



## NUNAVUT PLANNING COMMISSION REVISED DIRECTION ON PROCEDURE

### PUBLIC HEARING ON DRAFT NUNAVUT LAND USE PLAN—DIRECTION ON PROCEDURE:

#### PROCEDURES FOR FINAL PUBLIC HEARING

**Date:** ~~October 7, 2016~~ [February 22, 2017](#)

Pursuant to the Nunavut Planning Commission's (NPC) *Rules of Procedure for Public Hearings and Public Reviews (RPHPR)*, and recognizing the Inuit traditions regarding oral communication and decision making, the NPC makes the following Directions on Procedure for its Public Hearing of the 2016 Draft Nunavut Land Use Plan (DNLUP). The *RPHPR* provides for Directions on Procedure as follows:

- 4.2 Where any procedural matter relating to proceedings is not provided for in these rules, the Commission may at any time give directions governing the procedure to **supplement these rules** that it considers necessary for the fair determination of an issue.
- 4.3 **On its own initiative** ...the Commission may, with or without a hearing, **issue any direction on procedure to dispense with or vary any part of these rules that it considers necessary for the fair determination of an issue.**
- 4.4 Where there is a conflict between any rule and any direction on procedure issued by the Commission, **the direction on procedure prevails over the rule.**

[emphasis added]

The Commission hereby directs:

1. The following deadlines for filing, service, and giving notice of documents, which unless noted otherwise participants must translate in their entirety into English, French, Inuktitut and Innuinaqtun (all documents filed with the Commission will be made public in its public record posted on the Commission website), shall apply:
  - a. **Tuesday November 15, 2016, 5:00 pm Eastern:** Deadline for expert reports (only executive summaries need be translated) to be put before the Commissioners at the

- Public Hearing, to be filed with the Commission ~~and served on other participants~~ in accordance with the *RPHPR*;
- b. **Thursday December 15, 2016, 5:00 pm Eastern:** Participants may provide expert reports (only executive summaries need be translated), as response to reports submitted November 15, 2016, to be filed with the Commission ~~and served on other participants~~ in accordance with the *RPHPR*;
  - c. **Friday January 13, 2017, 5:00 pm Eastern:** Participants to file digital copies of written submissions on DNLUP, written evidence, or other materials to be relied upon in Final Public Hearing (excluding expert reports), translated in their entirety, ~~and serve on other participants~~ in accordance with the *RPHPR*, and notwithstanding the foregoing, the deadline for all municipalities (including the City of Iqaluit), and all Hunters and Trappers Organizations to file written submissions, evidence, and other materials is hereby extended to 5:00 PM Eastern Time on Tuesday February 28, 2017;
  - d. ~~Wednesday February 1, 2017, 5:00 pm Eastern~~ **Monday March 6, 2017, 5:00 pm Eastern:** Notwithstanding rule 39.1, out of fairness and expediency to all participants and the public, participants notify the Commission of all documents they will refer to in oral submissions at the public hearing and file translations of all excerpts from any previously filed untranslated documents that they will be referring to (including untranslated excerpts from expert reports) so staff may organize documents for display on presentation screens at the Public Hearing and serve on other participants in accordance with the *RPHPR*, and due to the number of participants and practical time limits any delays in locating documents not previously listed by participants may be counted as part of participants' allotted presentation times;
  - e. ~~Tuesday February 28, 2017, 5:00 pm Eastern~~ **Monday March 6, 2017, 5:00 pm Eastern:** Notwithstanding rule 39.1, out of fairness and expediency to all participants and the public Commission will provide participants audio/visual presentation aides to be used by Commission staff at Public Hearing, and participants to file any audio/visual presentation aides with the Commission, so staff may organize documents for display on presentation screens at the Public Hearing, and serve on other participants in accordance with the *RPHPR*, and due to the number of participants and practical time limits any delays in locating documents not previously listed by participants may be counted as part of participants' allotted presentation times;
  - f. ~~Monday March 6, 2017, 5:00 pm Eastern:~~ Participants to deliver to the Commission's office in Iqaluit, NU, ~~hard copies of all documents participants intend to use at the public hearing as set out in paragraph 8 below;~~
  - g. **Tuesday March 7, 2017, 5:00 pm Eastern:** Participants to submit in writing or orally over the telephone any questions for Commissioners to ask Commission staff or other participants following presentations at the public hearing in their discretion, ~~and serve on other participants~~ in accordance with the *RPHPR*; and
  - h. **Friday April 21, 2017, 5:00 pm Eastern:** Participants to file written arguments proposing findings of fact and conclusions of law, or both, pursuant to rule 48.1.

2. The definition of “document” in rule 2.2(g) be read to include photographs, film, any record of permanent or semi-permanent character, and information recorded or stored by means of any device.
3. The definition of “evidence” in rule 2.2(i) be read to include documents or other physical objects.
4. The definition of “informal hearing” in rule 2.2(l) be read broadly to allow all participants to make their views known in the proceeding and not only interested persons and Elders to present their views on a project proposal, as follows:
 

“informal hearing” means an oral hearing involving an open forum community meeting held primarily to allow participants, interested persons and Elders the opportunity to communicate their views about the proceedings in an informal environment;”.
5. Rule 4.1 requiring a “fair, large and liberal construction” as best ensures the “just, expeditious and fair hearing of public reviews” shall be interpreted to apply to all “proceedings” subject to the *RPHPR*.
6. Rule 7.2 shall not be interpreted as an exhaustive list of factors the Commission considers, and the Commission shall also take into account relevant factors, policies, priorities, objectives and goals including those set out by the Agreement, the *Nunavut Planning and Project Assessment Act (NUPPAA)*, and policies developed by the Commission under Article 11, Part 2 of the Agreement, or otherwise.
7. Any motions brought under section 9 of the *RPHPR*, which applies to the public hearing proceedings on the DNLUP, should be made prior to the public hearing and be brought in a timely way, be translated into English, French, Inuktitut and Innuinaqtun unless otherwise directed by the Commission, and:
  - a. notwithstanding rules 9.1, participants are not required to serve motions on other participants but shall instead file motions with the Executive Director of the Commission who will provide copies to all participants at least 7 days before the Commission considers the motion, and who will request any written responses at least 4 days before the motion is to be considered; and
  - b. notwithstanding rule 9.2, a written motion need not be accompanied by a sworn affidavit and the motion should simply indicate the decision or order sought, include a clear, concise statement of the facts supporting the motion and any supporting documents, and the reasons why the decision or order should be made.
8. Under Notwithstanding Rule 13.4, participants ~~must are not required to~~ deliver printed copies of materials to the Nunavut Planning Commission’s office ~~at PO Box 1797, Iqaluit, NU, X0A 0H0 to the attention of the Executive Director the following number of hard copies of all documents and excerpts to which they intend to refer at the public hearing and will be responsible for bringing documents for their own use, and will be responsible for bringing~~ documents for their own use, and may provide additional printed copies of documents they wish to distribute to the public:
  - a. ~~60 copies English;~~
  - b. ~~20 copies French;~~
  - c. ~~20 copies Innuinaqtun; and~~
  - d. ~~100 copies Inuktitut.~~

~~Except for written submissions which must be produced in their entirety, any documents greater than 10 pages in length need not be reproduced in their entirety and only copies of those pages a participant will refer to during the hearing must be provided.~~

9. Unless otherwise directed, affidavits will not be requested under rule 13.5.
10. Further to rule 13.6 of the ~~PRHPR~~ RPHPR and pursuant to the Commission's *Policy on Translation* contained in Appendices K and L of the Keewatin Regional Land Use Plan and North Baffin Regional Land Use Plan respectively, for the purpose of ensuring full participation in the public hearing and in accordance with the Commission's obligations under section 37 of the *NUPPAA* to hold public hearings in both official languages and in Inuktitut and Innuinaqtun:
  - a. Participants shall translate their submissions to the Commission, including all written evidence, presentations, any documents a participant wishes to file or refer to in the public hearing, and written arguments if any, into English, French, Inuit and Innuinaqtun in their entirety, except for expert reports which need not be translated in their entirety but must contain an executive summary translated into English, French, Inuit and Innuinaqtun;
  - b. Documents submitted prior to the date of this Direction on Procedure need not be translated into French, English, Inuit or Innuinaqtun in their entirety, however participants who wish to refer to any document previously filed with the Commission that has not already been translated, including any untranslated excerpts of expert reports, must provide translations of the relevant excerpts of the document;
  - c. Participants who wish to refer to any document filed with the Commission must cite each linguistic version of the document;
  - d. ~~Unless otherwise directed, as of the date of this direction on procedure, documents and excerpts that have not been translated will not be considered filed with the Commission until received in French, English, Inuit and Innuinaqtun, will not be considered "served" on other participants, and may be disregarded by the Commission in the public hearing the Commission will not disregard any submissions, evidence, presentations, documents, or written argument filed with the NPC on the grounds that they were not translated or served in accordance with this paragraph, however out of respect to Elders, participants, community representatives and other members of the public who speak Inuktitut and Innuinaqtun, the Commission encourages participants to follow the translation requirements of this paragraph to the extent possible;~~
  - e. All translations must be accompanied by a statement by the translator(s) that he, she, or they are fluent in the languages and dialects used to translate the documents (English, French, Inuit and Innuinaqtun, as the case may be), and that the translated versions are an accurate translation of the original; and
  - f. In accordance with the Commission's Policy on Translation and rule 13.6 of the *RPHPR*, participants who are individuals are not required to provide translations in the manner provided above and may participate and make submissions in either French, English, Inuit or Innuinaqtun as they so choose, and the Commissioners may waive these translation requirements for any participants who can demonstrate a lack of resources, a shortage or lack of access to adequate translation services, or other hardship that following these translation requirements would cause.

11. ~~Further to Rules 14.2 and 14.4 are hereby varied, participants are encouraged to serve all documents requiring service on other participants' appointed representatives, but where a participant has the information technology, equipment, software and processes for receiving or retrieving the document and has provided an e-mail address or fax number for themselves but not for their appointed representative(s), documents may be served directly on such participants by electronic means and participants shall deliver all documents served on them to their representative(s). In all cases of electronic transmission of documents in accordance with the RPHPR, service is effective when the person transmitting the document receives an electronic acknowledgement of the transmission and NPC staff shall post all documents filed in the NPC's public record in the NPC's Consultation Record, available online at: <[http://nunavut.ca/en/draft\\_plan/consultation\\_record](http://nunavut.ca/en/draft_plan/consultation_record)>, and notify participants by e-mail distribution when materials have been posted, and participants are directed to download those documents or request copies from the NPC's offices in accordance with rule 15.8 of the RPHPR and the NPC shall provide copies upon payment of reasonable fees.~~
12. For clarity, the reference to "parties" in rule 23.13 shall be interpreted as referring to parties who have given notice to participate, as distinct from parties who are not participants and interested persons granted standing.
13. The second rule numbered 25.1 in the RPHPR, which reads: "In deciding the issues to be considered in a hearing, the Commission may request information from any participant", shall be renumbered as rule 25.2.
14. Notwithstanding any rule in the RPHPR including but not limited to rule 25.1 and 45.1, the statement of issues developed under rule 25.1 is intended to contribute to a fair, just and expedient hearing, focus discussion at the public hearing, ensure the Commissioners benefit from a thorough examination of all matters participants consider important, and guide preparation of submissions to be filed prior to the public hearing and oral submissions at the hearing, but shall not be used to limit the questions, comments, evidence or other submissions participants may wish to put before the Commissioners in the public hearing.
15. Unless the Commissioners directs otherwise, evidence will not be required to be given under oath or affirmation under rule 34.2.
16. Consistent with the variance to rule 2.2(l) above, rule 37.3(a) providing for the purpose of informal hearings, shall be read as allowing participants the opportunity to communicate their views about the proceeding in an informal environment, and submit evidence to the Commission relevant to its inquiry, as well as to allow Elders and other non-participants to make comments under rules 23.11 and 23.12, subject to time limits as may be directed by the Commission.
17. For clarity, rules 37.5 and 41.3 shall be read as providing for public "access" to documents as opposed to "public review" which is a defined term in the RPHPR.
18. Pursuant to rule 42.1, the Commission will provide simultaneous English, French, Innuinaqtun and Inuktitut interpretation at the hearing.
19. Rule 49.1 shall provide that the Commission may on its own initiative reopen the record.
20. The public hearing will be an informal public hearing in a town hall forum for parties to make oral submissions to the Commission, without examination and cross-examination of witnesses, at which the order of events as provided in rule 50.1 will be varied as follows:

- a. Opening Prayer;
  - b. Opening remarks by the Chairperson, which shall include the purpose of the hearing and the scope of matters to be considered by the Commission;
  - c. Introduction of the Commission Members and staff;
  - d. Identification and introduction of the participants;
  - e. Introduction of the Elders and Chairperson's explanation of their role in the hearing;
  - ~~f. Identification of any motions or objections;~~
  - f. Presentation by the Commission staff;
  - g. ~~Questioning of the Commission staff by participants;~~ Response by the Commission staff to pre-submitted written **and telephone-submitted** questions;
  - h. Presentation by participants (20 minutes each participant, except for Canada, Nunavut, NTI who each have 60 minutes) and questions by Commissioners after each presentation;
  - i. Comments from Elders and non-participants under rules 23.11 and 23.12;
  - j. Questioning of participants by Commissioners and any participants;
  - ~~k. Reply by Commission staff;~~
  - k. Final closing statements by all parties (5 minutes each participant, except for Canada, Nunavut, NTI who each have 30 minutes);
  - l. Closing remarks by the Chairperson; and
  - m. Closing Prayer
21. The DNLUP and the Commission's Options and Recommendation document (ORD) do not necessarily represent the views of the Commission. Participants may support, challenge, test, comment on, or supplement the DNLUP and ORD through their own evidence, submissions, presentations, and argument. The Commission may consider and rely on the DNLUP and ORD, and any oral or written comments made on the DNLUP whether prior to or at the public hearing as well as any documents in the Commission's record when revising the DNLUP after the public hearing to submit the final DNLUP for approval.
22. Commission staff will present a brief overview of the DNLUP at the public hearing, participants may submit written questions they wish the Commissioners to ask Commission staff by the date provided in paragraph 1 above, and the Commissioners may in their discretion ask (or decline to ask) questions whether as submitted by participants or pursuant to rule 32.7, but unless otherwise directed participants will not question Commission staff directly during the hearing.
23. After all oral presentations have been heard and Elders and other members of the public have been given an opportunity to make comments, participants will be provided an opportunity to ask other participants questions, subject to any time limits and in the manner as may be directed by the Commissioners at the Public Hearing.
24. At the written request of a party or interested person seeking a time extension to notify the Commission of an intention to participate or to apply for a grant of standing, as the case may be, whether submitted before or after the time to become a participant as set out in a public notice issued under Rule 10.4 has expired, the Commission in its discretion may grant such time extensions where it is fair to do so, and may in its discretion solicit the views of the participants.