



October 23, 2015

Dear Regulatory Authorities in Nunavut

RE: The Review of Project Proposals by the Nunavut Planning Commission

The Nunavut Planning and Project Assessment Act (NUPPAA) has altered the regulatory process established under the Nunavut Land Claims Agreement (NLCA) by making the Nunavut Planning Commission (NPC) the single entry point for all “projects” in the “designated area” (both as defined in the NUPPAA), including where there is no applicable land use plan, unless exempted by the NUPPAA or regulations. Under the transition provisions of the NUPPAA, some projects will remain subject to the NLCA indefinitely while others will be regulated under the NUPPAA from the outset or may later be made subject to the NUPPAA. The NPC is issuing this letter to advise that it will no longer require proponents to include their **applications** (i.e. completed forms and other paperwork prescribed by regulation or otherwise required by regulatory authorities to obtain licences, permits and other authorizations) to regulatory authorities as part of their project proposals.

Due to various amendments made to the NLCA effective July 9, 2015 that makes the NLCA consistent with the NUPPAA, the NPC will no longer review those **applications** that proponents submit to regulatory authorities. The NPC continues to accept and review “**project proposals**”¹ as defined by the NLCA as amended, and “**project**”² proposals as defined by the NUPPAA. As of July 9, 2015 the NPC receives all project proposals submitted by proponents through the online *Land Use Planning Implementation Tool* (LUPIT), located at: <http://npc.strata360.com/portal/>.

¹ Nunavut Land Claims Agreement, s. 1.1.1 (as amended):

"project proposal" means a physical work that a proponent proposes to construct, operate, modify, decommission, abandon or otherwise carry out, or a physical activity that a proponent proposes to undertake or otherwise carry out, such work or activity being within the Nunavut Settlement Area, except as provided in Section 12.11.1 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.

² Nunavut Planning and Project Assessment Act, s. 2(1):

"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 in particular the factors set out in paragraphs 90(a) to (i);
- (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.

Regulatory authorities now have discretion to issue, renew, amend or extend licences, permits and other authorizations for projects approved under Part 3 of the NUPPAA that have not been significantly modified as set out in sections 145 and 146 of the NUPPAA. Subsection 75(3) of the NUPPAA reads:

“A regulatory authority may issue any licence, permit or other authorization relating to a project approved under this Part that has not been significantly modified without a new assessment of the project being carried out under this Part.”

Subsection 2(3) of the NUPPAA also reads:

“For greater certainty, in this Act the issuance of a licence, permit or other authorization, includes a renewal, an amendment or an extension of its period of validity.”

Since regulatory authorities may take these actions without the further involvement of the NPC, the NPC suggests that there may be “significant modifications” made to a project from a land use planning perspective that would require further review by the NPC where any of the following examples from this non-exhaustive list occur:

- Any change to the location of the work or activity;
- Any change to the type of land use;
- Any change to the timing of the work or activity (e.g. seasonal changes);
- An increase or modification in a work or activity that, for example, requires changes to a land use permit from Class B to Class A or a water licence from Type B to Type A;
- Any change that disqualifies a project proposal from a previously applicable Nunavut Impact Review Board screening exemption provided in NLCA Schedule 12-1.

Again, this list is non-exhaustive and is simply an example of what the NPC may consider to be “significant modifications” from a land use planning perspective. Also note that projects that exceed specific time periods provided by the NUPPAA, for example under sections 147 and 208, may also require new assessment by the NPC.

The NPC proposes an open dialogue between the NPC, other Institutions of Public Government under the NLCA, and regulatory authorities on matters of interpretation of the NUPPAA, specifically whether it is the regulatory authorities or the NPC who decides whether a significant modification has been made pursuant to section 145 and 146 of the NUPPAA, and section 12.4.3 of the NLCA, and whether the NPC needs to continue to receive and review project proposals where the proponent is seeking the issuance, renewal, amendment or extension of licences, permits and other authorizations, whether under the NLCA or the NUPPAA.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sharon Ehloak'.

Sharon Ehloak
Executive Director, Nunavut Planning Commission