

# *Fire Prevention Act- Review*

Public Engagement Guide

December 2016



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## 1.0 Introduction

### 1.1 What is Being Discussed?

The Department of Municipal and Community Affairs (MACA) is reviewing the Northwest Territories [Fire Prevention Act](#) (FPA) and *Fire Prevention Regulations*.

The FPA and Regulations relate to:

- Structural fire investigation and reporting
- Fire hazard regulation
- The adoption of codes and standards for the prevention and extinguishment of structural fires

The Regulations under the FPA are: the [Fire Prevention Regulations](#), the [Fireworks Regulations](#), and the [Propane Cylinder Storage Regulations](#).

MACA is looking for your feedback to better understand the issues, challenges and opportunities around the FPA and Regulations. We are looking for general feedback along with feedback on potential issues that have been identified through previous stakeholder engagement and MACA's consideration of the legislation.

This guide outlines five discussion areas:

1. [Section 3.0](#): General concerns or views that you may wish to share about the FPA and its Regulations;
2. [Section 4.0](#): Understanding community fire prevention and protection needs;
3. [Section 5.0](#): Clarifying the roles and responsibilities set out in the FPA, considering:
  - a. The scope of roles and responsibilities, and
  - b. The capacity to carry out roles and responsibilities
4. [Section 6.0](#): The Fire Marshal's function in reviewing construction plans and specifications; and,
5. [Section 7.0](#): Improving compliance and enforcement with of the FPA and its Regulations.

If your issues or concerns are not covered by these questions, MACA welcomes feedback on any other aspects of the FPA or Regulations you may like to share with us.

### 1.2 Why is it Being Discussed?

The FPA has not been fully reviewed since the mid-1950s and has gone through very few changes since then and as such is in need of modernization.

In summer 2013, representatives from MACA and key stakeholders formed a technical working group to discuss the FPA and Regulations. This working group included representatives from the NWT Association of Communities, the Local Government Administrators of the NWT, the NWT Fire Chief's Association, the NWT Association of Architects, the Workers' Safety and Compensation Commission, the NWT and Nunavut Association of Professional Engineers and Geoscientists, the NWT Chamber of Commerce, and the NWT and Nunavut Construction Association. The working group flagged a number of issues for MACA's consideration.

In 2014 MACA began a comprehensive legislative review of the FPA. This review includes considering the issues raised by the 2013 working group, as well as identifying and addressing gaps and issues with the FPA that were not previously identified.



Through this comprehensive review of the FPA, MACA has the opportunity to, among other things:

- Clarify regulatory controls and offences under the *Act*;
- Clarify administrative roles and responsibilities under the *Act*; and
- Strengthen enforcement provisions and penalties.

This legislative review is a significant undertaking intended to ensure there will be a sound basis for any amendments or new legislation that may be proposed. Ultimately, MACA's goal is to ensure that the NWT has the means to adequately and efficiently protect the public and property from fire and the threat of fire.

### 1.3 How to Participate in the Discussion

MACA would like to hear from you about how the FPA and Regulations may be improved. We welcome feedback from all interested stakeholders, including members of the public.

You can find a list of discussion questions in [Appendix A](#), and links to relevant legislation in [Appendix B](#).

You can provide your feedback on this review in a number of ways:

**Online:** This guide is available online at [www.maca.gov.nt.ca](http://www.maca.gov.nt.ca) along with survey links to all of the questions. You may also visit this website to answer questions that are of interest to you, or to provide general comments or feedback.

**Email:** You may email your responses to the questions, as well as any other comments or views, to [fpa@gnwt.nt.ca](mailto:fpa@gnwt.nt.ca)

**Mail:** You may send your written responses to the questions, as well as any other comments to:

**Municipal and Community Affairs  
Government of the Northwest Territories  
Box 1320  
Yellowknife, NT X1A 2L9**

If you are providing responses on behalf of an organization or entity (e.g. an industry group, community government, civil society, professional organization, etc.), please identify the type of the organization or entity that you represent in your response.

Please note that responses received by MACA may be used, either in full or in summary, in future public documents and may be shared with other government departments. Responses received by MACA may be subject to applicable access to information legislation, including the NWT *Access to Information and Protection of Privacy Act*.

### 1.4 What Happens Next?

You can submit your responses to MACA until March 5, 2017. After this date, MACA will consider your feedback when identifying and assessing principles, objectives, and tools that may be recommended for any new or updated legislation. Once possible changes to the FPA and Regulations are identified, MACA anticipates developing a second phase of stakeholder engagement to seek feedback on the identified recommendations.



## 2.0 Overview of the Legislation

### 2.1 What is the *Fire Prevention Act*?

Fire prevention management in the NWT as it relates to people and property is set out by the *Fire Prevention Act* (FPA) and the *Fire Prevention Regulations*. The FPA is divided into seven sections:

- 1. Interpretation** The first section of the FPA includes definitions for the key terms and roles, including the positions established under the FPA. The FPA applies to property and structures, which are both defined in this section. *Property* is defined as “real and personal property whether movable or immovable” and a *structure* is defined as “any building, plant, machinery, equipment, storage tank, storage place or fixture of any kind erected or placed on, in, over or under any area of land or water.”
- 2. Fire Marshals and Local Assistants** The second section of the FPA establishes the appointed positions of Fire Marshal, Deputy Fire Marshal, and Assistant Fire Marshal, as well as the position of Local Assistant. It establishes the duties and the jurisdiction of the Fire Marshal and the Deputy Fire Marshal.
- 3. Review of Plans and Specifications** The third section of the FPA sets out the details of the plan review function of the Fire Marshal. Unless exempt under the *Fire Prevention Regulations*, any person who proposes to construct, alter or repair a structure in the Northwest Territories must submit a description—and, if directed by the Fire Marshal, copies of all plans and specifications—of the proposed work to the Fire Marshal for review.
- 4. Investigations, Injuries and Reporting of Fires** The fourth section of the FPA establishes powers of post-fire investigation and inquiries. This section also establishes reporting requirements for insurers.
- 5. Fire Hazards** The fifth section of the FPA establishes powers of hazard and dangerous condition inspections, as well as powers to issue post-inspection orders. Appeal processes are set out, as are other processes such as cost-recovery procedures relating to the enforcement of certain orders and building material sale procedures. This section also establishes requirements for the exits of public buildings, such as theatre, rinks, schools, and churches.
- 6. Offence and Punishment** The sixth section of the FPA deals with the enforcement of provisions in the Act, including provisions establishing offenses, as well as imprisonment and fine amounts upon summary conviction.
- 7. Regulations** The final section of the FPA establishes the authority of the Commissioner to make regulations.



## 2.2 What are the Regulations?

The FPA is supported by three regulations that are made under the authority of the Act (the “Regulations”):

***Fire Prevention Regulations*** These regulations adopt various codes and standards including the National Building Code of Canada (2015) and the National Fire Code of Canada (2015). Newer editions of these codes may also be adopted under these regulations. They also deal with exceptions to the plan review requirements in the FPA, changes of use or occupancy of structures, and the construction of temporary structures.

***Fireworks Regulations*** These regulations govern firework use, sale, possession, and storage in the NWT.

***Propane Cylinder Storage Regulations*** These regulations govern propane cylinder storage and disposal in the NWT.

Together, the FPA and Regulations set out the processes for:

- Structural fire investigation and reporting,
- Fire hazard regulation,
- Adoption and application of codes and standards, and
- The appointment process and duties of public officers.

## 2.3 Why are the Act and the Regulations Important?

The FPA and Regulations are the backbone of the legislative framework for structural fire prevention in the NWT. This framework establishes the system by which the NWT prevents and addresses fire and the threat of fire to persons and property.

The positions established by the FPA are a fundamental element of this system. The Fire Marshal is appointed to protect the public from loss of life and property as a result of fire. The Fire Marshal plays a regulatory role by enforcing the FPA and Regulations. The FPA outlines several other key positions that assist the Fire Marshal: the Deputy Fire Marshal, Assistant Fire Marshals, and Local Assistants. These positions are essential in providing assistance and direction to public fire departments, government agencies and industry on fire safety matters, communicating with the public, and in undertaking the key roles including fire inspections, enforcement and investigations.



### 3.0 Your Views about Structural Fire Prevention in the NWT

The creation of the various positions in the FPA, their functions and authorities, and the processes put in place under the FPA are fundamental to the system of structural fire prevention in the NWT.

The FPA has not been fully reviewed since the mid-1950s and has gone through very few changes since then. This Act and Regulations are essential to fire prevention in the NWT which makes this is an important Act to review.

Through the questions in this section, we hope to start a general discussion about the FPA and its Regulations.

#### **Discussion: General**

- 1. From your experience, what do you think is working and what do you think may not be working with respect to structural fire prevention in the NWT?**
- 2. How could our system of structural fire prevention be improved?**



## 4.0 Understanding Community Fire Prevention and Protection Needs

As is the case in many contexts, Northern communities may face unique challenges with respect to fire prevention. Fire departments in the NWT are primarily volunteer-based with a focus on emergency response, creating capacity challenges for the provision of fire prevention activities as outlined in the *Fire Prevention Act* (i.e. fire safety inspections and fire investigations; see [Section 5.0](#) for more details on the duties in the FPA). These fire prevention activities are a component of the broader fire protection and fire safety services provided by officials and fire departments. The NWT has a small population base, costs relating to community fire protection service in the north can be high, and there are few opportunities to share equipment and expertise as many of our communities are geographically distanced. These factors can challenge our ability to develop and sustain community fire protection services, equipment, and infrastructure.

In the 2015 Accountability Framework<sup>1</sup> MACA found that:

- 18 communities (54%) have fire service bylaws or band council resolutions
- 25 communities (76%) have an appointed Fire Chief, but only 13 (39%) have regular reporting between their Fire Chief and council
- 21 communities (64%) have a fire department budget
- 20 communities (61%) have equipment in good condition
- 22 communities (67%) have enough fire fighters to support their community
- 20 communities (61%) have fire department members with enough training to support their communities and hold regular community-based training for fire department members

With these issues identified, MACA created the [Community Fire Protection Plan](#) in 2016, an ongoing initiative and strategic work plan to enhance community fire protection measures and improve fire prevention educational awareness. These issues identified in the Accountability Framework are considered in the *Community Fire Protection Plan* but most operational requirements for fire departments are outside the scope of the current *Fire Prevention Act* and Regulations. The *Fire Prevention Act* outlines responsibilities related to fire prevention, including the authority for enforcing codes and standards through plan review, fire investigation and fire inspections. Community governments are responsible for providing oversight on components of fire protection related to firefighting equipment and maintenance, strategy and tactics, operating procedures, and other safety requirements.

It is important for MACA to actively engage with community governments to strengthen and support community fire protection in the NWT. The *Community Fire Protection Plan* is one way MACA is working with communities to address community fire protection challenges. It is also important to get your views on these issues in relation to the FPA and Regulations.

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<sup>1</sup> The NWT Community Government Accountability Framework defines a way to document and report on the provision of municipal governance, programs and services; provides all community governments with an important tool to use to monitor the performance of their organizations; and, provides MACA with a mechanism to monitor the performance of individual communities and to report on the overall performance of community governments in the delivery of municipal programs and services across the NWT.





**Discussion: Community Needs**

- 3. What is working and what is not working in your community with respect to protecting people and property from fire and threats of fire?**
- 4. Do you feel that the *Fire Prevention Act* or Regulations could be changed or improved in order to better assist community fire prevention and protection? If so, how?**



## 5.0 Understanding Statutory Roles and Responsibilities

The key positions created by the FPA are:

- Fire Marshal,
- Deputy Fire Marshal,
- Assistant Fire Marshal, and
- Local Assistant.

The **Fire Marshal** has jurisdiction throughout the Northwest Territories (FPA subsection 4(1)). The general duties of the Fire Marshal are numerous and include:

- Keeping records;
- Fire investigations and inquiries;
- Fire safety inspections;
- Reviewing plans and specifications for building construction, alterations, and repairs;
- Reporting to the Minister and advising the Minister on fire-related topics;
- Sharing information and advice with the public on fire prevention and fire protection;
- And performing any other related duties requested by the Minister.(FPA section 3)

Section 4(2) of the FPA sets out the duties of **Deputy Fire Marshals**, which include acting under the direction of the Fire Marshal within a particular area designated by the Minister, as well as acting in place of the Fire Marshal with “all the powers and authority of the Fire Marshal” if the Fire Marshal is absent or incapacitated, if the office of the Fire Marshal is vacant, or when so ordered by the Minister.

There are currently no Deputy Fire Marshals appointed in the NWT. Instead, the Fire Marshal works closely with the **Assistant Fire Marshal** in each regional office. Assistant Fire Marshals deliver many services on behalf of the Fire Marshal’s office and play a direct role in administering the Act and Regulations at a regional level. In most cases, the Assistant Fire Marshals will be the point of contact for the community fire department, including Local Assistants, and MACA. Unlike the position of Deputy Fire Marshal, the FPA does not specify that Assistant Fire Marshals are to act on any general authority in place of the Fire Marshal or in the case of a vacancy of that position. Rather, while also appointed by the Minister, Assistant Fire Marshals have specific duties and responsibilities (as discussed below, many of these duties and responsibilities are also shared with the positions of Fire Marshal, Deputy Fire Marshal and Local Assistant).

**Local Assistants** are the fourth key position created by the FPA. Municipal councils may make a motion to appoint a Fire Chief who reports through the Senior Administrative Officer (SAO) back to the council. The Fire Chief is responsible for managing all fire department operations and activities as defined by the council and in carrying out the provisions of the FPA within the boundaries of the municipality. Once appointed, the FPA identifies the Fire Chief as local assistant to the Fire Marshal by virtue of his/her position. The Act also states that in the absence of a fire department, the Senior Administrative Officer (SAO) or other employee appointed by the council of a municipality are the local assistant to the Fire Marshal.

Local Assistants are generally the only position described in the FPA who are in command on the ground at the scene of a fire. They are responsible for a number of tasks, including those mandated under the FPA, by community bylaw, or as part of their firefighting duties. These responsibilities include:



- Directing volunteer fire fighters and ensuring fire fighters have adequate training;
- Ensuring firefighting equipment is monitored on a regular basis and is in good working order;
- Developing policies and procedures concerning firefighting in accordance with municipal bylaws, federal and territorial legislation and policies, and in accordance with the Fire Marshal and other positions;
- Reporting fires and maintaining records on incidence of fire, injuries and loss of property, monitoring the firefighting budget, and implementing fire prevention education and awareness programs; and,
- Exercising authority contained in the FPA (e.g. inspections, enforcement and investigations, as discussed below).

When acting as Local Assistants, Fire Chiefs and SAOs are subject to the direction of the Fire Marshal in carrying out the provisions of the FPA in their municipality. The Minister can also appoint Local Assistants for areas outside of municipalities (FPA subsection 5(3)). When members of the Royal Canadian Mounted Police are on duty in the Northwest Territories, they also have all the powers of Local Assistants (FPA subsection 5(4)). Many of a Local Assistant's duties and responsibilities are shared with the Fire Marshal, Deputy Fire Marshal and Assistant Fire Marshal.

Responsibilities for the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal, and Local Assistants in the FPA include:

- Undertake post-fire investigations (FPA section 6)

The Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal or Local Assistant have authority at all times in the performance of their duties to enter in and on and examine any structure where a fire has occurred, or is in progress, as well as any other structures next to or near such structures in connection with an investigation.

- Undertake post-fire inquiries (FPA section 8)

The Fire Marshal or, at the request of the Fire Marshal, a Deputy Fire Marshal, Assistant Fire Marshal or any other person designated by the Fire Marshal with the approval of the Minister, may make an inquiry into the cause, origin and circumstances of any fire by which property has been destroyed or damaged.

- Undertake hazard inspections (FPA sections 11 and 12)

The Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal or Local Assistant may, on complaint of any interested person, or without complaint when they consider it necessary, inspect any structures or premises within their jurisdiction.

- Issue post-hazard-inspection corrective action orders (FPA subsection 12(1))

Where the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal or a Local Assistant finds (a) a structure that, due to age/ill-repair/other cause, is especially liable to fire and would endanger other property, (b) a structure that is used or occupied in a way that would present a hazard to life or property if a fire occurred, (c) combustible/explosive material, or hazardous conditions that are dangerous to the safety of the structure or premises, or (d) inadequate provision for the safe evacuation of persons in case of fire or alarm of fire, then the Fire Marshal, Deputy Fire Marshal,



Assistant Fire Marshal or a Local Assistant may, in writing, order the owner, the owner’s agent or the occupant to take the corrective action specified in the order and to either repair, remove or destroy the structure, alter the use or occupancy of the structure, remove the combustible or explosive material or to remedy the hazardous conditions, or install safeguards by way of fire extinguishers, fire-alarms, exit signs and other equipment and devices, and fire-escapes and exit doors that may be considered necessary for safe evacuation in the event of fire or an alarm of fire.

- Issue dangerous appliance orders (FPA subsection 12(3))

Where an appliance, apparatus or place in or on a structure or property is used or intended to be used for supplying fire or heat, and this use is likely to be dangerous to persons or property, the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal or a Local Assistant may order in writing that a fire not be lighted or maintained in the appliance, apparatus or place until that dangerous condition has been remedied.

The FPA also authorizes the Fire Marshal, Deputy Fire Marshal, and Assistant Fire Marshals (but not Local Assistants) to:

- Issue dangerous condition corrective action orders (FPA section 13)

Where the Fire Marshal, Deputy Fire Marshal or Assistant Fire Marshal is of the opinion that a danger to the safety of the public exists in a structure by reason of (a) a lack of adequate fire exits or fire-escapes in the structure, (b) the presence of flammable material in the structure, or (c) a fire occurring in the structure, the Fire Marshal, Deputy Fire Marshal or Assistant Fire Marshal may, in writing, order the owner of the structure to remedy the dangerous condition or order the owner of the structure or his or her agent or the occupant of the structure to close the structure to the public until the dangerous condition has been remedied.

These are all important responsibilities intended to support the prevention of fire and threat of fire in the Territories. With this in mind, MACA is reviewing both the legislative structure and practical functioning of these statutory mandates.

## 5.1 Scope of Statutory Roles and Responsibilities

As shown in the discussion above, three key functions are shared between all four positions in the FPA—the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshals, and Local Assistants. These functions are:

- Undertaking hazard inspections
- Undertaking post-fire investigations
- Issuing orders

The FPA creates and describes these functions, but does not always clearly describe the spheres of jurisdiction between the different positions in the Act.

For example, the role of the Fire Marshal and Deputy Fire Marshal are described in greater detail than the Assistant Fire Marshal and Local Assistant. Some functions overlap, such as the three main functions above: undertaking inspections, investigations, and issuing orders. However, Local Assistants (i.e. Fire Chiefs and SAOs) may have other tasks to complete as directed by the Fire Marshal. (FPA subsection 5(1)). When this direction is to be given, and to what extent, is not formalized in the FPA. While this could provide flexibility



given varying levels of capacity and operational realities in communities, it can also create uncertainty around the required level of oversight by the Fire Marshal.

The FPA does not go into detail around the scope of inspection, investigation, and order issuance duties. Who carries out the responsibilities, when, and to what extent is broadly worded. In addition to undertaking inspections and issuing orders, under the FPA, the Fire Marshal investigates and holds inquiries around the cause, origin, and extent and circumstances of a fire. The Fire Marshal can also inspect any property “from time to time” to determine whether there are proper fire precautions and exits. If a change is necessary, the Fire Marshal can direct any change or precaution to keep people and property safe. (FPA subsections 3(b) and 3(c)).

By contrast, Local Assistants, who are generally acting under the direction of the Fire Marshal, are specifically mandated to investigate “in a general way” the cause, origin and circumstances of “every fire” occurring within their jurisdiction that caused property damage in order to determine whether the cause was negligence, carelessness, accident, or design (FPA subsection 7(1)).

Given varying levels of capacity, Local Assistants are not always able to exercise aspects of inspection, investigations, or issue an order, instead requesting the duties be carried out at the level of the Fire Marshal. However, with limited staff and resource capacity at all levels of government, this raises the risk of administrative and capacity strain for the Fire Marshal in seeking to exercise these duties across such a large land base with geographically dispersed communities.

#### **Discussion: Scope of Statutory Roles and Responsibilities**

- 5. In your community, what do you see as being the most important job of the Local Assistant (e.g. Fire Chiefs, SAOs)?**
- 6. Do you have any comments on the role and responsibilities of Local Assistants in your community?**
- 7. Do you feel that the roles and responsibilities of the positions under the FPA (the Fire Marshal, Assistant Fire Marshals, Deputy Fire Marshals, and Local Assistants) are clearly defined? If not, what could be clarified?**



## 5.2 Capacity to Carry Out Statutory Roles and Responsibilities

Capacity limitations can affect the ability of those in positions described in the FPA to carry out their roles and responsibilities. Many of the responsibilities set out in the FPA are complex and require specific skill sets. For example, firefighting professionals are often hired to the positions established in the FPA. They bring their firefighting experience, which informs their ability to recognize hazards and undertake inspections. However, the process of drafting and issuing orders, for example, may be a new skill set. It may be a skill set that is not always described in relevant job descriptions and training opportunities in this area may be limited.

Capacity challenges vary by community and could present frustrations and a capacity strain to those working on the ground to keep communities safe.

### Discussion: Carrying out Statutory Roles and Responsibilities

8. Based on your experience, are there changes to the FPA that could be made to help those in positions set out in the FPA (e.g. Assistant Fire Marshals, Local Assistants) deal with limitations to capacity?



## 6.0 Reviewing Plans and Specifications

Any construction, alteration or repair of a structure in the NWT must follow the codes and standards that relate to fire and the spread of fire as adopted under the *Fire Prevention Regulations*. These include the National Building Code of Canada (NBCC) and the National Fire Code of Canada (NFCC). The Fire Marshal is responsible for reviewing plans and specifications to ensure all structures adhere to these codes. All codes and standards adopted have the force of law in the NWT.

Two sections of the FPA discuss this plan review function. These are sections 3(d) and 5.1. They set out the basic roles and responsibilities of both the Fire Marshal and those submitting plans:

- The Fire Marshal must review plans and specifications for the construction, alteration or repair of structures to determine that proper precautions are taken against fire and the spread of fire (FPA subsection 3(d)).<sup>2</sup>
- Unless exempt under the *Fire Prevention Regulations*<sup>3</sup>, any person who proposes to construct, alter or repair a structure in the NWT must submit a description of the proposed work to the Fire Marshal (FPA subsection 5.1(1)).
- Any person who has submitted a description of proposed work to the Fire Marshal must also, if directed by the Fire Marshal, submit copies of all plans and specifications in respect of the proposed work to the Fire Marshal (FPA subsection 5.1(2)).
- Any person who has submitted a description of proposed work to the Fire Marshal must not begin work on the construction, alteration or repair of a structure until either:
  - a) The Fire Marshal has notified that person that the plans and specifications for the proposed work are not required to be reviewed, or
  - b) The Fire Marshal has reviewed the plans and specifications and reported in writing to the person on the review (FPA subsection 5.1(3)).

The *Fire Prevention Regulations* also specify that the Fire Marshal has authority related to all codes and standards that are adopted under the Regulations (FPA subsection 2(2)).

In practice, the Chief Code Compliance Engineer carries out the plan review function for the Fire Marshal. The Chief Code Compliance Engineer conducts a thorough review of whether structural plans and specifications for construction projects are in compliance with the codes and standards. This position is not formally established in the FPA.

Aside from reviewing plans, the Fire Marshal does not have any authority to approve plans or “stop work”. The plan review process ends with an assessment on code compliance. Those who are constructing, altering, or repairing the structure are responsible to ensure all the requirements included in the plan review assessment are completed.

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<sup>2</sup> Section 1 of the FPA defines a “structure” as being any building, plant, machinery, equipment, storage tank, storage place or fixture of any kind erected or placed on, in, over or under any area of land or water.

<sup>3</sup> Subsection 3.1(2) of the *Fire Prevention Regulations* exempts classes of single family dwellings, ancillary structures, and storage structures from the requirement to submit a description of proposed work in subsection 5.1(1) of the FPA.



## 6.1 The Plan Review Process

In 2015, MACA examined the FPA plan review function to look into ways to improve guidance around construction in the NWT. MACA's examination of the plan review function identified gaps in the legislation that could be creating uncertainty about the plan review process, including the lack of information on what details and format need to be used in plans and specifications submitted in either the FPA or Regulations. To clarify established practices that are not detailed in the FPA or Regulations, MACA developed the [Plan Review Guidelines](#) in consultation with stakeholders in 2016.

Currently, documents submitted to the Fire Marshal for plan review must include approved plans. An approved plan is an architectural, structural, mechanical, electrical drawing and building code analysis. The approved plan must include the date, seal and signature of the architect and professional engineer licensed to practice in Northwest Territory and it must be marked "released for construction." These requirements for an approved plan are outlined in the Guidelines but not in the legislation. The Fire Marshal does not complete post-plan review inspections, and the responsibility to ensure all the requirements included in the plan review assessments are completed is left to those constructing, altering or repairing the structure.

### Discussion: The Plan Review Process

9. Do you feel that the roles and responsibilities of those involved in the plan review process are sufficiently clear in the FPA? If not, how could they be made clearer?
10. Would you like to provide any other observations or comments regarding the existing plan review process under the *Fire Prevention Act*?





## 6.2 Procedural Clarity

Under the FPA, the Fire Marshal has the authority to publicize information and advice about fire prevention and fire protection in the NWT (FPA subsection 3(g)). This information is presented in two ways:

- [Advisories and Clarifications](#): Advisories guide professionals in meeting the performance levels intended by the Codes adopted under the FPA. Clarifications provide an interpretation of specific parts of the Codes to help professionals understand their intent.
- [Plan Review Guidelines](#): outline the review process for construction plans and specifications in the NWT, clarifying the process for industry use. MACA created the Guidelines in 2016 following detailed research and analysis to describe roles, responsibilities and current practices under the FPA. The guide ensures structures are built, altered, or repaired in accordance with codes and standards adopted under the FPA. The guide discusses meetings, fees, relevant codes, scheduling, scope of plan review, enforcement powers, etc.

### Discussion: Procedural Clarity

- 11. Do you feel there is sufficient information available to help you understand your obligations under applicable codes and standards with respect to building construction, alteration, or repair in the NWT? Why or why not?**
- 12. Are there other matters relating to structural fire prevention in general in the NWT that you feel are subjects about which the Fire Marshal should provide increased public information?**



## 7.0 Improving Compliance & Enforcement

### 7.1 Inspections, Building Codes & Standards

While the FPA requires descriptions, plans, and specifications to be submitted to the Fire Marshal for review, and the receipt of a written report from the Fire Marshal prior to construction, the FPA and Regulations do not require the plans and specifications to be *approved* by the Fire Marshal. Even when the plan review process is properly completed, there is currently no way to ensure that all territorial construction adheres to codes and standards in the NWT given that the Fire Marshal does not complete post-plan review inspections

For example, if a construction process begins without following the instructions of the plan review from the Fire Marshal, under the FPA and Regulations, there is no way for the Fire Marshal to halt building construction. The Fire Marshal cannot order completed work to be dismantled or uncovered.

With the exception of a limited number of municipalities that have adopted the National Building Code of Canada (NBCC) through bylaw, there is no other Territorial legislation that ensures structural construction, alteration or repair complies with the codes and standards adopted under the *Fire Prevention Regulations*. . Industry stakeholders and Members of the Legislative Assembly (MLAs) have recommended in the past that the GNWT consider building standards legislation.

The circumstances under which the Fire Marshal undertakes building inspections under the FPA or other statutes are limited. The Fire Marshal is authorized under the FPA to inspect any property from time to time to ensure precautions against fire, the spread of fire, and the means of exit are adequate and satisfactorily maintained. A limited number of other statutes also authorize the positions defined in the FPA to conduct regulatory inspections within its capacity as per the NFCC for facilities such as daycares/day homes, places of gathering, senior's facilities, schools, correctional facilities etc. or when a liquor and business licence is sought. Aside from the limited scope of inspection circumstances authorized under FPA and a small number of other statutes, there is no specific building standards legislative regime in the Territory that governs inspections for code compliance. In this context, challenges in the NWT include:

- a) Ensuring full and prompt compliance with the pre-construction plan submission requirements of the FPA.
- b) Ensuring that buildings are, in fact, constructed, altered, or repaired in accordance with legislated requirements and/or the advice of the plan review office.

#### **Discussion: Inspections, Building Codes and Standards**

**13. What additional tools or procedures, if any, do you feel officials in the NWT need in order to ensure the construction and maintenance of safe buildings (i.e. compliance with building codes and standards)?**



## 7.2 Corrective Action Orders

Corrective Action Orders can be issued by officials under Section 12 and 13 of the FPA. The FPA allows the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal or a Local Assistant to carry out hazard inspections (FPA Section 11). These kinds of inspections can reveal a variety of problems. Examples of these problems include dilapidated conditions, dangerous uses or occupancy, combustible materials, and inadequate fire exits. These problems may prompt officials to issue a corrective action order under Section 12 of the FPA. These orders can clearly be directed at the “owner, his or her agent or the occupant of the building or premises.”

Another section of the FPA – section 13 – also allows the Fire Marshal, Deputy Fire Marshal, Assistant Fire Marshal or a Local Assistant to issue corrective orders with respect to public safety. However, in this section, they can be issued with or without an inspection. Under Section 13, officials can issue an order to either remedy dangerous conditions or close a structure to the public if the structure lacks adequate fire exits/escapes, if flammable materials are present, or if a fire is occurring (FPA Section 13).

Under Section 12, officials can order the “owner, his or her agent or the occupant of the building or premises.” However, under Section 13, officials can only order the “owner” to remedy such dangerous conditions (Section 13(d)).

The authority of the Fire Marshal is limited around corrective action orders in that the Fire Marshal or any FPA official cannot order the immediate evacuation of a structure even in the case of an urgent threat. Under Section 12, to alter the use or occupancy of a structure, the official must produce an order and wait for the recipient of the order to comply, creating a delay even for immediate threats that need to be addressed quickly.

### Discussion: Corrective Action Orders

14. Have you encountered any barriers (e.g. resources, training, procedural, geographic, etc.) to issuing, receiving, or enforcing orders under the FPA? If so, what barriers have you encountered?
15. What tools or processes, if any, do you feel would better enable the process of issuing and enforcing orders?



### 7.3 Disputes and Appeals

If a recipient of a plan review or order disagrees with the official they can dispute or appeal the order or decision. The FPA enables the plan review process but does not establish plan review reports as authoritative decisions or provide information on the enforceability of plan review written reports. Given this lack of information, the plan review reports cannot be formally challenged or disputed by the recipient.

Under Section 14 and 15 of the FPA, all decisions or orders under the FPA and Regulations can be formally appealed. The process to appeal is as follows:

- Orders or decisions of the Deputy Fire Marshal, Assistant Fire Marshal, Local Assistants (or municipal corporations in limited circumstances) may be appealed to the Fire Marshal within 10 days of receiving the order or decision
- If the response of the Fire Marshal is not satisfactory, the recipient can appeal the decision to the Northwest Territories Supreme Court within 5 days of receiving the decision.

Challenging an order directly issued by the Fire Marshal is only mentioned for post-hazard-inspection corrective action orders made specifically under Section 12(1) of the FPA. However, the Fire Marshal is able to make a number of other decisions and issue a number of types of orders. Any decision of the Fire Marshal under the Regulations can be appealed directly to the NWT Supreme Court. However, it is not always clear what counts as an order “made under the Regulations.”

#### Discussion: Disputes & Appeals

16. **Would you like to provide any observations or comments regarding the existing appeals process under the *Fire Prevention Act*?**
17. **Do you feel that the current process of appeals to the NWT Supreme Court is an appropriate process through which to appeal decisions of the Fire Marshal?**
18. **Do you agree with the current two-level appeal process (first to the Fire Marshal and then to the Supreme Court of the NWT)? Why or why not? If not, what process would you see as being more effective or beneficial?**



## 8.0 Conclusion

MACA's engagement with stakeholders, including the public, through this discussion guide is only one step toward the development of a modernized and effective fire prevention legislative regime in the NWT. This review of the FPA and Regulations is an ongoing process which will allow us to identify potential options and changes to the current legislative framework. We look forward to continuing to work closely with all stakeholder groups as this process moves forward.

MACA will receive feedback on this discussion guide until March 5, 2017, after which time all submissions will be compiled, reviewed, and analyzed to inform our analysis of options and recommended changes.

Thank you for taking the time to consider the discussion in this guide and for any feedback that you have submitted.



## Appendix A: All Discussion Questions

**Discussion: General** .....

1. From your experience, what do you think is working and what do you think may not be working with respect to structural fire prevention in the NWT?.....
2. How could our system of structural fire prevention be improved?.....

**Discussion: Community Needs**.....

3. What is working and what is not working in your community with respect to protecting people and property from fire and threats of fire?.....
4. Do you feel that the Fire Prevention Act or Regulations could be changed or improved in order to better assist community fire prevention and protection? If so, how?.....

**Discussion: Scope of Statutory Roles and Responsibilities** .....

5. In your community, what do you see as being the most important job of the Local Assistant (e.g. Fire Chiefs, SAOs)?..
6. Do you have any comments on the role and responsibilities of Local Assistants in your community?.....
7. Do you feel that the roles and responsibilities of the positions under the FPA (the Fire Marshal, Assistant Fire Marshals, Deputy Fire Marshals, and Local Assistants) are clearly defined? If not, what could be clarified? .....

**Discussion: Carrying out Statutory Roles and Responsibilities** .....

8. Based on your experience, are there changes to the FPA that could be made to help those in positions set out in the FPA (e.g. Assistant Fire Marshals, Local Assistants) deal with limitations to capacity?.....

**Discussion: The Plan Review Process** .....

9. Do you feel that the roles and responsibilities of those involved in the plan review process are sufficiently clear in the FPA? If not, how could they be made clearer? .....
10. Would you like to provide any other observations or comments regarding the existing plan review process under the Fire Prevention Act? .....

**Discussion: Procedural Clarity**.....

11. Do you feel there is sufficient information available to help you understand your obligations under applicable codes and standards with respect to building construction, alteration, or repair in the NWT? Why or why not?.....
12. Are there other matters relating to structural fire prevention in general in the NWT that you feel are subjects about which the Fire Marshal should provide increased public information?.....

**Discussion: Inspections, Building Codes and Standards** .....

13. What additional tools or procedures, if any, do you feel officials in the NWT need in order to ensure the construction and maintenance of safe buildings (i.e. compliance with building codes and standards)?.....

**Discussion: Corrective Action Orders** .....



14. Have you encountered any barriers (e.g. resources, training, procedural, geographic, etc.) to issuing, receiving, or enforcing orders under the FPA? If so, what barriers have you encountered?.....

15. What tools or processes, if any, do you feel would better enable the process of issuing and enforcing orders? .....

**Discussion: Disputes & Appeals** .....

16. Would you like to provide any observations or comments regarding the existing appeals process under the Fire Prevention Act? .....

17. Do you feel that the current process of appeals to the NWT Supreme Court is an appropriate process through which to appeal decisions of the Fire Marshal? .....

18. Do you agree with the current two-level appeal process (first to the Fire Marshal and then to the Supreme Court of the NWT)? Why or why not? If not, what process would you see as being more effective or beneficial? .....



## Appendix B: Links to Relevant Legislation

### *Fire Prevention Act*

- *Fire Prevention Regulations*
- *Fireworks Regulations*
- *Propane Cylinder Storage Regulations*