

NUNAVUT PLANNING COMMISSION
2021 DRAFT NUNAVUT LAND USE PLAN

NUNAVUT WATER BOARD

WRITTEN SUBMISSION

Filed by:

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NUNAVUT WATER BOARD

April 14, 2022

1. Background and Objectives

This submission is provided on behalf of the Nunavut Water Board (NWB or Board), an Institution of Public Government established under Articles 10 and 13 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)*. Article 13, Section 13.2.1 of the *Nunavut Agreement* establishes that the NWB “...shall have responsibilities and powers over the regulation, use and management of water in the Nunavut Settlement Area.”

The NWB fulfills its role in Nunavut’s integrated regulatory system primarily through processing and on-going administration of authorizations (water licences and approvals without licences) for the use of freshwater in the Nunavut Settlement Area and the deposit of waste into such waters. In addition, under the *Nunavut Agreement*, the NWB has specific rights and responsibilities to participate in Nunavut’s land use planning processes. Article 13, Section 13.4.1 of the *Nunavut Agreement* states: “(t)he NWB shall contribute fully to the development of land use plans as they relate to water in the Nunavut Settlement Area by providing its recommendations to the [Nunavut Planning Commission].”

On July 23, 2021, the NPC invited the submission of comments on the 2021 DNLUP, to which the Board readily responded.¹

Recognizing both the NWB’s mandate and the Board’s express roles and responsibilities to participate in the land use planning process, the NWB offers the Nunavut Planning Commission (the NPC or the Commission) the updated and expanded comments in respect of the 2021 Draft Nunavut Land Use Plan (2021 DNLUP) as the Commission’s partner in the development of a Nunavut-wide land use plan following the NPC’s invitation of March 28, 2022.

2. Reviewed Documentation and Discussions

The NWB reviewed the following documentation as relating to the Board’s mandate:

- *Nunavut Land Use Plan Draft* dated July 2021;
- Executive Summary, *Nunavut Land Use Plan Draft* dated July 2021;
- *Nunavut Planning Commission Notice of Reopening of Record and Next Steps for the 2021 Draft Nunavut Land Use Plan* dated July 23, 2021;
- *Nunavut Planning Commission Notice of Extension of Kivalliq Regional Public Hearing on 2021 Draft Nunavut Land Use Plan* dated August 30, 2021;
- *Nunavut Planning Commission Notice of Extension for Written Comments on 2021 Draft Nunavut Land Use Plan* dated September 15, 2021, and
- Historical correspondence from the NWB on the review of the previous versions of the Draft Nunavut Land Use Plan, various dates^{2,3,4,5}.

¹ Stephanie Autut (NWB) to Sharon Ehaloak (NPC), RE: Nunavut Water Board Review of the 2021 Draft Nunavut Land Use Plan, dated October 14, 2021.

² Thomas Kabloona (NWB) to Ron Roach (NPC), Re: Nunavut Water Board Engagement in Land Use Planning, dated July 3, 2009.

³ Dionne Filiatrault (NWB) to Sharon Ehaloak (NPC), Re: Nunavut Water Board (NWB) Comments on the Working Draft Nunavut Land Use Plan and Supplemental Information dated August 30, 2010.

In addition, the comments incorporate the discussion that took place during the videoconference held between the NWB and the NPC on January 20, 2022.

3. NWB Review

3.1. Buffers around Caribou Crossings

Reference	<i>Nunavut Land Use Plan Draft</i> dated July 2021, “Caribou Freshwater Crossings”, p. 18 <i>Nunavut Land Use Plan Options and Recommendations</i> dated 2021, “Defining Geographic Boundaries”, p. 95
Comment	Text box “Plan Requirements” states: “The caribou freshwater crossings shown on Map A are Limited Use...” The Board requests a clarification on whether the 10 km buffers around these freshwater crossings are expected to extend limitations on activities designated as “incompatible uses” that may occur within 10 kilometres along the same watercourse as the freshwater crossing.
April 14, 2022 Update	As discussed with the NPC on January 20, 2022, the 10-km buffers are included into the polygons in the shape files. This comment is now resolved.

3.2. Caribou Freshwater Crossings

Reference	<i>Nunavut Land Use Plan Draft</i> dated July 2021, “Caribou Freshwater Crossings”, p. 18 <i>Nunavut Water Board Pre-Hearing Written Submissions</i> dated January 13, 2017, p. 5 <i>Nunavut Land Use Plan Options and Recommendations</i> dated 2021, “Other Regulatory Tools”, p. 98
Comment	The Board echoes its comment No. 3.1.2 in its January 13, 2017 submission to the Commission: “ <i>Although the management of caribou specifically is not within the NWB’s jurisdiction, the management of the freshwater bodies identified...as having freshwater caribou crossings could be subject to water licensing processes by the NWB. As the NWB anticipates that during water licensing processes the NWB will be required to consider the presence of crossings and may also hear from affected communities about changes to the locations of freshwater caribou crossings over time, the NWB would benefit from additional direction regarding how changes to the crossings as identified... may occur and be communicated by the Commission.</i> ”
April 14,	During the videoconference with the NPC on January 20, 2022, the NPC

⁴ Damien Côté (NWB) to Sharon Ehaloak (NPC), Re: NWB’s Submission Pertaining to NPC’s Draft Nunavut Land Use Plan and Associated Documents, dated February 14, 2014.

⁵ Stephanie Autut (NWB) to Jonathan Savoy (NPC), Re: Nunavut Planning Commission Notice of Written Pre-Hearing Conference; Commission Correspondence dated January 20, 2016, dated February 22, 2016.

2022 Update	<p>indicated that any updates to the Land Use Plan would be required to proceed through the amendment process. Periodic reviews of the Land Use Plan shall be held every seven years, resulting in a 10-year timeline to finalize such reviews.</p> <p>The Board understands the process for amending the Land Use Plan must take place in the cases when caribou freshwater crossings change. On this basis, the NWB has considered what may happen in instances where the NWB receives information from communities regarding changes to freshwater caribou crossings identified under the Land Use Plan but such crossings have not yet been considered by the Commission as amendments to the approved Land Use Plan. The NWB confirms that in such a case, the Board will continue to consider such community feedback about current caribou freshwater crossings in the Board’s decision-making in respect of a particular licence or approval of water uses or waste deposits in that area.</p>
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3.3. Activities in Proposed Territorial Parks

Reference	<i>Nunavut Land Use Plan Draft</i> dated July 2021, “Territorial Parks”, p. 27
Comment	<p>Text box “Plan Requirements” states: “3.1.1-1 Future parks shown on Map A are Limited Use areas within which the following incompatible uses are prohibited... (g) any other use of... water for a term of more than five years.”</p> <p>The Board is interested in understanding how the limitation of five (5) years is expected to be applied. It is unclear to the NWB the extent to which the current wording may operate as a prohibition on the NWB issuing water licences, renewals and amendments for an undertaking in a territorial park, for which the total duration of the licence would exceed five years. This may be inconsistent with the discretion of the NWB with respect to the limits on the term of a water licence which are prescribed under the <i>Nunavut Waters and Nunavut Surface Rights Tribunal Act</i>, S.C. 2002, c. 10, s. 45 as follows:</p> <p><i>Term of licence</i></p> <p><i>45 The term of a licence or any renewal shall not exceed</i></p> <p><i>(a) 25 years, in the case of a type A licence respecting a class of appurtenant undertakings that is prescribed by the regulations or in the case of a type B licence; or</i></p> <p><i>(b) the anticipated duration of the appurtenant undertaking, in the case of a type A licence other than one described in paragraph (a).</i></p>
April 14, 2022 Update	The Board confirms its original comment and information request still stands.

3.4. Drinking Water Supply Watersheds

Reference	<p><i>Nunavut Land Use Plan Draft</i> dated July 2021, “Community Drinking Water Supplies”, pp. 36-37</p> <p><i>Nunavut Land Use Plan Options and Recommendations</i> dated 2021, “Other</p>
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	Regulatory Tools”, pp. 341-347
Comment	The NWB has a concern that because the approach to defining “community water supply watersheds” as designated under the 2021 DNLUP is not the same as the approach to defining “watersheds” used under Schedule 4 of the <i>Nunavut Waters Regulations</i> , SOR/2013-69 that there could be confusion for Project Proponents and Water Licensees when preparing application materials to the NWB and the Commission. Although it appears to the NWB that the use of the term “watersheds” in the context of the 2021 DNLUP may be defining watersheds by existing zoning by-laws, or physical catchment areas, to avoid confusion, the NWB would recommend that 2021 DNLUP include a description/definition of the term “community water supply watershed” used by the Commission in the 2021 DNLUP to define these areas.
April 14, 2022 Update	Following the discussion with the NPC on January 20, 2022, the Board would like to add to its recommendation to add a description/definition of a “community water supply watershed” to the 2021 DNLUP. To avoid any confusion and possible complications for enforcement of water licences, the NWB recommends that such a definition emphasize that the term “community water supply watershed” does not replace Water Management Areas as defined in s. 17(1) and Schedule 4 of the <i>Nunavut Waters Regulations</i> , SOR/2013-69.

3.5. Future Revisions

Reference	<i>Nunavut Land Use Plan Draft</i> dated July 2021, “Periodic Review”, p. 47 <i>Nunavut Water Board Pre-Hearing Written Submissions</i> dated January 13, 2017, p. 4 <i>NWB’s Submission Pertaining to NPC’s Draft Nunavut Land Use Plan and Associated Documents</i> dated February 14, 2014, p. 14
Comment	The NWB acknowledges that the Commission intends, during the periodic review of the Land Use Plan to include the assessment of “... <i>the emergence of policy initiatives at the Commission and the emergence of relevant policy initiatives from a Planning Partner</i> ”. The NWB is currently engaged in several collaborative policy initiatives, which will lead to updated policy guidance being provided by the NWB in the years ahead. The NWB notes the Board’s on-going commitment to working with the Commission and other parties with the responsibility for water management policy initiatives to provide information and advice to the Commission in respect of freshwater management in the Territory, and appreciates the Commission’s commitment to include such relevant future policy initiatives during their review of the Nunavut Land Use Plan.
April 14, 2022 Update	As the Board stated in its October, 14, 2021 submission, the NWB is “engaged in several collaborative policy initiatives, which will lead to updated policy guidance being provided by the NWB in the years ahead”. One such policy with the potential to provide the Commission with important information in respect

	<p>of the water management aspects of the Nunavut Land Use Plan is the Nunavut Water Management Strategy (Strategy).</p> <p>The NWB's Board Members have identified the development of the Strategy as a key initiative under the Board's Strategic Plan. The Board Members are the central drivers of the Strategy and will ultimately be responsible for reviewing and approving the NWB's adoption and implementation of the Strategy. The Strategy will reflect watershed, regional and territorial issues and priorities around freshwater.</p> <p>The NPC is a member of the Steering Committee for the development of the Strategy.</p> <p>Therefore, in the spirit of cooperation and collaboration underpinning the development of the Strategy, the Board requests that the Commission consider adding to the schedule for the Commission's Public Hearings or other engagement sessions in the communities, a short 1-2 hour evening session that would be led by the NWB to discuss and receive feedback on the development of the Strategy from the communities and participants already in the community to attend the Commission's Public Hearings or engagement sessions.</p>
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