

## Guide 3

# The Nunavik Marine Region Impact Review Board Review Process

This guide explains the NMRIRB's ecosystemic and socio-cultural review process. A review is conducted to determine whether or not a project should proceed and, if so, the applicable terms and conditions.





Photo by Emma Cain

## Inside this Guide:

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What is the Project Review Process in the Nunavik Marine Region? [1](#)

What is the Purpose of the NMRIRB's Review Process? [1](#)

Considerations when the NMRIRB Reviews a Project [2](#)

Participation in the Review Process [2](#)

What Does the Review Process Involve? [3](#)

Phases and Steps of the Review Process [5](#)

This document is intended as a guide and as a public communications tool; it is not a NMRIRB governing document or legally binding. Proponents and parties before the NMRIRB are directed to review and rely on the provisions of the Nunavik Inuit Land Claim Agreement, the NMRIRB by-laws and the NMRIRB Rules of Procedures, as those documents legally binding and are the governing documents of the NMRIRB.

### Note:

The abbreviations 'NMRIRB' and 'the Board' are used interchangeably throughout this document in reference to the Nunavik Marine Region Impact Review Board.

Cover Photo by Emma Cain





Photo by Felix Willy

## What is the Project Review Process in the NMR?

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When the screening process described in Guide 2 has determined that a project requires review and the Minister has agreed with this determination, the next step is review. Article 7 of the Nunavik Inuit Land Claims Agreement (NILCA), establishes two types of review processes for the environmental assessment of proposed projects: one under part 7.5 (Part 7.5 Review of Project Proposals by the NMRIRB) and the other under Part 7.6 of the Article (Part 7.6 Review by a Federal Environmental Assessment Panel).

This guide only deals with NMRIRB's review process, part 7.5, under Article 7 of the NILCA.

## What is the Purpose of NMRIRB's Review Process?

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The NMRIRB's review process is designed to carry out the functions assigned to the Board by the NILCA, as they relate to environmental assessment. These functions are to:

- ❖ gauge and define the extent of the impacts of proposed projects on the region and communities;
- ❖ review the ecosystemic and socio-economic impacts of project proposals; and
- ❖ 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.

## Considerations when the NMRIRB Reviews a Project

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Section 7.5.5 of the NILCA directs the NMRIRB to take into account all matters relevant to its mandate, including the following:

- ✓ Whether the project would enhance and protect the existing and future well-being of the persons and communities resident on or using the NMR, taking into account the interests of other Canadians;
- ✓ Whether the project would unduly prejudice the ecosystemic integrity of the NMR;
- ✓ Whether the project proposal reflects the priorities and values of the persons resident in or using the NMR;
- ✓ Steps which the proponent proposes to take to avoid and mitigate adverse impacts;
- ✓ Steps the proponent proposes to take, or that should be taken, to compensate interests adversely affected by the project;
- ✓ Posting of performance bonds;
- ✓ The monitoring program that the proponent proposes to establish, or that should be established, for ecosystemic and socio-economic impacts; and
- ✓ Steps the proponent proposes to take, or that should be taken, to restore ecosystemic integrity.

In addition, the Minister may identify particular issues or concerns that the NMRIRB must consider. This authority does not limit the NMRIRB from reviewing any matter within its mandate.

## Participation in the Review Process

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Public participation and the participation of various organizations is strongly encouraged throughout all of the NMRIRB's processes including during a project review. The various ways to participate and stay informed about a project review process are as follows:

- ❖ **Anyone can monitor the public registry and access project-specific information:** all information gathered during a project review is available on the NMRIRB public registry.
- ❖ **Anyone can attend public meetings, information sessions, technical meetings, and public hearings:** these meetings, sessions and hearings are a great way to learn about the project proposal and there are often opportunities within them for the public to share information and perspective with the Board.
- ❖ **Applying to be a Party:** individuals and organization can participate in a more formal way in the legal project review process by becoming a Party to the process. Some organizations are automatically recognized as a Party according to the NILCA and the NMRIRB Rules of Procedure. Others need to make a request to the NMRIRB to become a Party. The NMRIRB has the power to determine the types of Parties and the nature of the participation rights a Party has during at a project review process. Generally, there are Parties with full Party status and Intervenors who have a more limited range of participatory rights.

If a person or an organization wishes to be a Party to a project review process, the NMRIRB staff will assist to ensure that they are aware of the requirements of their role.

Figure 1 on page 4 highlights the specific points in the review process for participation of Parties and the public

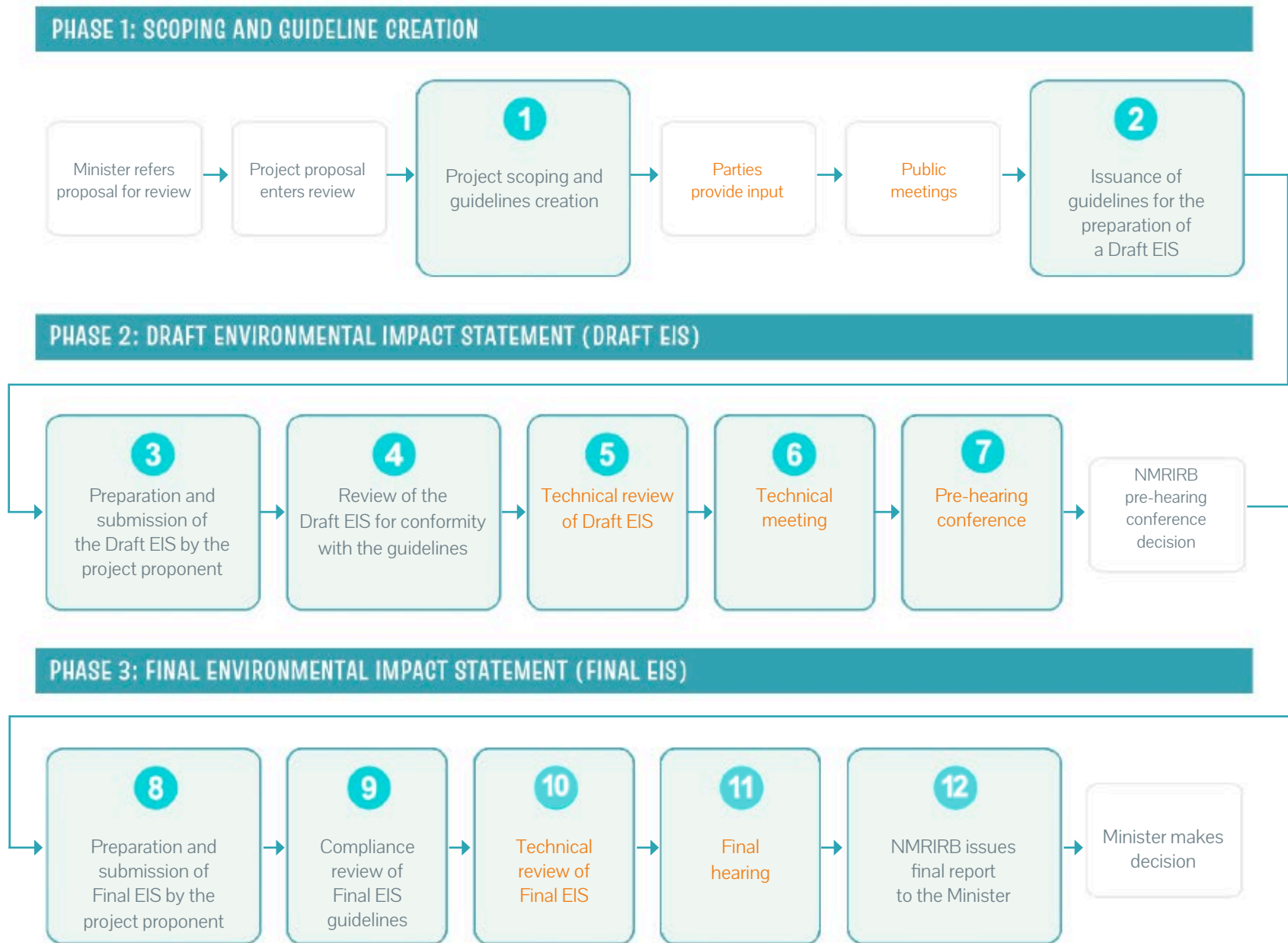
# What Does the Review Process Involve?

After the screening process (please see Guide 2: The NMRIRB Screening Process) is complete, and it has been determined by the NMRIRB and the Minister that a project requires a Part 7.5 Review, the following steps are generally followed:

Review Steps	Participation			
	Proponent	NMRIRB	Parties	Community
<b>PHASE 1: SCOPING AND GUIDELINE CREATION</b>				
1. Project scoping and guideline creation	□	□	□	□
- Hold community scoping sessions	□	□	□	□ (public meeting)
- Develop EIS guidelines		□	□	
- EIS guidelines development workshop (optional)	□	□	□	■ (technical meeting)
2. Issuance of guidelines for the preparation of a Draft EIS		□		
<b>PHASE 2: DRAFT ENVIRONMENTAL IMPACT STATEMENT (DRAFT EIS)</b>				
3. Preparation and submission of the Draft EIS by the project proponent	□			
4. Review of Draft EIS for conformity with the guidelines		□		
5. Technical review of the Draft EIS	□	□	□	□
- Preparation of information requests		□	□	
- Prepare and submit responses to information requests				
- Prepare and submit technical review comments			□	
- Hold community information sessions		□		□ (information session)
6. Technical meeting	□	□	□	■ (technical meeting)
7. Pre-Hearing Conference	□	□	□	□ (public meeting)
- Pre-Hearing Conference decision		□		
<b>PHASE 3: FINAL ENVIRONMENTAL IMPACT STATEMENT (FINAL EIS)</b>				
8. Preparation and submission of the Final EIS by the project proponent	□			
9. Compliance review of Final EIS		□		
10. Technical review of the Final EIS	□	□	□	■ (technical meeting)
- Hold community information session		□		□ (information session)
11. Final Hearing	□	□	□	□ (public hearing)
12. NMRIRB issues the final report to the Minister		□		

■ Technical meetings are open to members of public. Technical experts working for proponents, parties and the NMRIRB attend these working meetings.

Figure 1: *The Three Phases of the NMRIRB Review Process* highlights the specific points in the review process for participation of Parties and the public



All timelines are approximate and can be adjusted based on the project, number of potentially affected communities, etc.

Orange text denotes participation and input by parties and/or the public

# Phases and Steps of the NMRIRB's Review Process

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## PHASE 1: SCOPING AND GUIDELINE CREATION

### 1 PROJECT SCOPING AND GUIDELINE CREATION

The first step in NMRIRB's Part 7.5 Review process is to scope the project proposal and the potential impacts associated with developing the project. Scoping is a process that pinpoints significant issues requiring study and analysis. This process aims to identify those components of the biophysical and/or socio-economic environment that may be impacted by the project and for which there is public concern. NMRIRB will solicit input from the proponent, and interested parties comprising Government departments, various Nunavik Inuit rightsholders and members of the public, and evaluate what it considers appropriate in order to determine:

- ❖ Which components of the project to include in the review;
- ❖ The temporal and spatial boundaries of the project;
- ❖ The issues and concerns to be considered in the review; and
- ❖ Any other requirements for the assessment of the project proposal.

### 2 ISSUANCE OF GUIDELINES FOR THE PREPARATION OF A DRAFT OF ENVIRONMENTAL IMPACT STATEMENT (DRAFT EIS)

Section 7.5.2 of the NILCA directs the NMRIRB to issue project-specific guidelines to the proponent. A Draft EIS is a detailed document prepared by the proponent, in accordance with the guidelines issued by the NMRIRB, that identifies, predicts, evaluates and communicates information about the ecosystemic and socio-economic impacts of a project proposal.

A Draft EIS includes the identification and development of mitigation measures, meaning measures designed to control, reduce or eliminate potentially adverse impacts of an activity or project. In the development of guidelines, the NMRIRB will draw on information obtained from the scoping stage and circulate draft guidelines to parties, offering an opportunity for comment. The NMRIRB will consider those recommendations when it finalizes the guidelines and issues them to the proponent for the preparation of a Draft EIS.

The NMRIRB may also consult with the public and parties to identify valued ecosystem components and valued socio-economic components that should be addressed by the proponent's Draft EIS.



Photo by Nellie Amidlak





Photo by Emma Cain

The proponent must conduct field studies and community consultations in order to complete the Draft EIS. They must work with Inuit in order to produce a report that properly reflects Inuit Traditional Knowledge and available scientific knowledge. This process is led by the proponent, who connects with community members in gathering the necessary information for the development of their Draft EIS.

Where appropriate, an impact statement shall contain information with respect to the following:

- (a) project description, including the purpose and need for the project;
- (b) anticipated ecosystemic and socio-economic impacts of the project;
- (c) anticipated effects of the environment on the project;
- (d) steps which the proponent proposes to take including any contingency plans, to avoid and mitigate adverse impacts;
- (e) steps which the proponent proposes to take including any contingency plans, to avoid and mitigate adverse impacts;
- (f) steps which the proponent proposes to take to compensate interests adversely affected by the project;
- (g) the monitoring program that the proponent proposes to establish with respect to ecosystemic and socio-economic impacts;

## PHASE 2: DRAFT ENVIRONMENTAL IMPACT STATEMENT

3

### PREPARATION AND SUBMISSION OF THE DRAFT EIS BY THE PROJECT PROPONENT

It is the responsibility of the proponent to prepare the Draft EIS in accordance with the guidelines and requirements established by the NMRIRB. In some cases, where the original project proposal submitted by the proponent for screening contains the information required for a Draft EIS, the NMRIRB may accept the original project proposal document as a Draft EIS<sup>1</sup>.

The purpose of the Draft EIS is to identify, predict, evaluate and communicate information about the potential impacts of a project proposal on the environment, people and economy. The proponent must include management and monitoring plans that it proposes to use to control, reduce or eliminate potentially negative impacts.

<sup>1</sup>Nunavik Inuit Land Claims Agreement – Section 7.5.2.



## 4 REVIEW OF DRAFT EIS FOR CONFORMITY WITH THE GUIDELINES

Once the NMRIRB receives the hard copy of the Draft EIS, it will conduct an internal review of the material to determine whether the Draft EIS addresses the provisions of guidelines. Should any deficiencies be identified, the proponent is responsible for submitting supplementary information or may be required to revise and resubmit the Draft EIS.

If the Draft EIS is deemed by the NMRIRB to be satisfactory, the NMRIRB will provide copies to interested parties and to submit any outstanding information. Once parties have received their Draft EIS copies, the NMRIRB will proceed to the next step in the process.

## 5 TECHNICAL REVIEW OF DRAFT EIS

A technical review is a detailed review of the Draft EIS that includes communities, parties, the NMRIRB and the proponent. Its intent is to analyze the quality and completeness of the information presented by the proponent. A technical review of a Draft EIS by interested parties is comprised of the following:

- ❖ Determination of whether parties agree or disagree with the conclusions in the Draft EIS regarding the alternative assessment, environmental impacts, proposed mitigation, significance of impacts, and monitoring measures and reasons to support the determination;
- ❖ Determination of whether or not conclusions in the Draft EIS are supported by the analysis and reasons to support the determination;
- ❖ Determination of whether appropriate methodology was utilised in the Draft EIS to develop conclusions and reasons to support the determination, along with any proposed alternative methodologies which may be more appropriate (if applicable);
- ❖ Assessment of the quality and presentation of the information in the Draft EIS; and
- ❖ Any comments regarding additional information which would be useful in assessing impacts – and reasons to support any comments made.

During the preliminary phase of the Draft EIS technical review phase, the NMRIRB will invite parties to submit information requests to the proponent and/or to other parties.



Photo by Emma Cain

Both project-specific and cumulative environmental assessments are included in the technical review. All technical reviews are project-specific, and the NMRIRB may advise interested parties of additional requirements to be included in the technical review phase of the Draft EIS.

At the same time, the proponent may submit information requests to the parties. The process for submitting and receiving information requests is generally as follows:

- ❖ Parties submit their information request to the NMRIRB;
- ❖ The information request must contain the following information:
  - To whom the information request is directed;
  - Identification of the issue;
  - The concern associated with the issue; and
  - A clear rationale of the issue's importance to the environmental assessment of the project.
- ❖ The NMRIRB may make a decision on whether or not the party to whom the information request is directed must respond. In most cases, however, the information request will be forwarded to the relevant party;
- ❖ The NMRIRB will set a time frame for parties to respond; and
- ❖ The NMRIRB will post all responses on the public registry and notify the distribution list.

## 6 TECHNICAL MEETINGS

The NMRIRB may decide to hold a technical meeting involving discussions on technical matters related to the Draft EIS. The technical meeting is kept as informal as possible. As such, the Board is not present and the meeting is facilitated by the NMRIRB staff.

The proponent and interested parties are invited to attend the technical meeting which usually takes place over the course of a few days, depending on the scope of the project and concerns submitted by parties. During the technical meeting, the NMRIRB staff will compile a list of commitments made by the proponent that will be updated or further addressed in the Final EIS. This list is brought forward into the Pre-Hearing Conference.

## 7 PRE-HEARING CONFERENCE

Following the technical meeting, the Board may choose to hold a Pre-Hearing Conference (PHC). PHCs are held in the community closest to the proposed project. The public is invited to attend and share about the quality of the information of the Draft EIS with the Board.

Parties present to the Board the issues that were resolved during the technical meeting and identify outstanding issues that need to be addressed in the Final EIS. The logistics for the Final Hearing are also discussed (e.g. timelines for submissions, where and when the hearing will be held, etc.). After the PHC, the Board will issue a PHC decision to the proponent regarding what is required in the Final EIS and the procedures for the review of the Final EIS and final hearing.

At the end of the Draft EIS technical review period, written submissions are solicited from the parties prior to holding a technical meeting. The NMRIRB will provide direction on the format of written submissions.

In some instances, if the Draft EIS is determined to contain quality information and analyses which requires only minor additions and modifications, the Board may elect to accept the Draft EIS as the Final EIS.

## PHASE 3: FINAL ENVIRONMENTAL IMPACT STATEMENT

### 8 PREPARATION AND SUBMISSION OF THE FINAL EIS BY THE PROJECT PROPONENT

It is the responsibility of the proponent to prepare the Final EIS in accordance with the PHC decision of the Board and the list of commitments formulated at the technical meeting and approved by the Board. Once the NMRIRB considers that the Final EIS is complete, the proponent is responsible for circulating print copies of the Final EIS to all parties involved in the Review. NMRIRB staff make sure all parties received electronic copies and that it is posted on the public registry for everyone to access.

### 9 COMPLIANCE REVIEW OF FINAL EIS

Following receipt of a hard copy Final EIS submission, the NMRIRB will conduct an internal review and decide if all of the required information has been submitted and the commitments made during the technical meeting have been met. Should any omissions be identified, the proponent is responsible for submitting supplementary information, and if the Final EIS is found to be significantly noncompliant with the PHC decision of the Board and the list of commitments formulated of the technical meeting and approved by the Board; the Final EIS may be returned to the proponent.

### 10 TECHNICAL REVIEW OF THE FINAL EIS

The Final EIS technical review is a detailed analysis of the Final EIS. Its intent is to review the quality of the new and/or revised information presented by the proponent and to reconsider the preexisting information and the overall project in light of the information contained in the Final EIS. A technical review of a Final EIS comprises the following:

- ❖ Determination of whether parties agree or disagree with the conclusions regarding the alternatives assessment, environmental impacts, proposed mitigation, significance of impacts, and monitoring measures and all evidence supporting the parties' position;
- ❖ Determination of whether or not conclusions are supported by the analysis and all evidence supporting the parties' position;
- ❖ Determination of whether appropriate methodology was utilised to develop conclusions and all evidence supporting the parties' position;
- ❖ An assessment of the quality of the information presented; and
- ❖ Determination regarding the appropriateness of proposed monitoring measures and evidence to support the determination, along with any proposed alternative monitoring measures which may be more appropriate (if applicable).

Parties prepare a written submission in advance of the Final Hearing in which the above are addressed. All technical reviews are project-specific, and the NMRIRB may advise parties of additional requirements to be included in the technical review phase of the Final EIS. The NMRIRB may also facilitate a second round of information requests if necessary at the beginning of the Final EIS technical review phase as per the process outlined here.

Once the NMRIRB considers the Final EIS to be complete, the proponent is responsible for circulating print copies of the Final EIS to all parties involved in the Review. NMRIRB staff make sure all parties received electronic copies and that it is posted on the public registry for everyone to access.

Before the Final Hearing, the NMRIRB may hold a special information session for the host communities. At this information session, members of the public can learn what to expect in the Final Hearing, so that everyone feels comfortable and prepared to actively participate.

A NMRIRB Final Hearing provides a public and formal forum for the discussion of proposed projects. Interested parties, including members of the public affected by a project proposal, are given the chance to voice their comments and present information to the Board.

Significantly, the Final Hearing gives due regard and weight to the knowledge and perspectives of Elders and community members, and to the tradition of Inuit oral communication and decision-making. With respect to parties, Makivik Designated Organizations are allowed full standing, which means they have the right to participate as a party in any proceedings before the NMRIRB.

In order to encourage participation at the hearing, the NMRIRB will inform the public two weeks prior to the hearing by way of advertisements in regional newspapers, local posters, and radio announcements. The hearing provides a forum for Parties, and the public to make comments and present information to the NMRIRB regarding the project. Significantly, the hearing is an opportunity for the Board to give due regard and weight to the tradition of Inuit oral communication and decision making, through the participation of Elders and community members.

The NMRIRB will make every effort to ensure that all affected communities are represented at the hearing. Additionally, the NMRIRB makes every effort, within reasonable limits, to ensure the hearing is scheduled at appropriate times of the year, respecting times when the public traditionally travels on the land, conducts harvesting activities or participates in celebrations. The NMRIRB will also ensure the hearing proceedings are translated into Inuktitut. The hearing proceedings are also translated into French, if requested.

Any individual or group who want to make a formal presentation at the Final Hearing can request Party status. This is another way you can participate.

You can request to register formally as a Party at any point up to the deadline set by the Board in its Notice of Hearing. Contact NMRIRB staff to obtain the form to apply. As an Party, you are given a set amount of time on the agenda to present to the Board, with your presentation and any supporting documents entered into evidence. As an Party you may participate in the cross-examination of other witnesses before the Board as well.

Please refer to the document “NMRIRB: Rules of Procedure” for complete details on the hearing process.



Photo by Malaya Qaunirq-Chapman

#### Note:

The NMRIRB may conduct its review by means of written or in-person public hearings or such other procedures as it deems appropriate to the nature of the project and range of impacts, as outlined in Section 7.5.3 of the NILCA.



## NMRIRB ISSUES FINAL REPORT TO THE MINISTER

Following the Final Hearing, the NMRIRB will issue a report on the project proposal to the Minister who has jurisdictional responsibility for authorizing the project to proceed. The report contains the Board's assessment of the project and its impacts, and based on this assessment, a determination of whether or not the project should proceed.

Where the NMRIRB concludes that the project should proceed, terms and conditions will be included to ensure the integrity of the development process. Any terms and conditions added by the NMRIRB will reflect the primary objectives set out in Section 7.2.5 of the NILCA – to protect and promote the existing and future well-being of the persons and communities resident in or using the NMR, and to protect the ecosystemic integrity of the NMR, taking into account the well-being of residents of Canada outside the NMR.

The Board's determination will be forwarded to the Minister, the proponent and the parties and is usually issued within 45 days following the closing of the Final Hearing.

## MINISTER'S DECISION

Although the NMRIRB makes a determination on projects under review, it is the Minister who makes the final decision. Upon receipt of the NMRIRB's report, Section 7.5.7 of the NILCA directs the Minister to take one of five courses of action as shown here in Figure 2.



### OPTION 1

#### Accept the NMRIRB's Determination to Proceed

Accept the report of the NMRIRB as to whether or not the project should proceed, including any attached terms and conditions.



### OPTION 2

#### Reject the NMRIRB's Determination to Proceed if not in National or Regional Interest

Reject the determination of the NMRIRB that a project should proceed on the basis that the proposal is not in the national or regional interest.



### OPTION 3

#### Reject the NMRIRB's Determination to Proceed if the Conditions are Inappropriate

Reject the determination of the NMRIRB that a project should proceed on the grounds that:

- ◆ any of the terms and conditions are more onerous than necessary or insufficient to mitigate to an acceptable level the ecosystemic and socio-economic impacts; or
- ◆ the terms and conditions are so onerous that they would undermine the viability of a project that is in the national or regional interest.

In this situation, the NMRIRB must reconsider the terms and conditions in light of the reasons put forth by the Minister.



### OPTION 4

#### Reject the NMRIRB's Determination to not Proceed if in National or Regional Interest

Reject the determination of the NMRIRB that a project should not proceed on the grounds that the project should have been approved because of its importance to the regional interest.

In this situation, the Minister will refer the report back to the NMRIRB to determine terms and conditions which should be attached to any project approval.



### OPTION 3

#### Refer the report back to the NMRIRB for further review

Refer the report back to the NMRIRB for further review or public hearing where the Minister determines that the report is deficient with respect to the ecosystemic and socio-economic issues. After additional review or hearings, the NMRIRB will submit another report to the Minister, which shall be accepted or rejected in accordance with the above reasons.

## PROJECT CERTIFICATE

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If the project is approved by the NMRIRB and the Minister, the NMRIRB will convene a meeting with agencies which have regulatory responsibilities for the project. This meeting facilitates the discussion of how project-specific terms and conditions will be implemented and who is responsible for implementing these terms and conditions.

Following this meeting, the NMRIRB will issue a project certificate to the proponent, including any terms and conditions which have been accepted or varied by the Minister.

At any time after the issuance of a project certificate, the NMRIRB may, on its own account, or upon application by a Makivik Designated Organization, the proponent, or other parties, reconsider the terms and conditions contained in the NMRIRB project certificate if it is established that:

- ❖ The terms and conditions are not achieving their purpose;
- ❖ The circumstances relating to the project or the effect of the terms and conditions are significantly different from those anticipated at the time the project certificate was issued; or
- ❖ There are technological developments or new information which provide a more efficient method of accomplishing the purpose of the terms and conditions.

## MONITORING AND ENFORCEMENT

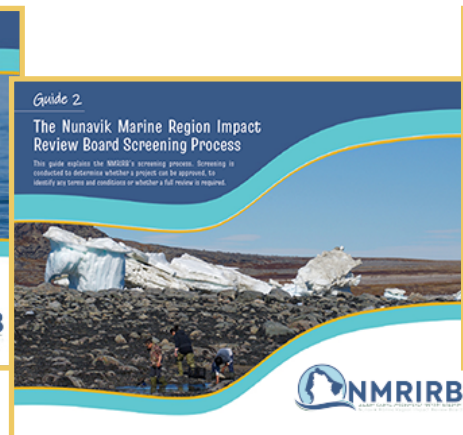
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Please see NMRIRB's Guide 4 – Project Monitoring for more information regarding project specific monitoring.

# What Additional Information Regarding the NMRIRB EA Process is Available?



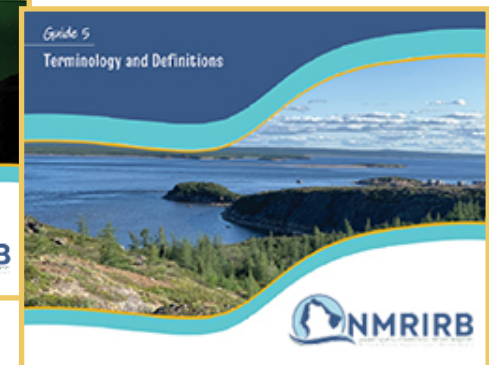
Guide 1: Overview



Guide 2: Screening Process



Guide 4: Project Monitoring



Guide 5: Terminology and Definitions

## Contact the NMRIRB

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c/o Executive Director  
CP 509, Kuujuaq, Quebec  
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Public Registry: [www.nmrrib.ca/registry/](http://www.nmrrib.ca/registry/)