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Comité consultatif de l'environnement Kativik  
Kativik Environmental Advisory Committee

## **KEAC Position Paper**

**On Bill 102 – An Act to amend the Environment Quality Act to Modernize the  
Environmental Authorization Scheme and to amend Other Legislative Provisions,  
in particular to reform the Governance of the Green Fund**

**Presented to the Committee on Transportation and the Environment  
of the National Assembly of Québec**

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## 1. Introduction

The Kativik Environmental Advisory Committee (KEAC) was created pursuant to Section 23 of the *James Bay and Northern Québec Agreement* (JBNQA). The KEAC is a consultative body to responsible governments in matters relating to environmental and social protection in Nunavik. In these matters, it is the preferential and official forum for the governments of Canada and Québec as well as the Kativik Regional Government (KRG) and the northern villages.

The functions of the KEAC include studying and making recommendations related to legislation, regulations and administrative procedures concerning the natural and social environments and land use as well as studying and making recommendations related to environmental and social impact assessment and review mechanisms and procedures. In this capacity, the KEAC has prepared comments and recommendations concerning Bill 102, *An Act to amend the Environment Quality Act to modernize the Environmental Authorization Scheme and to amend Other Legislative Provisions, in particular to Reform the Governance of the Green Fund*.

Nunavik covers close to 500 000 km<sup>2</sup>, or approximately 36% of the territory of Québec. Its inhabitants, who are predominantly Inuit, live in 14 northern villages. There are a number of industrial projects planned or in operation in this immense region, specifically in the field of natural resource development. In addition to these large-scale projects implemented essentially by private developers, most applications for environmental authorization originate from the KRG and the region's communities.



The KEAC eagerly studied Bill 102 tabled before the National Assembly by the Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques (sustainable development, the environment and the fight against climate change, MDDELCC) on June 7, 2016. The bill, which is intended to modernize several elements of the *Environment Quality Act*<sup>1</sup> (EQA), follows up on the *Green Paper* released in 2015 and for which the KEAC submitted a position paper to the Committee on Transportation and the Environment of the National Assembly in September of the same year<sup>2</sup>.

Several of the recommendations made by the KEAC in its position paper on the *Green Paper* are equally applicable to Bill 102. Specifically, the KEAC stressed that, although Nunavik is subject to particular rules concerning the impact of activities on the natural and social environments, and the amendment of these rules requires the consent of the interested parties<sup>3</sup>, it is important for the region's communities to benefit from some of the changes being proposed in this process to update the EQA.

Before presenting the KEAC's comments on the amendments proposed under Bill 102, it is pertinent to provide some background information on the environmental and social impact assessment and review procedure applicable in Nunavik.

## **2. Environmental and Social Impact Assessment and Review Procedure North of the 55th Parallel**

A specific environmental and social impact assessment and review regime applies in Nunavik. It was created under the JBNQA in 1975 and codified in Chapter II of the EQA in 1978<sup>4</sup>.

The KEAC and the Kativik Environmental Quality Commission (KEQC) were created shortly following the coming into effect of the JBNQA, i.e. 35 years ago. The KEQC is responsible for assessing development projects submitted to the environmental and social impact assessment

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<sup>1</sup> *Environment Quality Act*, CQLR, c Q-2.

<sup>2</sup> KEAC, *Position Paper: Green Paper on the Proposed Modernization of the Authorization Regime under the Environment Quality Act*. Submitted to the National Assembly of Québec's Committee on Transportation and the Environment, September 4, 2015, online: < [http://www.assnat.qc.ca/Media/Process.aspx?MediaId=AN\\_Q\\_Vigie.Bil.DocumentGenerique\\_106861&process=Default&token=ZyMoxNwUn8ikQ+TRKYwPCjWrKwg+vIv9rjij7p3xLGTZDmLVSmJLoqe/vG7/YWzz](http://www.assnat.qc.ca/Media/Process.aspx?MediaId=AN_Q_Vigie.Bil.DocumentGenerique_106861&process=Default&token=ZyMoxNwUn8ikQ+TRKYwPCjWrKwg+vIv9rjij7p3xLGTZDmLVSmJLoqe/vG7/YWzz) >, page consulted on August 3, 2016.

<sup>3</sup> JBNQA, paragraph 23.7.10.

<sup>4</sup> Sections 131 through 213 of the EQA. For additional information of the environmental and social impact assessment and review regime applicable in Nunavik, refer to Section 23 of the JBNQA and KEAC, *Environmental and Social Impact Assessment and Review Procedure Guide*, April 2008, online: < [http://www.keac-cceq.ca/en/environmental-procedure/ANNEXES\\_Guide\\_e.pdf](http://www.keac-cceq.ca/en/environmental-procedure/ANNEXES_Guide_e.pdf) >, page consulted August 3, 2016.

and review procedure applicable in Nunavik. Since the creation of these two bodies, much has changed in Nunavik. Economic development activities have increased and some are having significant and complex environmental and social impacts.

When it was first created, the KEQC was involved in assessing small-scale local projects, such as landing strips, water treatment facilities and landfills. Today, the KEQC is focused on major mining projects and support infrastructure that are transforming Nunavik. Despite these changes, the authorization regime has not undergone a revision since its creation and has received only minor updates regarding access to information, transparency, public participation and access to justice.

In 2009, the KEAC identified specific avenues for ensuring expanded Inuit participation and improving the environmental authorization procedure in Nunavik in its *Position Paper on Strengthening the Environmental and Social Impact Assessment and Review Procedure in Nunavik*<sup>5</sup>. The position paper stated that Inuit rights to participate in future development in the region must be clearly set out so as to ensure greater legal protection:

Regarding environmental assessment, access to information and public participation are internationally recognized rights in a growing number of countries. The limited legal guarantees offered to Inuit and the region's residents in these respects are a weakness in Nunavik's current assessment and review procedure.<sup>6</sup>

In its 2009 position paper, the KEAC made recommendations regarding i) the revision of the schedules of Section 23 of the JBNQA, ii) the strengthening of Inuit participation in the assessment procedure and decision-making, and iii) the introduction of strategic environmental assessment. Notwithstanding, to this day none of these recommendations has been followed up. Work has been launched to conduct a revision of schedules 1 and 2 of Section 23 of the JBNQA which consist of, respectively, the types of projects subject to and exempt from assessment. Notwithstanding, no concrete amendments have yet been presented.

In 2014, the report on the Parnasimautik process, a comprehensive consultation in all the communities of Nunavik, also emphasized the need to modernize the environmental and social impact assessment regime<sup>7</sup>. In light of the conclusions of this report and the recommendations made by the KEAC in 2009, the KEAC believes that the revision process proposed in Bill 102 represents a unique opportunity to make progress towards achieving the desired modernization

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<sup>5</sup> KEAC, *Position Paper on Strengthening the Environmental and Social Impact Assessment and Review Procedure in Nunavik*, April 2009, online: < [http://www.keac-cek.ca/documents/memoires-avis/avis-final-en\\_20091109162112.pdf](http://www.keac-cek.ca/documents/memoires-avis/avis-final-en_20091109162112.pdf) >, page consulted on August 3, 2016.

<sup>6</sup> *Ibid.*, p. 5.

<sup>7</sup> *Parnasimautik Consultation Report*, online: < [http://parnasimautik.com/wp-content/uploads/2014/12/Parnasimautik-consultation-report-v2014\\_12\\_15-eng\\_vf.pdf](http://parnasimautik.com/wp-content/uploads/2014/12/Parnasimautik-consultation-report-v2014_12_15-eng_vf.pdf) >, page consulted on August 3, 2016.

of the environmental and social impact assessment and review procedure applicable north of the 55th parallel.

### **3. KEAC Comments on Bill 102**

The KEAC's comments on Bill 102 appearing below are focused on one particular theme: better take into account the linkage to be achieved between the provisions of the JBNQA (Chapter II of the EQA) applicable in Nunavik and the proposed amendments to the EQA. More specifically, the KEAC has commented and made recommendations regarding proposed amendments to terminology, interpretative clauses, authorization regimes, strategic environmental assessment, the principle of public participation, access to information, as well as the Fund for the Protection of the Environment and the Waters in the Domain of the State.

#### **a) Linkage with Chapter II (Title II) of the EQA: Amendment of Section 213 of the EQA**

The KEAC noted that Bill 102 proposes no amendment to Chapter II of the EQA or to section 213. For the purpose of consistency, however, the KEAC would advise that section 213 of the current EQA also be amended to take into account the new terminology proposed in Bill 102.

Section 213 of the EQA currently reads as follows:

**213.** Division IV.1 of Chapter I and the regulations for the application thereof do not apply in the territories contemplated in sections 133 and 168, except in respect of the regulations for the application of section 22 and the regulations generally applicable to the Bureau d'audiences publiques sur l'environnement made under paragraphs *c* and *d* of section 31.9.

Taking into account the amendments proposed in Bill 102, the KEAC recommends that this section be amended as follows:

**213.** Chapter IV.1 of Title I and the regulations for the application thereof do not apply in the territories contemplated in sections 133 and 168, except in respect of the regulations for the application of section 22 and the regulations generally applicable to the Bureau d'audiences publiques sur l'environnement made under paragraphs *c* and *d* of section 31.9. (the author's underlining)

This amendment would ensure greater consistency in the terminology used in the EQA.

#### **b) Interpretative Clauses**

### *Preliminary Provision*

The KEAC welcomes the proposal to add a preliminary provision to the EQA. The provision states as follows:

The purpose of this Act is to protect the environment and the living species inhabiting it, to the extent provided for by law. It fosters consistency with sustainable development principles and reduction of greenhouse gases, and makes it possible to take into consideration the evolution of knowledge and technologies, climate change issues and the realities of the territories and the communities living there.

The KEAC concurs with the explicit reference to the principles of sustainable development and to the impacts of climate change in the proposed preamble. Notwithstanding, the KEAC would urge law-makers to replace the term “issues”, an imprecise term, with “effects”, which is already employed in the EQA (section 31.76). In addition, the reference to “realities of the territories and the communities living there” is imprecise and would benefit from being clarified through the use of legally accepted concepts and principles, i.e. “respect for ecosystem support capacity” (section 6 (m), *Sustainable Development Act*<sup>8</sup>) and “to satisfying public health, sanitation, civil protection” (section 31.76, EQA). Finally, the KEAC recommends law-makers clearly state that the provisions of the EQA are also intended to meet the needs of “future generations”, which has been omitted from Bill 102.

### *Obligation to Consult Native Communities*

The KEAC would urge law-makers to integrate into the EQA interpretative clauses related specifically to the obligation to consult Native communities as was the case with the additions made in 2013 to the *Mining Act*<sup>9</sup>, which read as follows:

**2.1.** This Act must be construed in a manner consistent with the obligation to consult Native communities. The Government shall consult Native communities separately if the circumstances so warrant.

**2.2.** Taking into account the rights and interests of Native communities is an integral part of reconciling mining activities with other possible uses of the territory.

**2.3.** The Minister draws up, makes public and keeps up to date a Native community consultation policy specific to the mining sector.

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<sup>8</sup> *Sustainable Development Act*, CQLR, c. D-8.1.1.

<sup>9</sup> *Mining Act*, CQLR, c. M-13.1, sections 2.1 through 2.3.

### **c) EQA Authorization Regimes**

Bill 102 proposes a number of amendments to the authorization regimes established under the EQA. It should be recalled that, in Nunavik, a distinct environmental and social impact assessment and review procedure is applicable. Consequently, the provisions contained in sections 31.1 and following of Chapter I of the EQA are not applicable in Nunavik. Rather, it is the provisions contained in Chapter II (or Title II, proposed under Bill 102) of the EQA that are applicable in Nunavik, and represent a codification of sections 23 and 24 of the JBNQA.

Notwithstanding, the other authorization regimes of the EQA, including those provided for in sections 22, 32 and 48 of the EQA, continue to apply to activities carried out in Nunavik when subject to these regimes (paragraph 23.4.28, JBNQA).

#### *Amendments to the Authorization Regime under Section 22 of the EQA*

The KEAC concurs with several of the amendments proposed for the authorization regime under section 22 of the EQA. More specifically, the KEAC supports the clarification of rules regarding the admissibility of applications for authorization (section 23, proposed under Bill 102), the amendment of a ministerial authorization (section 30, proposed under Bill 102), the transfer of a ministerial authorization (sections 31.0.2 and 31.0.3, proposed under Bill 102), and an improved framework for the transfer of activities (sections 31.0.5, proposed under Bill 102).

Notwithstanding, generally speaking, the KEAC is concerned about the addition of a number of discretionary powers conferred on the Minister of Sustainable Development, the Environment and the Fight Against Climate Change, which do not appear to be adequately defined under Bill 102. For example, while section 24 of the EQA currently provides that the Minister shall, before providing authorization under section 22, “ascertain that the emission, deposit, issuance or discharge of contaminants into the environment will be in accordance with the Act and regulations”, section 31.0.3 proposed under Bill 102 provides that “the Minister may refuse to issue or amend an authorization if [...] the applicant has not demonstrated that the proposed activities comply with this Act and the regulations”.

The KEAC feels that, by conferring on the Minister an explicit power to authorize projects that do not comply with the EQA and its regulations, i.e. that undermine the objectives of the EQA, this amendment represents a step backwards for environmental protection. The KEAC therefore recommends adjusting the first paragraph of section 31.0.3 proposed under Bill 102 by replacing “may” with “shall”.

### *Amendments to the Environmental and Social Impact Assessment and Review Procedure*

Bill 102 proposes several amendments to the environmental and social impact assessment and review procedure applicable in southern Québec. The KEAC feels that some of the amendments proposed under Bill 102 for Chapter I of the EQA would also be beneficial for the regime applicable in Nunavik. This statement applies, for example, to the clarifications made regarding the conditions of admissibility for impact assessment statements and the termination of environmental assessment (section 31.3.4, proposed under Bill 102).

The KEAC also noted amendments proposed under Bill 102 regarding public participation that would be beneficial for Nunavik. In this respect, it is worth mentioning the provision that permits any person to become involved earlier in the environmental and social impact assessment and review procedure (section 31.3.1, proposed under Bill 102).

As well, improvements to the provisions applicable to the northern committees provided for under Chapter II of the EQA should be made in line with the amendments proposed under Bill 102 which in particular enable the Government to establish a member selection procedure for the Bureau d'audiences publiques sur l'environnement (section 6.2.2, proposed under Bill 102) and to specify the length of the terms of the members (section 6.2, proposed under Bill 102). These kinds of amendments to Chapter II would improve the selection of members for northern committees and the appointment procedure.

### *Reduction in Greenhouse Gas Emissions and Climate Change Adaptations*

Bill 102 also proposes to add to the elements that must be taken into consideration by the Minister “greenhouse gas emissions attributable to the project and [...] any climate change impact mitigation and adaptation measures a project may entail” (section 24, proposed under Bill 102). The KEAC understands that the MDDELCC also plans to subject certain projects to these requirements in the framework of a ‘climate test’, whose application will depend on a greenhouse gas emissions threshold provided for in the *Regulation respecting the Application of the Environment Quality Act*<sup>10</sup>.

The KEAC supports this measure and would like to reiterate the need to include the fight against climate change in the authorization procedure under the EQA. To this end, in 2012 as part of the consultations on the development of the government strategy on climate change adaptation 2013–2020, the KEAC emphasized the importance of determining the adaptation measures required for Nunavik and including them in the strategy<sup>11</sup>.

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<sup>10</sup> *Regulation respecting the Application of the Environment Quality Act*, CQLR, c. Q-2, r. 3.

<sup>11</sup> KEAC, Letter about the draft government strategy on climate change adaptation 2013–2020 followed by recommendations concerning the future 2013–2020 action plan on climate change, April 2012, online: < <http://www.keac-ccck.ca/documents/memoires-avis/avis-2012-04.pdf> >, page consulted on October 3, 2016.

Climate change is already being felt in Nunavik: permafrost thawing, soil settling, changes in ice cover, as well as changes in water regimes and storms. These changes are impacting on buildings as well as industrial and transportation infrastructure in the north<sup>12</sup>. Moreover, all indications suggest this phenomenon will become more severe in the years to come<sup>13</sup>. In this context, it is essential that amendments to the authorization procedures under the EQA take into account this reality.

### *Repeal of the Obligation to Obtain a Certificate of Compliance from the Municipality*

The KEAC has noted the repeal of the obligation of project proponents to obtain certificates of compliance with the bylaws of the municipalities in which the projects are to be carried out<sup>14</sup>. This procedure currently permits municipalities, including the KRG, to be kept informed upstream of projects planned in their territories and to ensure consistent land planning. This procedure is particularly relevant in a territory as large as Nunavik where projects are planned well in advance and often take place outside of the communities, i.e. far away from the communities.

The KEAC feels that the repeal of this requirement is not desirable and is hardly compatible with the principle of “subsidiarity” established in the *Sustainable Development Act* (section 6 (g)) or with the preamble proposed in Bill 102, which states that “[t]he purpose of this Act [...] makes it possible to take into consideration [...] the realities of the territories and the communities living there.” The KEAC recommends that Bill 102 be modified in order to maintain the obligation of project proponents to obtain certificates of compliance with the bylaws of the municipalities in which the projects are to be carried out.

Moreover, the KEAC would like to recall that specific rules are applicable in Nunavik regarding land use planning. Specifically, the KRG is not subject to the *Act respecting Land Use Planning and Development*<sup>15</sup>, but to the *Act respecting Northern Villages and the Kativik Regional Government*<sup>16</sup> (Kativik Act), which contains provisions regarding land use planning.

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<sup>12</sup> Refer in particular to ENVIRONMENT CANADA and NORTHERN ECOSYSTEM INITIATIVE, *Climate Change in Nunavik and Northern Québec: Access to Land and Resources*, Final Report, March 2008; Kativik Regional Government, *Building Capacity and Raising Awareness on Climate Change among Local Governments and Land Use Planners in Nunavik*, March 2013, online:

< [www.ouranos.ca/media/publication/283\\_RapportBarrettetGagnon2013.pdf](http://www.ouranos.ca/media/publication/283_RapportBarrettetGagnon2013.pdf) >, page consulted on October 3, 2016.

<sup>13</sup> OURANOS, *Synthesis on Climate Change Knowledge in Québec*, 2015, online: < <https://www.ouranos.ca/en/synthesis-2015/> >, page consulted on October 3, 2016.

<sup>14</sup> Bill 102, section 244 repealing section 8 of the *Regulation respecting the Application of the Environment Quality Act*; section 245 repealing section 3 (1) of the *Regulation respecting Pits and Quarries*; and section 252 repealing section 5 of the *Regulation respecting Hot Mix Asphalt Plants*.

<sup>15</sup> *Act respecting Land Use Planning and Development*, CQLR, c. A-19.1.

<sup>16</sup> *Act respecting Northern Villages and the Kativik Regional Government*, CQLR, c. V-6.1.

Since the enabling provisions of the Kativik Act regarding land use planning are more general than those of the *Act respecting Land Use Planning and Development*<sup>17</sup>, the land use planning tools for Nunavik are different than those in effect in southern Québec.

It must also be pointed out that the *Master Plan for Land Use in the Kativik Region* has been an official KRG bylaw since 1998. The Master Plan sets out the main land-planning and land-use orientations north of the 55th parallel. It was approved, in accordance with the law, by the Ministère des Affaires municipales, des Régions et de l'Occupation du territoire on February 15, 1991. The KRG is currently focused on developing regulations for the application of the Master Plan.

### *Introduction of a New Authorization Regime based on Declarations of Compliance*

Bill 102 stipulates that some activities referred to in section 22 will become eligible for declarations of compliance in the case of projects with fewer environmental impacts or for exemptions in the case of projects with negligible impacts (sections 31.0.6 and 31.0.12, proposed under Bill 102). These activities will be defined by regulations that are currently not available. In this context (current absence of any regulations), it is difficult for the KEAC to take an informed position on the new authorization regime based on declarations of compliance.

Notwithstanding, the KEAC would like to emphasize that the lists of activities for this regime must take into account the environment in which the projects are carried out. Due to especially harsh climatic conditions, environmental infringements and impacts in the north are likely to be greater than the same in the south for similar projects. For example, the simple operation of heavy equipment on the tundra can lead to long-term damage to this particularly fragile environment. Regulations for the application on the new authorization regime should therefore provide different lists of projects based on the region since the environmental and social impacts can contrast significantly. They could also include specific thresholds for Nunavik.

The KEAC also feels that regional and local bodies should be involved in determining the different categories of activities that would become subject to the new authorization regime based on declarations of compliance.

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<sup>17</sup> The *Act respecting Land Use Planning and Development* establishes for southern Québec a comprehensive legal framework for the adoption of subordinate legislation for master plans or land use and development plans. For its part, the *Act respecting Northern Villages and the Kativik Regional Government* contains a single, general clause for this same purpose.

## d) Strategic Environmental Assessment and Nunavik

The KEAC concurs with the inclusion of strategic environmental assessments in the EQA (sections 95.5 to 95.14, proposed under Bill 102).

In accordance with Bill 102, the objectives of strategic environmental assessment would be to:

promote fuller consideration, in the development of the Administration's programs, of environmental issues and of the principles of sustainable development provided for in the Sustainable Development Act (chapter D-8.1.1). A further objective of the assessment may be, if necessary, to determine any conditions of environmental and social acceptability for projects resulting from those programs.<sup>18</sup>

The KEAC considers that Bill 102 is not sufficiently clear regarding how strategic environmental assessments would be applied in Nunavik. In this respect, the KEAC recommends that particular attention be paid to the application and linkage of this procedure with the environmental and social impact assessment and review procedure applicable in Nunavik. For example, would the findings of a strategic environmental assessment be applied to or included in directives delivered pursuant to Chapter II of the EQA?

More generally, the KEAC has concerns regarding the composition of the Strategic Environmental Assessment Advisory Committee proposed under Bill 102. The five members of this committee, whose role would be to define the scope of a strategic environmental assessment and the nature of the public consultations to be carried out, would originate from and be appointed by the Government. In the opinion of the KEAC, it would be desirable to ensure the representation of civil society, Aboriginal groups and the private sector on this new committee.

Finally, the KEAC is concerned about the purely discretionary nature for launching strategic environmental assessments. Section 95.5 proposed under Bill 102 stipulates that “[t]he Administration's programs [...] may, if they are likely to have environmental effects, be the subject of a strategic environmental assessment”. The KEAC feels that the application of strategic environmental assessments should be mandatory for certain kinds of Administration programs, as is the case in particular for the federal government<sup>19</sup> and in France<sup>20</sup>.

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<sup>18</sup> Bill 102, section 116 modifying section 95.5 of the EQA.

<sup>19</sup> Government of Canada, *Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals*, 2010.

<sup>20</sup> France, *Code de l'environnement*, Article R122-17.

## e) Principle of Public Participation

The KEAC noted amendments proposed under Bill 102 regarding public participation. It is in particular proposed to invite “any person, group or municipality” to become involved earlier in the environmental and social assessment and review procedure by “submit[ting] observations to the Minister, in writing [...], on the issues the impact assessment statement should address” (section 31.3.1, proposed under Bill 102). This addition is interesting and should be a special focus of the signatories of the JBNQA during the revision of Chapter II of the EQA.

## f) Access to information

In its position paper submitted as part of the consultations on the *Green Paper*, the KEAC made the following observations regarding the proposed access-to-information orientations:

The KEAC supports greater transparency in decision making through access to and dissemination of documents and information relating to environmental authorizations. The current process for access to environmental information is intended to make a wide range of documents available to the public. However, the need to submit specific requests to obtain these documents limits the effectiveness of the right to information as enshrined in the EQA (sections 118.4 and 118.5) and the *Act respecting Access to Public Bodies and the Protection of Personal Information* (section 41.1).

Proactive dissemination of a wide range of information such as certificates of authorization and related documents, including environmental studies and requests for authorization, would no doubt reduce the administrative burden of processing information requests as well as shorten timetables. It is important to ensure that the proposed public registry for environmental authorizations and other information will include projects in Nunavik. As well, it should be ascertained that northerners will be able to access the information quickly and easily.<sup>21</sup>

The KEAC noted that the measures proposed in Bill 102 tend to be responsive to its concerns, in particular by increasing the information available pursuant to section 118.4 of the EQA as well as the information available through the online registries of the MDDELCC, including access to documents that are an integral part of authorizations, without the need to file access to information requests<sup>22</sup>.

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<sup>21</sup> KEAC, *Position Paper: Green Paper on the Proposed Modernization of the Authorization Regime under the Environment Quality Act*. Submitted to the National Assembly of Québec’s Committee on Transportation and the Environment, September 4, 2015, p. 6 online: < [http://www.assnat.qc.ca/Media/Process.aspx?MediaId=ANQ.Vigie.Bil.DocumentGenerique\\_106861&process=Default&token=ZyMoxNwUn8ikQ+TRKYwPCjWrKwg+vIv9rjij7p3xLGTZDmLVSmJLoqe/vG7/YWzz](http://www.assnat.qc.ca/Media/Process.aspx?MediaId=ANQ.Vigie.Bil.DocumentGenerique_106861&process=Default&token=ZyMoxNwUn8ikQ+TRKYwPCjWrKwg+vIv9rjij7p3xLGTZDmLVSmJLoqe/vG7/YWzz) >, page consulted on August 3, 2016.

<sup>22</sup> Bill 102, section 16 modifying section 27, paragraph 2 of the EQA; section 177 modifying section 118.5 of the EQA; and section 178 modifying section 118.5.3 of the EQA.

The KEAC also concurs with the proposal to implement a register of environmental assessments (section 118.5, proposed under Bill 102). It would nonetheless be appropriate to ensure that the information therein also covers projects being carried out in Nunavik and that it be easy and quick to access for northerners. To this end, the KEAC recommends adjusting section 118.5.0.1 of the EQA to include projects subject to the environmental and social assessment and review procedure applicable in Nunavik.

#### **g) Fund for the Protection of the Environment and the Waters in the Domain of the State**

Bill 102 proposes the addition of section 15.4.38 to the *Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs*<sup>23</sup> in order to create the Fund for the Protection of the Environment and the Waters in the Domain of the State, which is in particular intended to provide financial support to municipalities. The KEAC is of the opinion that this measure is equally applicable to the KRG, though for the purpose of clarity, the KEAC recommends an adjustment to this section to guarantee the eligibility of the KRG by specifying that “[t]he Fund is intended, in particular, to provide financial support to municipalities or, in the case of unorganized territory, a regional county municipality and to non-profit bodies working in the environmental field.”

## **4. Conclusion**

The KEAC reviewed Bill 102 with a great deal of interest. Overall, the KEAC has observed that, although the purpose of Bill 102 is not to amend the environmental assessment regimes applicable in the north, certain proposed amendments will nonetheless have an impact in Nunavik. Among these, the KEAC identified certain elements that could be adjusted to better take into account the linkage to be achieved with the regimes applicable in Nunavik. The KEAC also noted that certain amendments proposed under Bill 102 would be beneficial if introduced under Title II of the EQA in order to ensure better environmental and social protection in Nunavik.

Finally, since the eventual regulations arising from Bill 102 will have a significant impact on the scope of the amendments proposed under the bill, the KEAC would like to indicate its interest in being involved at the appropriate times in consultations on these draft regulations.

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<sup>23</sup> *Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs*, CQLR, c. M-30.001.

## KEAC RECOMMENDATIONS – SUMMARY

### **Linkage with Chapter II (Title II) of the EQA**

Adjust section 213 of the EQA to reflect the amendments proposed under Bill 102 (consistent use of terminology).

### **Interpretative Clauses**

In the preamble, replace the term “issues” with “effects”;

In the preamble, replace the phrase “realities of the territories and the communities living there” with the concepts of “respect for ecosystem support capacity” (section 6 (*m*), *Sustainable Development Act*) and “to satisfying public health, sanitation, civil protection” (section 31.76 of the EQA);

Clearly state that the provisions of the EQA are intended to satisfy the needs of “future generations”;

Integrate specific interpretative clauses concerning the obligation to consult Native communities.

### **EQA Authorization Regimes**

Adjust the first paragraph of the proposed section 31.0.3 so as to replace “may” by “shall”;

Introduce the fight against climate change into the EQA authorization procedure;

Maintain the obligation for project proponents to obtain certificates of compliance with the bylaws of the municipalities in which the projects are to be carried out;

Take into account the environments in which the projects are to be carried out and include specific thresholds for Nunavik when determining the list of activities under the authorization regime based on declarations of compliance.

### **Strategic Environmental Assessment**

Pay special attention to the application of strategic environmental assessment and its linkage with the environmental and social impact assessment and review procedure in Nunavik;

Ensure the representation of civil society, Aboriginal groups and the private sector on the proposed Strategic Environmental Assessment Advisory Committee;

Make the strategic environmental assessment procedures mandatory instead of optional.

### **Access to Information**

Ensure that the information contained in the environmental assessment registry includes projects carried out in Nunavik and that it is easy and quick to access for northerners.

### **Fund for the Protection of the Environment and the Waters in the Domain of the State**

Adjust section 203 of Bill 102 so that the wording of section 15.4.38 of the *Act respecting the Ministère du Développement durable, de l'Environnement et des Parcs* specifically refers to the admissibility of the Kativik Regional Government, for example by adding “in the case of unorganized territory, a regional county municipality”.