

Version Number	Date	Updates
1.0	October 17, 2023	Initial version

Memorandum of Understanding Implementation Plan – 2023

Nunavut Impact Review Board

Mackenzie Valley Environmental Impact Review Board

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Introduction and purpose

In September 2022, the Mackenzie Valley Environmental Impact Review Board (Review Board) and the Nunavut Impact Review Board (NIRB) signed a Memorandum of Understanding (MOU). The MOU describes the framework that supports and enables the Boards to work together, in fulfillment of their respective mandates.

This Implementation Plan (the Plan) was developed by Board Staff as a requirement of the MOU. The Plan:

- describes the ways in which the Boards might work together, and the legislative or other triggers for those ways of working together;
- defines a process by which project-specific cooperation plans can be established; and
- includes a high-level description of some of the things that could be included in project-specific cooperation plans.

Development approach

The MOU provides the framework for a productive, cooperative and mutually beneficial relationship between the NIRB and the Review Board. The Implementation Plan describes at a high level the different ways that the Boards can work together, including cooperation, coordination, and collaboration. The types of interactions the Boards may have become more formalized as they move from cooperation to coordination and collaboration. Formal agreements between the two (2) Boards may be necessary, including project-specific coordinated plans during collaboration. The specific details,

roles and responsibilities governing Board interactions for specific projects will be established through the negotiation of project-specific Coordination Plans (See [Figure 1](#)).

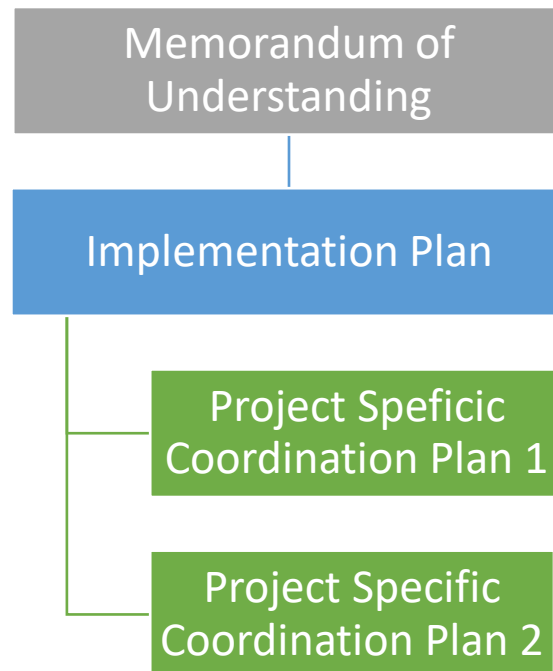


Figure 1 Framework for cooperation between the NIRB and the Review Board

Ways of working together

While the Boards have unique mandates stemming from their respective foundational legislation, there are many reasons for and situations requiring the Boards to work together. For example:

1. An ongoing level of cooperation that allows Board staff to share resources and expertise, and to learn from and support one another.
2. Non-assessment projects agreed to by both Boards (for example, joint training programs or staff sharing agreements).
3. Legislation requiring the Boards to work together on project specific assessment (for example, on transboundary or transregional projects and/or joint panel reviews) ¹
4. Legislation requiring the Boards to work together on non-project specific assessments (for example, on Regional Strategic Environmental Assessments).²

In each of these situations, the Boards can work together along a spectrum of increasing organization and harmonization from cooperation to coordination (see [Figure 2](#)).

¹ NuPPAA s. 159; MVRMA s.140(1) and 141(1)

² MVRMA Part 5.2

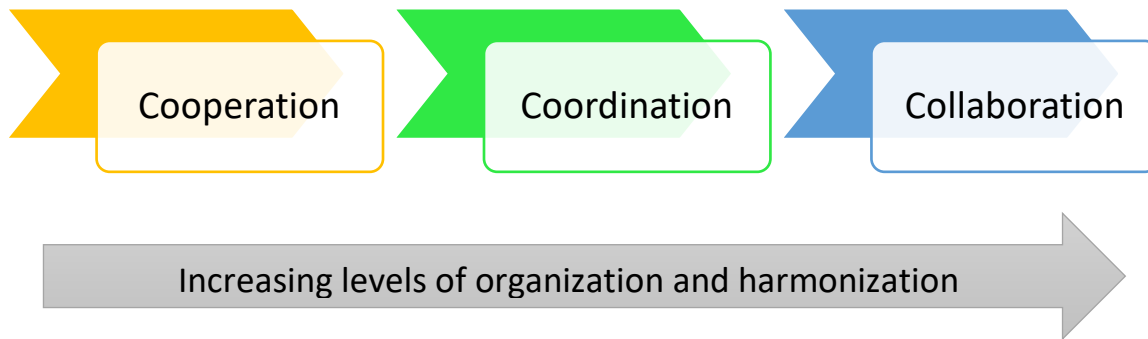


Figure 2 Ways of working together along a spectrum of organization and harmonization

Cooperation

Cooperation is the most flexible and least formal type of relationship between the two Boards. It is the baseline, starting point for all interactions between Boards. It is characterized by:

- Sharing information, expertise, and resources
- Informal, staff to staff interactions
- Providing resources or information on an as needed basis to help the Boards meet their respective mandates and responsibilities
- Conducting joint staff training and education opportunities
- Job Shadowing
- Workshops

Cooperation is wide-ranging and helps both boards meet their respective mandates. Either Board may have some transboundary requirements to carry out in this situation but in general this framework can be more of an informative and resource sharing type of relationship that the Boards mutually agree to.

Past Examples:

- NIRB staff assisting Review Board staff when planning a public hearing for the Jay Project in Kugluktuk, Nunavut. Information shared and assistance provided included: key community contacts, including interpreters; logistics support; common methods of advertisement used; and in-person support during the hearing.
- Review Board staff sharing key contacts and information on institutional structures in NWT with NIRB staff.
- Staff sharing contacts and input on training opportunities.
- Sharing information about developing guidelines for impacts on people.

- NIRB staff participating in Review Board training and workshops on their experience with Strategic Environmental Impact Assessments.

Coordination

Coordination happens when the Boards are enabled by legislation to expedite and improve their respective impact assessment proceedings. Examples of situations that might trigger a coordinated approach to working together include:

- planning coordinated public hearings or community events in such a way that minimizes the potential for scheduling conflicts
- assessments of proposed developments that have the potential for transboundary impacts³ and
- assessments of transregional projects⁴

Past Examples:

- Review Board staff discussing the potential for a Regional Strategic Environmental Assessment in the Slave Geological Province with NIRB staff and continuing discussions throughout development of the process, including the role of each Board in the study.
- Direction from the Minister of Indian Affairs and Northern Development (2004) to the NIRB for the “Bathurst Inlet Port and Road” (BIPAR) Project to structure the Review to enable the best consideration of relevant issues to interested parties in the NWT and to develop an early and ongoing relationship with the relevant Boards outside of the Nunavut Settlement Area.

Collaboration

Collaboration is the most formal and integrative way the Boards might work with each other. Collaboration would likely be required for a joint assessment of a project or a regional strategic environmental assessment. Collaboration usually involves:

- a legal mechanism requiring the Boards to work together, such as direction from a responsible Minister and.
- the development of *Terms of Reference* or other formal agreement, including a project-specific plan, to govern and define the relationship between the Boards.

A collaborative working relationship is necessary in situations where the Boards need to conduct an environmental impact assessment process together. This can be the case in assessments of projects with transboundary effects where required by the federal Minister.⁵

Past and Potential Examples:

- Review Board public comments during the NIRB screening of the “Grays Bay Road and Port” project and its support for collaboration, coordination and cooperation with the NIRB regarding consideration of these transboundary issues.
- Secondments
- NIRB and Review Board staff holding a joint cumulative effects workshop.

³ See section 140 of the *Mackenzie Valley Resource Management Act* (the Act)

⁴ See section 141 of the Act

⁵ See section 141(2) of the Act

Principles in Action

The Boards have agreed to six (6) core principles when working together, which are outlined in the MOU. These principles are meant to be applied as the base for the Boards' interactions through cooperation, coordination, and collaboration. While they all may not be applicable for all possible interactions, most would apply when coordinating or collaborating on a specific project or assessment. Detail on how these principles can be applied, including examples are provided below. Additional clarification will be outlined in specific agreements, including project-specific cooperation plans, between the Boards.

Notification

Staff will provide timely notice of any matter relevant to the MOU or any future agreements. The amount of time required for notification will be dependent on the individual situation or process.

Information Sharing

Staff will share information early and openly unless it is of a sensitive and confidential information or specified in an applicable data-sharing agreement.

Confidentiality and Use of Information

If needed, staff will formally request confidential information from their respective counterparts (for example, between administrative staff, Directors etc.). Considerations during joint processes would include how confidential information would be shared between Boards, stored, and shared with participants in a process, including the public.

Consultation

The Boards will consult one another early on in a process and undertake ongoing discussions.

Identification of Opportunities for Cooperation, Coordination and Collaboration

The Boards will identify opportunities for cooperation, coordination, and collaboration on an ongoing basis.

Transparency and Accountability

Subject to confidentiality, privacy, and applicable data-sharing agreements, the Boards will post information shared publicly on their respective public registries.

Examples Include

- Following mandated timelines when issuing formal processes (such as notification of a proposed project or distribution of an information request).
- Informally informing the other of potential processes that could result in transboundary impacts within the other's jurisdiction before the process becomes public.
- Responding to information requests as part of a project specific process (e.g. providing data).
- Developing processes to share and store confidential information.
- Sharing key contacts for organizations within one Board's jurisdiction with the other.
- Sharing information on training as requested.

- Posting responses to Information Requests on the particular Board’s public registry.

Actions to be Considered in a Project-specific Cooperation Plan

This section describes how the principles listed above could be carried out through a range of actions and are listed by category. The extent of interactions between the Boards would depend on the process and the extent of coordination, cooperation, and collaboration. This is not an exhaustive list and additional direction would be defined within any project-specific agreements between the two (2) Boards.

Identification of Opportunity and Level of Involvement

- Opportunities for cooperation, coordination, and collaboration between the two (2) Boards could be identified through a range of actions, including:
 - Staff identifying potential for transboundary impacts during a project-level assessment
 - Government direction
 - Board direction
- The Executive Directors, Legal Counsel, and the Board could all be involved for increasing levels of interaction, particularly for joint-led processes.
- The Executive Directors of each Board would likely coordinate interactions between the Board members (such as joint training).

Process steps

Once opportunities for cooperation, coordination, and collaboration have been identified, the process and level of interaction would be identified and or/developed. Considerations include:

- Process steps
 - Information requirements
 - Timelines
 - How stakeholders and participants will be identified
 - Opportunities for public engagement
 - Consultation
 - Management of information
 - Key points of contact
 - Document sharing and storage (e.g. public registry of (1) one or both Boards)
 - Sharing and storage of confidential information

Work Planning

Work planning considerations could include:

- Identifying/developing the process for making decisions
- Developing the approach for the staff, Boards, and Legal Counsel would work together
- Designating staff
- Developing a working group(s)

Participants/Stakeholders

- Identification of key stakeholder groups and individual
- Undertaking engagement and consultation

Communication

- Communication between the Boards could involve different levels, including staff, Board members, and Legal Counsel.
- Communication would usually be between those with comparable authority, for example:
 - Administrative staff to administrative staff
 - Manager to manager
 - Technical staff to technical staff
 - Directors to Directors
 - Chairperson to Chairperson. The Executive Directors will reach out to one another on behalf of their respective Boards.
- The Executive Directors would assist in communication between the Boards.
- The Executive Directors would provide direction to the involvement of their respective Legal Counsels.
- Communication between the Boards and stakeholders and the public could include:
 - Written notifications and requests
 - In-person or virtual meetings
 - Working groups
 - Radio shows
 - Social media
- The language requirements (including translations and interpretations) for each process would be identified.

Resources

Resource considerations could include:

- Staff assignments
- Infrastructure (such as: Information Technology (IT), Website, public registry, social media etc.)
- Funding Requirements (such as: not-applicable, cost-sharing, participant funding, external funding)
- Contextual Information (Community profiles, regional dynamics)