

# **PART 1: THE AUTHORITY OF THE NUNAVUT WILDLIFE MANAGEMENT BOARD**

## **1.1 INTRODUCTION**

In 1993, the Nunavut Wildlife Management Board (NWMB or Board) was established as an institution of public government pursuant to Section 5.2.1 of the *Nunavut Land Claims Agreement* (NLCA), and incorporated under the *Nunavut Land Claims Agreement Act* (NLCAA). The NWMB must regularly consider wildlife management issues which are complex and sometimes controversial, and that routinely address the proposed limitation of Inuit harvesting rights. The Board is committed to the discharge of its responsibilities in an open, transparent, fair and timely manner.

This Governance Manual is intended to describe:

1. The NWMB's mandate and responsibilities (Part 1);
2. The NWMB's organizational and administrative structure (Part 2);
3. NWMB policies and procedures which govern meetings, hearings and decisions (Parts 3 to 5);
4. NWMB expectations of the participants attending its meetings and hearings (Parts 3 to 5); and
5. NWMB communications policies and procedures (Part 6).

Provisions from the NLCA and other legal documents are referenced as appropriate. In the interests of brevity and plain language, some provisions have not been cited verbatim. The reader is therefore advised that the original legal instruments should be consulted for the definitive statement of any provision.

The NWMB reserves the right to modify any Part of this Governance Manual if and when a change to it is deemed appropriate by the Board. The NWMB will promptly provide written notice to relevant co-management partners of any substantive modifications to the Manual.

## **1.2 THE NWMB MANDATE**

### **1.2.1 The source of the NWMB's authority: The *Nunavut Land Claims Agreement* and the *Nunavut Land Claims Agreement Act***

The NWMB is the main instrument of wildlife management and the main regulator of access to wildlife in the Nunavut Settlement Area (NSA) (NLCA 5.2.33). The Board is an independent administrative tribunal which is part of the overall structure of public government within Nunavut. However, the Board does not take instructions from, or do the bidding of, other branches of public government. Rather, it takes its instructions from the NLCA and carries out its governing tasks as an independent and impartial regulatory agency.

Under the NLCA, the NWMB is empowered to make legally-binding decisions concerning wildlife management in Nunavut. However, many of the Board's decisions are subject to ultimate review by the appropriate Minister (NLCA 5.1.2(i)). Thus, with respect to its decision-making authority, the NWMB operates as a co-jurisdictional body, integrally involved with Government in legal rule-making (NLCA 5.3.7 – 5.3.23).

The NWMB acts as the primary decision-making agency within a co-management system of wildlife management. Co-management refers to a system of partnerships in which the partners - Inuit and Government - work co-operatively to assist the Board to make particular decisions, to conduct and commission research, and to provide approvals, advice, recommendations and information.

The NWMB was incorporated under Section 10(1) of the NLCAA. As a corporation, it has the capacity, rights, powers, and privileges of a human being.

The NWMB exercises its mandate throughout the NSA (see Appendix 1), with some of its decision-making and advisory responsibilities extending beyond the NSA.<sup>1</sup>

### **1.2.2 The NWMB Mission**

The NWMB mission is “*conserving wildlife through the application of Inuit Qaujimagatuqangit and scientific knowledge.*”.

<sup>1</sup> The NWMB has been delegated certain decision-making responsibilities that apply to the entire Nunavut territory, pursuant to the terms of the *Wildlife Act*. NLCA Article 16 extends the Board's Article 5 authority to all harvesting from land-fast ice and to all marine mammals in open waters. In addition, under NLCA Article 15, particular NWMB advisory responsibilities extend to marine areas outside the NSA.

### **1.2.3 The NWMB Vision**

The NWMB seeks to attain the following vision: “*Nunavut: a world class model for the cooperative management of healthy wildlife populations.*”

### **1.2.4 Core NWMB Operating Principles**

The NWMB will achieve its mandate, mission and vision by adhering to the following core operating principles:

#### **1.2.4.1 Maintain independence and impartiality**

The Board is an impartial and independent decision-making body. Although the NWMB relies upon both Government and Inuit for advice and for technical assistance, the members must make their decisions on behalf of the public and in the public interest - not as agents of their appointing bodies. Accordingly, a member does not take direction from the individual, agency or organization that appointed or nominated him or her.

#### **1.2.4.2 Follow the Rule of Law and Best Practices**

In carrying out their responsibilities, Board members, staff, advisors and committees are committed to upholding the rule of law by consistently meeting all of their legal obligations. The NWMB members, staff, advisors and committees are also under a duty to follow best practices in every area of Board operations.

#### **1.2.4.3 Meet Procedural Fairness Commitments**

The effectiveness of the Board is assured through its ongoing commitment to the legal principles of procedural fairness, which require the NWMB to always provide adequate notice, disclosure and opportunity to respond to those affected by its decision-making.

#### **1.2.4.4 Listen to Stakeholders**

The Board is regularly required to make difficult decisions on complex issues which affect the aspirations, expectations, rights, and interests of the affected parties. The NWMB must actively listen to the parties which appear before it and strive to understand the information and concerns which they present. The Board must then make independent, impartial and informed decisions in compliance with its mandate, mission and vision.

#### **1.2.4.5 Work with Co-management Partners**

Effective partnerships are fundamental to the success of co-management in Nunavut. The Board is committed to working with its partners by sharing information and striving to understand their perspectives and needs, and by responding to those perspectives and needs in a responsible manner.

#### **1.2.4.6 Rely on Best Available Information**

NWMB decisions and advice must be based on the best available Inuit Qaujimaqatuqangit and western scientific information.

#### **1.2.4.7 Practice Ecosystemic Management**

The NWMB exercises its responsibilities in a manner which promotes the conservation and sustainable use of wildlife as interrelated components of ecosystems, rather than as stand-alone species.

#### **1.2.4.8 Pursue a Precautionary Approach**

For both ecological and economic reasons, prevention is more effective than recovery. The NWMB pursues a precautionary conservation approach which reflects the variability and interdependence of natural systems, as well as the limited understanding of those systems.

#### **1.2.4.9 Promptly Communicate Decisions**

The NWMB must ensure that its decisions are communicated to its partners, stakeholders and the public in a timely manner while respecting its confidentiality obligations under the NLCA.

### **1.3 NWMB RESPONSIBILITIES**

#### **1.3.1 The Principles and Objectives of NLCA Article 5**

Informing all of the responsibilities of the NWMB are the principles and objectives contained in Sections 5.1.2, 5.1.3 and 5.1.5 of the NLCA (see Appendix 2).

## **1.3.2 Decision-making Responsibilities of the NWMB**

### **1.3.2.1 Harvest-related responsibilities**

1. Establish, modify or remove non-quota limitations (NLCA 5.2.33(k), 5.6.48 - 5.6.51);
2. Establish, modify or remove levels of total allowable harvest or harvesting (NLCA 5.2.33(d), 5.6.16 - 5.6.18);
3. Calculate and establish - and review and adjust as necessary - basic needs levels (NLCA 5.2.33(e) and (f), 5.6.19 - 5.6.30; See also Article 40);
4. Determine the global allocation of the surplus (NLCA 5.2.33(g)(h)(i)(j), 5.6.31 - 5.6.40);
5. Determine individual allocations of the surplus for existing sports and other commercial operations, economic ventures sponsored by Hunters and Trappers Organizations (HTOs) and Regional Wildlife Organizations (RWOs), and the use of the remaining surplus by Inuit under NLCA S.5.6.40 (*Wildlife Act* 122(4)<sup>2</sup>);
6. In making decisions with respect to harvesting, take account of harvesting activities outside the NSA and the terms of domestic interjurisdictional agreements or international agreements pertaining to such wildlife (NLCA 5.3.4);
7. Maintain, or - where necessary - modify or remove, quotas and other restrictions on harvesting that were in effect at the time the NLCA came into force (NLCA 5.6.4, 5.6.51);
8. Establish conservation restrictions on the Inuit right of access for the purpose of harvesting (NLCA 5.7.18(b); *Wildlife Act* 11(3)(b)<sup>3</sup>);
9. Provide approval to government wildlife officers and researchers to harvest “*presumption as to need*” wildlife (that is, species for which Inuit need the entire harvest), for purposes of research or of predator or disease control (NLCA 5.6.11);
10. Examine “*presumptions as to need*” for the purpose of rebuttal (NLCA 5.2.33(c), 5.6.5 - 5.6.11);
11. Establish qualifications respecting guides (NLCA 5.2.34(h), 5.6.41 - discretionary; *Wildlife Act*, 23(2) - mandatory);

<sup>2</sup> Under the *Wildlife Act*, this NWMB authority extends to the entire Nunavut Territory, not just the NSA.

<sup>3</sup> Under the *Wildlife Act*, this NWMB authority extends to the entire Nunavut Territory, not just the NSA.

12. Set Trophy Fees (NLCA 5.2.33(l), 5.7.41);
13. Ensure that all harvesting in the NSA is in accordance with legislation implementing those terms of an international agreement that were in existence on the date the NLCA came into force (NLCA 5.9.4); and
14. Exercise relevant Article 5 responsibilities in the Outer Land Fast Ice Zone with respect both to harvesting from land-fast ice and to marine mammals in open waters (NLCA 16.1.1).

### **1.3.2.2 Wildlife- and habitat-protection responsibilities**

1. Approve plans for management and protection of particular wildlife habitats including areas within Conservation Areas, Territorial Parks and National Parks (NLCA 5.2.34(c) - discretionary<sup>4</sup>; *Wildlife Act* 134 to 139<sup>5</sup>. See also SARA 39, 41, 48, 49 and 66; *Oceans Act* 31; *Canada National Marine Conservation Areas Act* 9);
2. Approve plans for: the management, classification, protection, restocking or propagation, cultivation or husbandry of particular wildlife, including endangered species; the regulation of imported non-indigenous species; and the management of transplanted wildlife populations (NLCA 5.2.34(d) – discretionary; *Wildlife Act* 134 to 138<sup>6</sup>. See also SARA 39, 41, 48, 49 and 66; *Oceans Act* 31; *Canada National Marine Conservation Areas Act* 9);
3. Approve the designation of species at risk (NLCA 5.2.34(f) – discretionary; *Wildlife Act* 131<sup>7</sup> - mandatory. See also SARA 27);
4. Upon approving the designation of a species as being at risk:
  - (a) consider imposing harvesting prohibitions or modifications (*Wildlife Act* 132(1)(a) & (b));
  - (b) consider imposing new non-quota limitations or exempting existing ones (*Wildlife Act* 132(1)(d) & (e));
  - (c) identify its critical habitat (*Wildlife Act* 132(1)(c)); and
  - (d) decide whether to suspend, cancel or prohibit any or all licences relating to a listed or other affected species (*Wildlife Act* 132(3))<sup>8</sup>;

<sup>4</sup> As a matter of policy, the NWMB exercises all of its discretionary functions under the NLCA.

<sup>5</sup> Under the *Wildlife Act*, the exercise of the NWMB's authority with respect to the approval of recovery strategies and management plans for species at risk is mandatory. In addition, that authority extends to the entire Nunavut Territory, not just the NSA.

<sup>6</sup> See footnote number 6.

<sup>7</sup> Under the *Wildlife Act*, this NWMB authority extends to the entire Nunavut Territory, not just the NSA.

<sup>8</sup> NWMB authority under section 132 of the *Wildlife Act* extends to the entire Nunavut Territory, not just the NSA.

5. Authorize a person to engage in an education or research activity otherwise prohibited by the *Wildlife Act*, if the activity is concerning an extinct species or species at risk (*Wildlife Act* 20)<sup>9</sup>;
6. Authorize a person to engage in harvesting activities otherwise prohibited by the *Wildlife Act* within a critical habitat (*Wildlife Act* 66, 139(3));
7. Approve the establishment, disestablishment and changes to boundaries of Conservation Areas, related to management and protection of wildlife and wildlife habitat (NLCA 5.2.34(a) – discretionary); and
8. Appoint appropriate representation from the NSA to Government structures promoting coordinated management of migratory marine species in Zones I and II<sup>10</sup> and adjacent areas (NLCA 15.3.2).

### **1.3.2.3 Responsibilities with respect to Parks, Sanctuaries and Conservation Areas**

1. In making decisions affecting Parks, sanctuaries and Conservation Areas, take into account the special purposes and policies relating to those areas (NLCA 5.3.6); and
2. Examine - with a view to possible removal or replacement - restrictions enacted for conservation purposes, governing access by Inuit to Parks and Conservation Areas, that were in effect at the time the NLCA came into force (NLCA 5.7.24).

### **1.3.2.4 Responsibilities with respect to hearings**

1. Hold public hearings into any issue requiring a decision on the part of the NWMB (NLCA 5.2.26 – 5.2.30 - discretionary); and
2. With respect to the Thelon Game Sanctuary, hold a joint public review - with the agency having jurisdiction over management and protection of wildlife and wildlife habitat in that part of the Sanctuary outside the NSA - concerning proposals to change the boundary of the Sanctuary, to disestablish the Sanctuary, or to alter its status (NLCA 9.5.2).

### **1.3.2.5 Responsibilities with respect to RWOs and HTOs**

1. Provide adequate funding for the operation of RWOs and HTOs (NLCA 5.7.13);

<sup>9</sup> Under the *Wildlife Act*, this NWMB authority extends to the entire Nunavut Territory, not just the NSA.

<sup>10</sup> Zone I refers to those waters north of 61° latitude subject to Canada's jurisdiction seaward of the 12 nautical mile Territorial Sea boundary – see NLCA 1.1.1. Zone II refers to those waters of James Bay, Hudson Bay and Hudson Strait that are not part of the NSA or another land claim settlement area – see NLCA 1.1.1.

2. Develop, with the HTOs and RWOs, guidelines indicating the extent to which each HTO shall be obliged to conform to by-laws and decisions of the RWO in its Region (NLCA 5.7.9);
3. Dispose of valuable parts of wildlife killed in an emergency to the appropriate RWO (NLCA 5.6.55); and
4. Following consultation with the appropriate RWO, approve access to Inuit Owned Lands by Government personnel for the purposes of wildlife management and wildlife research (NLCA 21.5.7).

### **1.3.2.6 Research-related responsibilities**

1. Identify research requirements and deficiencies, and promote and encourage on an ongoing basis, research aimed at meeting requirements and overcoming deficiencies (NLCA 5.2.33(a), 5.2.37(a));
2. Review research proposals and applications (NLCA 5.2.33(a), 5.2.37(c));
3. Contribute funding for the conduct of research proposed by the Government of Canada or the Nunavut Government and approved by the NWMB (See NLCA 5.2.37. See also S.5.17 of *A Contract Relating to the Implementation of the Nunavut Final Agreement* (Implementation Contract) and the Nunavut Wildlife Research Trust Agreement);
4. Collect, classify, and disseminate wildlife statistics and information, and maintain a data base adequate for such purposes; and establish and maintain an open file system for all raw and interpreted data and information related to research (NLCA 5.2.33(a), 5.2.37(d), 5.2.38(a));
5. Identify wildlife research requirements and deficiencies, and review research proposals and applications within Zones I and II (NLCA 15.3.6);
6. Identify relevant persons and agencies to undertake wildlife research (NLCA 5.2.33(a), 5.2.37(b));
7. Prior to the carrying out of research, communicate consult and cooperate with residents of the NSA and Designated Inuit Organizations (DIOs) likely to be affected (NLCA 5.2.33(a), 5.2.38(d)); and
8. Carry out all other research functions consistent with the NWMB's responsibilities under the NLCA, including the direct undertaking of research that the Board considers necessary for responsible wildlife management (NLCA 5.2.37(e)).

### **1.3.2.7 Responsibilities with respect to Ministerial referrals and other activities**

1. Where the Minister has made and implemented a reasonable interim decision under urgent and unusual circumstances requiring an immediate modification in harvesting activities, conduct a full review as soon as practicable thereafter (NLCA 5.3.24);
2. Deal expeditiously with a management matter referred to the NWMB by the Minister, on the Minister's own initiative (NLCA 5.3.25); and
3. Perform activities not set out in the NLCA relating to the management of and regulation of access to wildlife in the NSA, as agreed by the NWMB and Government (NLCA 5.2.35).

### **1.3.3 Implied Responsibilities as the Main Instrument of Wildlife Management in the NSA**

NLCA S. 5.2.33 designates the NWMB as “...*the main instrument of wildlife management in the Nunavut Settlement Area and the main regulator of access to wildlife...*” Such language implies two things: First, that the Board is not the sole instrument and sole regulator; second, that the NWMB is authorized to work with the other instruments of wildlife management and regulators of access to wildlife in the NSA on relevant wildlife management and regulation issues (see NLCA S.5.2.35).

Although not explicitly authorized under the terms of the NLCA, it is clear from the opening language of NLCA S.5.2.33 - and from a number of the principles and objectives of NLCA Article 5 - that the main instrument of wildlife management and the main regulator of access to wildlife should play a significant role in the development of wildlife policy and wildlife regulation in Nunavut. That significant role includes appropriate involvement in the development of policies related to the management and protection of wildlife, as well as in the development and modification of wildlife legislation.<sup>11</sup>

Naturally, the NWMB’s involvement in such policy and legislative initiatives must fully respect the Board’s legal obligation to maintain its independence and freedom from bias in carrying out its NLCA Article 5 decision-making responsibilities (see section 1.4 of this Manual).

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<sup>11</sup> In fact, the NWMB has traditionally participated in the development and modification of wildlife-focused policies and legislation – including with respect to various agreements, memoranda of understanding, and plans, as well as the territorial *Wildlife Act* and (draft) Regulations, and federal legislation, such as the *Species at Risk Act*, *Canada National Marine Conservation Areas Act*, *Oceans Act*, and (draft) *Nunavut Fishery Regulations*.

### **1.3.4 Advisory Responsibilities**

1. Provide advice to Government with respect to any wildlife management decisions in Zones I and II which would affect the substance and value of Inuit harvesting rights and opportunities within the marine areas of the NSA (NLCA 15.3.4);
2. Provide advice and recommendations to Government with respect to Government's responsibilities under NLCA S.15.3.7 (NLCA 15.3.7 and January 2009 NWMB v. DFO Federal Court judgment<sup>12</sup>);
3. Make recommendations to Government, regarding marine management, on its own or as part of the Nunavut Marine Council (NLCA 15.4.1);
4. Make recommendations to Government with respect to individual commercial fishery allocations for Nunavut fishers in the Davis Strait and Baffin Bay, outside the NSA in Zone I (NLCA 15.3.4 and 15.3.7);
5. Identify wildlife management zones and areas of high biological activity and provide recommendations to the Nunavut Planning Commission (NPC) with respect to planning in those areas (NLCA 5.2.34(b) - discretionary);
6. Provide advice regarding mitigation measures and compensation to be required from commercial and industrial developers who cause damage to wildlife habitat (NLCA 5.2.34(e) - discretionary);
7. Recommend on the acceptance or rejection of research proposals to the appropriate government agency (NLCA 5.2.33(a), 5.2.37(c)); and
8. Recommend acceptance or rejection of research proposals and applications within Zones I and II to the appropriate government agency (NLCA 15.3.6).

### **1.3.5 Responsibilities with respect to Inuit Training and Employment**

1. Promote and encourage training for Inuit in wildlife research and management (NLCA 5.2.38(b));
2. Promote and encourage employment of Inuit and Inuit organizations in research and technical positions made available through government and private sector research contracts (NLCA 5.2.38(c)); and

<sup>12</sup> *Nunavut Wildlife Management Board v. Canada (Minister of Fisheries and Oceans)* [2009] 4 F.C.R. 544.

3. Provide advice as to requirements for the promotion of wildlife education, information and training of Inuit for wildlife management (NLCA 5.2.34(g) - discretionary).

### **1.3.6 Interjurisdictional Responsibilities**

1. Play a role in the negotiation or amendment of domestic interjurisdictional agreements commensurate with its status and responsibilities in the management of wildlife in the NSA (NLCA 5.9.5);
2. Play a role in the negotiation or amendment of domestic interjurisdictional agreements dealing with wildlife management, with respect to Zones I and II (NLCA 15.3.5);
3. In performing management functions in relation to areas traditionally used and occupied by Nunavik Inuit, allow Makivik (the Corporation representing Nunavik Inuit) full standing to make representations, and take those representations into account (NLCA 40.2.16);
4. Work cooperatively with any interjurisdictional management institutions for protecting and conserving caribou herds or other species which are harvested by members of a Northern Manitoba or Northern Saskatchewan Denesuline Indian Band and Inuit (NLCA 40.4.6, 40.5.5); and
5. Consult with the Councils of the Bands on decisions of the NWMB of direct concern to those Bands (NLCA 40.4.2, 40.4.4, 40.4.5, 40.5.2, 40.5.4).

### **1.3.7 Financial and General Responsibilities**

1. Prepare an annual budget subject to review and approval by Government (NLCA 5.2.19);
2. Follow normally accepted management and accounting practices (NLCA 37.1.1(e)(iii));
3. Carry out the duties and responsibilities assigned to the Board in the NLCA in a professional manner with appropriate public involvement (NLCA 37.1.1(e)(ii)); and
4. In obtaining and disclosing information, be subject to laws of general application relating to confidentiality of and access to information (NLCA 5.2.31).

## **1.3.8 Research Funding Responsibilities**

### **1.3.8.1 Nunavut Wildlife Research Trust**

#### **Purpose:**

In 1994, pursuant to *A Contract Relating to the Implementation of the Nunavut Final Agreement*, the Government of Canada provided the NWMB with funds for the establishment of a Wildlife Research Fund (the Fund) which is intended to provide money for government departments to carry out wildlife research approved by the NWMB (S.5.17 of the Implementation Contract). Upon that basis, the Board established the Nunavut Wildlife Research Trust (NWRT), which was designated a Registered Charity (exempt from income tax) in 1996. The members of the NWMB are the Trustees of the NWRT (Nunavut Wildlife Research Trust Agreement).

#### **Objectives:**

The objectives of the NWRT are to:

- (a) generate a return on investments that will enable the Fund to increase over time; and
- (b) provide a reasonable annual allotment of funds for the conduct of government research in order to help establish and maintain an effective system of wildlife management in the NSA, for the benefit of all its inhabitants.

#### **Applications:**

The application process for government researchers to access NWRT funding is described in the NWMB Wildlife Management Policies Manual.

### **1.3.8.2 Nunavut Wildlife Management Board Studies Fund**

#### **Purpose:**

The NWMB sets aside a portion of its annual operating funds – the NWMB Studies Fund - to support wildlife research projects undertaken by Nunavut community organizations.

#### **Objective:**

The NWMB Studies Fund is intended to address wildlife management issues of local concern, and is exclusively available only to Nunavut community-based researchers.

#### **Applications:**

The application process for community researchers to access funding from the NWMB Studies Fund is described in the NWMB Wildlife Management Policies Manual.

### **1.3.9 NWMB Liability**

In discharging any duties or in exercising any powers in good faith, the NWMB is not liable to any person or organization for any loss or damage that may occur (NLCA 5.2.39).

## **1.4 NWMB INDEPENDENCE AND FREEDOM FROM BIAS**

As the main instrument of wildlife management and the main regulator of access to wildlife in the NSA, the NWMB necessarily plays a significant role in the advancement of wildlife policy and wildlife regulation in Nunavut. That role includes involvement with government and other relevant agencies in developing policies related to the management and protection of wildlife, as well as in the development and modification of wildlife legislation.

The NWMB's involvement in such policy and legislative initiatives must fully respect the Board's legal obligation to maintain its independence and freedom from bias in carrying out its NLCA Article 5 decision-making responsibilities.

Participation of any NWMB representative (member, counsel or staff) in the development of harvesting limitations and any other regulations requiring a hearing<sup>13</sup> prior to formal NWMB approval, could reasonably be seen as compromising the ability of the Board to then decide independently and free from bias whether to approve any such harvesting limitation following a public hearing.

There is no problem for the NWMB to participate in the negotiation of all other aspects of proposed statutes, regulations, management and protection plans, hunt plans, conservation plans, harvesting agreements, inter-jurisdictional agreements, policies, protocols, and so on.

With respect to participation in discussions and negotiations addressing harvesting and related restrictions, the Board's approach is to focus on general practical matters, and to keep away from involvement in specific issues that will later be adjudicated by the NWMB. As such, Board representatives may participate only for the purposes of providing relevant information, comment and suggestions, making it clear that the NWMB retains the ability to hold its own hearings and reach its own conclusions on the merits of any proposed harvesting limitations or related matters that require pre-adoption hearings by the Board.

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<sup>13</sup> That is, an independent, impartial and unbiased public consideration, based on relevant evidence and argument.

## **PART 2: NWMB ORGANIZATIONAL AND ADMINISTRATIVE STRUCTURE**

### **2.1 NWMB MEMBERSHIP**

The NWMB consists of nine members, including the Chairperson (NLCA 5.2.1).

Four Designated Inuit Organizations (DIOs) - the Kivalliq Inuit Association (KIA), the Kitikmeot Inuit Association (KIA), the Qikiqtani Inuit Association (QIA) and Nunavut Tunngavik Incorporated (NTI) - appoint one member each.

The Minister of the Department of Fisheries and Oceans (DFO), the Minister of Aboriginal Affairs and Northern Development Canada (AANDC), and the Minister responsible for the Canadian Wildlife Service (CWS) nominate one member each for appointment by the Governor-in-Council.

The Government of Nunavut (GN), through the Commissioner-in-Executive Council, also appoints one member.

The Chairperson is nominated by the members of the NWMB for appointment by the Governor-in-Council.

In addition, two NWMB members appointed by Makivik will take the place of two DIO-appointed members only for Board decisions that apply to activities in the Areas of Equal Use and Occupancy (NLCA 40.2.2 and 40.2.14)<sup>14</sup>,

### **2.2 NWMB OATH OF OFFICE**

Each member must – before entering upon his or her duties - take the “*Oath of Office for Members of the Nunavut Wildlife Management Board*” as set out in NLCA Schedule 5-4 (NLCA 5.2.6).

### **2.3 CONFLICT OF INTEREST AND CODE OF CONDUCT**

Rules relating to conflict of interest set out in specified federal and territorial laws apply to members, but no member who is an Inuk shall be considered biased solely because the member is an Inuk (NLCA 5.2.7).

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<sup>14</sup> “*Areas of Equal Use and Occupancy*” means those areas described in Schedule 40-1 of the NLCA. They essentially consist of Salisbury and Nottingham Islands and adjacent waters in Hudson Strait, and Sleeper Island, King George and Bakers Dozen Islands and adjacent waters in Hudson Bay. See NLCA 40.2.2.

All members shall conduct themselves in a manner consistent with the NWMB Code of Conduct (Appendix 3).

## **2.4 NWMB TERM OF OFFICE AND REAPPOINTMENT**

Each NWMB member is appointed to the Board for a term of four years. A member may be reappointed by the body that made the original appointment, and that reappointment must also be for a four-year term (NLCA 5.2.4 and 5.2.8).

## **2.5 REMOVAL FROM OFFICE**

A member may be removed from office at any time for cause by the person or body appointing him or her (NLCA 5.2.5)<sup>15</sup>.

The NWMB may make a recommendation for removal for cause to the body that appointed a member. Such a recommendation shall be made only if it is decided by a majority vote of the members present at a meeting of the NWMB, and provided that any such member is first advised in writing of the precise grounds for recommendation for removal, and is provided an opportunity to make a statement in explanation and/or defense of his or her conduct. If his or her explanation and/or defense satisfies a majority of the members present, no such recommendation shall be made (NWMB General By-law (GB) 4.4).

## **2.6 MEMBERSHIP VACANCIES**

A vacancy in the membership of the NWMB does not impair the right of the remaining members to act (NLCA 5.2.12).

## **2.7 NWMB COMMITTEES**

The NWMB may establish, from time to time, committees to undertake specific administrative and other tasks as directed by the Board. The membership of these committees need not be restricted to NWMB members. The CCEO is an *ex officio* member of all committees (GB 10.2).

The membership and mandatory terms of reference for committees are established by formal resolution of the NWMB. The NWMB may also terminate any committee by formal resolution. Unless indicated in its terms of reference, a committee is subject to the directions, by-laws, policies and operating procedures of the NWMB.

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<sup>15</sup> “*For cause*” means for reasons which law and/or policy recognize as sufficient for removal.

## **2.8 NWMB EMPLOYEES**

The NWMB appoints employees necessary for the proper conduct of its business. This includes Officers, other full- or part-time staff and contracted employees. All employees are responsible to, and under the direction and control of, the NWMB (NLCA 5.2.24 and 5.2.25). Administrative and other duties are assigned by the Board to its employees via the approval of job descriptions, policies and procedures, or by more specific resolutions. NWMB employees shall conduct themselves in a manner consistent with the NWMB Code of Conduct.

### **2.8.1 Chairperson – Chief Executive Officer**

As permitted by NLCA 5.2.24, the Chairperson is engaged as a full-time officer of the Board. The position is described as the Chair and Chief Executive Officer (CCEO). The CCEO exercises all of the functions of the NWMB Chair under the terms of the NLCA, as well as the functions of the CEO under the terms of his or her employment contract with the Board.

### **2.8.2 Chief Operating Officer**

The Chief Operating Officer (COO) serves as Secretary to the Board and has primary responsibility for overseeing the day-to-day operations of the NWMB.

## **2.9 DELEGATION TO NWMB REPRESENTATIVES**

The NWMB cannot delegate any of its legal powers. The Board must itself make all the decisions that it is empowered by the NLCA, or by a statute or regulation, to make. However, the NWMB can delegate fact-finding, consultation, and administrative and operational duties to individual members, its officers, employees, committees and other agents (representatives). In addition, the NWMB may direct one or more of its representatives to participate with delegates of other agencies in the development of draft wildlife policies and wildlife regulations, subject to the following condition: Participation by any NWMB representative must fully respect the Board's legal obligation to maintain its independence and freedom from bias in carrying out its NLCA decision-making responsibilities (see section 1.4 of this Manual).

Delegation by the NWMB to its individual members, officers, employees, committees and other agents is carried out by means of a formal resolution of the Board.

## **PART 3: NWMB MEETINGS**

### **3.1 SCHEDULING OF MEETINGS**

The NWMB shall meet at least twice per year and may meet as often as it deems fit (NLCA 5.2.14).

Generally, the NWMB holds quarterly in-person meetings during the second week of June, September, December and March, unless circumstances require that it meet at another time. Additional meetings may be scheduled as required.

Where circumstances require the NWMB to meet at a time other than the second week of June, September, December or March, the members will determine the date, time and place for that meeting at an earlier meeting (GB 9.5). If, for any reason, the members do not do so, the CCEO and COO shall make a determination, and provide reasonable notice of the date, time and place of the meeting to the members (GB 9.6).

The Chairperson must convene a meeting of the NWMB within twenty-one (21) days of receipt, from any four members of the Board, of a written request indicating the purpose of the meeting (NLCA 5.2.15).

### **3.2 MEETINGS ARE OPEN TO THE PUBLIC**

As an institution of public government, the NWMB is committed to an overall policy of openness and transparency, and to conducting as much of its wildlife management business as possible on the public record. Accordingly, all Board meetings – except in camera and internal in camera meetings - are open to the public.

### **3.3 NON-VOTING OBSERVERS**

Where a Minister nominates a member to the NWMB who is not a public servant, that Minister has the right to have an officer of the Minister's department attend all of the NWMB's wildlife management meetings as a non-voting observer (NLCA 5.2.2).<sup>16</sup>

Where a DIO appoints a member to the NWMB, the DIO has the right to have a technical adviser to the DIO attend all of the NWMB's wildlife management meetings as a non-voting observer (NLCA 5.2.3).<sup>17</sup>

<sup>16</sup> This right extends to Board hearings and conference calls.

<sup>17</sup> Just as for ministerial non-voting observers, this right of DIO non-voting observers extends to Board hearings and conference calls.

The cost of each non-voting observer shall be borne by the person or organization sending the observer (NLCA 5.2.22).

Non-voting observers are not entitled to attend NWMB internal in camera meetings, as these meetings address administrative and internal operational matters of the Board.

### **3.4 LENGTH, CONDUCT AND LOCATION OF QUARTERLY MEETINGS**

The NWMB shall, whenever practicable, meet within the NSA (NLCA 5.2.16). Because of efficiency, time, infrastructure and budgetary considerations, Iqaluit - the capital of Nunavut and the territorial headquarters of the NWMB, DFO, the GN, CWS, ANAC and NTI – is generally the most practical and economic location to hold NWMB meetings. The Board's June quarterly meeting serves as the annual “*regional meeting*” of the NWMB, and rotates through the three Nunavut Regions.

The Board maintains a 5-day quarterly meeting schedule. Except for those members requiring more than one day to arrive at the meeting location, travel days are Monday and Friday, and meeting days are Tuesday to Thursday, inclusive.

In order to be as efficient and effective as possible, the NWMB places time limits on each meeting agenda item, and requires presenters to adhere to those time limits. In addition, only those items that, in the opinion of the Board, require face-to-face discussions and/or decision-making will be addressed at in-person meetings. All other items will be addressed at NWMB conference calls or through correspondence.

### **3.5 QUARTERLY MEETING NOTICE**

The NWMB generally provides written notice of a pending quarterly meeting at least sixty (60) days before the scheduled first day of the meeting. Notice is distributed to relevant government departments, Inuit Organizations, and non-government organizations, and is posted on the NWMB website. The notice includes a request for agenda items.

No error or omission in giving notice of any meeting of the NWMB shall invalidate such a meeting or make void any of its proceedings (GB 9.7).

### **3.6 MEETING AGENDA**

The agenda is set by the COO in consultation with the CCEO. The complete briefing package (submission) for an issue must meet the criteria in section 3.7 of this Manual before it is added to the agenda. The COO may reject any agenda item which does not fully meet the criteria.

### **3.7 MEETING SUBMISSIONS**

Before it is added to the agenda, each submission must:

1. Address an issue within the NWMB mandate;
2. Be designated by the Board as appropriate for inclusion at the meeting;<sup>18</sup>
3. Be received at least twenty-one (21) days before the first day of the meeting;
4. Include a reasonably detailed map when addressing a specific location or area;
5. Include a photograph of any wildlife discussed in the submission;
6. Include a translated copy of the submission;
7. Be delivered in PDF, Word or Excel, as appropriate;
8. Include an estimate of the time required to orally present the issue; and
9. Be provided in the appropriate format (see Appendix 4);

All presenters are expected to respect the time allotted for their oral presentation by the Board, so that the NWMB may effectively manage the agenda. The CCEO, at his discretion, may request a presenter to terminate the presentation if it exceeds the allotted time.

Power point presentations must be translated and submitted with other briefing material.

Any submitted document that is five (5) or more pages in length must be accompanied by a translated summary statement between one (1) and three (3) pages in length.

Any restrictions on the use and distribution of the materials (e.g. whether the material is confidential or not) must be clearly indicated in writing to the COO at the time of submission. In the absence of any such indication, the NWMB will treat the material as public information.

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<sup>18</sup> The NWMB deals with a wide variety of matters. Those requiring formal decisions that will be forwarded to a Minister usually benefit the most from face-to-face discussions and decision-making. Such matters will therefore receive priority for inclusion at in-person meetings. Others can be addressed through conference calls, or even through correspondence only. If a submission is not designated for inclusion in a particular Board meeting, the NWMB will re-direct it to a subsequent meeting, or for correspondence, or for inclusion in the next available Board conference call. The NWMB will promptly inform the relevant individual or agency in writing of its determination.

The NWMB may, on occasion, establish an earlier deadline for submissions to provide sufficient time for adequate review by staff and members. The NWMB will ensure that all parties are notified accordingly.

### **3.8 RECURRING AGENDA ITEMS**

The NWMB is required to consider a number of issues which recur on an annual basis. Generally, these issues are addressed at the same meeting each year. A summary of recurring agenda items is presented in Appendix 5.

### **3.9 CONDUCT OF MEETINGS**

#### **3.9.1 Quorum**

Five members, physically present together, are required to hold an official meeting of the NWMB. This rule applies to all NWMB meetings, except those held in circumstances of emergency. When this happens, at least five members are still required for a quorum - but they do not have to be physically present together.<sup>19</sup>

#### **3.9.2 Proxies**

Any member may execute either a general or special proxy in favour of another member (NLCA 5.2.11) when the member is unable to attend. The proxy must be in writing and submitted to the CCEO prior to the meeting. The CCEO shall table the proxy as part of the official record of the meeting.

#### **3.9.3 Rules of Procedure**

Except as otherwise provided in the NLCA or the NWMB By-laws, the rules of procedure for meetings as stipulated in the current edition of *Nathan's Company Meetings Including Rules of Order* are followed by the NWMB and any committees established by the NWMB.

#### **3.9.4 Language of Business**

The NWMB is required to conduct its meetings in Inuktitut and, as required by legislation or policy, in Canada's official languages (NLCA 5.2.17).

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<sup>19</sup> The NWMB may modify the requirement for being physically present through a by-law permitting the use of teleconference or like facilities in circumstances of emergency (NLCA 5.2.18). The NWMB interprets the phrase "circumstances of emergency" as including situations where - taking into account all relevant circumstances - it would be significantly uneconomical or otherwise impractical for a quorum of the members to be physically present together.

### **3.9.5 Chairperson**

The CCEO presides as Chairperson over all meetings of the NWMB. In the absence or disability of the CCEO, a meeting is presided over by a member appointed as Acting Chairperson by resolution of the NWMB members.

### **3.9.6 Secretary**

The COO, or a designate, serves as secretary during NWMB meetings.

### **3.9.7 Motions**

Formal motions are required for all proposed NWMB decisions made pursuant to the NLCA, a statute or a regulation, and for all NWMB financial decisions – except those delegated to the COO and/or the CCEO. Each motion must be seconded and voted on before it becomes a resolution and formal decision of the Board.

All decisions must be decided by a simple majority (over 50%) of votes cast (NLCA Section 5.2.10).

All members except the Chairperson have one vote. The Chairperson votes only in order to break a tie (NLCA Section 5.2.9).

All resolutions are duly recorded in the minutes of the meeting.

### **3.9.8 Decisions**

In addition to being included in the approved minutes, each resolution is recorded on a separate sheet that is signed and dated by the CCEO and the members who presented and seconded the original motion. Each resolution is assigned a number and kept on file at the NWMB Office. Resolutions relating to wildlife management activities are also recorded on the NWMB's Decision Registry (see section 5.5 of this Manual), which is accessible by the public on the NWMB website ([www.nwmb.com](http://www.nwmb.com)).

The requirements for Board decision-making are set out in section 5.1 of this Manual.

### **3.9.9 Minutes and Other Records**

Summary minutes are prepared after each meeting and approved by resolution at the next NWMB meeting, or as soon thereafter as reasonably possible. Approved minutes are signed by the CCEO and COO.

The approved minutes of all meetings, except in camera and internal in camera meetings, are a public record which is posted on the NWMB web site for public viewing.

All minutes and other records of public meetings are maintained at the NWMB office and are available for inspection upon request.

### **3.10 IN-CAMERA MEETINGS**

All or part of a meeting may be conducted in-camera (privately), where the NWMB determines that:

- (a) confidential or sensitive matters may be disclosed; or
- (b) such intimate financial, personal or other matters may be disclosed that the desirability of avoiding disclosure, in the interest of any person affected or in the public interest, outweighs the desirability of adhering to the principle that meetings should be open to the public.

The NWMB is required to forward most of its decisions made pursuant to NLCA Article 5 to the relevant Minister for his or her ultimate acceptance, variation or rejection/disallowance (NLCA 5.3.7 -5.3.23). Because the initial decision made by the NWMB must be kept confidential between the Board and the Minister (NLCA 5.3.8 and 5.3.17), the NWMB meets in-camera when making its NLCA Article 5 decisions.

Non-voting observers (S. 5.5) are entitled to attend in-camera meetings when the NWMB is making such decisions. However, the observers are permitted only to observe and to answer questions from the NWMB during the proceedings. In addition, if a DIO observer is not an employee of that DIO, the first time he or she attends an in camera meeting, the observer requires a signed and dated authorization from the DIO, delivered to the NWMB prior to the commencement of the in-camera meeting.<sup>20</sup> Otherwise, participation at in-camera meetings is limited to the NWMB members and such individuals as the Board deems necessary or appropriate to deal with the issues at hand.

A motion is required to begin and terminate an NWMB in-camera meeting.

### **3.11 INTERNAL IN-CAMERA MEETINGS**

From time to time, the NWMB is required to meet in order to address issues which relate to solicitor-client, administrative and/or internal operational matters of the Board. These meetings are limited to NWMB members and such individuals as the Board deems necessary or appropriate to deal with the issues at hand. These persons attend such meetings only at the invitation of the NWMB.

A motion is required to begin and terminate an NWMB internal in-camera meeting.

<sup>20</sup> Ministerial observers are not subject to the same security requirement since they are already required by NLCA 5.2.2 to be officers (employees) of the Minister's department.

### **3.12 TELECONFERENCE MEETINGS**

The NWMB may meet via teleconference as permitted by the terms of the NLCA. The operating procedures for other meetings set out in sections 3.1 to 3.11 of this Manual also apply to teleconference meetings, except that:

- (a) generally, the time periods for notice of the meeting and for the delivery of submissions are shorter; and
- (b) subject to exceptional circumstances, the NWMB does not make special arrangements to allow for public access to a teleconference meeting.

### **3.13 NWMB MEETING AND TELECONFERENCE REGISTRY**

The NWMB maintains an up-to-date Meeting and Teleconference Registry, available for viewing on its website. The Registry lists each upcoming **public** Board meeting and teleconference, including the agenda, the date(s) and, where applicable, the location.

A minimum of one hard copy binder of consolidated information (less any confidential information) will be available at each in-person meeting for general reference.

Participants are expected to assemble their own electronic and/or hard copy binders for each meeting or teleconference.

## **PART 4: NWMB HEARINGS**

### **4.1 NLCA DIRECTIONS**

The NWMB may hold public hearings into any issue requiring a decision on its part (NLCA 5.2.26).

The NWMB may make rules distinguishing between the roles reserved for full parties and the roles reserved for other classes of persons at public hearings (NLCA 5.2.27).

Any representative or agent of the federal or territorial Government, any Inuk or any HTO or RWO is to be accorded the status of full party at a public hearing. The NWMB has the discretion, in conformity with its rules, to determine whether any other person is accorded the status of full party for a particular public hearing (NLCA 5.2.28).

The NWMB may, in any application, proceeding or matter of special importance pending before it, if in the opinion of the NWMB the public interest so requires, hire counsel to conduct or argue the case or any particular question arising in the application, proceeding or matter (NLCA 5.2.29).

The NWMB has the same powers as commissioners appointed pursuant to Part I of the *Inquiries Act*, R.S.C. 1970, c.I-13 (NLCA 5.2.30). Accordingly, the Board has the power to summon before it any witnesses, except Ministers of the Crown, and to require them to:

- i) Give evidence on oath or solemn affirmation, orally or in writing; and
- ii) Produce such documents and things as the NWMB requires for a full investigation of the matters which it is examining.

### **4.2 TYPES OF HEARINGS**

The NWMB may hold three types of hearings:

1. **An in-person hearing**, consisting of both a written and an oral component. Generally, the NWMB will hold an in-person hearing for Board decisions that are of significant economic, social and/or cultural interest to Inuit harvesters. Whenever practical, an in-person hearing is held in the community or Region most affected by the proposed decision(s).
2. **An electronic hearing**, conducted by conference telephone or another form of electronic technology, whereby parties are able to communicate orally. An electronic hearing may also include a written component. Generally, the NWMB

will hold an electronic hearing in one or more of the following three circumstances:

- (a) time is of the essence in addressing the issue under consideration;
- (b) the parties are unable to meet in person in a timely manner; and/or
- (c) the cost of holding an in-person hearing is prohibitive.

3. **A written hearing**, which does not include any oral component. Generally, the NWMB will hold a written hearing in one or more of the following five circumstances:

- (a) the “*Proposal for Decision*” (see section 4.4 of this Manual) is – either formally or informally – a joint initiative on the part of Government and affected Inuit;
- (b) the eventual Board decision is, in the opinion of the NWMB, of relatively less economic, social and/or cultural interest to affected Inuit harvesters;
- (c) time is of the essence in addressing the issue under consideration;
- (d) the parties are unable to meet in person in a timely manner; and/or
- (e) the cost of holding an in-person hearing is prohibitive.

### **4.3 PROCEDURAL FAIRNESS**

The NWMB is a tribunal - a public body which makes decisions that affect people’s rights or interests. Accordingly, the NWMB is subject to administrative law, which is the law that governs public officials and tribunals who make such decisions. That law requires that decisions be made following procedures that are fair to the affected parties. The doctrine of fairness dictates that the parties be provided timely notice, reasonable disclosure and adequate opportunity to respond before a decision is made affecting their interests or rights.

Every NWMB in person hearing generally includes the following procedural steps:

1. Receipt by the NWMB of a *Proposal for Decision* and accompanying best available information;
2. Issuance by the NWMB of a formal public hearing notice, including an invitation for public participation;
3. NWMB disclosure of all the best available information;
4. Issuance by the NWMB of an invitation to potential parties to file written submissions;
5. The holding of an NWMB oral hearing; and
6. The holding of an NWMB decision-making meeting following the hearing.

NWMB electronic and written hearings ordinarily feature much the same set of procedural steps - except that all NWMB written hearings necessarily omit step 5, and the Board does not always issue invitations to potential parties to file written submissions for electronic hearings (step 4).

#### **4.3.1 Notice and Submission Timelines**

In most instances, the NWMB provides a minimum of sixty (60) days' notice of the date, time and place of a hearing, and requires that written submissions be filed at least twenty-one (21) days prior to the hearing. However, circumstances relevant to any particular hearing may require the Board to increase or decrease such periods of time, subject to the requirements of procedural fairness. Also for reasons of fairness, the Board reserves the right to exclude from the hearing any submissions that are not filed on time.

#### **4.4 PROPOSAL FOR DECISION**

Every *Proposal for Decision* must include the following five (5) elements:

1. A clearly-written statement of what NWMB decision the proponent is seeking;<sup>21</sup>
2. The best available western scientific, *Inuit Qaujimaqatuqangit* and/or community information related to the Proposal, including the reasons in support of the Proposal, as well as relevant evidence - and argument, if the proponent wishes - to reasonably justify the proposed decision;
3. A reasonably-detailed summary of what relevant consultations have been undertaken, and with whom – including a report of the matters consulted on, the views raised by those consulted, and the results of the consultations;<sup>22</sup> if Government is the proponent, or one of the proponents, it should also indicate, where appropriate, what accommodations, if any, it has made as a result of the consultation process;<sup>23</sup>
4. If the matter is urgent or otherwise time-sensitive, the provision of reasons and supporting evidence for fast-tracking the Proposal; and

<sup>21</sup> This may be very specific – for instance, setting out an exact TAH number, calibre of weapon, season of harvest, etc. Other times, options are put forward, or the Proposal may even be open-ended – for example, requesting whatever decision the NWMB considers to be best supported by the evidence.

<sup>22</sup> By way of example, the results of consultations should include any response(s) to issues, concerns, etc. raised during the consultations.

<sup>23</sup> The NWMB will – as a preliminary matter – assess the adequacy of the consultation measures undertaken by the proponent.

5. All of the above translated into English or Inuktitut (Inuinnaqtun), as the case may be – except that supporting documentation over 10 pages in length need not be translated if accompanied by a reasonably-detailed, translated summary.<sup>24</sup>

#### **4.5 NWMB HEARING REGISTRY**

The NWMB maintains an up-to-date Hearing Registry, available for viewing on its website. The Registry lists each upcoming Board hearing, including the type of hearing (in-person, electronic or written), the deadline for filing submissions, and the date of the NWMB’s decision meeting. In the case of in-person hearings, the Registry also provides the date(s) and location of each hearing. Every hearing is placed on the Registry once the NWMB has accepted the relevant *Proposal for Decision* as complete. Subject to exceptions based on urgent circumstances, hearings on the Registry are scheduled in chronological order, based upon the date of acceptance of the relevant *Proposal for Decision* as complete.

Besides providing a list of upcoming hearings, the Hearing Registry maintains individual hearing sites, each of which includes all of the relevant documentation associated with a particular hearing.

#### **4.6 NWMB HEARING RULES**

The following set of eighteen (18) Hearing Rules (Rules) applies to all in-person hearings. They also apply – with changes as necessary – to electronic and written hearings. The Board reserves the right to modify the Rules for any particular in-person, electronic or written hearing. The NWMB publishes a set of Rules for each hearing. Hearing parties, interested persons and organizations, and the public are advised to consult the specific Rules for the hearing(s) they will be attending.

1. The hearing shall be open to the public, with notice provided to the public at least sixty (60) days prior to the commencement of the hearing. Part of the hearing may be conducted in camera, where the NWMB considers that confidential or sensitive matters may be disclosed or discussed.
2. Any interested person or body may file with the NWMB a written submission and supporting documentation<sup>25</sup> in response to the “*Proposal for Decision*” – duly translated into Inuktitut/Inuinnaqtun or English as the case may be – by no later than 5:00 p.m. on [month/day/year].

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<sup>24</sup> “*Supporting documentation*” refers to one or more studies, articles, opinions or other documents (excepting the consultation summary in paragraph 3 under section 4.4 of this Manual) separate from the proponent’s primary proposal document, provided as additional evidence and/or argument in support of the primary proposal document.

<sup>25</sup> “*Supporting documentation*” refers to one or more studies, articles, opinions or other documents separate from a person’s or organization’s written submission, filed as additional evidence and/or argument in support of that person’s or organization’s submission.

3. Unless persuasive written and translated reasons are provided to the NWMB for late filing, the NWMB will not consider materials for this hearing that are not filed on time.
4. The requirement for translation of written submissions and supporting documentation filed with the NWMB does not apply to individual members of the public.
5. For all others who file supporting documentation with the NWMB, the requirement for translation does not apply to such documents over 10 pages in length, as long as each supporting document that is not translated is accompanied by a concise, translated summary (English and Inuktitut/Inuinnaqtun) at least two (2) pages in length.
6. The NWMB shall ensure that all materials filed with it or produced by it are made publicly available, subject to relevant confidentiality or privacy concerns.
7. The NWMB shall provide simultaneous English and Inuktitut translation at the hearing, to the extent reasonably possible.
8. A quorum of NWMB members shall be present at the hearing.
9. Any representative or agent of the Government of Canada or Government of Nunavut, any Hunters and Trappers Organization or Regional Wildlife Organization and any Inuk shall be accorded the status of party at the hearing.
10. Unless invited by the NWMB to be a party, any other person or body wishing to be named as a party by the NWMB shall make an appropriate request in writing to the NWMB.
11. All parties and other participants at the hearing are required to treat one another and the NWMB with respect.
12. The NWMB shall provide a reasonable opportunity for oral presentations from each of the parties at the hearing by their choice of official, expert or counsel.
13. Any member of the NWMB, the NWMB's Director of Wildlife or the NWMB's Legal Counsel may ask relevant questions of any party at the hearing.
14. Any party may ask relevant questions of any other party at the hearing.
15. The NWMB shall provide members of the public in attendance at the hearing a reasonable opportunity to make statements and to ask questions of the parties and the NWMB.

16. Every person at the hearing wishing to speak or ask a question shall raise his or her hand, and shall only speak once the NWMB Chairperson has recognized him or her.
17. The NWMB Chairperson reserves the right to place reasonable time limits on presentations, statements and questions.
18. The NWMB shall make an audio recording of the hearing available upon request.

## **PART 5: NWMB DECISIONS**

### **5.1 REQUIREMENTS FOR NWMB DECISION-MAKING**

All NWMB decisions that affect rights or interests under the NLCA – whether such decisions are made face-to-face or at a teleconference, and whether they are made during or after a meeting or hearing – must:

1. Be supported by evidence reliable and persuasive enough to justify the decision on a balance of probabilities;
2. Have appropriate justification under the terms of the NLCA;
3. Be the conclusion of an NWMB process that follows procedures which are fair to the affected parties (adequate notice, disclosure and opportunity to respond – see, for instance, section 4.3 of this Manual); and
4. Be decided by a simple majority of votes cast by at least a quorum of the Board members.

### **5.2 CONSULTATIONS RELATED TO NWMB DECISION-MAKING**

The NWMB may, in its discretion, undertake consultations on any matter within its mandate. In addition, the Board is under a mandatory duty to exercise its wildlife management jurisdiction in a procedurally fair manner.

The Government is under a clear constitutional common law duty to consult when an NLCA right might be adversely affected by a proposed wildlife management decision subject to Government's ultimate authority (see NLCA 5.1.2(i)). In appropriate cases, the Crown's duty to consult includes a duty to accommodate legitimate Inuit concerns.

The NWMB's meeting and hearing processes – with their emphasis on satisfying the NWMB's procedural fairness obligations – are separate consultation exercises that are carried out pursuant to the Board's own legal duties (see, for instance, section 4.3 of this Manual). Those obligations are independent from the Government's duty to consult and accommodate Inuit. Indeed, the NWMB processes are generally engaged in response to a *Proposal for Decision* (see section 4.4 of this Manual), which – if Government is the proponent (or one of the proponents) – should only come to the Board after necessary consultations and accommodations have been completed.

As a freestanding institution of public government that is not subject to direction by either Government or Inuit, the NWMB is under no statutory or other legal obligation with respect to carrying out or otherwise satisfying the Crown's constitutional common

law duty to consult. However, one of the Board's procedural duties upon receipt of a *Proposal for Decision* is to assess the adequacy of the consultation measures undertaken by the proponent(s), and to raise any concerns with the proponent(s) and those potentially affected by the proposed decision.

### **5.3 CRITERIA FOR NWMB DECISION-MAKING<sup>26</sup>**

In making decisions to restrict or limit the harvesting of wildlife populations that cross jurisdictional boundaries, the NWMB must take account of harvesting activities outside the NSA and the terms of domestic interjurisdictional agreements or international agreements pertaining to such wildlife (NLCA 5.3.4).

In making decisions affecting Parks, sanctuaries and Conservation Areas, the NWMB must take into account the special purposes and policies relating to those areas (NLCA 5.3.6).

Harvesting decisions of the NWMB shall restrict or limit Inuit harvesting only to the extent necessary:

1. To effect a valid conservation purpose (NLCA 5.3.3(a));
2. To give effect to the allocation system outlined in NLCA Article 5 (NLCA 5.3.3(b));
3. To give effect to other provisions of Article 5 (NLCA 5.3.3(b));
4. To give effect to Article 40 (NLCA 5.3.3(b)); or
5. To provide for public health or public safety (NLCA 5.3.3(c)).

In making decisions that restrict or limit harvesting by a person or persons who do not have a right under the NLCA to harvest wildlife in the NSA, the NWMB must be satisfied that the proposed restrictions or limitations are reasonable in light of the principles and objectives of NLCA Article 5.

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<sup>26</sup> The relevant Minister is subject to the same criteria as the NWMB in making harvesting decisions pursuant to the terms of the NLCA.

## **5.4 THE NLCA CO-JURISDICTIONAL DECISION-MAKING PROCESS**

### **5.4.1 Decisions Subject to the NLCA Co-jurisdictional Decision-making Process**

All decisions made by the NWMB in relation to

- (a) the establishment, disestablishment, and changes to boundaries of Conservation Areas, related to management and protection of wildlife and wildlife habitat (NLCA 5.2.34(a)),
- (b) the approval of plans for management and protection of particular wildlife habitats (NLCA 5.2.34(c)),
- (c) the approval of plans for management, protection, classification, restocking, etc. of particular wildlife (NLCA 5.2.34(d)(i)),
- (d) the approval of plans for the regulation of imported non-indigenous species and the management of transplanted wildlife populations (NLCA S.5.2.34(d)(ii)),
- (e) the approval of species at risk listings (NLCA 5.2.34(f)),
- (f) the Nunavut Wildlife Harvest Study (NLCA Article 5, Part 4),
- (g) the Inuit Bowhead Knowledge Study (NLCA Article 5, Part 5),
- (h) harvesting (NLCA Article 5, Part 6), or
- (i) other Aboriginal Peoples (NLCA Article 40),

and subject to Government of Nunavut jurisdiction or Government of Canada jurisdiction, must be made in strict accordance with the co-jurisdictional decision-making process set out in NLCA Article 5 (Nunavut jurisdiction: 5.3.8 to 5.3.15; Canada jurisdiction: 5.3.17 to 5.3.23).

### **5.4.2 Transmittal of NWMB Decisions to the Minister**

Every NWMB decision is forwarded to the responsible Minister by regular post and e-mail or facsimile (fax), in the form of a letter signed by the CCEO or his designate. All decision letters include the wording of the NWMB resolution, a summary of the evidence and arguments considered by the Board, and the rationale relied upon for the decision. Final decisions following a ministerial rejection or disallowance also include responses to each of the Minister's rejection/disallowance reasons with which the NWMB disagrees. The fax or e-mail transmission report provides confirmation of the date and time that the letter is first delivered to the Minister's office.

### **5.4.3 Decision Confidentiality**

An initial NWMB decision cannot be made public (NLCA 5.3.8/5.317). All NWMB members and employees, non-voting observers and any others permitted to attend a decision-making meeting are strictly prohibited from revealing any details of the confidential NWMB decision.

When a Minister disallows or rejects an initial NWMB decision, the Board must make a final decision, which it may make public (NLCA 5.3.13/5.3.21). If the NWMB decides not to make its final decision public, all NWMB members and employees, non-voting observers and any others permitted to attend the final decision-making meeting are strictly prohibited from revealing any details of that confidential NWMB decision until such time as the Board makes the decision public, or the Minister accepts, rejects or varies the NWMB's final decision.

#### **5.4.4 Timing of Minister's Response to an Initial NWMB Decision**

The territorial Minister must respond in writing to an initial NWMB decision within thirty (30) days (NLCA 5.3.11), and a federal Minister must do so within sixty (60) days (NLCA 5.3.18). However, the relevant Minister and the NWMB may agree upon a further period in which to deliver a response (NLCA 5.3.11/5.3.18). The NWMB requires a minimum of seven (7) days notice in writing, including the reasons for the proposed extension, in order to consider and reply to such a request.

In the absence of an agreed-upon extension, when the Minister does not respond to the Board within the NLCA 5.3.11/5.3.18 timelines, the NWMB's decision is deemed to have been accepted by the Minister (NLCA 5.3.10/5.3.19(a)).

#### **5.4.5 Minister's Acceptance of an Initial NWMB Decision**

If the Minister accepts the NWMB's initial decision, the Board will publicly release its decision letter and the Minister's acceptance letter by posting them on the NWMB website. Depending on the significance of the decision, the Board may also issue a press release.

#### **5.4.6 Decision Implementation**

When the responsible Minister accepts an NWMB decision, the Minister must promptly take the steps necessary to implement that decision (NLCA 5.3.10/5.3.20).

#### **5.4.7 Minister's Disallowance/Rejection of an Initial NWMB Decision**

If the Minister disallows/rejects the initial NWMB decision, he or she must provide written reasons for doing so (NLCA 5.3.11/5.3.21). The NWMB must then reconsider the issue in light of the written reasons provided by the Minister, and make a final decision, which the Board may make public (NLCA 5.3.12/5.3.21). If the NWMB decides to make its final decision public, it will post its decision letter on the NWMB Decision Registry. Depending on the significance of the decision, the Board may also issue a press release.

#### **5.4.8 Minister's Review of a Final NWMB Decision**

The Minister may accept the final NWMB decision, reject the final decision or vary the final decision (NLCA 5.3.13, 5.3.22).

Promptly following receipt of the Minister's acceptance, variation or rejection letter, the Board will post its final decision letter and the Minister's letter on the NWMB Decision Registry. Depending on the significance of the decision, the Board may also issue a press release.

#### **5.4.9 Interim Decisions**

When urgent and unusual circumstances require an immediate modification in harvesting activities, the Minister or his or her delegated agent may make and implement any reasonable interim decision. The NWMB will conduct a full review of the interim decision as soon as reasonably possible thereafter (NLCA 5.3.24).

### **5.5 NWMB DECISION REGISTRY**

The NWMB maintains an up-to-date Decision Registry, available for viewing on its website. The Registry includes every NWMB resolution made pursuant to NLCA Article 5, and includes the names of the mover and the seconder for each resolution. NWMB decisions are only placed in the Registry after they are no longer confidential (see section 5.4.3 of this Manual). For each resolution, the Registry also posts the Board's final decision letter to the Minister, as well as the Minister's reply correspondence that accepts, varies or rejects the NWMB decision.

### **5.6 JUDICIAL REVIEW OF NWMB DECISIONS**

Judicial review of an NWMB decision is available on the grounds set out in paragraphs 28(1) (a) or (b) of the *Federal Court Act*, RSC 1985, c.F-7, at the motion of a person personally aggrieved or materially affected by the decision (NLCA 5.3.1).

Except as provided in NLCA 5.3.1, no decision, order or direction of the NWMB shall be questioned or reviewed in any court and no order shall be made or proceeding taken in any court whether by way of injunction, declaratory judgment, *certiorari* (challenge to a decision as irregular, incomplete or an error of law), *mandamus* (order to perform a certain action), or prohibition or otherwise to question, review, prohibit or restrain the NWMB or any of its proceedings (NLCA 5.3.2).

## **PART 6: COMMUNICATIONS AND CONFIDENTIAL INFORMATION**

### **6.1 NWMB COMMITMENT TO OPENNESS AND TRANSPARENCY**

Wildlife resources in Nunavut are common property. Recommendations, decisions and other actions associated with the management and development of such public resources need to be made in a way that is transparent to the public. Accordingly, subject to relevant confidentiality and privacy concerns, the NWMB conducts its wildlife management activities as much as possible on the public record and, more generally, in a transparent and open manner.

### **6.2 OBTAINING AND DISCLOSING INFORMATION**

In obtaining and disclosing information, the NWMB is subject to laws of general application relating to confidential information and access to information as it were a government department (NLCA 5.2.31).

The NWMB shall take into account the objects of the NLCA where it has discretion to disclose information to a member of the public (5.2.32).

### **6.3 NWMB COMMUNICATIONS**

The NWMB believes that timely, open and transparent communications among the Nunavut co-management partners, and between the co-management partners and stakeholders and the public, is a key part of the foundation upon which the successful Nunavut wildlife management system has been built – and upon which it will continue to thrive. The Board remains committed to maintaining strong communications in all areas of its operations.

### **6.4 NWMB CONSULTATION**

All NWMB wildlife management advice and decisions are informed by consultations with affected stakeholders and relevant co-management partners. In considering proposed restrictions or limitations on Inuit harvesting, the Board relies primarily on consultations carried out by Government pursuant to the Crown's constitutional common law duty to consult (see section 5.2 of this Manual).

The NWMB regularly undertakes consultations on a variety of wildlife management issues.<sup>27</sup> In addition, before making any wildlife management decision, the Board provides those affected with timely notice of the issue under consideration, reasonable disclosure of the best available information, and an adequate opportunity to provide the NWMB with their comments and concerns (see section 4.3 of this Manual).

## **6.5 NWMB CORRESPONDENCE**

As a busy tribunal, the NWMB regularly receives and sends a tremendous amount of correspondence. The Board maintains the following policy with respect to correspondence response times:

- (a) Telephone: maximum two-day turn-around time;
- (b) E-mail: maximum one week turn-around time; and
- (c) Letter: maximum two-week turn-around time.

Depending on the subject matter of the correspondence received by the NWMB, the initial Board reply may simply be an acknowledgement of receipt, accompanied by an estimate for the delivery of a full response.

## **6.6 QUARTERLY MEETING HIGHLIGHTS**

A summary of meeting highlights is prepared promptly after each quarterly NWMB meeting. The summary is distributed to the media and posted on the NWMB website.

## **6.7 MEDIA RELATIONS**

The NWMB welcomes media interest in, and enquiries regarding, wildlife management in Nunavut. All Board meetings and hearings are open to the media, except in-camera and internal in camera meetings.

All inquiries from the media are first referred to the CCEO and/or the COO. Depending on the topic, the inquiry may be subsequently directed to a specific NWMB member, staff person or advisor.

## **6.8 NWMB ANNUAL REPORT**

Each year, the NWMB prepares a report on its activities and accomplishments during the previous fiscal year (April 1<sup>st</sup> to March 31<sup>st</sup>). The Annual Report includes:

- (a) a summary of important wildlife management decisions;
- (b) a summary of meetings and major initiatives;
- (c) a summary of funded research;
- (d) an audited financial statement relating to operational expenditures; and

<sup>27</sup> See, for instance, NLCA 21.5.7, 40.4.2, 40.4.4, 40.4.5, 40.5.2 and 40.5.4.

(e) an audited financial statement relating to the Nunavut Wildlife Research Trust.

The Annual Report is distributed to wildlife management agencies in Nunavut, and is posted on the NWMB website.

## **6.9 NWMB WEBSITE**

The NWMB website is maintained to provide public access to up-to-date information on NWMB programs, meetings, hearings, decisions and wildlife management initiatives. The website may be accessed at: [www.nwmb.com](http://www.nwmb.com)

**Appendix 1: Map of the Nunavut Settlement Area and Adjacent Marine Zones**

## **Appendix 2: The Principles and Objectives of NLCA Article 5**

Informing all of the duties and responsibilities of the NWMB are the principles and objectives contained in Sections 5.1.2, 5.1.3 and 5.1.5 of the NLCA. 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.

### **Principles**

*5.1.2 This Article recognizes and reflects the following principles:*

- (a) Inuit are traditional and current users of wildlife;*
- (b) the legal rights of Inuit to harvest wildlife flow from their traditional and current use;*
- (c) the Inuit population is steadily increasing;*
- (d) a long-term, healthy, renewable resource economy is both viable and desirable;*
- (e) there is a need for an effective system of wildlife management that complements Inuit harvesting rights and priorities, and recognizes Inuit systems of wildlife management that contribute to the conservation of wildlife and protection of wildlife habitat;*
- (f) there is a need for systems of wildlife management and land management that provide optimum protection to the renewable resource economy;*
- (g) the wildlife management system and the exercise of Inuit harvesting rights are governed by and subject to the principles of conservation;*
- (h) there is a need for an effective role for Inuit in all aspects of wildlife management, including research; and*
- (i) Government retains the ultimate responsibility for wildlife management.*

### **Objectives**

*5.1.3 This Article seeks to achieve the following objectives:*

- (a) the creation of a system of harvesting rights, priorities and privileges that*
  - (i) reflects the traditional and current levels, patterns and character of Inuit harvesting,*

- (ii) *subject to availability, as determined by the application of the principles of conservation, and taking into account the likely and actual increase in the population of Inuit, confers on Inuit rights to harvest wildlife sufficient to meet their basic needs, as adjusted as circumstances warrant,*
- (iii) *gives DIOs priority in establishing and operating economic ventures with respect to harvesting, including sports and other commercial ventures,*
- (iv) *provides for harvesting privileges and allows for continued access by persons other than Inuit, particularly long-term residents, and*
- (v) *avoids unnecessary interference in the exercise of the rights, priorities and privileges to harvest;*
- (b) *the creation of a wildlife management system that*
  - (i) *is governed by, and implements, principles of conservation,*
  - (ii) *fully acknowledges and reflects the primary role of Inuit in wildlife harvesting,*
  - (iii) *serves and promotes the long-term economic, social and cultural interests of Inuit harvesters,*
  - (iv) *as far as practical, integrates the management of all species of wildlife,*
  - (v) *invites public participation and promotes public confidence, particularly amongst Inuit, and*
  - (vi) *enables and empowers the NWMB to make wildlife management decisions pertaining thereto.*

### **Conservation**

5.1.5 *The principles of conservation are:*

- (a) *the maintenance of the natural balance of ecological systems within the Nunavut Settlement Area;*
- (b) *the protection of wildlife habitat;*
- (c) *the maintenance of vital, healthy, wildlife populations capable of sustaining harvesting needs as defined in this Article; and*
- (d) *the restoration and revitalization of depleted populations of wildlife and wildlife habitat.*

## Appendix 3: Nunavut Wildlife Management Board Code of Conduct

### CONDUCT REQUIREMENTS

1. All actions and activities undertaken by NWMB members and employees in their official capacities must reflect complete integrity with respect to the NWMB's roles and functions.
2. If a real, potential or apparent conflict of interest should arise between a member's or employee's private interests and his or her duties as an NWMB member or employee, the conflict must be resolved in favor of the NWMB duties.
3. All activities of the NWMB that are not subject to confidentiality or privacy obligations - with particular emphasis on financial accountability - must be available for public review.
4. NWMB members and employees must not accept or solicit financial rewards, other than those provided pursuant to the NWMB's approved remuneration and benefits policies. Similarly, they must not accept or solicit gifts or any offerings that can be reasonably perceived as influencing activities or decisions of the NWMB.<sup>28</sup>
5. Information requiring discretion in its use and dissemination must be treated by NWMB members and employees in such a manner as to respect the reasonable wishes of the individual or organization/agency providing the information.
6. NWMB members and employees must explicitly recognize and clearly demonstrate their dedication and adherence to alcohol-free and drug-free conduct in connection with NWMB activities.
7. NWMB members and employees must, at all times, show respect for each other and for those with whom they deal. This includes strict adherence to conduct free of physical and sexual harassment.
8. When speaking in public, NWMB members and employees must not at any time "step out" of their official roles with the NWMB in order to express an opinion - personal or

<sup>28</sup> Under s.121(1)(a) of the *Criminal Code*, as interpreted by the Supreme Court of Canada, a person commits a criminal offence if:

- (a) the person knows that he or she is a government official;
- (b) the person intentionally demands or accepts a loan, reward, advantage or benefit of any kind for himself, herself or another person; and
- (c) the person knows that the benefit is in consideration for cooperation, assistance or exercise of influence in connection with the transaction of business with, or relating to, the government.

otherwise - concerning an issue that is currently being dealt with by the NWMB, or which is contrary to existing NWMB decisions and policies.

9. NWMB members must annually attend at least seventy-five percent (75%) of all NWMB meetings and conference calls - subject to reasonable exceptions, such as for illness, injury, family emergencies, unavoidable employment conflicts, etc. Except in emergency situations, members not able to attend a meeting or conference call must promptly notify the Chairperson beforehand, and provide an explanation.<sup>29</sup>

## **COMPLAINTS AND CONSEQUENCES**

10. The NWMB reviews all complaints that are relevant to the conduct of its members and employees. The NWMB Executive Committee will investigate Code of Conduct complaints made against the Chair-Chief Executive Officer, Chief Operating Officer (COO) or an NWMB member, and will make recommendations to the Board as necessary.
11. Complaints directed against employees will be investigated by the COO. If an employee is found to have infringed the Code of Conduct, he or she will be subject to the NWMB disciplinary process.
12. The NWMB Executive Committee will advise the NWMB with respect to appeals or requests for review to the Board from staff concerning Code of Conduct determinations made and/or actions taken by the supervisors of such staff.
13. The NWMB may withhold or recover the payment of honoraria and living expenses of any member absent and/or unfit, without reasonable excuse, to undertake his or her NWMB responsibilities.
14. The NWMB will report serious Code of Conduct infractions by a member - including repeated tardiness, absence or unfitness to participate in activities and work of the NWMB - to the organization or agency that appointed the individual to the NWMB.

## **ASSISTANCE**

15. The NWMB will take reasonable measures to provide or help to provide professional assistance to any member or employee who requests assistance for matters relevant to the NWMB Code of Conduct.

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<sup>29</sup> In the case of the Chairperson, he or she must notify the Chief Operating Officer.

## **Appendix 4: Format for Submissions to Nunavut Wildlife Management Board Meetings**

### **SUBMISSION TO THE NUNAVUT WILDLIFE MANAGEMENT BOARD FOR**

**Information:**     *Check One*

**Decision:** *Check One*

**Issue:** *Describe each issue in a single succinct sentence.*

#### **Background:**

*Provide a succinct description of the context for the issue which will permit the Board to understand:*

- (a) how the issues relates to the NWMB mandate;*
- (b) why the issue is being presented;*
- (c) the key facts and circumstances relating to the issue; and*
- (d) the estimated time required to orally present the issue (excluding questions/discussion).*

*Keep the language as non-technical as reasonably possible.*

*Anticipate the questions that the NWMB may ask.*

#### **Consultation:**

*Summarize the consultations which have been undertaken before submitting the issue to the NMWB. This summary should include the following:*

- (a) the means of consultation;*
- (b) a list of the organizations consulted and an estimate of the number of individuals consulted, including members of the public; and*
- (c) a summary of the results, including any responses or accommodations to issues, concerns, etc. raised during the consultations.*

#### **Recommendation:**

*Options for addressing the issue or a recommended course of action*

#### **Prepared by:**

*Include name, affiliation and phone number of the person who prepared the submission.*

#### **Date:**

*Date that the submission was prepared.*

## Appendix 5: Summary of Annual Recurring Agenda Items

<b>June</b>	<b>September</b>	<b>December</b>	<b>March</b>
Approve Annual Report		Establish Financial Allocation for Research	Approve Research Applications
		Recommend/Decide Commercial Marine Fisheries Allocations	
		Approve Budget and Work Plan for Next Fiscal Year	