expert, will be disclosed to all parties as soon as is practical after the Board determines that it is necessary to engage an expert.

65. When the Board engages an expert, the Board will issue a Board Order that includes information explaining the expert's role and participation in the Board's Proceedings such as:
- (a) Whether the expert will file a written submission;
  - (b) Whether participants in the Proceedings will have an opportunity to file submissions in response to the expert's written submissions; and 
  - (c) Whether the expert will participate in the oral components of the Proceedings, including questioning the experts of other parties, and/or be made available for questioning by other participants in the Proceedings and the Board. 

### **Participation by Teleconference/Videoconference During In-Person Proceedings**

66. Although the Board may accommodate the reasonable requests of parties to participate via teleconference/videoconference if they are unable to attend during in-person Proceedings, there are significant technical and practical limits to these types of participation, and the Board cannot guarantee that functional teleconference/videoconference participation will be available in all cases. If the Board determines teleconference/videoconference capability is not feasible or would compromise the ability of all parties and the Board to participate fully and effectively in the Proceedings, the Board may, by Board Order, decline requests from parties wanting to attend by teleconference/videoconference and may require in-person attendance at the Proceeding.
67. Parties hoping to rely on teleconference/videoconference participation during an upcoming in-person Proceeding must advise the Board well in advance of their request and should be aware that, even if the Board allows for such attendance, if teleconference/videoconference capability fails at any point during an in-person Proceeding, the Board may continue the Proceeding in the absence of parties attending via teleconference/videoconference as set out in Rules 68 and 69.

## **Continuing Proceedings in the Absence of a Party**

68. Where, as set out in Rules 55 and 57, the Board in accordance with the notice requirements of the *Nunavut Agreement*, *NuPPAA* or a specific Board Order or Procedural Direction has given notice of a Proceeding and a party does not participate in the Proceeding by filing written submissions or attending during the oral component of the Proceeding, the Board may continue the Proceeding, notwithstanding the absence of that party.
69. Unless the absence of a party is excused by the Board, failure of a party to attend the oral component of a Proceeding after receiving notice of the time and place of the Proceeding, in accordance with the notice requirements of the *Nunavut Agreement*, *NuPPAA* or a specific Board Order or Procedural Direction, shall constitute a waiver of that party's subsequent objections to the process, agreements, orders or rulings resulting from the Proceeding.

## **Adjournments**

70. In accordance with the requirements of natural justice and procedural fairness, the Board may, on its own initiative or on a motion by a party, adjourn a Proceeding on any terms that the Board considers appropriate.

## **Questions of Law or Jurisdiction**

71. The Board may refer a question of law or jurisdiction arising in relation to its powers, duties and functions under the *Nunavut Agreement* and the *NuPPAA* to the Nunavut Court of Justice as provided for under those enactments.
72. Where a question of law or jurisdiction is so referred, the Board may decide to suspend or continue a Proceeding, or any part thereof, as the Board determines is required to fit the circumstances of the case.

## **Funding Of Participants in Proceedings**


73. Unless the Minister directs otherwise, the Board will not fund a Proponent to prepare a project proposal or an EIS or IS, or any party to prepare a submission or a reply related to the Board's consideration of a project proposal or other Proceeding.
74. Unless the Minister directs otherwise, and subject to any funding program established by Regulations under the *NuPPAA* and limited funding support advanced under Rule 75 all costs incurred by a party participating in a Board Proceeding shall be borne by that party.
75. The Board may provide limited funding support to defray the costs of travel and accommodation for Community Representatives participating in Proceedings, including arranging support for Community Representatives to attend the Community Roundtable component of Pre-Hearing Conferences or Public Hearings.

## **PART VI: TYPES OF BOARD PROCEEDINGS**


76. The Board has developed several different types of Proceedings that support the Board's decision-making functions. These Proceedings vary considerably in terms of process and formality.
77. The primary purpose of all Proceedings is to ensure that relevant information and Documents in relation to the Board's consideration of a project proposal or other Proceeding are provided to the Board. At key points throughout the Board's consideration of a project proposal or other Proceeding the Board shall provide specific guidance regarding next steps, process and the order of Proceedings that are best suited to the Board's consideration of the matter.

## **Scoping Sessions**

78. These Proceedings are informal sessions conducted by the Board's staff in the communities identified by the Board as potentially affected by a project proposal or other Proceeding.
79. These Proceedings are designed to allow the Board to solicit comments from the Proponent, Intervenor, community members and interested members of the public about

the scope of the Board's Proceedings, the scope of a proposed project including its components and activities, as set out in the project proposal (or as amended by the Board), as well as the scope of the Board's assessment of the proposed project. 

80. The Board's staff facilitate the Proceedings, and the specific agenda and process for these Proceedings are set out in specific Procedural Directions issued by the Board.


81. Following the completion of the Scoping Sessions, the Board shall prepare and file a summary report on the public registry summarizing the input received and outlining any resulting revisions to the scope of the Proceedings, the project and the scope of the assessment required by the Board. 

### **Community Information Sessions**

82. These Proceedings are informal sessions conducted by the Board's staff in the communities identified by the Board as potentially affected by a project proposal or other Proceeding.

83. These Proceedings are designed to allow the Board to provide information to communities, encourage public engagement in the Board's Proceedings and solicit comments from community members and interested members of the public.


84. The Board's staff facilitate the Proceedings, and the specific agenda and process for these Proceedings are set out in specific Procedural Directions issued by the Board.

85. Following the completion of the Information Sessions, the Board shall prepare and file a summary report on the public registry summarizing the information shared, comments received and any follow up required. 

### **Project-Specific EIS or IS Guidelines Review**

86. As part of the Scoping Sessions, or as independent Proceedings, the Board's staff may conduct informal sessions in the communities identified by the Board as potentially affected by a project proposal to review and solicit input on the draft project-specific EIS or IS Guidelines prepared by the Board.





87. Following any revisions to the project-specific EIS or IS Guidelines required to reflect the Proceedings conducted under Rule 86, the Board may hold an EIS or IS Guidelines Workshop to seek comments from the Proponent and interested parties regarding the *Draft* project-specific EIS or IS Guidelines.
88. The EIS or IS Guidelines Workshop is chaired and facilitated by the Board's staff and may, at the discretion of the Board, be conducted in person in a community potentially affected by a project proposal or via teleconference.
89. After the Workshop, reflecting the Board's consideration of input on the project-specific EIS or IS Guidelines provided during these Proceedings, the Board shall issue the Final project-specific EIS or IS Guidelines to the Proponent and shall file the Finalized EIS or IS Guidelines on the public registry. 


### **Technical Meeting**

90. Upon receipt and review of the Proponent's key technical submissions, such as the *Draft* EIS or IS, *Final* EIS or IS or *Draft* or *Final* EIS or IS Addendum and associated technical review comments on these submissions from Intervenor or other interested parties, the Board may hold a meeting of technical experts (Technical Meeting). The purposes of the Technical Meeting are to review, and to the extent possible, resolve outstanding technical issues arising during the Board's consideration of a project proposal and to identify any supplementary information required to address outstanding issues.
91. The Technical Meeting is chaired and facilitated by the Board's staff and may, at the discretion of the Board, be conducted in person in a community potentially affected by a project proposal, in person at a central location convenient for the majority of the technical experts participating in the Technical Meeting or via teleconference.
92. During the Technical Meeting, the Board's staff, in consultation with the Proponent and parties participating in the Technical Meeting, may record commitments made by the Proponent and participating parties, with a view to addressing technical issues resulting from the project proposal, from the technical submissions of the Proponent and parties

and/or to address information deficiencies in the technical information filed with the Board to date.

93. At the conclusion of, or following the Technical Meeting, the Board shall review the commitments and timing recorded in the initial draft of the Commitments List with the Proponent and all participating parties to finalize the Commitments List. The final Commitments List associated with a Technical Meeting may  issued by the Board in writing either as a separate document or as an Appendix to the Board's Pre-Hearing Conference Decision Report. 

### **Pre-Hearing Conference**

94. In order to facilitate the Board's Public Hearing processes, the Board may hold a Pre-Hearing Conference with the Proponent, Intervenors, Community Representatives and/or members of the public to assess whether, recognizing the information and Documents about the project proposal received by the Board to date, the project proposal can move forward into the Public Hearing stage.
95. At the discretion of the Board, the Pre-Hearing Conference may be held in-person in a community potentially affected by a project proposal, via teleconference or in writing. Without limitation, the Pre-Hearing Conference may include discussions of any of the following matters:
- (a) The identification of any deficiencies in the Proponent's information supplied to date (such as information gaps in the *Draft EIS or IS*, *Final EIS or IS* or *Draft or Final EIS or IS Addendum*) that must be addressed by the Proponent or parties participating in the Board's consideration of the project proposal prior to the project proposal proceeding to the Public Hearing stage of the process; 
  - (b) Anticipated date for submission of additional information required to address deficiencies (e.g. the Proponent's anticipated date for submission of a FEIS or FIS FEIS or FIS Addendum, updated assessment/monitoring information or required mitigation, management and monitoring plans, etc.);

- (c) The identification of any issues or outstanding Information Requests that the Proponent or other parties are required to address prior to, or at the Public Hearing;
- (d) Whether, if the additional Documents required under Rule 95(a) - (c) have been provided, the project proposal can proceed to a Public Hearing, and if not, the identification of any issues preventing the project proposal from proceeding to a Public Hearing; and
- (e) If the project proposal can proceed to a Public Hearing, a discussion of the following procedural matters in relation to the Public Hearing:
  - i. Format of the Public Hearing (in-person, teleconference or in writing);
  - ii. Date, timing and, if applicable, location of the Public Hearing;
  - iii. Confirmation of Public Hearing participants, including the Proponent, Authorizing Agencies and formal Intervenors;
  - iv. Identification of any additional parties that should be requested/required to participate in the Public Hearing;
  - v. Timetable for the issuance of the Notice of the Public Hearing and exchange of Documents prior to the Public Hearing;
  - vi. Formulation of issues for the Public Hearing;
  - vii. Procedures to be followed in the Public Hearing, including any requests for modifications to these Rules;
  - viii. Audiovisual equipment requirements, language, interpretation, translation and transcript requirements; and
  - ix. Any other matters that may aid in the simplification of the Public Hearing (such as the use of three-dimensional models, use of visual aids, presentation of video simulations, etc.).


96. If the Pre-Hearing Conference is held in person in the community potentially affected by a project proposal, the Board's Chairperson or delegate, with the support of the Board's staff, chairs the Pre-Hearing Conference. If the Pre-Hearing Conference is held by teleconference, the Board's Chairperson may delegate the conduct of the Pre-Hearing Conference to the Board's staff.

97. Regardless of the format of the Pre-Hearing Conference, other than the Board's Chairperson or delegate, the Board or Panel Members who are decision-makers for the file do not attend the Pre-Hearing Conference.
98. As part of a Pre-Hearing Conference, the Board may hold a Community Roundtable to hear the views, questions and concerns of communities potentially affected by the Project Proposal, and this component of the Pre-Hearing Conference is governed by Rules 100 - 102.
99. Unless otherwise directed by the Board, within 30 days of the close of the Pre-Hearing Conference, the Board shall issue a Pre-Hearing Conference Report summarizing the results of the Pre-Hearing Conference, and if applicable, Community Roundtable Session, and providing guidance regarding the next steps in the Board's process.

### **Community Roundtable Session**

100. To further community engagement in the Board's consideration of a project proposal or other Proceeding, the Board may conduct a Community Roundtable Session during the Pre-Hearing Conference or Public Hearing stages of the Board's process.
101. At the Community Roundtable Session, **Community Representatives chosen by the NIRB on the basis of recommendations from Hamlets and community organizations such as the local Hunters and Trappers Organization, the Elders Society, youth groups and women's organizations in potentially affected communities will be invited to take a formal seat at the table to:**
  - (a) ask questions of the parties, including the Proponent and formal Intervenors regarding the project proposal or other Proceeding, technical review comments and any matters related to the NIRB's process to review the project proposal or other Proceeding;
  - (b) express their views and the views of the community they represent in respect of the project proposal or other Proceeding; and



- (c) share any information and perspectives that the Community Representative considers relevant to the Board’s consideration of the project proposal or other Proceeding, including Inuit Qaujimaningit or other community knowledge.
102. The Board shall keep a summary of comments, questions and perspectives shared by Community Representatives during the Community Roundtable and this summary shall form part of the Record of Proceedings considered by the Board during decision-making. 

## **Public Hearings Conducted in Communities**

### Venue and Schedule

103. For an in-person Public Hearing conducted in a potentially affected community or communities, the Board shall determine the location or locations and scheduling of the Public Hearing giving consideration to:
- (a) fairness to the parties;
  - (b) the location of the project proposal in question;
  - (c) the promotion of public awareness and participation at the Public Hearing;
  - (d) accommodation and travel logistics in the community or communities; and
  - (e) convenience to the Board, Community Representatives, the Proponent and other parties.
104. If a change of venue or scheduling becomes necessary, the Board shall make every effort to reschedule the Public Hearing in the best alternative location, upon reasonable notice being provided to the community or communities, the Proponent and other parties.

### Process

105. Unless otherwise directed by the Board, in-person Public Hearings conducted in the community shall consist of both a formal, technical component and a less formal community component. All Board or Panel Members responsible for decision-making in relation to the project proposal or other Proceeding shall attend all components of the Public Hearing, and information provided during both components will form the Public

Hearing Record for the Proceeding and must be considered by the Board or Panel during decision-making.




106. During the technical component of this form of Public Hearing, the Proponent shall present a summary of their project proposal, technical assessment information and responses to information requests and technical review comments provided by the Proponent in support of the project proposal or other Proceeding, and Intervenors shall present summaries of their technical submissions in respect of the project proposal or other Proceeding. Following the presentation by each party, the other parties, the Board staff, the Board, Community Representatives in attendance and members of the public are encouraged to ask questions of the presenters.
107. The informal component of this form of Public Hearing consists of a Community Roundtable session for Community Representatives (conducted as outlined in Rules 100 - 102) and members of the public, as well as a Public Evening Session that is a public meeting designed to allow interested persons and Elders from the community who may be unable to attend the Public Hearing during regular business hours to learn about the project proposal or other Proceeding and to communicate their views about the project proposal or other Proceeding in an informal setting.

#### Order of Events at the Public Hearing

108. Unless otherwise directed by the Board, the following lists the order of events at an in-person Public Hearing conducted in the community:
  - (a) Opening prayer;
  - (b) Opening remarks by the Chairperson, which shall include the purpose of the Public Hearing and the scope of matters to be considered by the Board;
  - (c) Introduction of the Board Members and staff;
  - (d) Identification and introduction of the parties;
  - (e) Explanation of Elders and their role in the Hearing;
  - (f) Identification of any motions or objections;
  - (g) Technical Presentations by the Proponent;

- (h) Questioning of the Proponent by parties, the Board staff and the Board;
- (i) Technical Presentations by Authorizing Agencies and Intervenors;
- (j) Questioning of Authorizing Agencies and Intervenors by other Authorizing Agencies and Intervenors, the Proponent, Board staff and the Board;
- (k) Presentations and questioning of the Proponent and Intervenors during the informal Community Roundtable and Community Evening Sessions;
- (l) Final closing statements from Community Representatives;
- (m) Final closing statements by Authorizing Agencies, other Intervenors and the Proponent;
- (n) Closing remarks by the Chairperson; and
- (o) Closing Prayer.



#### Presentation of Evidence and Exhibits

109. A person giving technical evidence at an in-person Public Hearing shall do so under oath or affirmation, administered by a person authorized by law to administer oaths and affirmations. Elders and Community Representatives are not required to make their submissions under oath or affirmation. 
110. The presentation of evidence by a witness or a panel of witnesses at an in-person Public Hearing shall be limited to the scope of the project proposal or other Proceeding, the assessment of the project proposal or other Proceeding, technical comment submissions and any issues formulated by the Board for determination. 
111. The Board may permit a party to lead evidence in relation to additional matters outside the limits set out in Rule 110 if the Board determines such information is relevant and may be useful to the Board in reaching its decision.
112. **Parties wishing to rely on Documents not filed with the Board prior to the Public Hearing shall provide the Documents to the Board to be marked as formal Exhibits in the Public Hearing Record.** 
113. If during the Public Hearing there are no objections by the parties or the Board to an Exhibit being included in the Public Hearing Record, and if there are no claims for

confidentiality in respect of the Exhibit, the Board may enter the Exhibit in the Public Hearing Record. Within a reasonable time following the Public Hearing, the Board shall make a copy of all Exhibits entered in the Public Hearing Record available on the Board's public registry.

114. If a party or the Board objects to the filing of an Exhibit in the Public Hearing Record, the Board will mark, but not enter the Exhibit and will then consider any objections to entering the Exhibit as an oral motion to be handled as set out in Rules 47 and 48.
115. If the Board upholds an objection to entering an Exhibit, the Exhibit will be described in the Exhibits List as "marked but not be entered" and the Exhibit will not be entered in the Public Hearing Record or considered by the Board during decision-making. If the Board does not uphold the objection, the Exhibit will be entered in the Public Hearing Record as described in Rule 113.

#### Questioning

116. Questioning of a witness or panel of witnesses by another party shall be limited to the scope of the evidence provided by the witness/witnesses. Questioning outside of these limits may be permitted at the Board's discretion, but only to the extent necessary for full and true disclosure of the relevant facts. 
117. If a witness or panel of witnesses is unable to respond to a question raised during the Public Hearing, the Board may permit the party to defer a response until later in the Public Hearing, or may direct that written submissions, and replies to those written submissions, be filed with the Board after the Public Hearing. 

#### **Public Hearings Conducted by Teleconference**

118. When the Board determines that it is appropriate for a Public Hearing to be conducted by teleconference, the Board will issue a project-specific Board Order to govern the conduct of this form of Public Hearing.
119. In general, the Rules governing the conduct of a Public Hearing in the community (Rules 103 -117) will apply to Public Hearings conducted by teleconference, subject only to



those modifications necessary to reflect the limits associated with teleconference participation by all participants.


### **Public Hearings Conducted in Writing**

120. Where the Board directs that it is appropriate to conduct a Public Hearing in writing, the Board may:
- (a) Engage in decision-making solely on the basis of the written Documents filed by the parties;
  - (b) Require additional Documents be submitted by the parties before engaging in decision-making; or
  - (c) Determine at any time during a written Public Hearing that a different form of Public Hearing is more appropriate and direct that a Public Hearing conducted in the community or via teleconference is required.

### **Joint Public Hearings**

121. As set out in Article 13, Section 13.5.2 of the *Nunavut Agreement* and s. 193 of the *NuPPAA*, upon request, the Board may, as appropriate, coordinate the NIRB's Proceedings with the activities of the Nunavut Water Board, up to and including conducting joint Hearings.
122. If the Board determines that a joint Hearing is appropriate, the Board shall, in consultation with the Nunavut Water Board, issue a specific Board Order outlining the process and procedure to be adopted by the Board to conduct a joint Public Hearing, including identifying any modifications to these Rules and the Board's Proceedings that may be required.

### **Closing of the Public Hearing Record**

123. At the conclusion of a Public Hearing or joint Public Hearing, whether conducted in the community, via teleconference or in writing, the Public Hearing Record shall be closed unless the Board directs otherwise. 

124. If the Board directs that the Public Hearing Record remain open after the close of the Public Hearing, the matter shall not be remitted to the Board or Panel for decision-making until all required information and Documents have been received by the Board and the Board confirms, in writing, that the Public Hearing Record is closed.
125. Once the Public Hearing Record is closed pursuant to Rule 123 or 124, no additional evidence shall be filed with the Board unless a written application to reopen the Public Hearing Record is filed with the Board and the Board decides, following notification and submissions by the parties, that the additional evidence is material and that the party requesting to file the additional evidence had good cause for failing to provide the evidence while the Public Hearing Record was open.

### **Project Certificate Workshop**

126. As set out in Article 12, Sections 12.5.12 and 12.6.17 of the *Nunavut Agreement* and ss. 111(1) and 132(1) of the *NuPPAA*, when the Minister directs the Board to issue a Project Certificate or amended Project Certificate to govern a project, the Board has 30 days to issue the Project Certificate. To support the implementation of the Project Certificate terms and conditions, the Board may convene a Project Certificate Workshop with representatives of the Proponent, and Authorizing Agencies with authorities and jurisdictional responsibilities to issue subsequent authorizations, such as licences, certificates and permits for the project. The purpose of the Workshop is to ensure the Project Certificate terms and conditions are understood by all parties and to discuss how best to implement the terms and conditions of the Project Certificate.
127. The Project Certificate Workshop is chaired by the Board's staff and may be conducted in person in the potentially affected community, in person at a location central to the Proponent and Authorizing Agencies, via teleconference or in writing. The Project Certificate Workshop will generally address the following topics:
- (a) Clarifications with respect to the scope and content of the terms and conditions;
  - (b) Identification of all the government departments and agencies responsible for implementing specific terms and conditions;

- (c) Clarifications regarding the timeline for implementation of terms and conditions; and
- (d) Discussion of whether any commentary or specific clarification is required to be added to the Project Certificate to support effective implementation.

128. In advance of the Workshop, the Board may request that government departments and agencies with authorities and jurisdictional responsibilities for the project provide the Board with a summary of how Authorizing Agencies intend to ensure that the permits, certificates, licences and other government approvals that the Proponent may require to carry out the project are consistent with the requirements in the Project Certificate.

## **Monitoring**

129. As required by Article 12, Section 12.7.2 of the *Nunavut Agreement* and s. 135 of the *NuPPAA*, the Board or the Monitoring Officer(s) responsible to fulfill the Board's monitoring functions may issue Procedural Directions to the Proponent, Authorizing Agencies, or other party in respect of a project-specific Monitoring Program and/or implementation of a Project Certificate.

130. The Board or Monitoring Officer may also issue Procedural Directions with respect to the conduct of Community Information Sessions, Site Visits or other Board Proceedings associated with a project-specific Monitoring Program.

## **Site Visits**



131. At any time before, during or after a Proceeding, on the Board's own initiative, as required by a Monitoring Program or on a motion by a party, the Board or staff may schedule a site visit to a project development area, or other location which, in the opinion of the Board, is material to an issue in a Proceeding.

132. If the site visit is not connected to a Monitoring Program, the Board shall set the terms of reference for the site visit in advance and notify the parties and the public in writing of the site visit.

133. The Board may coordinate a site visit with other parties and/or may request that representatives from a community and any other person accompany the Board or staff on a site visit.
134. Following a site visit the Board shall issue the Board's Site Visit Report, which may be a standalone report or may be included as an Appendix to the Board's report on other Proceedings.



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