

Inuvialuit Water Board

GOVERNANCE & ADMINISTRATION REVIEW

Summary of Recommendations



March 7, 2018

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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.

- The IWB is currently implementing its 2014-2019 Communication Strategy with the first priority given to the complete restructuring of the IWB website. This was finalized in December 2017. Several additional elements of the Communications Strategy will be implemented during the 2018-2019 fiscal year.

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.

- In addition to existing application and licence guidelines, the IWB will develop an applicant orientation package to be posted on the IWB website that will provide water licence applicants with a full description of the licensing process and timelines from application submission to licence issuance. It will also provide applicants with a detailed outline of the required documentation in their water licence application.
- All water licences issued by the IWB have clearly outlined the nature and timing of all documentation and reporting required of the licence holder to conform to the terms and conditions of the water licence.

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.

- The objects and powers of the IWB under the *Waters Act* (the Act) are broadly described as providing 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 portion of the Inuvialuit Settlement Region located in the Northwest Territories. Despite this broad mandate, the Act focuses almost entirely on licensing and enforcement processes.

In its review of water licence inspection reports and consideration of other water and waste related issues within the region, the IWB has identified certain areas where it believes increased awareness or collective effort by stakeholder organizations will assist in advancing the overriding goal of providing for the conservation, development and use of the region's water resources. While recognizing the need to avoid any real or perceived conflict of interest or assuming the responsibilities of other parties, the IWB has, on occasion, taken on a coordination role in pulling together regional public and aboriginal governments and environmental management bodies on issues of shared interest.

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.
- The IWB has already developed a licensing process chart from application to approval - available on the IWB website and in hard copy. This will be expanded through links that will provide further detail on each step in the application approval process. While timelines can be included, certain steps are dependent upon the completeness of the application and supporting information received from applicant.

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.

- All of this information is currently available through the Public register - searchable electronically or in hard copy in the IWB office. Adjustments are being made to the IWB website to make document searches more timely and user friendly.

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.

- The applicant orientation package to be developed in response to Recommendation #2 will include a description of environmental management organizations and processes unique to the Inuvialuit Settlement Region and established under the Inuvialuit Final Agreement.

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.

- While all communications between IWB staff and applicants are conducted in a “user friendly” manner it is important that applicants recognize and have an

understanding of environmental review and licensing procedures and standards within the Inuvialuit Settlement Region. Appropriate additions to the applicant orientation package will support the achievement of this recommendation.

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.
 - The applicant orientation package will include a full description of the documentation required in support of a water licence application. Should additional water or waste issues be identified in the application review process, there may be a requirement for additional information to be provided by the applicant.
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.
 - Application and processing requirements unique to the Inuvialuit Settlement Region will be provided in the applicant orientation package.
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.
 - The IWB will send information requests specific to the different reviewers on the IWB application review distribution list
 - Providing a project summary (i.e., what is it, where is it, scope of operations and what it is about);
 - The IWB provides all reviewers the complete application and supporting documents. Should reviewers feel additional information is required, a

request may be made to and considered by the IWB. Additional project information may also be available through the Inuvialuit Final Agreement environmental screening and review processes.

- 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;
 - While an application may contain technical terms applicable to the project under consideration, IWB will ensure all requests to application reviewers are described in terms familiar to each reviewer.
 - 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;
 - IWB licences and correspondence are issued to the applicant and contact person named on the application. Where licence applicants utilize consultants to assist in their licence application or reporting requirements, it is the responsibility of the licensee to direct the consultants in all matters regarding the licence. The applicant must provide IWB with clarity on all licence related matters they have authorized the consultant to undertake on their behalf. Consultants cannot be held accountable when compliance issues arise; this responsibility remains with the licence holder.
 - In processing stakeholder input, take care to ensure the information being requested has not already been addressed in the original application;
 - Already monitored by the IWB. More detailed information on any matter within an application may be requested by IWB to respond to an area of specific interest or concern by stakeholders.
 - Do not assume applicants will provide information not explicitly requested at the outset of the application process.
 - Information requirements to be included in the applicant orientation package. The extent of this information will largely depend on the scope of the project.
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.

- The IWB considers all reviewers' requests for additional information and forwards only those that are reasonable and relevant to the management of water and waste under the licence application.

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.

- The IWB currently engages with all other land and water boards within the NWT through various forums, including the NWT Board Forum and the Pan Territorial Board Forum. In addition, the IWB regularly communicates with the other LWB's across the Territories to discuss issues encountered during their ongoing operations - eg: the setting of security deposits.

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.

- As this recommendation relates largely to regional workshops, a major challenge is the technical capacity of regional and community communication systems. All workshop information is posted online upon completion and electronic copies provided to other at these workshops.

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.

- The IWB Board will develop a role description for the Chair/CEO.

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.

- Under the Act, the IWB Chair/CEO is nominated by the members of the Board from within the members of the Board and provided to the Minister for his/her approval and appointment.

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.

- Informal oversight in determining governance outcomes is undertaken by Board and staff members on an ongoing basis. Given the current size and scope of IWB operations and the limited number of relationships between the IWB and external stakeholders, a more formalized process of assessing governance outcomes is not required at this time. The IWB will ensure Board members are fully aware of the need to consider and meet these governance outcomes throughout their deliberations.

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).
- Although the IWB Strategic Plan and associated priorities are informally reviewed on an ongoing basis by IWB Board and staff members, this process can be formalized through inclusion as an agenda item on a quarterly basis.

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.

- The IWB already advises of and makes available Board Governance and other training initiatives to Board members as requested or required. Ongoing opportunities will be assessed and provided on an individual Board member basis through available Board training forums.

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.

- The Board will review and reconsider the duties and responsibilities of the IWB Finance Committee.

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.

- In agreeing with the core responsibilities of a Board member (as outlined above), the nomination and appointment of Board members lies outside the authority or direct influence of IWB members and staff. Board members are nominated by organizations identified in the Act based upon their determination of individuals who can best contribute to the efficiency and effectiveness of IWB decision making and operations. An orientation package is provided to all new Board members by the IWB. All Board members consistently contribute their individual skills and experiences to the collective decisions of the Board.

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.

- Although the Act provides for this opportunity, such a decision has not been requested by the Board or initiated by the Minister. The IWB will undertake an external study during 2018/2019 to determine the activities and costs related to the internal staffing of IWB employees.