

Inuvialuit Water Board

GOVERNANCE & ADMINISTRATION REVIEW

Report prepared by



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Introduction

The Inuvialuit Water Board (IWB) is a quasi-judicial authority established pursuant to the *Waters Act*. The *Act* states that the objects of the IWB are to provide for the conservation, development and utilization of waters in a manner that will provide the optimum benefit for all Canadians in general, and in particular, for the residents of the Inuvialuit Settlement Region communities. With this in mind, the IWB is pursuing of a vision of “clean and plentiful water available today and into the future.”

In support of this vision, the specific roles of the IWB’s Board and Staff include:

- Making decisions on water licence applications;
- Setting terms and conditions for licences, including security deposits;
- Issuing licences; and,
- Monitoring adherence to licence conditions.

The IWB Board and Staff members also work with responsible parties to advance the efficient and effective management of water and waste within the Region. Water licence inspection and enforcement activities are not the responsibility of the IWB, but rather, those of the GNWT’s Department of Environment and Natural Resources.

Generally speaking, the Board and Staff are highly regarded for the work they do, their abilities, their commitment and their efforts to collaborate with stakeholders. There is broad recognition of how IWB staff are generally flexible, accommodating and highly responsive to inquiries by applicants and other stakeholders.

The Inuvialuit Water Board was devolved in 2014 as an outcome of the Northwest Territories Land and Resources Devolution Agreement. The IWB office is located in Inuvik, NWT.

While the IWB may be viewed by many as an Inuvialuit organization, it remains an agency of the Government of the Northwest Territories and, as such, is accountable to the Minister of the Environment and Natural Resources of the GNWT for delivering on its mandate.

The impact of devolution has resulted in changes in accountabilities and new roles in support of responsible long-term water management. Given the relative short passage of time since devolution, a lack of clarity around roles, responsibilities and process, there has been an ongoing challenge accentuated by a lack of continuity in people and other resources with whom the IWB works with and depends on to fulfill its mandate.

The organization is structured to include a Board of five members and a small administrative unit headed by an Executive Director. Members of the Board are appointed by the Government

of the Northwest Territories' Minister of Environment and Natural Resources in accordance with criteria established in legislation. The Chairperson of the Board serves as IWB's Chief Executive Officer.

The IWB's focus is defined by a strategic plan covering the years 2014 – 2019. The plan was recently updated in February 2017.

- **Goal One:** In accordance with the *Waters Act*, water licences are issued that support effective management of water use and the deposit of waste. In doing so, the IWB will use best available traditional knowledge and western science.
- **Goal Two:** Participants in water licensing processes, including communities, industry and governments, have a sound understanding of the IWB's mandate and procedures; as well as the responsibilities of applicants and licence holders.
- **Goal Three:** Collaborate with other responsible agencies and organizations to improve community capacity in the management of water use and waste management.
- **Goal Four:** IWB board and staff members have the knowledge, skills and resources to fulfill their responsibilities.

In addition to the priorities outlined in the strategic plan, the Board identified the need to undertake an external review and evaluation of the activities, roles and decision making of the Board and Administration.

Overview: Governance and Administration Review

Avery Cooper & Co. Ltd. was retained by the IWB to undertake a review of how the organization is governed and the effectiveness of its administrative practices. The focus of the review and evaluation was on the activities of the IWB in supporting the fulfillment of the organization's mandate (established by legislation, regulation and ministerial directive), and accomplishing performance measures set by the Board itself (including those listed in the strategic plan).

Specific areas of examination include the following activities:

IWB Board Focus

- Responsiveness to mandate;
- Adherence to legislative, regulatory and other requirements;
- The Board's organization and decision-making;

- Effectiveness of Board's role in setting organizational policy and directing the administration of the organization;
- Effectiveness of Board's oversight of IWB operations;
- Role of the Chairperson / CEO with respect to the Board and the Administration;
- Relationship between the Board and Applicants, Government departments and other regulatory authorities;
- Results of the Board activities (status of operations and the strategic plan) and decision-making; and
- Effectiveness of Board communications activities.

IWB Administration Focus

- Organizational structure, staffing and operating processes;
- Clarity of administrative policies and procedures;
- Support of the board activities;
- Implementation of Board direction;
- Adequacy of Staff supervision and performance evaluation;
- Financial management;
- Relationship between the administration and the IWB board;
- Relationship between the administration and licence applicants, licence holders, government departments, and other regulatory agencies; and
- Effectiveness of communications activities.

This report is the culmination of a comprehensive review that followed a methodology described below.

Governance and Administration Review Methodology

In undertaking this review, Avery Cooper has sought to apply a relevant approach with sufficient rigour to ensure the outcomes determined and the recommendations proposed will serve to support the IWB as it continues to deliver on its mandate. To this end, Avery Cooper's approach was driven by the following principles:

- Customized evaluation implementation and project deliverables to address the IWB Board's specific needs;
- Alignment with a best practice approach as deemed relevant and applicable;

- Absolute confidentiality and commitment to excellence, ensuring this work meets the needs and expectations of IWB, its Board and Staff;
- Skilled project management and an ability to meet all requirements and timelines;
- An objective, thorough, candid and constructive analysis of how IWB is governed and managed, the effectiveness of the Board and its decision-making, and the administrative effectiveness in carrying out the Board's directives and decisions;
- Practical recommendations that will make a tangible and positive impact on opportunities for decision-making and implementation effectiveness and impact relative to the achievement of IWB's mandate;
- A commitment to contribute to the success of the IWB and those it serves in tangible and significant ways; and,
- Our team's availability to ensure a keen understanding of IWB, its leadership activities and roles by both the Board and Staff, how decisions are made and carried out, as well all other issues relevant to this assignment and its success.

The methodology used ensured the success of this process and the achievement of IWB's objectives for the Review. A key consideration for an effective review was the lens through which IWB's governance and administrative practices were assessed. In undertaking this particular assignment, the following were key process drivers:

- Governance and organizational effectiveness best practices, options, and opportunities;
- Principles of good governance (e.g., transparency, accountability, etc.)
- Alignment with IWB's mandate and strategic priorities;
- Stakeholder needs and expectations; and,
- Political and market factors and influences.

The following key process steps were followed between October 17, 2017 and February 16, 2018 when this report was completed and delivered to IWB:

1. Discussion with the Chair/CEO and Executive Director regarding the focus and goals of the review and evaluation;
2. Development of tools to collect information (i.e., ten online surveys tailored to specific internal and external stakeholder groups);
3. The analysis of survey results data and the identification of key issues and/or themes relating to the Review objectives;

4. Telephone interviews with representatives of key stakeholders, most of whom had completed the survey on behalf of their respective organizations;
5. Further analysis of all survey and interview data relative to the Review objectives for the purpose of arriving at key conclusions; and,
6. The development and presentation of a detailed report highlighting the results of the Review, the critical findings and associated recommendations for the IWB to begin addressing the Review findings.

The results of the Governance and Administrative Review were presented to the IWB in Inuvik on February 22, 2018.

In terms of specific Review logistics, the following are key highlights:

- The online surveys were sent to 47 individuals representing ten different internal and external stakeholder organizations;
- A total of 29 completed surveys were received:

○ Municipalities	4	○ ENR:	1
○ Licensee:	3	○ MACA & H&SS	3
○ Federal:	3	○ Lands	1
○ Regional:	2	○ Board:	5
○ Local:	4	○ Staff:	3
- Telephone interviews were held with a total of 25 individuals representing the breadth of ten stakeholder groups. Of these, a total of seven interviews (or 28 percent) were conducted with members of the IWB's Board and Staff.

IWB Current State

The economy in the Inuvialuit Settlement Region (ISR) has changed significantly with the decision to not proceed with the construction of the Mackenzie Valley Gas Pipeline that had been approved for construction in 2010. The now completed construction of a new 138-kilometre road from Inuvik to Tuktoyaktuk represents the last significant development project in the area. As much as the resulting low level of economic development has posed significant challenges, it also presents new opportunities for the IWB.

The work of the IWB is focused on water licensing activities with five municipalities in the Region and remediation work being undertaken by commercial entities. Typically, one municipal licence comes up for review each year.

Unlike in the Province of Alberta, for example, where there is a single regulatory body (i.e., Alberta Energy Regulator), oversight of environmental protection in the Region is widely dispersed among many local, regional, territorial and federal organizations, creating an inherent complexity for those overseeing the water licensing application process and the licence applicants themselves. This complexity is exacerbated by the lack of clarity around roles and responsibilities of many of these organizations in the licensing process.

Common themes in the Region impacting the work and mandate of the IWB are a lack of organizational capacity and the steady turnover of staff at area municipalities. The reality of staff turnover means a lack of continuity of knowledge and experience in these communities. Additionally, the distance between communities and the expense of traveling to them to engage local leadership in meaningful ways adds to this challenge.

As a result, at the IWB at least, there is a shared attitude and commitment among Board members and Staff to “getting the job done” in addressing challenges and opportunities as they arise. The IWB is to be commended for its outcomes-focused work posture in delivering on its mandate.

This practical approach has led to IWB having a highly positive impact in the communities holding water licences. Relative to a decade ago, there is a much greater focus at the IWB on working collaboratively with communities, acting as a resource and being supportive in the licence renewal process as municipalities deal with persistent capacity challenges.

Despite these challenges, the IWB has made excellent efforts to deliver on its mandate fully and effectively with its problem-solving approach and commitment to needed outcomes. Its annual workshop for key stakeholders is widely recognized as an important initiative to help address the challenges already cited by engaging local community leadership and other stakeholders in considering key issues and local needs. As much as these efforts go a long way to helping constituents understand the water licensing process, the IWB is not in a position to influence staff turnover and other community-based risks.

Despite its efforts, the IWB is not always viewed as the “go to” organization on water licensing matters given the practical realities of legislation and funding. Local communities often have closer relationships with the Department of Municipal and Community Affairs (MACA). Given that water licences tend to be renewed on a five-year cycle, this disconnect is understandable, but difficult to bridge.

Given the size and scope of municipal operations in the communities, there is a heavy reliance on third-party expertise to assist with water licence issues. This results in significant expenditures on external consultants by communities that have finite resources and competing demands. This reliance can result in increased complexity as the interpretation of licensing requirements may be broader than originally anticipated.

With respect to water licences, some commercial applicants interviewed suggested that the range of stakeholders invited to participate in the licensing application review process can result in what they perceive to be “scope creep”. For example, one applicant suggested some reviewers may have priorities or department mandates that are factored into the review but which do not align with water licence requirements. As such, every application provides reviewers with “a leverage point to further a cause or issue”.

However, the co-management regulatory approach defined in the land claims allows reviewers the freedom to have their own particular interests reflected in the licensing process, even when those issues may seem to bear little connection to water licensing. As a result, commercial applicants may view IWB staff as being inflexible on issues that are seen to be of questionable relevance, given they believe IWB staff should help ensure the focus of stakeholder feedback remains on water related issues.

The resulting conflict is a symptom of misunderstanding and assumptions that result from:

- A lack of clear understanding of the application process and the regime used in the Northwest Territories relative to other jurisdictions, particularly with respect to the role that claimant groups play;
- The low level of economic activity that prevents regular engagement by applicants with the IWB that would help create a greater depth of understanding; and,
- The geographic realities of commercial projects in the Region and the cost implications of having to travel to work sites to fulfil informational requirements, particularly after the initial application has been completed and submitted for review.

Challenges and Opportunities

In exploring the environment in which the IWB operates and defining the current state in which this Review was undertaken, Avery Cooper identified both challenges and opportunities the Inuvialuit Water Board will want to consider. In doing so, the Board will also want to prioritize opportunities for the increased impact it can have while delivering on its mandate.

These issues include:

- A. Organizational Awareness
- B. Organizational Mandate, Stakeholder Needs and Outcomes Focus
- C. Simplifying the Licensing Application Process
- D. Clarifying Stakeholder Input into the Licensing Process
- E. Communications and Relationship Management
- F. Board Effectiveness and How the IWB is Governed
- G. Administrative Policies and Procedures

Where possible, this report goes beyond simply identifying relevant challenges to also propose responses for proactively and constructively addressing these opportunities.

In many of the challenges and opportunities identified, there is an underlying theme: the IWB can increase its effectiveness by being more explicit about how the organization functions and how the application process unfolds. This would seem to be of interest, relevance and benefit to most external stakeholders, whether they be licence applicants or reviewers.

A. Organizational Awareness

The work of the IWB is critically important to the public interest in the Region. The IWB's role as one of the stewards of the regional environment and its role in the broader regulatory framework are not well understood in terms of its relationship with key stakeholders. This is particularly notable in light of the communications strategic priority (Goal #2) that is presently being implemented.

The participation of local community officials (SAOs and Mayors, for example) and local Inuvialuit organizations (e.g., hunters, trappers and other groups) in the Review process did not reach the levels hoped for. Extra effort was made to connect with municipal stakeholder representatives in particular, given the focus of the current work of the IWB Board members and Staff in managing in-force water licences. This is no doubt due to issues already referenced in this Report:

- The lack of capacity in these communities and the competing priorities for limited time and resources;
- The regular turnover of SAOs and the unfamiliarity with the IWB by some incumbents given their limited tenure in the SAO role;
- The lack of importance placed on water licensing issues if the renewal process is not imminent; and,
- A lack of understanding or appreciation for the importance of their input into the process.

Given the low level of economic activity in the ISR, the awareness level of the IWB among commercial stakeholders is also relatively low, given there are few commercial water licences being sought at any given time. For the most part, commercial stakeholders had to recall their historical experience rather than current interaction.

Contributing to the lack of awareness of the IWB and its role are the many players in the environmental oversight process and the difficulty sorting out these myriad organizations and their role in the broader licensing process.

Further, the IWB website contains significant amounts of information. However, feedback from stakeholders suggests this information is not well-organized or user-friendly. It is one thing to create a library; it is another to communicate effectively to create understanding.

Conclusion: Given the competing demands and the urgency of many issues facing key stakeholders, there may be little opportunity to impact awareness of the IWB in a meaningful way until such time as organizations need to engage the IWB directly (e.g., obtaining a water licence or renewal, contributing to the water application review process, etc.). When such opportunities arise, the IWB needs to be positioned to provide background, context and clarity so the issue being raised can be effectively and efficiently addressed.

Recommendation #1: The Board should consider giving more active oversight to Goal #2 in IWB's strategic plan focused on the implementation of its communications strategy. It is important to track the effectiveness of reaching this goal given this more proactive posture is required in light of the risks associated with achieving communications impact.

Recommendation #2: There is a need for external stakeholders to better understand the "life cycle" of the water licensing process so they can easily connect to the IWB when the need arises. The creation of an orientation "package" that provides recipients with a "just-in-time" overview of the IWB and the water licensing process will be well received if it outlines the various participants in the licensing process and the key issues that drive the process.

This orientation package would be supplemented by a more comprehensive overview of the licensing process that is described in a later recommendation in this report.

As with the general awareness challenge noted above, the IWB's role and mandate is often misunderstood given the complexity of the licensing process and the number of organizations involved in the environmental management regime.

B. Organizational Mandate, Stakeholder Needs and Outcomes Focus

Although the current organizational mandate, as defined by the *Waters Act*, is narrowly focused on the issuance of water licences, its overall objective is to “the conservation, development and utilization of waters”.

The *Waters Act* speaks to the Inuvialuit Water Board and its quasi-judicial role. As such, it has the right to hold hearings and to make decisions in the general manner of courts.

The legislative framework within which the IWB is expected to function does not address the prevailing conditions that need to be accommodated for its mandate to be fulfilled. Again, this is characterized by stakeholders with limited capacity, resources and experience working with the IWB in applying for and renewing water licences.

The intent of the *Act* and the corresponding organizational mandate does not align well with the needs of those who turn to the IWB to apply for and receive water licences. Relative to the water licensing requirements and stakeholder capabilities, there is often a gap between the expertise required and the ability of stakeholders to meet the related requirements.

By way of example, the IWB has taken it upon itself to host aforementioned annual workshops where relevant issues are addressed and education delivered to key stakeholders, particularly those from the communities in the Region which fall within the IWB’s jurisdiction. This initiative is broadly recognized as being of great relevant and value in addressing a critical need in communities where such knowledge and experience is severely limited.

The Board has interpreted its role by choosing to take a broader community-based role by playing an active facilitative role with a view to ensuring the right things are being done. In favour of the more expansive mandate, the approach the Board has taken is a helpful one, building an effective network and a more collaborative approach to addressing issues impacting water licensing in a challenging environment low on needed resources and expertise. While the role IWB plays may be broader than the legislation intends, it does serve to address the very real needs of those it serves in the ISR.

Despite speaking to a legitimate need for assistance, particularly in local communities, potential conflicts can arise for the IWB. For example, there is the potential for conflict when the Board performs a community-based facilitation role in addition to its quasi-judicial role. More specifically, conflict could occur when the IWB provides guidance on how to address application and/or renewal issues and then assesses that same application and issues the water licence.

There is the question, then, whether the response to community conditions, and the resulting work of the Board, falls appropriately within its mandate. While this scenario may pose less of a risk with municipalities, it could result in more significant problems should corresponding conflicts arise with industrial or commercial applications.

If the IWB were to limit its role to licensing activities (i.e., the focus of the *Act*), it would be difficult (and perhaps impossible) to fulfill its mandate given the inability of some stakeholders to meet the requirements of the licensing process. This gap has long been recognized by the IWB and is being proactively addressed, though not with the full agreement of Board members. Fulfilling this “expanded mandate” is a concern of some IWB Board members and, as much as the issue has been raised for consideration and discussion, it has not been fully resolved.

Addressing current needs by being outcomes focused and taking some extraordinary and highly valuable steps to support communities in the licensing process is one way an expanded mandate has evolved. There is also the role the IWB could play in anticipating future issues impacting water licensing in the ISR. It was suggested by one stakeholder that the IWB could perform a highly valuable service addressing emerging issues – a role that does not fall within the strict mandate of the IWB. These include, among other issues, the melting of the permafrost, diminishing water reservoirs and other water related risks.

As noted, the IWB is proactively providing support and working collaboratively with local communities to partner in problem solving so that water licence standards and requirements can be met in those jurisdictions where organizational capacity and expertise are not readily available. In broadening its activities to support key stakeholders, the IWB may be overstepping its mandate, resulting in some risk and potential for conflict in the process.

Recommendation #3: The IWB needs to have a discussion relative to this aspect of the role it has adopted relative to its formal and legislated role and responsibilities. This is not to suggest any change needs to occur. Rather, the purpose is for the Board to gain explicit consensus on what is appropriate going forward. The Board needs to be unified in the scope of responsibilities the IWB will assume and assess the risks in doing so, take appropriate action to mitigate those risks.

Assuming agreement on an appropriate mandate could be achieved, the associated risks should be formally identified and a plan developed and executed in such a way as to gain formal agreement from the Minister of the Environment and Natural Resources that this is the mandate the IWB is to pursue and fulfill.

C. Simplifying the Licensing Application Process

As much as the prevailing water licensing regime facilitates the broad-based engagement of and a voice for those concerned with the environment in the ISR, it also creates unavoidable complexity. This, in turn, poses a challenge for those who are required or invited to engage in the licensing application process given the sporadic nature of their participation.

Stakeholder engagement is not typically sustained over time for them to develop a familiarity with the process, its requirements, how various stakeholders fit and their influence in the process. As a result, it is often not clear who applicants need to engage and within what parameters, how the licensing process steps connect and within what parameters.

Recommendation #4: The following are recommendations to foster understanding of the licensing application process by simplifying how the process is communicated.

Steps should be taken to provide resources that all stakeholders can use in ways that promote effectiveness and efficiency. While various stakeholders may have differing needs and expectations, it was suggested a simple, graphic rendering of the licensing process would be ideal. This rendering would rely more on the visual representation of the process steps rather than detailed technical descriptions so as to simplify the complex web of licensing participants and process steps.

If produced online, links to more detail could be provided for each key step so that overriding goals of process clarity and the goal of easy understanding is not sacrificed.

The following input was provided by multiple stakeholder representatives:

1. **Process Map:** The development and provision of a clear application process map in both online and hardcopy formats that includes:
 - Key process steps and related requirements;
 - Identification of other players and the role they play in the process;
 - The intended or required outcomes for each process step;
 - Timelines for each process step;
 - Process participants by each process step, including areas of potential or actual accountability overlap; and,
 - Clarification of stakeholder consultation rights.

2. **Licences Logbook:** A listing of current and expired licences that stakeholders can review with a view to benchmarking and education. Their presentation should be done with the perspective of stakeholders in mind.

D. Clarifying Stakeholder Input into the Licensing Process

From both the licence applicant and application reviewer perspectives, the regulatory system is viewed as inherently complex.

Water Licence Applicants: The licence application process can be arduous for applicant given the lack of process clarity and the volume of information requested. There is a frustration that all requests for information are not fully defined at the front end of the application process. This may be due to the following factors:

- The initial request for information is incomplete;
- The initial review identifies the need for elaboration or clarification of relevant issues;
- The broader review by external groups may result in new issues being raised that are then passed on to the applicant for explanation.

For applicants, it appears there is sometimes a “free for all” approach to receiving stakeholder input during the review process. This seems to allow for issues that are questionably related to water matters to be included and needed to be addressed in the licensing process and results in the following frustrations:

- The costliness of having to address issues when information requests come after the submission of the formal application; and,
- The questionable relevance of information requests relative to water issues and licensing.

Licence Application Reviewers: The review process provides the opportunity for a wide range of stakeholder groups to contribute their views, knowledge and expertise. Some have little understanding of their role and relationship with IWB. For others, their lack of resources and expertise means responding to informational requests from the IWB can be overwhelming.

Some application reviewers suggested they are being asked to search too much to find out what is being requested or required. There is a lack of clarity with respect to what is being requested from the reviewer, including the scope, location and purpose of the project and other factors that might influence review input.

At the same time, others routinely undertake this work as a part of their broader responsibilities and find the approach taken by the IWB to be aligned with standard practice.

Weighting Reviewer Input: Beyond the obvious complexity created by the highly technical nature of the process and the myriad of participants on both sides of the licence application process, there is also some limited, but possibly relevant concern about how issues raised in the

review process are or should be weighted. Some stakeholders believe their perspectives warrant greater consideration in the licensing process because of the significance and relevance of the issues these stakeholders typically raise.

Closing the Gaps: IWB Staff (and, presumably, Board members as well), are unavoidably caught in the middle of varied challenges and frustrations experienced by key stakeholders. To begin to close these gaps, it's important to recall the overriding theme noted earlier in this report of the need and opportunity to create greater clarity and explicitness.

In considering the following recommendations, it is important to remember that IWB staff are presently viewed as being cooperative. To date, the process has successfully avoided becoming adversarial between IWB and key stakeholders. Nevertheless, the application process can be seen as confusing and can create frustration. When it comes to issues that local or regional participants identify during the review process, Staff can be seen as being somewhat inflexible when questions are raised by applicants about the validity or relevance of issues being raised.

Recommendation #5: In considering how the IWB might address the concerns expressed by stakeholders about their perceptions of the application and review processes, the overriding recommendation is to be explicit about the expectations of both applicants and reviewers and to clearly identify the steps in the process and, where possible, proactively identify and address what applicants are likely to view as anomalies relative to that which they might be more familiar, relevant and reasonable.

1. To this end, there would be value in providing an orientation package to stakeholders at the outset of an application process that would include the mapping of the application and review process steps (please refer to Recommendation #2).

For example, stakeholders outside of the Region and/or Territories may need help to understand the drivers that are unique to the licensing regime in the ISR and markedly different from those in other regimes. This would serve to help set expectations, proactively address assumptions and create a more constructive interaction with applicants when they receive requests for information they cannot link to the licensing process.

2. In overseeing the process and, in particular, when requesting information from prospective licence holders, it would be beneficial to instill more of a “user friendly” posture by seeking to better understand and appreciate these requests from the stakeholder perspective.

By doing so, a win/win outcome is the goal: clarity of what the IWB requires from its stakeholders and more timely responses back to the IWB so the licensing process timeline can be expedited.

3. As much as possible, all of the information to be requested from applicants should be asked for at the front end of the process, given the cost implications of requesting information after the formal application has been prepared and submitted.
4. It is understandable some stakeholders perceive the review process to be overstepping what is deemed reasonable and relevant in the licence application process. It behooves the IWB to communicate to applicants the context in which the application is being made, particularly with respect to any expectations and requirements unique to the IWB and may not be experienced in other jurisdictions with which applicants might be more familiar.
5. With respect to the input provided by application reviewers, the IWB should consider and make explicit the role it should play in “sifting through the input” to ensure it is relevant and applicable to the licensing process. In addition, the IWB and applicants would be well served by:
 - Providing guidance and being clear to reviewers to articulate the feedback IWB wants and needs from stakeholders. The provision of a framework for stakeholder input into the application review process may be a helpful tool for all concerned.
 - Providing a project summary (i.e., what is it, where is it, scope of operations and what it is about);
 - Limiting the use of technical language to foster greater understanding on the part of those who rarely have reason to deal with water licence applications;
 - When supplementing the limited staff complement with the use of consultants to help facilitate the application process, ensure clarity about their role, scope of work, accountability and from whom they are to take direction;

- In processing stakeholder input, take care to ensure the information being requested has not already been addressed in the original application;
 - Do not assume applicants will provide information not explicitly requested at the outset of the application process.
6. Also, from an applicant's perspective, it may be helpful for the IWB to conduct an analysis of stakeholder input to ensure any related requests are reasonable and understandable and to take care that the questions being posed are directly and explicitly linked to issues relevant to a water licence application.

E. Communications and Relationship Management

The challenges relating to communications and the relationship the IWB has with its many stakeholders is symptomatic of many dynamics beyond the direct control of the organization:

- The systemic turnover of staff at many stakeholder groups, making the development of ongoing relationships virtually impossible, making communications difficult and maintaining a baseline of knowledge about and experience working with the IWB highly problematic given the critical nature of the issues at the core of those relationships;
- The low level of development activity resulting in the lack of regular contact with key stakeholders and the resulting inability to achieve a certain sustainability of stakeholder engagement;
- Applicants who lack an understanding of consultation rights and how they fit into the process; and,
- As already noted, the limited capacity at partner / stakeholder organizations.

Again, as already noted, IWB has made communications a strategic priority. Based on the review of documentation made available to Avery Cooper, the strategy appears activity-focused with possibly a lack of corresponding measurement of the impact communications tactics have in achieving the corresponding objectives and goals.

From our perspective, communications recommendations relate more to the posture the IWB chooses to adopt relative to key stakeholders. IWB has already demonstrated the effectiveness of engaging targeted groups within its mandate with face-to-face forums for education and dialogue. The annual workshop in support of municipalities in the ISR is an excellent example

of how tailored communications can have a direct and positive impact on IWB's ability to deliver on its mandate.

Some Review participants, from government in particular, recommended that more direct, in-person contact with other stakeholder groups could build on the success already achieved through the annual workshops. Consistent with IWB strategic goal #3 (i.e., collaborate with other responsible agencies and organizations to expand community capacity in the management of water use and waste management), greater stakeholder engagement could have a positive impact in the following ways:

- **Collaborative Community Contact:** Where possible, encourage an enhanced collaborative approach with other stakeholders with whom the IWB shares or co-owns accountabilities that impact the water licensing process to connect in the communities, addressing water and related issues more holistically.
- **Partnering with Other Water Boards:** There is already significant and meaningful engagement on the part of the IWB with other water boards in the Northwest Territories. At the same time, there is the opportunity to deepen these relationships to add knowledge and leverage existing capacity to more effectively deliver on its mandate.

There is an intriguing dynamic recognized by some stakeholders that, within the water board community, there is an observation that there is the Inuvialuit Water Board and then there are the other four water boards in the Territory. While this situation may be the result of different legislative regimes between the IWB and "southern water boards", the IWB is either not seen as a peer organization among other water boards or the IWB has somehow become separated from this group either by choice or by default. Despite this difference, the common mandates shared by all water boards provides sufficient commonalities to warrant closer working relationships.

Recommendation #6: While recognizing the different legislative regimes under which the IWB and southern water boards function, the IWB should nevertheless take steps to form deeper connections to the other water boards in the Northwest Territories with a view to learn from and leverage each other's experience.

- **Enhancing IWB stakeholder forums and workshops:** While these workshops are highly effective and well attended, there are some prospective participants who are not always able to do so. As individuals in key municipal roles change frequently,

there can be a loss of knowledge previously derived from these events. There may be a need to extend the impact of these forums to close unavoidable gaps by further maximizing stakeholder engagement.

Recommendation #7: The IWB should take the opportunity to leverage the reach of these workshops by using technology to make the content (i.e., presentations, etc.) readily available to those who are not able to attend in person.

F. Board Effectiveness and How the IWB is Governed

Introduction: The role of a board is to steward the organization, ensuring its long-term viability and sustainability while delivering on its mandate or mission. The *Waters Act* gives little guidance on how the IWB is to be governed beyond the structure of the Board. Structure rarely is the solution to governing well, whereas good process and clear and accountable relationships are far more impactful in achieving the goal of good governance.

Role of Board Chair / CEO: Related to the theme of bringing clarity and explicitness to current practices at IWB, there is a need to make the role of the Chair/CEO more explicit. This should be viewed as a pre-emptive step given the role is presently being filled more than adequately. In fact, it is because of the current condition of this role that its parameters should be more explicitly defined with a view to future leaderships and eventual succession.

The current structure whereby the Board and Staff leadership roles are combined makes the job prone to misinterpretation and the risk of overstepping conventional boundaries. A worst-case scenario might result in one person assuming the role of Board and Staff, thereby exercising a degree of control and influence that would prove problematic.

Recommendation #8: Because the situation is not problematic at the present time, it is the ideal time to create a role description for the successor Chair/CEO to mitigate risks relating to misuse of power and control in the future.

Chair/CEO Succession: The effectiveness of the IWB is highly dependent on the role of the Chair/CEO as it is presently understood and defined. There is a risk to IWB at such time when the incumbent steps away from this role and the IWB is left to fill this leadership gap.

Recommendation #9: While the appointment of the next Chair/CEO may be out of the hands of the IWB, any opportunity to help contribute to or influence the process should be leveraged.

Board Role and Contribution: In conducting the document review, undertaking the review survey and follow-up interviews, little in the way of a traditional oversight board was acknowledged or referenced. Indeed, at the outset of this report, it was noted that all those associated with IWB, either as Board members or Staff, tend to take a very hands-on posture.

Recommendation #10: In doing so, a useful approach is to focus on “governance outcomes” the Board is to deliver as a matter of course of giving oversight to the IWB. There are three core governance outcomes the IWB should focus on:

- Mission achievement
- Stakeholder trust and confidence
- Organizational viability and sustainability

To address the achievement of these governance outcomes, the Board can define its role and contribution by considering what structures and processes are needed to deliver on the following governance principles with a view to achieving the stated governance outcomes:

- **Stewardship:** Guarding the resources of the organization and investing them wisely to deliver on the organization’s mandate.
- **Independence:** Giving objective oversight that is mission driven and not influenced by special or competing interests.
- **Transparency:** Governing in an appropriately open manner so that trust and confidence is fostered between the organization and its stakeholders.
- **Stakeholder rights:** Honouring the consideration due to key stakeholders.
- **Accountability:** The obligation due to key stakeholders for mission achievement and how the organization is governed.
- **Leadership:** Modelling the values and establishing the performance and other benchmarks or expectations for others to follow.

Strategic Focus: A core role of any board is to oversee strategy development. Many boards stop here and neglect an equally important duty to give active oversight to strategy implementing as a means of ensuring intended results are achieved.

Following a review of sample annual reports and meeting minutes, it would appear the strategy oversight function at IWB is lacking. No reference to strategy was found other than a

reiteration of strategic priorities. To govern effectively, the Board needs to give priority to strategy monitoring and oversight.

Recommendation #11: A redesign of the meeting agenda should include updates on each of IWB's strategic priorities at least quarterly. Operational matters (e.g., the purchase of a camera) could, arguably, be eliminated altogether.

In addition to creating a process to facilitate Board Chair/CEO succession, it is also recommended the Board formalize the following duties:

- Strategy development and oversight;
- Risk identification and monitoring;
- Financial oversight and stewardship;
- Stakeholder accountability and communications;
- Organizational and governance effectiveness (including input into the Board and Staff succession process).

Recommendation #12: The IWB Board and Staff should give consideration to seeking out formal board effectiveness and governance training, given related disciplines are not typically well understood unless there is formal and related education.

Risk Identification / Monitoring: Coupled with the need for more active strategic oversight is a parallel process of identifying key risks (likely in the range of 6 – 8) that could potentially have a negative material impact on IWB's ability to deliver on its licensing and monitoring mandate.

The effectiveness of the Inuvialuit Water Board in delivering on its legislated mandate is susceptible to both internal and external risks. Some of these risks, while not necessarily described as such, have already been a focus of this report.

It is the responsibility of a governing board to ensure there is a process for identifying those risks which pose a threat to mandate achievement. In the case of the Inuvialuit Water Board, relevant risks may include the limited organizational capacity, the lack of continuity of key stakeholders and community contacts and the risk of loss of critical knowledge and experience, and the like. While the IWB may not be in position to eradicate these risks, they can be managed.

Recommendation #13: The IWB Board should consider embarking on a process with Staff to identify critical organizational risks and assign active oversight to the mandate of the Finance Committee.

Board Member Role and Responsibilities: The Board, ideally, needs members who, at minimum, have a background and work experience in environmental sciences, water and waste management and other relevant skill sets that contribute to good decision-making. Otherwise, the board will be making decisions with no dialogue or discussion to ensure informed decisions are made.

Recommendation #14: In considering the role and responsibilities of Board members, a helpful starting point can be achieved by ensuring clarity around the Board member “life cycle”. The relevant components include:

- **Recruitment:** The identification of new Board members.
- **Equipping:** Providing new and more veteran members with the information, skills, knowledge and experience required to govern well.
- **Engagement:** Active and voluntary participation in the work of the Board.
- **Leadership:** The assumption of roles that recognize a member’s leadership capabilities.
- **Evaluation:** Assessing the performance of individual members relative to role requirements or expectations.
- **Departure:** The predetermined conditions or circumstances that lead to a member leaving the Board.

When one thinks of the role of an individual Board member, it can usually be described in the following terms:

- **Meeting preparation:** Being prepared to actively and knowledgeably engage in Board meetings and in the decision-making process as required.
- **Meeting engagement:** Active participation in the Board’s discussions and deliberations relative to its governing responsibilities.
- **Decision contributor:** Using one’s skills, knowledge and experience in the decision-making process.
- **Decision supporter:** Acting in the best interests of the IWB by proactively and publicly supporting the decisions of the Board.

Governing Policies: There has been some good progress made in recent years with respect to the creation of policies that guide the work of the IWB. That said, there is both a need and an opportunity to continue to create an expanded set of practical and relevant policies with a view

to making explicit current roles and practices. This is particularly true of “governance focused” policies given that most presently in force are operational in nature.

For example, a policy could be developed as to how the IWB will navigate working outside the strict parameters of its mandate. This would help to address existing concerns and be clear and explicit about recognizing the potential for conflict and how this will be managed going forward for the current Board as well as successor boards and staff so there is both continuity and understanding.

G. Administrative Policies and Procedures

The Board, as a quasi-government agency, conducts its operation and financial management in accordance with the Government of the Northwest Territories’ *Financial Administration Act* and *Financial Administration Manual*. To assist IWB Board members and staff, a **Board Administration Policy and Procedure Manual** was developed to address policies and procedures specific to the IWB.

The manual addresses the following:

- Board Honoraria
- Board Travel Expenses
- Conflict of Interest
- Support Staff Salaries, Benefits and Travel
- Personnel Management
- Employee Performance, Evaluation and Resignation
- Financial Reporting
 - Annual Budget
 - Audit of Financial Statements
 - Spending and Payment Authority
 - Purchasing and Contracting
 - Project Management
 - Cheque Signing and Account Management
 - Receipts and Deposit of Funds
 - Control and Issuance of Funds

- Accounting and Data Management Procedures
 - Fixed Asset Control
 - Processing of Payments
 - Debt Management
 - Budget Tracking and Reporting
- Office Administration
 - Office Communication

In support of policies and procedures contained in the **Board Administration Policy and Procedure Manual**, the Board has a comprehensive **Budget Management Guide** and **Contracting Guide**.

As part of the review of the Board’s financial management, a sample of a variety of disbursements were looked at to ensure compliance with the board’s policies and procedures. No deviations from policy and procedures were noted in any of the transactions.

Conclusion: In reviewing all the Board’s policies and procedures, no gaps were identified in internal controls and segregation of duties. The IWB maintains internal financial and management systems that are rigorous and adequate for an organization like the IWB.

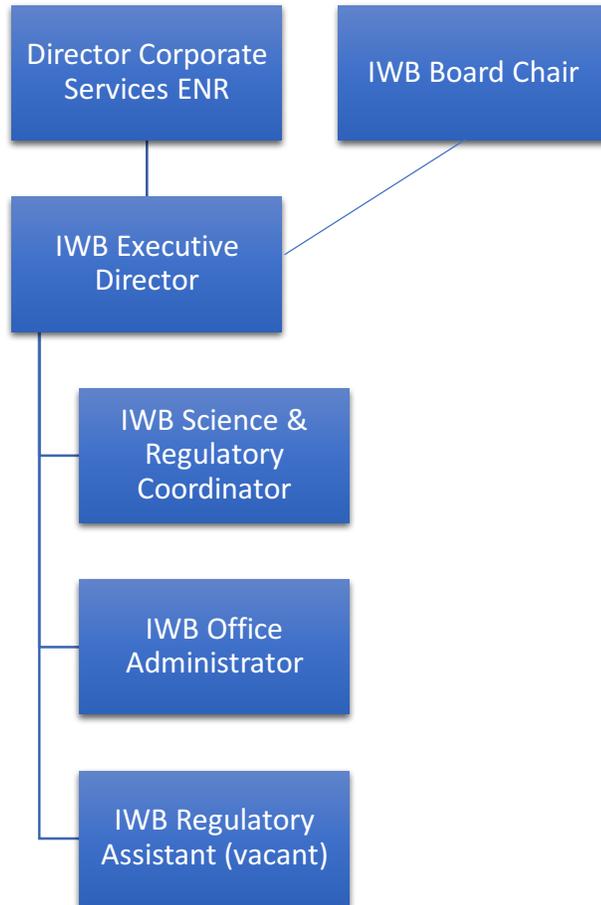
Staff Oversight / Executive Director Performance Evaluation: In a traditional board setting, the Executive Director is typically the sole employee of the Board of Directors. In the case of the IWB, the Executive Director is an employee of the Government of the Northwest Territories. The CEO is an appointee of the Territorial government, as opposed to being an employee.

When one considers the governing precept of accountability, it is difficult to deliver on this principle when there is no direct accountability relationship.

Recommendation #15: While there may be good reason for IWB staff to remain within the Territorial government structure, there would be benefit to the IWB to have a more direct accountability relationship between the Executive Director and the Board so that it has more direct influence over performance objectives, performance evaluation and other human resource matters.

The Board staff are GNWT employees therefore are subject to the legislative, regulatory, policies and procedures that are in place to guide the work of public servants. These include the *Public Services Act*, the Union of Northern Workers (UNW) Collective Agreement and other practices and process managed by the GNWT Human Resource Division.

IWB Staff Reporting Structure



A confidential questionnaire was completed by staff and supervisors that addressed their opinion and/or concerns on the following:

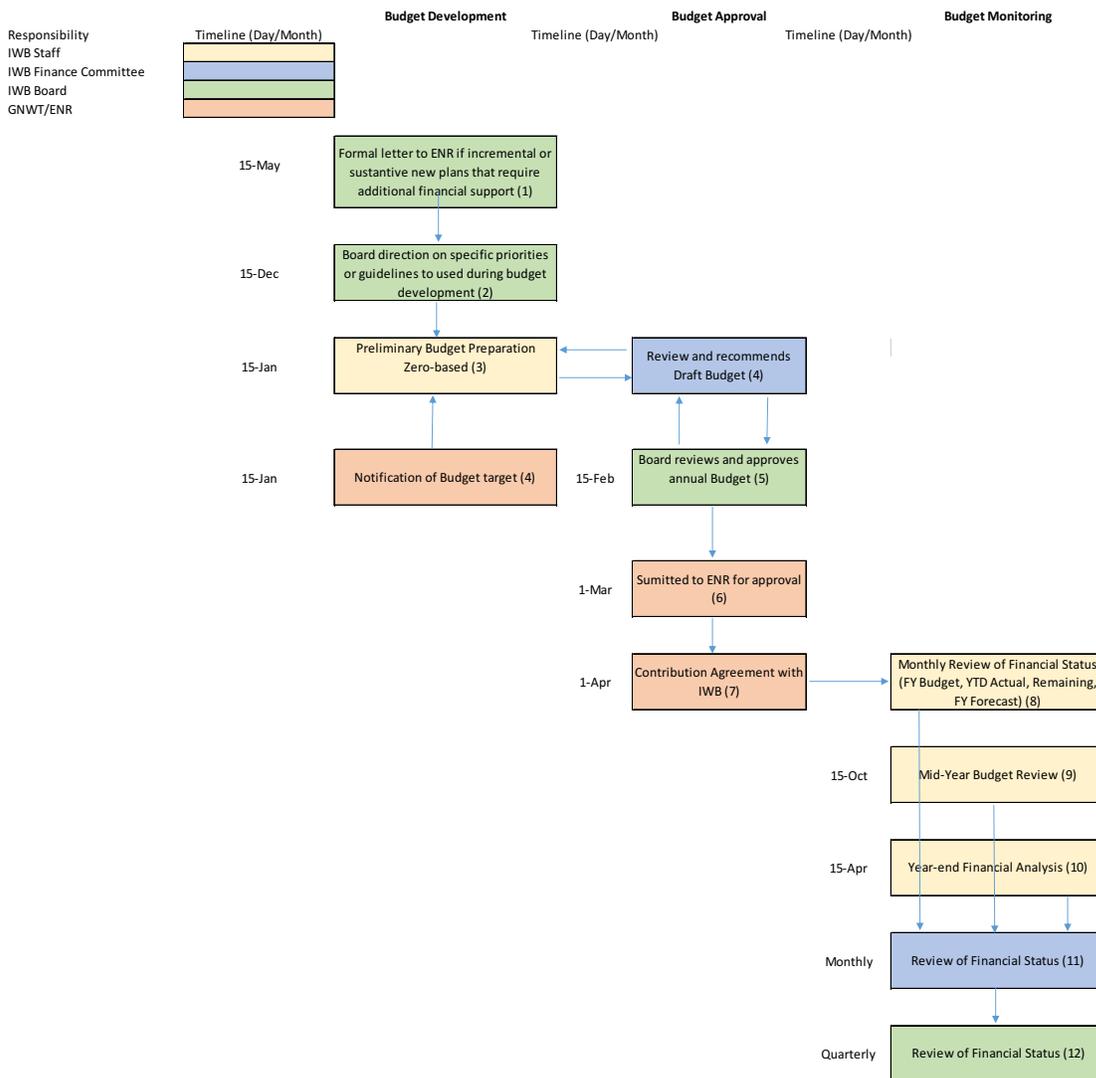
- Adequacy of Supervision
- Performance Evaluation

Conclusion: No issues were identified in the interview/questionnaire process. All staff feel they are adequately supervised and receive the appropriate feedback and training as needed. The Executive Director, located in Inuvik, reports directly to the Director of Corporate Services for ENR, located in Yellowknife, however the Executive Director also reports directly to the IW Board, thereby making the Board Chair a de facto supervisor. The relationship between all three parties is effective and efficient with all understanding and respecting each other's roles and responsibilities.

With regard to performance evaluations, the IWB follows the prescribed GNWT process for annual performance evaluation, setting annual Work Objectives, Competencies and

Learning Goals. Again, no issues were identified in discussion with staff and supervisors. All participate in the performance review process and believe it to provide the necessary outcomes as intended.

Financial Management: As noted above, the IWB has a clear and adequate set of policies and procedures which it follows in conducting the financial affairs of the Board. Part of these policies and procedures is the **Budget Management Guide** which describes the Board’s annual budgeting process, financial analysis and variance reporting to the Board, and the financial statement audit process. The Board also has a Finance Committee which is a standing committee responsible for providing financial oversight of IWB operations and making recommendations to the Board on strategic financial planning; annual operating budgets; internal auditing processes, financial reports and statements; and any other financial matters as directed by the Board.



Conclusion: As part of our review on the effectiveness of the Board’s financial management, the entire FY17 Budget development and financial reporting cycle was reviewed to ensure adherence to the **Budget Management Guide** and best practice. All documentation for steps 1 through 12 was reviewed and no deviations from Board policy or practice was noted. The budget process and financial reporting to the Board is rigorous and complete.

Concluding Remarks and Priority Recommendations

This report includes many recommendations that, together, will enhance the way the Inuvialuit Water Board is governed and undertakes its water licensing process by clarifying the associated processes and responsibilities between key stakeholders.

As much as the IWB performs at a very high level in delivering on its mandate, an underlying theme in this report is a need to clarify responsibilities between the IWB and others who participate in the application for and review of water licences.

How the IWB responds to the recommendations contained in this report will be critical. As a final recommendation, the Board needs to take time to consider the validity of the perspectives offered, the priority with which they should be addressed and the means by which action will be taken.

The greatest challenge may be untangling the recommendations from the fact the IWB is functioning at a very high level. Most recommendations are not particularly urgent or material in nature. Others, while potentially serious if not addressed, need only to be clarified so there is common understanding among all stakeholders as to the licensing process.

However, it would be wise to consider all issues in a prioritized manner and all explicitly so any risks associated with the misunderstanding and differing expectations that may arise among Board members and Staff can be fully addressed.

Appendix: Project Charter

Project Mission/Mandate (why this project is being undertaken)

The overriding objective of this review is to determine the extent to which the Inuvialuit Water Board is achieving its objectives as outlined in the *Waters Act* and as defined by its vision to ensure “clean and plentiful water available today and into the future” and IWB’s role relative to the conservation, development and use of water.

The Board provides for the conservation, development and utilization of waters in a manner that will provide the optimum benefit for all Canadians in general and, in particular, for the residents of the Inuvialuit Settlement Region (ISR) located in the Northwest Territories for which the Board is authorized to issue licences. Within its mandate the role of the Board includes:

- Making decisions on water licence applications and setting terms and conditions for licences, including security deposits;
- Issuing licences; and,
- Monitoring adherence to licence conditions.
- Participation in individual and collective initiatives related to water use and waste management within the region.

Direct enforcement activities are not the responsibility of the Board.

Scope and Objectives (what is to be accomplished)

In conducting this review and evaluation, the focus will be on the activities of the IWB in supporting the fulfillment of its mandate (established by legislation, regulation and ministerial directive), and accomplishing performance measures set by the board itself (including those listed in the strategic plan). Specific areas of examination will include the following activities:

IWB Board Focus

- Responsiveness to mandate;
- Adherence to legislative, regulatory and other requirements;
- The board’s organization and decision-making;
- Effectiveness of board’s role in setting organizational policy and directing the administration of the organization;
- Effectiveness of board’s oversight of IWB operations;
- Role of the Chairperson / CEO with respect to the board and the administration;
- Relationship between the Board and Applicants; Government departments; and

- other regulatory authorities;
- Results of the board activities (status of operations and the strategic plan) and decision-making; and,
- Effectiveness of Board communications activities.

IWB Administration Focus

- Organizational structure, staffing and operating processes;
- Clarity of administrative policies and procedures;
- Support of the board activities;
- Implementation of Board direction;
- Adequacy of Staff supervision and performance evaluation;
- Financial management;
- Relationship between the administration and the IWB board;
- Relationship between the administration and licence applicants, licence holders, government departments, and other regulatory agencies; and
- Effectiveness of communications activities.

Review Success Criteria

There are certain factors that will have a significant impact on the overall success of this review, including:

1. The need to understand IWB's mandate as defined in the *Act* and its scope of activities in the conservation, development and use of water.
2. The need to understand key external stakeholders and their relationship to IWB relative to its mandate and scope of activities.
3. The need to have a laser focus on the board and administrative activities outlined on page one of this charter.

Success will also be assessed relative to how well the IWB delivers on its mandate relative to the well-defined values it espouses. These values are:

- **Transparent:** The Board is forthright and open in its processes and decisions.
- **Professional:** The Board is consistent, objective and unbiased in its actions, and acts with integrity in all that it does. It is fair in its decisions and strives for consensus in its decision-making.

- **Respectful:** The Board is considerate, approachable and treats its applicants, interested parties, other regulatory bodies, the public and individual board members and its staff with respect.
- **Responsive:** The Board is efficient, making the best use of time and resources in its actions and activities and executes its mandate in an effective manner, providing clear direction throughout its processes and in its decisions.

While the values define IWB's beliefs and how it will conduct itself, the Board's goals define its strategic focus and what will be given priority as the IWB seeks to fully deliver fully on its mandate. These include four key areas:

1. In accordance with the *Waters Act* and Waters Regulations, the issuance of water licences that support the efficient and effective management of water use and the deposit of waste in inland waters in that portion of the Inuvialuit Settlement Region located in the Northwest Territories. In doing so, the Board will use the best available science and traditional knowledge.
2. All participants in water licensing processes, including communities, industry and governments, have a sound understanding of the Board's mandate and procedures and the responsibilities of applicants and licence holders.
3. The Board establishes and maintains meaningful partnerships with governments, communities and other resource boards in the Northwest Territories, with the aim of collaboratively improving community capacity in water use management.
4. Board members and staff have the knowledge, skills, resources and training necessary to fulfill the Board's objectives as set out in the *Waters Act*.

Constraints/Assumptions

The success to be achieved may be impacted by:

1. The amount of face-to-face engagement may be constrained by budget limitations. This will be mitigated, as required, by use of electronic communications to suit the purpose of the engagement.
2. The availability of key stakeholder representatives to complete surveys and for follow-up interviews in light of timeline parameters.

Key Stakeholders

The following are the key project participants:

- Project sponsor: Mardy Semmler, Executive Director - IWB
- Project manager: John Dinner, ACC

- IWB: Roger Connelly (Chair & CEO), Mark Cleveland, Elizabeth Arey, Richard Binder, Louis Covello
- ACC: Robert Charpentier, Abe Theil, Theresa Slator
- External Stakeholders: Municipal & Community Affairs, GNWT; Health & Social Services, GNWT; Environment and Natural Resources, GNWT; Municipal Governments within IWB’s jurisdiction, licence applicants and holders; other industry groups with water licences within the Inuvialuit Settlement Region

Roles/Accountabilities

- Mardy Semmler: is the first point of contact for ACC Staff.
- John Dinner: is the project manager and is responsible for overall project success, with a particular focus on how IWB is governed.
- Robert Charpentier: will provide project support with a specialized focus on IWB’s administrative capabilities and effectiveness.

Process steps & Timeline

The following chart shows how the review objectives will be achieved in overview with the timeline parameters associated with each phase of work.

PHASE	DESCRIPTION OF PHASE	PHASE COMPLETION
Phase One	Project Initiation - Project Charter Development	October 31, 2017
Phase Two	Review/Evaluation of Activities, Roles and Decision-Making <ul style="list-style-type: none"> • Phase 2a: Determine the current approach to Board governance • Phase 2b: Review Evaluation Implementation • Phase 2c: Review/Assessment Effectiveness Recommendations • Phase 2d: Board Meeting and Decision-making Effectiveness 	November 24, 2017 December 1, 2017 December 15, 2017 January 15, 2018
Phase Three	Refreshed Decision-Making Framework <ul style="list-style-type: none"> • Phase 3a. Development of IWB governance vision • Phase 3b: Board vs. Administrative Role Recommendations Development • Phase 3c: Client reporting on results, project status and Phase Four plans 	January 22, 2018 January 26, 2018 February 7, 2018
Phase Four	Phase 4: Final Reporting & Recommendations	February 16, 2018
Phase Five	Project review and evaluation	February 28, 2018

Project Resources

- *Waters Act*
- Waters Regulations
- IWB 2014 – 2019 Strategic Plan
- Roles and Responsibilities - Community Water and WWM - 2016
- Water and Waste Management Workshop Report – (2015, 2016, 2017)
- Relevant policies, guidelines, templates, constating documents,

Project Risks

- The ability to which external stakeholder input can remain focused on the true mandate of IWB and actual scope of its responsibilities.
- Timely access to people and relevant materials required by ACC to conduct as thorough review as is required under well-defined project time parameters.

Communication

Assuming a “no surprises” posture, IWB will receive weekly email updates on the status of this Review every Monday commencing October 30. Both John Dinner and Robert Charpentier commit to being available as required for any project updates or clarification either in person or electronically (teleconference, email).