

Nunavut Marine Council
Business Case

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Nunavut Marine Council Business Case

Executive Summary

The Nunavut Marine Council

The Nunavut Marine Council (NMC or Council) was established by Section 15.4.1 of the *Nunavut Land Claims Agreement* (NLCA). Pursuant to that NLCA section, the Nunavut Impact Review Board, the Nunavut Water Board, the Nunavut Planning Commission and the Nunavut Wildlife Management Board may together, as the NMC, or individually advise and make recommendations to other government agencies regarding the marine areas of the Nunavut Settlement Area. Also pursuant to NLCA Section 15.4.1, Government must consider such advice and recommendations in making decisions which affect marine areas.

As set out in its Terms of Reference, the objective of the Council is to ensure the ongoing protection and wise use of the marine areas for the long-term benefit of Inuit and the rest of the public of Nunavut and Canada, in a manner consistent with the principles of *Inuit Qaujimajatuqangit* and of NLCA Article 15 (“*Marine Areas*”). In order to achieve that objective, the NMC has developed a Business Case that describes:

- The physical, social, cultural, economic and organizational environment in which the Council is operating;
- Marine issues of particular importance to Nunavut; and
- Relevant details of the administration and operation of the NMC, and of the Council’s plans to be an effective voice for Nunavut.

The NMC Business Case

Inuit are primarily a maritime people, and consider themselves to be an integral part of the ecosystems in which they live and carry out their traditional activities. The land, sea and ice of Nunavut form one continuous area of activity in which Nunavummiut enjoy – and will continue to seek – cultural, social and economic fulfillment.

In recent decades, there has been a rapid increase in the range of issues affecting Arctic marine areas. Those issues include the growing depletion of sea ice, increased oil and gas exploration, rising mineral development, seismic testing initiatives, increased shipping and commercial fishing, heightened research activities, especially with respect

to climate change, and enhanced military and other security exercises to support and enforce Canadian sovereignty.

Nunavummiut are facing unprecedented challenges associated with all of these activities taking place in the Territory and its adjacent marine waters. Ensuring the well-being of Nunavut's marine environment is critical to Nunavummiut – indeed, to all Canadians. Through the development of its Terms of Reference and Business Case, the members of the NMC are committed to cooperation and collaboration in safeguarding the Arctic marine environment - especially through the provision of informed, conservation-focused analysis, advice and recommendations.

In conducting its analysis, and in formulating and providing its advice and recommendations, the Council plans to concentrate on:

- Promoting public awareness of issues that affect or may affect marine areas;
- Consulting with Nunavummiut concerning those marine issues of most concern to them;
- Monitoring *Inuit Qaujimagatuqangit*, science, literature, government, media and industry reports regarding changes, developments and concerns relevant to the marine areas; and
- Reviewing existing or proposed regulatory, policy, research, development and management planning initiatives that affect, or may in the future affect, the marine areas - and advocating the need for improvements, as required.

As a crucial initial step, the NMC is planning to organize and host a “*Symposium on Arctic Marine Issues*” in 2012-2013, to inform the public about - and focus attention on - marine issues of particular significance to Nunavut, and to assist the Council to identify and prioritize those marine issues most deserving of its attention.

The Arctic marine environment is currently undergoing profound changes. These changes are expected to continue and to intensify in the coming decades. The NMC has been established to ensure that an informed and relevant Nunavut voice is both raised and considered in addressing the resulting significant Arctic marine issues of such importance to Nunavummiut. The Council has developed its Business Case to demonstrate that the NMC is well prepared to undertake the critical advisory responsibilities assigned to it by the parties to the NLCA.

PART ONE: CONTEXT

Section 1: Background

On May 12th 2010, representatives from the **Nunavut Wildlife Management Board** (NWMB), the **Nunavut Water Board** (NWB), the **Nunavut Planning Commission** (NPC) and the **Nunavut Impact Review Board** (NIRB) met together in Iqaluit at a workshop¹ organized by Nunavut Tunngavik Incorporated (NTI) to discuss and formalize the establishment of the Nunavut Marine Council (NMC or Council).²

These four institutions of public government (IPGs) are mandated by the *Nunavut Land Claims Agreement* (NLCA) to act jointly as a Nunavut Marine Council to advise and make recommendations to other government agencies. Specifically, NLCA Section 15.4.1 provides:

“The NIRB, the NWB, the NPC and the NWMB may jointly, as a Nunavut Marine Council, or severally advise and make recommendations to other government agencies regarding the marine areas, and Government shall consider such advice and recommendations in making decisions which affect marine areas.”

The decision of the IPGs in May 2010 to formally establish the NMC is an important milestone in the implementation of the NLCA. The decision reflects the growing importance of Arctic marine areas for Inuit, for Nunavut, for Canada, for circumpolar states and for the global community generally. At this critical juncture in the modern history of such areas, the NMC is well-placed to make a substantial contribution to effective, conservation-based marine policies for Nunavut, for Canada and for the circumpolar North.

¹ Funding for both the May 2010 NMC workshop and the development of this Business Case was generously provided by the PEW Charitable Trusts (through its Oceans North Canada program), the Oak Foundation, Tides Canada, the Walter and Duncan Gordon Foundation and the Kaplan Fund.

² The four IPGs had acted jointly as the NMC only once before. In 1999, the Council developed a submission to the House of Commons Standing Committee on Canadian Heritage concerning proposed improvements to the then-draft *Canada National Marine Conservation Areas Act*.

Section 2: Situation Analysis

Arctic marine areas have always been, and will always be, of central importance to Inuit. All communities in Nunavut – except for one - are coastal.³ The land, ice and sea of the Territory form one continuous area of activity in which the people of Nunavut (Nunavummiut), and Inuit in particular, enjoy - and will continue to seek - cultural, social and economic fulfillment.

The formal establishment of the NMC at this time is of crucial significance. In taking this essential step, Nunavut's resource management agencies are making a formal announcement that the well-being of Nunavut's marine environment is critical to Nunavummiut – indeed, to all Canadians.

The arrival of the NMC will have immediate, mid-term and long-term positive significance for Nunavummiut, given the central place of the marine component in the social, cultural and economic life of the Territory. Through the Council, the IPGs seek to ensure the ongoing protection and wise use of the marine areas adjacent to Nunavut for the long-term benefit of Inuit and the rest of the public of Nunavut and Canada, in a manner consistent with the principles of *Inuit Qaujimajatuqangit*⁴ and the NLCA.

In addition, by formally establishing the NMC, the IPGs are demonstrating their full commitment to continued cooperation and collaboration in safeguarding the Arctic marine environment – including through the provision of informed advice and recommendations with respect to rapidly emerging issues and agendas that relate to Arctic marine areas.

Particularly in the past few years, there has been a rapid increase in the range of issues affecting Arctic marine areas - and in the unprecedented attention given to Canada's polar region at the local, regional, national and international levels. Examples include:

- The alarming depletion of Arctic multi-year sea ice;
- Increased shipping in Arctic waters for destination traffic, resource development, tourism and other commercial navigation;
- Oil and gas exploration in Arctic waters, and development in Greenland's offshore waters and in the Beaufort Sea;
- Increased fisheries activities in Arctic waters;
- National efforts to map the sub-sea continental margins to support claims under the *UN Convention on the Law of the Sea*;
- Military and other security activities to support and enforce Canadian sovereignty;

³ The sole exception is the inland Kivalliq community of Baker Lake.

⁴ “‘*Inuit Qaujimajatuqangit*’ means traditional Inuit values, knowledge, behavior, perceptions and expectations.” [Wildlife Act, S. NU. 2003, c.26, s.2]

- Continuing population growth in Nunavut coastal communities, with resulting impacts to marine areas from municipal wastewater effluents and solid waste disposal sites;
- Attempted seismic testing in Lancaster Sound;
- Climate change research to determine the impacts on Arctic ecosystems and global systems generally;
- Additional scientific research during the International Polar Year (2007-2008);
- “*An Integrated Arctic Strategy*”, prepared in 2008 by Inuit Tapiriit Kanatami;
- The April 2010 “*Arctic Governance Project*” report;
- The Arctic Council’s recent report entitled, “*Arctic Biodiversity Trends 2010*”;
- The National Energy Board’s ongoing “*Arctic Offshore Drilling Review*” (commenced in May 2010); and
- “*Canada’s Northern Strategy*”, announced by the Government of Canada in 2008.

“*Canada’s Northern Strategy*” provides a clear recognition that Canada’s North is facing an unprecedented time of transition, and that the federal government is serious in its commitment to four integrated northern priorities: economic and social development, governance, environmental protection and sovereignty.

Marine issues of particular importance to Nunavut include:

- Infrastructure development (such as navigation aids, docking facilities, etc.) to support community resupply and marine transportation between communities;
- Wildlife and fisheries management in coastal and marine areas, to ensure conservation and support harvesting rights under the NLCA;
- Potential year-round ice-breaking interfering with wildlife habitat, travel, harvesting, etc.;
- Increased levels of cruise tourism which target sensitive wildlife and culturally significant places;
- The challenge of managing and protecting biodiversity in a changing climate, amidst increasing industrial development;
- Changes in the extent of sea ice, and in the dynamics of its formation and distribution in the Arctic;
- Potential for salt contamination of water supplies and the impact of a rising sea level on salt-wedge penetration in rivers, with the risk of saltwater entering water intakes;⁵
- Increased levels of coastal erosion due to rising sea levels, with changing seasonal temperatures, ice cover and permafrost conditions also contributing to impacts on community structures, community viability and human activities generally;

⁵ In fact, this effect has already been occasionally observed in the Coppermine River delta at Kugluktuk, Nunavut.

- Planning to ensure balanced use of coastal and marine areas for traditional activities and new commercial-industrial activities;
- Development of capacity and employment opportunities for Nunavummiut in marine and other related activities;
- Municipal and industrial wastewater effluent discharges, and their impacts on the marine environment;
- Potential introduction of pollutants and exotic organisms through ballast water exchange in waters of the NSA;
- Effectiveness of oil spill clean-ups in ice-covered waters;
- Development and enforcement of proper standards for ships operating in ice-covered waters, including trained operators with experience in Nunavut;
- Potential shipping of radioactive product from uranium mines in Nunavut;
- Lack of regulation for ice trails, winter roads, fuel hauls and year-round berthing of accommodation barges in marine areas;
- Use of seismic testing methods in ice-covered waters;
- Identification of priorities for research, and for programs to support access to *Inuit Qaujimagatuqangit* and research results; and
- The need to ensure legislated protection of the Arctic environment.

The NMC will ensure that an informed and relevant Nunavut voice is both raised and considered in addressing significant marine issues affecting Nunavummiut. Relying upon the experience, expertise and knowledge base of its four land and resource management members, the Council is uniquely qualified to provide independent and informed advice and recommendations designed to mitigate, if not prevent, a number of the problems that will necessarily arise in Arctic marine areas during the coming years.

Based on this brief situation analysis, and given the central place of marine areas in the social, cultural and economic life of Nunavut, there is a strong rationale - from both a territorial and a national perspective - for immediate efforts to fund and engage the NMC in emerging Arctic marine issues.

“*Canada’s Northern Strategy*” supports and reinforces this conclusion. The Speech from the Throne on 16 October 2007 stated that the Government of Canada:

“...will bring forward an integrated northern strategy focused on strengthening Canada’s sovereignty, protecting our environmental heritage, promoting economic and social development, and improving and devolving governance, so that northerners have greater control over their destinies.”

Section 3: Operational Environment

3.1 Social and Cultural Environment

As evidenced by the NLCA's concentration on the conservation of Nunavut's wildlife and the environment⁶ - and taking into account that Inuit are overwhelmingly a maritime people - Inuit society and culture are intimately tied to Nunavut's adjacent marine environment. Indeed, Inuit consider themselves to be an integral part of the ecosystems in which they live and carry out their traditional activities.

Many recent reports and assessments have noted that the pace of cultural, social, economic, and institutional change in the Arctic is extremely rapid.⁷ The pace of transformation places strain on the cultural, linguistic, and social fabric of life in northern communities at a time when they also face rapid environmental change.

In some areas of Nunavut, there is already significant coastal erosion which can threaten community infrastructure and community activities.⁸ Adaptation to these changes compounds the challenges facing the coastal communities in Nunavut.

As a result of climate change, Arctic communities are becoming exposed to unfamiliar environmental patterns and conditions. Natural ecosystems in the coastal zone and other parts of the marine environment are experiencing a variety of modifications. The implications for many wildlife species are uncertain, and therefore of tremendous concern.

Through bodies such as the Arctic Council, there have been several assessments that attempt to document environmental and developmental issues, while at the same time taking into account the human dimensions of the Arctic - with a degree of input from indigenous peoples. These include:

- *Arctic Human Development Report* (2004);
- *Arctic Climate Impact Assessment* (2005);
- *Arctic Council Oil and Gas Assessment* (2008);
- *Arctic Marine Shipping Assessment Report* (2009); and
- *Arctic Social Indicators* (2010).

⁶ See, in particular, the NLCA's objectives, as well as Articles 5 to 13, 15, 16, 20 and 40.

⁷ See, for instance, *Arctic Social Indicators – follow-up to the Arctic Human Development Report* (Nordic Council of Ministers, 2010), Chapter 1, page 11: “Rapid change, both physical and social, challenges Arctic communities. While climate change is perhaps the most obvious and widely acknowledged influence on the future of circumpolar societies, other factors play a more immediate role in the lives of Arctic residents in many areas...”

⁸ See, for instance, Natural Resources Canada: *Climate Change Impacts on an Emergent Shoreline, Hall Beach, Nunavut* (<http://www.arcticnet.ulaval.ca/pdf/talks2008/mansonGavin.pdf>).

However, most of these assessments and reports are prepared by scientific and academic officials based on limited consultations and with limited knowledge of, and involvement in, day-to-day community life in Nunavut.

There has been, and continues to be, a need for the voices of the people of Nunavut to be heard in national and international forums in order to give authoritative northern input, and to balance the perspectives of non-northern academic, scientific, industry and governmental interests.

Naturally, Nunavummiut need to be consulted when external interests wish to prepare assessments and reports about the Arctic. In addition, however, Nunavut interests should have the opportunity and the capacity to initiate their own research and policy advice on marine issues for territorial and community agencies and governments within Nunavut - and for the governments of Canada and the provinces, where appropriate.

As noted earlier, among the objectives of Canada's new Northern Strategy are the promotion of economic and social development, environmental protection and the improvement and devolution of governance, "...so that northerners have greater control over their destinies. [Emphasis added]" Clearly, the NMC – providing an informed and authoritative Nunavut voice on Arctic marine issues – will make a positive, conservation-focused contribution towards such objectives.

A sectoral approach to advising on these emerging marine issues - for example, in relation to wildlife only, or transportation only - creates a risk of disjointed and conflicting advice. A more strategic and holistic approach to address Arctic marine issues is more consistent with Inuit traditions. Such an approach is also starting to be promoted by organizations such as the Arctic Council.⁹

A coordinated, adequately-funded NMC will help to ensure that Nunavut voices are heard and carefully considered in relation to a number of Arctic marine issues. Whether particular matters are driven by forces or interests inside or outside of Nunavut, the Council will be able to provide an effective monitoring and reporting function that will bring relevant issues to the attention of Nunavummiut, as well as governments and non-governmental agencies operating in Nunavut.

3.2 Economic Environment

Compared with other regions of the circumpolar North, the penetration of industrial interests into Nunavut has occurred later because resources in more easily accessed regions were exploited first. The NLCA has played a significant role in removing obstacles to resource exploitation by regulating activities in professional, transparent ways. Consequently, Nunavut is rapidly become a prime location to meet the global demand for energy and minerals.

⁹ See, for instance, the Arctic Council's 2009 Report entitled, "*Best Practices in Ecosystem-based Ocean Management*".

The “*2010 Nunavut Economic Outlook*” provides an up-to-date and informative economic overview of Nunavut (see Appendix 1). Given its harsh climate, immense size and historically-remote location, there are a number of important challenges facing the Territory in its efforts to successfully encourage, develop and participate in new economic endeavours. Nevertheless, the Outlook is clear that one of the keys to future prosperity for Nunavut is its vast environmental resources – from immense quantities of oil, gas and minerals to an impressive variety of wildlife and a burgeoning fishing industry.¹⁰

Because of the geography of Nunavut, which includes a vast archipelago of islands, a significant percentage of economic development activities in the Territory will involve marine issues – including a large number of land-based activities. Due to the lack of roads and other infrastructure, as well as the high cost of airborne re-supply, most fuel and bulk materials must be brought in by sea-lift each year. In addition, because there are no local refining facilities, ores from mines and oil and gas from wells will have to be transported out of the region by sea.

In such a potentially dynamic economic environment, there is a clear need to have in place a Nunavut-based Marine Council. The NMC will be focused on providing informed advice and recommendations that will help to ensure protection of the marine environment in the midst of the pursuit of necessary economic development opportunities.

3.3 Co-management Partnerships

In achieving its mandate, the NMC will continue to rely upon the close partnerships its individual members have developed with a range of other bodies that have roles and responsibilities in relation to Arctic marine areas. One of the foundations of the NLCA is the co-management system of resource management, in which IPGs, Inuit and Government strive to work cooperatively to conduct and commission research, and to provide information, advice, recommendations and approvals. The development of such partnerships has been crucial to the individual successes of each of the IPGs during the last 16 years, and will undoubtedly prove to be essential in the work undertaken by the NMC.

The Council’s main government co-management partners are the following:

The Government of Nunavut’s Department of Environment (DOE): Responsible for the protection of Nunavut’s environment and the sustainable use of its renewable resources. DOE’s mandate addresses the management of terrestrial mammals, including polar bears, caribou and muskox. It also develops and maintains territorial parks and conservation areas. DOE’s legislative responsibilities include, among other statutes, the Nunavut *Wildlife Act*.

¹⁰ See, for instance, the *2010 Nunavut Economic Outlook*, section 4.4 (“*Natural Capital*”), pages 30 – 35.

The Federal Department of Fisheries and Oceans (DFO): Manages fish and marine mammal stocks, protects their aquatic habitat, and conducts research and gathers information to protect and conserve marine and freshwater environments and their resources.

The Canadian Wildlife Service (CWS) of Environment Canada: Handles wildlife matters falling within federal jurisdiction, including the protection and management of migratory birds, nationally significant habitats and species at risk. CWS also does research in many fields of wildlife biology. In addition, Environment Canada's Parks Canada Agency oversees Nunavut's national parks - Auyuittuq National Park, Sirmilik National Park and Quttinirpaaq National Park.

Indian and Northern Affairs Canada (INAC): Administers mineral rights and land use activities on the more than 80 per cent of the land in Nunavut in which both the subsurface and surface rights are held by the Crown in right of Canada. INAC heads up the Northern Contaminants Program, while also attempting to protect the northern environment and encourage sustainable development.

The Council's main Inuit partners are the following:

Nunavut Tunngavik Incorporated (NTI): Represents Inuit under the NLCA. NTI's mission is to foster Inuit economic, social and cultural well-being through the implementation of the NLCA.

The three Regional Inuit Associations (RIAS) - the Qikiqtani Inuit Association, the Kivalliq Inuit Association and the Kitikmeot Inuit Association: Represent Inuit living in Nunavut's 27 communities. The presidents of NTI and the three RIAs comprise the executive committee of the NTI Board of Directors.

Twenty-seven Hunters and Trappers Organizations (HTOs): Represent the Inuit hunters and trappers in each Nunavut community. In concert with the NWMB and the Regional Wildlife Organizations (RWOs), the HTOs oversee the exercise of harvesting by Inuit under the terms of the NLCA.

The three Regional Wildlife Organizations (RWOs) – the Qikiqtaaluk Wildlife Board, the Kivalliq Wildlife Board and the Kitikmeot Regional Wildlife Board: Represent the Hunters and Trappers Organizations in each of the three Nunavut regions. The RWOs help to manage harvesting, and to regulate harvesting practices and techniques, among the members of HTOs in the regions.

Section 4: Key Marine Issues

4.1 Marine Issues associated with socio-economic and related activities in Nunavut

The *2010 Nunavut Economic Outlook* provides a detailed picture of the present and expected socio-demographic and economic conditions and trends in Nunavut. Among the economic activities addressed in the Outlook, the following are particularly likely to have a marine dimension of interest to the Council:

- **Transportation:** There are currently several port and harbour construction projects – and a potential road linking the Kivalliq Region with Manitoba - in the planning and review stages, aimed at addressing the challenges with Nunavut’s transportation infrastructure.¹¹ These investments, made by both government and private companies, not only facilitate economic development, but will also improve access and opportunities for the residents of Nunavut.
- **Commercial Fisheries:** Activity in Nunavut’s commercial fishing industry is predicted to continue to grow, although the declining value of cold-water shrimp in recent years is worrying. Nevertheless, in 2009, the total combined catch of Nunavut turbot and shrimp was valued at \$47 million.¹² Efforts expected to achieve continued growth include planned investments in marine infrastructure, such as ports, docks and harbour facilities, training programs that address the need for a skilled fishing workforce, and increased exploration of inshore fishing opportunities. In addition, increased investments in fisheries science could result in the expansion of current fisheries, as well as the development of new fisheries, including clams, kelp and scallops.¹³
- **Tourism:** Tourism is a sector that is highly desirable in Nunavut, as it offers the opportunity for job creation at the community level, promotion of Inuit culture and protection of natural resources. Its successful development requires appropriate marketing, infrastructure development and standards and regulations. Opportunities for expansion are arising from the attention that Nunavut has received from the federal government in recent years, as well as from the publicity surrounding both Arctic sovereignty and climate change. New tourism strategies are currently under development, and new investments are

¹¹ *Ibid.*, at 26.

¹² *Ibid.*, at 65.

¹³ *Ibid.*, at 34 and 65.

being made in tourism products and infrastructure.¹⁴ Of particular significance from a marine perspective is the rapid rise in the number of cruise ships sailing the Northwest Passage – in 2010, that number had almost tripled from the previous year.¹⁵

- **Wildlife:** The traditional Nunavut economy has always been very dependent upon harvesting, which contributes positively to the health, education, family, culture and spirit of the Territory.¹⁶ While there is potential in this sector for growth and development, there is also the possibility of declines.¹⁷ Careful monitoring and research of wildlife is needed as the economy and population expand, climate warming continues, and shipping and industrial development increase. A key challenge for the future is to find ways to responsibly balance harvesting, conservation and resource development.¹⁸
- **Mining:** *“Mineral development remains the one element within Nunavut’s economy that can attract new private-sector investment, create employment, and alter the economic and social landscape of the region...”*¹⁹ Every proposed mine in Nunavut includes marine infrastructure, whether for re-supply or export of ore. The Meadowbank Gold Mine is currently in operation, and is expected to produce up to 400,000 ounces of gold (\$500 million) annually until at least 2018.²⁰ Combined with three other prospective projects – Hope Bay (gold), Meliadine Lake (gold) and Kiggavik (uranium), the value of Nunavut’s real mining output could soon reach \$1.8 billion.²¹ Longer-term mining prospects include Hackett River (silver, copper, lead and zinc), Izok Lake (zinc), High Lake (zinc and copper) and Mary River (iron).²²

Each mine brings both valuable revenue and employment to the Territory. At the same time, a mining boom is often accompanied by strains on community cohesion, as community members face the challenges of rapid economic and social change.

¹⁴ *Ibid.*, at 66.

¹⁵ *Ibid.*, at 33.

¹⁶ *Ibid.*, at 37.

¹⁷ *Ibid.*, at 33.

¹⁸ *Ibid.*, at 34.

¹⁹ *Ibid.*, at 69.

²⁰ *Ibid.*, at 59 and 60.

²¹ *Ibid.*, at 69.

²² *Ibid.*, at 61.

Land-based mining activities in Nunavut will generally have significant marine issues associated with them, given the need, in many cases, for marine shipping support at all stages of mine development, production and decommissioning.

Mining developments also may contribute in the way of effluent discharges to the marine environment and impacts associated with altered water and sediment quality.

- **Arctic Sovereignty:** There has been a heightened interest in Arctic sovereignty in recent years, as evidenced by the federal government's Northern Strategy. That Strategy outlines Arctic sovereignty as one of the Canadian Government's four areas of interest (along with the environment, social and economic development and governance).²³ Such increased interest in the Arctic means more federal spending and investments related to Nunavut – including additional scientific research, a new army training centre in Resolute Bay, a Canada High Arctic Research Station in Cambridge Bay a new Polar ice breaker, new patrol ships, and refurbishment of the Nanisivik port facility.²⁴ However, the most significant impact – not expected until well into the future - will be the eventual determination of legal/sovereign rights over the Northwest Passage.
- **Climate change:** The effect of a changing climate on Nunavut cannot be overstated: melting sea ice, impacts on land and sea mammals, fish and vegetation – and serious implications for transportation, industrial/resource development and physical infrastructure. Two of the most significant changes are expected to be (i) greater marine access and longer seasons of navigation in the Northwest Passage, and (ii) the economic viability of investigating the vast store of minerals that lie beneath the Arctic Ocean's sea ice.²⁵

4.1.1 Infrastructure Projects

Related to the above list of marine-relevant economic activities are the following potential and planned infrastructure projects:

- Construction of a deep-sea port in Iqaluit, currently under study;
- Refurbishment or new construction of the naval facility at Nanisivik;
- Planned construction of a small craft harbour in Pangnirtung (with the potential for smaller harbour projects in six other communities);
- Proposed hydroelectric plant at Jayne's Inlet, near Iqaluit;
- Potential Manitoba – Kivalliq Road;

²³ See: *Canada's Northern Strategy* (<http://www.northernstrategy.gc.ca/index-eng.asp>).

²⁴ *2010 Nunavut Economic Outlook*, at 50 and 51.

²⁵ *Ibid.*, at 31 to 33.

- Planned Bathurst Inlet Port and Road Project; and
- Various additional rail, road and marine infrastructure projects under consideration by the mining sector.²⁶

4.1.2 Economic Investment by Government

During the three years from 2007-08 to 2009-10, federal and territorial government spending in Nunavut increased dramatically, from a previous average of \$100 million annually to \$180 million – with that amount rising to \$223 million in 2009-10.

However, a number of those funding sources have run their course, and an approximate 50% reduction in planned capital spending is expected for Nunavut in 2010-11.²⁷

Nevertheless, there is justified optimism that the federal government’s escalating interest in the North will be reflected in further substantial economic investment in the Territory during the coming years. For its part, the Government of Nunavut has decided to focus its attention for the foreseeable future on the fundamentals of public government: investments in human and organizational capital - particularly health, education and social services – rather than investments in the economy.²⁸

In any case, the Nunavut economy is growing, and the economic investments of recent years will continue to strengthen that growth. Given the coastal nature of practically all Nunavut communities, future economic growth will likely give rise to marine issues that will require coordinated planning and timely advice for relevant governments and agencies.

4.1.3 Community Growth

Municipal and industrial wastewater effluent discharges to the marine environment may produce significant impacts on the marine environment. Municipal effluent releases in Nunavut are presently unregulated, with the exception of discharge and effluent quality as stipulated in a NWB Water Licence. Proposed Canadian municipal *Waste Water Systems Effluent Regulations* are currently under development, with potential northern implementation in the next five years.

4.1.4 Seismic testing in Lancaster Sound

The dispute leading to the temporary injunction applied in August 2010 to proposed geological seismic testing in Lancaster Sound, Jones Sound and North Baffin Bay offers an example of the type of marine dispute likely to become increasingly more common in Nunavut waters – and to benefit from NMC advice and recommendations. In that circumstance, planned seismic testing was opposed by several north Baffin Inuit communities because of concerns that acoustic blasts used in such testing would harm

²⁶ *Ibid.*, at 26.

²⁷ *Ibid.*, at 23 and 24.

²⁸ See the Government of Nunavut’s 2009-2013 Action Plan, *Tamapta* (http://www.gov.nu.ca/files/tamapta_english.pdf).

marine wildlife in the area. Community complaints to Government failed to either halt or significantly modify the project, with the result that the Qikiqtani Inuit Association successfully argued for the interlocutory injunction.

The NMC expects similar problems to arise in the future with respect to other economic and/or research projects in the marine waters adjacent to Nunavut. The Council is confident it will be able to assist in such circumstances, through various means – for instance, by promoting awareness of all the relevant issues and facts, and of the need for - and benefits of - meaningful consultation with affected communities. In appropriate circumstances, the NMC will also be prepared to review relevant policies and legislation, and to offer constructive advice and recommendations. At all times, the Council will be guided by the NLCA's principles of conservation and the fundamental principles of *Inuit Qaujimagatuqangit*.

4.2 Marine Issues associated with socio-economic and related activities external to Nunavut

Shipping will be a major concern associated with marine areas in and adjacent to Nunavut. As mentioned earlier, potential mines all have shipping concerns, some of which are unprecedented in Canada and the North. For example, development of deep sea ports, procedures for shipping of radioactive materials, development of navigation aids, development of pilotage expertise and more stringent regulation, monitoring and enforcement of standards for ships operating in ice covered waters - all will be needed.

There is also currently little regulation of cruise-ships and individual marine adventurers in northern waters. Such regulatory omissions can lead to negative impacts on wildlife, place unreasonable demands on search and rescue capacity, and create unacceptable burdens on communities.

In addition, offshore oil and gas exploration in, and adjacent to, Nunavut marine areas will produce a number of associated issues. Because blow-outs and oil spills would have devastating effects in or near Nunavut marine areas, protective measures to ensure their prevention must be legislated, to the extent reasonably possible.

PART TWO: IMPLEMENTING THE NUNAVUT MARINE COUNCIL

Section 5: The Nunavut Marine Council Terms of Reference

5.1 Legal basis for the NMC: Section 15.4.1 of the *Nunavut Land Claims Agreement*

The NMC was established in law by NLCA S.15.4.1.²⁹ Under that section of the land claim, the NWMB, NIRB, the NWB and the NPC – each on its own or all four together – may advise and make recommendations to other government agencies regarding the marine areas of the Nunavut Settlement Area (NSA).³⁰ If the four agencies named in the Section act together in providing such advice and recommendations, they do so as the NMC. At the same time, each agency is also authorized by NLCA S.15.4.1 to provide individual advice and recommendations.

The provision of NLCA S.15.4.1 advice and recommendations is discretionary on the part of the NMC and each of the four IPGs. Government, however, has a mandatory obligation under the section to consider all S.15.4.1 advice or recommendations received from the NMC or from the NWMB, NIRB, the NPC or the NWB as individual agencies.

5.2 Organizational Environment of the NMC

The IPGs are part of an integrated and cooperative management regime constituted in accordance with the NLCA. They operate at arm's length from Government, Inuit and other parties. Together, the structure, roles, and activities of the four IPGs that comprise the Council – as well as the co-management context in which they operate - form a solid foundation for the structure and role of the NMC.

The four IPGs described in Appendix 2 of this Business Case see value in constituting the NMC in a way that will help focus the marine dimensions of their mandates, and more generally contribute to sound decision-making in marine areas as the level of Arctic marine activities increases in the coming years and decades. In particular, the NMC will permit the IPGs to bring greater focus to marine issues of importance to Nunavut and to Canada. It will serve as a body through which the IPGs integrate their

²⁹ “The NIRB, the NWB, the NPC, and the NWMB may jointly, as a Nunavut Marine Council, or severally advise and make recommendations to other government agencies regarding the marine areas, and Government shall consider such advice and recommendations in making decisions which affect marine areas.”

³⁰ “Marine areas” are defined in NLCA S.1.1.1. They constitute “...that part of Canada’s internal waters or territorial sea, whether open or ice-covered, lying within the Nunavut Settlement Area, but does not include inland waters...” The marine areas include the sea bed and subsoil below those internal waters or territorial sea.

perspectives and experiences as they relate to marine areas, including linkages to land based activities - particularly land use planning, wildlife management, water and impact review processes. The IPGs are confident that the Council will prove to be a practical illustration of the saying that “*the whole is greater than the sum of its parts*”. At the same time, each NMC member will ensure its ongoing independence with respect to its individual responsibilities and authority under the NLCA.

5.3 Guiding Principles of the NMC

The protection of the Arctic marine environment is critical to Nunavummiut, Canadians and the global community. Accordingly, in advising and make recommendations to other government agencies regarding marine areas, the NMC will adhere to the NLCA’s general principles of conservation³¹ and its specific principles applying to marine areas.³² In addition, the NMC will be guided by the following principles of *Inuit Qaujimajatuqangit*:

- *Inuit Qaujimajatuqangit* provides an excellent basis for developing conservation and sustainable development policies and programs;
- Respect for *Inuit Qaujimajatuqangit* contributes to sustainable development and proper management of the environment;
- *Avatimik Kamattiarniq/Amiginik Avatimik*, which means that people are stewards of the environment and must treat all of nature holistically and with respect, because humans, wildlife and habitat are inter-connected and each person's actions and intentions towards everything else have consequences, for good or ill;
- *Pijitsirniq/Ihumaliukti*, which means that a person with the power to make decisions must exercise that power to serve the people to whom he or she is responsible;
- *Papattiniq/Munakhinik*, which means the obligation of guardianship or stewardship that a person may owe in relation to something that does not belong to the person;
- *Ajjiqatigiingniq/Pitiakatigiiklotik*, which means that people who wish to resolve important matters or any differences of interest must treat each other with respect and discuss them in a meaningful way, keeping in mind that just because a person is silent does not necessarily mean he or she agrees;
- *Piliriqatigiingniq/Havakatigiiklutik*, which means that people must work together in harmony to achieve a common purpose; and

³¹ See NLCA Sections 5.1.2(g), 5.1.3(b)(i), 5.1.4 and 5.1.5.

³² See NLCA Section 15.1.1.

- *Qanuqtuurunnarniq/Kaujimatukanut*, which means the ability to be creative and flexible and to improvise with whatever is at hand to achieve a purpose or solve a problem.

5.4 Objective of the NMC

In undertaking its responsibilities with respect to the marine areas, the Council seeks at all times to achieve the following objective:

To ensure the ongoing protection and wise use of the marine areas for the long-term benefit of Inuit and the rest of the public of Nunavut and Canada, in a manner consistent with the principles of Inuit Qaujimajatuqangit and of NLCA Article 15.

5.5 Mandate of the NMC

The NMC's mandate arises from the directions set out in NLCA Section 15.4.1: The NMC is composed of four members – the NWMB, the NWB, the NPC and the NIRB – acting jointly to advise and make recommendations to other government agencies regarding the marine areas. Such advice and recommendations may be with respect to any laws, policies, proposals, projects or other matters that may affect the marine areas.

5.6 NMC decision-making

All NMC advice and recommendations to other government agencies will be made by means of a consensus reached by all four members. If the NMC is not able to achieve consensus on a particular matter, individual members of the NMC may – pursuant to NLCA Section 15.4.1 - severally advise and make recommendations to other government agencies regarding the marine areas.

5.7 NMC meetings

Each member will appoint a representative and an alternate representative to attend NMC meetings, including conference calls. NMC meetings will, unless otherwise agreed by all four members, require the participation of a representative or alternate representative from each of the NWMB, the NWB, the NPC and the NIRB. The responsibility to chair NMC meetings, and to arrange for minute-taking and translation at NMC meetings, will rotate among the representatives or alternate representatives.

5.8 NMC operations

Every member will appoint a senior staff person to work with his or her counterparts appointed by each other member, to perform the following functions:

- Identify issues of potential interest to the NMC;

- Organize and prepare agendas for NMC meetings and conference calls; and
- As directed by the NMC, arrange for the preparation of Briefing Notes, letters, reports and other necessary documents.

5.9 NMC funding and administration

Until such time as the NMC receives dedicated NLCA implementation funding, its budget will remain severely limited. Current IPG budgets are already fully devoted to meeting individual IPG responsibilities under the NLCA. During this interim period, each member will be responsible for its own costs associated with NMC membership. Any additional funding arrangements will be determined by means of a consensus reached by all four members.

Until the NMC is in a position to consider the establishment of a Council secretariat, necessary administrative functions will rotate among the member organizations. The NMC will also establish a shared database – accessible by all members – containing data relevant to the exercise of the Council’s advisory jurisdiction.

5.10 Marine issues of primary interest to the NMC

Marine issues of primary interest to the NMC fall within the following four general categories:

- **Awareness Issues:** The Council will promote awareness of issues that affect or may affect marine areas, particularly the need to ensure the ongoing protection and wise use of the marine areas for the long-term benefit of Inuit and the rest of the public of Nunavut and Canada.
- **Policy Issues:** The Council will review existing policy that affects or may affect marine areas, comment on new policy initiatives, and advocate the need for additional or revised policy, as required.
- **Regulatory Issues:** The Council will, when warranted, review existing and proposed legislation that affects or may affect marine areas, and will attempt to identify gaps in – or necessary improvements to - such legislation. The NMC may also advocate the need for additional or revised legislation, as required.
- **Technical Issues:** Recognizing that primary technical expertise resides in Government and agencies other than the NMC, the Council may provide advice and recommendations, when warranted, with respect to technical matters that affect or may affect marine areas.

5.11 Initial functions of the NMC

The functions of the NMC will develop as the Council gains more experience, and as climate change and other factors affecting marine areas evolve over time. In addition, until the NMC receives dedicated NLCA implementation funding, its activities will necessarily be restricted.

Subject to budgetary constraints, the initial functions contemplated for the NMC by the IPGs include the following:

- Consultations with Nunavummiut concerning those marine issues of most concern to them;
- Monitoring *Inuit Qaujimagatuqangit*, science, literature, government, media and industry reports regarding changes, developments and concerns relevant to the marine areas;
- Collecting and storing data necessary for providing informed and timely advice and recommendations on marine issues;
- Acting as a forum for coordination of the IPGs on NLCA S.15.4.1 matters relating to the marine areas;
- Awareness-building with respect to issues affecting the marine areas;
- Advising and making recommendations to other government agencies on existing or proposed regulatory, policy, research, development and management planning initiatives that affect - or may in the future affect - the marine areas; and
- Generally, encouraging the ongoing protection and wise use of the marine areas.

Section 6: NMC Implementation Strategy to March 31st 2013

Just over 1 year remains in the current 10-year NLCA implementation planning period (ending on March 31st 2013). Although it is commencing its operations without dedicated NLCA implementation funding, the NMC intends to make a positive contribution during this period to the protection and wise use of the marine areas for the long-term benefit of Inuit and the rest of the public of Nunavut and Canada. The Council is prepared to demonstrate that its timely and informed advice and recommendations on marine issues will benefit the Arctic marine environment and the people who have relied upon it since time immemorial, and will assist Canada in implementing its new Northern Strategy. The NMC is confident that such a practical demonstration of its positive contribution to effective, conservation-based marine policy for Nunavut and for Canada will be promptly and widely recognized – and will result in an appropriate level of NLCA implementation funding for the Council.

6.1 Implementation Tasks: 2012 - 2013

- Plan, organize and host a “*Symposium on Arctic Marine Issues*”, to inform the public about - and focus attention on - marine issues of particular significance to Nunavut, and to assist the NMC to identify and prioritize those marine issues most deserving of the Council’s attention;
- Liaise with relevant co-management partners (federal government, territorial government, Inuit organizations) and other interested parties concerning marine issues of particular concern;
- Conduct a review of policies and legislation relevant to the protection and wise use of marine areas adjacent to Nunavut;
- Develop and distribute a “*Nunavut Marine Council Funding Proposal and Workplan for the Third NLCA Implementation Planning Period*”;
- Enter into discussions with the federal government regarding NMC funding for the third NLCA implementation planning period; and
- Provide timely, relevant and informed NLCA S.15.4.1 advice and recommendations, as requested by government, or as considered advisable or necessary by the NMC.

Section 7: Appendices

Appendix 1: *2010 Nunavut Economic Outlook*

Appendix 2: Institutions of Public Government comprising the NMC

Nunavut Impact Review Board (NIRB)

NIRB was established on July 9, 1996 as an institution of public government responsible for environmental assessment of project proposals in the Nunavut Settlement Area (NSA). NIRB's mandate and authority is described in Article 12 of the NLCA.

The Board is composed of nine members, one of whom acts as chairperson. Members are appointed for a three-year term by the following method:

- Four members are appointed by the federal Minister responsible for Northern Affairs, upon nomination by the Designated Inuit Organization (Nunavut Tunngavik Incorporated, Kitikmeot Inuit Association, Kivalliq Inuit Association and Qikiqtani Inuit Association).
- Two members are appointed by one or more Ministers of the Government of Canada.
- Two members are appointed by one or more Ministers of the Territorial Government; at least one of whom is appointed by the Minister responsible for Renewable Resources.
- The chairperson is appointed by the federal Minister responsible for Northern Affairs in consultation with the Territorial Government, from nominations agreed to and provided by Board members.
- In the nomination and appointment of a chairperson, preference is given to persons resident in the Nunavut Settlement Area.

NIRB screens project proposals to determine whether projects will have significant environmental and socio-economic impacts. The NLCA lists the primary functions of NIRB, including:

- To screen project proposals in order to determine whether or not a review is required; (a review is conducted when a project may have significant adverse effects, will cause significant public concern, or involves technological innovations for which effects are unknown);
- To gauge and define the extent of the regional impacts of a project;
- To review the ecosystemic and socio-economic impacts of project proposals;
- To determine, on the basis of a review, whether a project proposal should proceed, and if so, under what terms and conditions, and then report its determination to the Minister;
- To monitor projects in order to measure effects on the ecosystemic and socio-economic environment in the NSA and to determine whether terms and conditions are being followed; and
- To make recommendations to the responsible federal or territorial Minister regarding the issuance of licenses in the Nunavut Settlement Area.

NIRB works in conjunction with the other IPGs. For example, in accordance with Sections 12.3.1 and 12.3.5 of the NLCA, where the Nunavut Planning Commission (NPC) determines that a project proposal is in conformity with one of the land use plans (Keewatin and North Baffin), or a variance has been approved, NPC forwards project proposals with its determination and recommendations to NIRB for screening. In the absence of an approved land use plan, all project proposals (except certain exempt project proposals) are referred directly to NIRB for screening.

Similarly, Section 13.5.2 of the NLCA provides that following receipt of a water application for screening, NIRB shall determine whether it requires a review pursuant to Article 12 and shall advise the Nunavut Water Board (NWB). Where the water application is referred for review under Article 12, the NWB and the review body shall coordinate their efforts to avoid unnecessary duplication in the review and processing of the application. Legislation may provide for joint hearings or authorize the NWB to forego public hearings on any water application where it has participated in a public review of the relevant water application pursuant to Article 12.

NIRB's authority applies to both land and marine areas within the NSA and to the Outer Land Fast Ice Zone. As noted above, the Board's authority also extends to projects with potential transboundary impacts. NIRB may upon request by Government or, upon request by a Designated Inuit Organization (DIO), with the consent of Government, review a project proposal located outside of the NSA that may have significant adverse ecosystemic or socio-economic effects on the NSA.

NIRB conducts environmental and socio-economic assessments to assist in this work. *Inuit Qaujimagatuqangit* (Traditional Inuit Knowledge) and recognized scientific methods are used to gauge potential impacts of project proposals and to monitor projects in the NSA. In carrying out its functions, NIRB is directed to act fairly and in such a way that at all times, it protects and promotes the existing and future well being of residents of Nunavut and protects the ecosystemic integrity of the Nunavut Settlement Area. Section 12.2.5 of the NLCA also instructs NIRB to take into account the well being of residents of Canada outside the Nunavut Settlement Area.

In addition to the Executive Director, there are approximately 15 full time staff members at NIRB, including Technical Services, Finance & Administration and Translation Services.

Nunavut Planning Commission (NPC)

The Nunavut Planning Commission (NPC) was established under Article 11 of the NLCA to develop land use plans for Nunavut, outside established federal and territorial Parks. Land use plans must take into consideration:

- Population demographics;
- Natural resource base and existing patterns of natural resource use;
- Economic opportunities and needs;
- Transportation and communication services and corridors;
- Energy requirements, sources and availability;
- Community infrastructure requirements, including health, housing, education and other social services;
- Environmental considerations, including parks and conservation areas, and wildlife habitat;
- Cultural factors and priorities, including the protection and preservation of archaeological sites and outpost camps; and
- Special local and regional considerations.

The purpose of land use planning is to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, taking into account the interests of all Canadians. NPC devotes special attention to protecting and promoting the existing and future well-being of Inuit and Inuit Owned Lands. NPC also takes into consideration the views and wishes of municipalities.

Land use plans outline regional priorities for conservation, development, management and use of land, water and resources in the Nunavut Settlement Area. In Nunavut, the land use planning process shall ensure land use plans reflect the priorities and values of residents of the planning region. “Land use” includes activities such as traditional use, wildlife harvesting, tourism, establishing parks and protected areas, mineral or oil and gas exploration and development, transportation and communication corridors, activities in marine areas, and infrastructure for communities and industrial development.

Some land uses are compatible, while others are not. Land use planning seeks to resolve conflicts between different land uses by identifying the types of land use that are appropriate, where they should occur, and under what conditions. The goal of land use planning is to ensure that the long-term social, cultural, economic and ecological goals and values of the region are considered when making land use decisions. Plans contain terms that guide and direct resource use and development in the Nunavut Settlement Area.

NPC develops land use plans through extensive consultation and research with communities, Government, Inuit organizations, industry, and non-government organizations. NPC is currently developing a single land use plan for the Nunavut Settlement Area as specified in section 11.5.1 of the NLCA. The Nunavut Land Use Plan (NLUP) will integrate community, regional and Nunavut-wide issues, goals and objectives into a single framework to guide and direct land use in Nunavut. The NPC relies on all of its planning partners to provide data and expert advice related to the management and regulation of land and resources in the NSA. The NPC is preparing to

make the Draft NLUP public during fiscal year 2011-2012. Once approved only land uses that conform to the NLUP may proceed.

A *Socio-Demographic and Economic Sector Analysis Report* was prepared to provide NPC with socio-demographic and economic information at the territorial, regional and community levels and to increase the NPC's understanding and awareness of current and possible future trends in the socioeconomic environment of Nunavut. A Nunavut Wildlife Resource and Habitat Values report was also compiled to inform decisions related to management of land use in areas of important habitat.

In addition to the Executive Director, there are approximately 16 full time staff members at NPC, including technical staff, finance & administration and translation services.

Nunavut Wildlife Management Board

The Nunavut Wildlife Management Board (NWMB or Board) is an institution of public government, established by the *Nunavut Land Claims Agreement* (NLCA), a land claims agreement within the meaning of S.35 of the *Constitution Act, 1982*. The Board is composed of nine members: Four are appointed by Inuit, three by the Government of Canada, one by the Government of Nunavut, and the last – the Chairperson – is nominated by the eight other members and appointed by Canada.

Under the NLCA, the NWMB is the main instrument of wildlife management and the main regulator of access to wildlife in the Nunavut Settlement Area (NSA). This massive area in the Eastern Arctic spans more than 1.9 million square kilometers, contains approximately forty-three percent of Canada's ocean coastline, and includes the marine areas of the Arctic Archipelago and the 12-mile territorial sea adjacent to Nunavut.

The NWMB's mandate, put most simply, is the following: to help ensure the protection and wise use of wildlife and wildlife habitat for the long-term benefit of Inuit and the rest of the public of Nunavut and Canada. It attempts to fulfill this mandate by carrying out its various functions, as set out in the NLCA, in cooperation with its Inuit and Government partners.

In its capacity as an institution of public government, the Board acts as an independent administrative agency forming part of the broad structure of public government within this country. The NWMB is part of government in that it assists in the overall task of governing, by carrying out governmental functions. However, the role that it plays in this overall task is an independent one. It does not take instructions from, or act as agent or representative of, other branches of public government. Rather, it takes its instructions from the *Nunavut Land Claims Agreement*, and carries out its governing tasks as an independent tribunal.

The NWMB conducts its work within a co-management system of resource management. The NLCA's co-management process with respect to wildlife can be described as a system of partnerships, in which the partners work co-operatively to assist the Board to make particular decisions, to conduct and commission research, and to provide approvals, advice, recommendations and information. In addition, it is Government that implements and enforces Board decisions, once they are made. In this process, there is a partnership between the NWMB and Government, between the NWMB and Inuit, and - ideally - between Government and Inuit. The keys to success in such a process are communication and cooperation.

It is important to emphasize that co-management decision-making takes place solely within the NWMB. Those nine individuals, appointed by the partners in the co-management process, form a unique and independent decision-making body. Although they rely upon their Government and Inuit partners for advice and for technical assistance, the members of the Board must make their decisions on behalf of the public of the Nunavut Settlement Area (NSA), and not as agents of their appointing bodies. The majority of the decisions of the NWMB are subject to ultimate review by the relevant Minister, as described in Part 3 of Article 5 of the NLCA.

Duties and responsibilities of the NWMB

The major duties and responsibilities of the NWMB are set out, in brief, in NLCA Sections 5.2.33 (mandatory functions), 5.2.34 (discretionary functions), 5.2.37 (research functions), and 5.2.38 (functions related to research) as well as Part 3 of Article 15 (marine areas advice and recommendations). Not surprisingly, behind each of those obligations lie vast numbers of further tasks. These tasks are, for the most part, generally described within the provisions of Articles 5, 15 and 40 of the NLCA – with Articles 9, 21 and 42 also referring to the NWMB.

In addition, *A Contract Relating to the Implementation of the Nunavut Final Agreement* outlines a number of other NWMB duties. Two recently developed statutes – the (territorial) *Wildlife Act* and the (federal) *Species at Risk Act* (SARA) – set out further Board responsibilities.

Informing all of the functions of the NWMB are the principles and objectives contained in Sections 5.1.2 and 5.1.3 of the land claim. The principles of Article 5 serve as the Board's overall guide to action. The objectives are the more specific goals that the NWMB, in applying the principles, is committed to achieving.

The primary duties and responsibilities of the Board can be summarized as follows:

Decision-making within the NSA

- Making decisions with respect to establishing, modifying or removing total allowable harvests, levels of harvesting, quotas or non-quota limitations on wildlife harvesting;
- Making decisions with respect to basic needs levels and to the allocation of fish and wildlife resources from the surplus;
- Making decisions with respect to approving plans for the management and protection of particular wildlife or wildlife habitats;
- Making decisions with respect to approving the establishment, disestablishment, and changes to boundaries of Conservation Areas, related to management and protection of wildlife and wildlife habitat;
- Making decisions with respect to approving the designation of rare, threatened and endangered species;
- Establishing qualifications for big game guides; and
- Establishing trophy fees.

Providing advice, recommendations and information

- Identifying wildlife management zones and areas of high biological productivity, and providing recommendations to the Nunavut Planning Commission with respect to planning in those areas;
- Providing advice to Government, the Nunavut Impact Review Board and others regarding measures for mitigation and compensation from developers who cause damage to wildlife habitat;
- Providing advice as to requirements for the promotion of wildlife education, information and training of Inuit for wildlife management;
- Providing advice and recommendations to Government regarding the NSA's marine areas, and concerning proposed decisions which would affect those marine areas;
- Providing advice and recommendations to Government concerning proposed decisions in Zones I and II³³ that would affect the substance and value of Inuit harvesting rights and opportunities within the NSA's marine areas;
- Providing advice to Government regarding the special consideration of Nunavut interests when allocating or re-allocating commercial fishing licences in Nunavut's adjacent offshore marine waters; and
- Playing a role in the negotiation or amendment of domestic interjurisdictional agreements.

³³ To the east of the NSA is Zone I: those adjacent marine areas of Baffin Bay and Davis Strait seaward of the Territorial Sea boundary, subject to Canada's jurisdiction and not part of another land claim settlement area. To the south is Zone II: those waters of James Bay, Hudson Bay and Hudson Strait not part of the NSA or another land claim settlement area (NLCA S.1.1.1).

Guiding, funding and relying upon research

The NWMB has five main areas of responsibility with respect to wildlife research:³⁴

- Providing guidance and advice on research priorities;
- Providing funding assistance for research projects;
- Using the information derived from wildlife research in the formulation of wildlife management decisions;
- Ensuring that research data and results are made available to the public; and
- Promoting and encouraging the training and employment of Inuit in wildlife research.

In addition, the NWMB has the authority to directly undertake research that it considers necessary for responsible wildlife management.

The NWMB's record of success: 1994 to 2010

The authors of the *Implementation of the Nunavut Land Claims Agreement: an Independent 5 year review, 1993 to 1998* named the NWMB as one of the best successes of the NLCA implementation effort to date, listed second only to the legislation establishing the Government of Nunavut. The Review Team described the Board as, “*a good example of how implementation bodies can be well-organized administratively, properly focused on obligations and objectives, and operate within the spirit and intent of the Agreement.*”

The *Second Independent Five Year Review of Implementation of the Nunavut Land Claims Agreement* (1999 to 2005) provided a similarly positive evaluation: “*All of the interviewees, including representatives of the GN [Government of Nunavut], GC [Government of Canada], NTI [Nunavut Tunngavik Inc.], indicated that the implementation of this article [Article 5 – Wildlife] has been mostly effective, given the large mandate and the very limited budget... the NWMB in particular had been mostly effective.*”

The NWMB's success has been achieved through careful and creative planning, and a strong commitment to working in cooperation with its co-management partners. With respect to planning, the Board has consistently taken the time and made the required effort to ensure that its actions are guided by appropriate multi-year strategic plans and annual work plans.

³⁴ During the first planning period, two additional responsibilities were to undertake the Inuit Bowhead Knowledge Study and the Nunavut Wildlife Harvest Study. Both of these Studies have been completed.

The Board maintains approximately 11 full-time staff members, including a Chief Executive Officer, a Chief Operating Officer, and biology, finance and administration, and translation staff.

Nunavut Water Board (NWB)

The NWB was created pursuant to Article 13 of the NCLA and came into existence on July 9, 1996. It has responsibilities and powers over the use, management and regulation of inland water in Nunavut and its objective is to provide for the conservation and utilization of waters in Nunavut--except in national parks--in a manner that will provide the optimum benefits for the residents of Nunavut in particular and Canadians in general.

The powers and responsibilities of the NWB have been given effect by the *Nunavut Waters and Nunavut Surface Rights Tribunal Act, (2002, c-10)*, enacted by the Parliament of Canada in April, 2002. With some exceptions, before processing any water application, the NWB must first refer it to NPC, to verify that it is in conformity with an approved land use plan. Under the Act, the NWB can issue, renew, amend and cancel a water licence, with or without a public hearing, depending on the type of activity. Licences issued following a public hearing must be approved by the Minister of Indian and Northern Affairs ("Minister"). The NWB does not have enforcement powers. Once a licence is issued by the NWB, the jurisdiction of the NWB ceases. Compliance and enforcement of water licences and provisions of the Act fall under the jurisdiction of the Department of Indian and Northern Affairs.

The NWB's regulatory jurisdiction is limited to inland fresh water: lakes, rivers, streams, wetlands, ground water and does not include marine areas. However, the NWB has advisory functions over marine areas in Nunavut either on its own or jointly as a member of the Nunavut Marine Council along with the NIRB, the NPC and the NWMB. The NWB together with these three agencies, cooperate and coordinate their efforts in the review, screening, and processing of water applications to avoid duplication and to ensure that they are dealt with in a timely fashion.

According to the legislation, the NWB consists of nine members, including the Chairperson. Board members are appointed by the Minister of Indian Affairs and Northern Development. One half of the members are appointed on the nomination of the designated Inuit organization; one quarter are appointed on the nomination of the territorial minister responsible for renewable resources, and one quarter are appointed on the nomination of the territorial minister or ministers designated, by an instrument of the Executive Council of Nunavut. Similar to the NWMB, provision is made in the Act for substitute members to represent Inuit of Nunavik on certain issues.

In addition to the Executive Director, there are approximately 12 full time staff members at NWB, including technical staff and finance & administration.

