



Guide

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Processing Water Licence Applications

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NUNAVUT WATER BOARD

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- Water Licensing Process Flowcharts and Time Charts (in colour and black and white)

Important Notes

1. *This Guide presents information about the Nunavut Water Board (NWB or Board) and its process in a plain language format for the purpose of public education and assistance to parties involved in the process. For a comprehensive understanding of the NWB's jurisdiction and associated legal requirements consult the Nunavut Land Claims Agreement (NLCA), the Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSRTA or Act), and the applicable regulations.*
2. *In the event of a conflict between the Guides and the NLCA, the NWNSRTA or the applicable regulations, the NLCA, NWNSRTA, and the applicable regulations prevail.*
3. *The abbreviations 'NWB' and 'Board' are used interchangeably throughout this document to refer to the Nunavut Water Board.*
4. *Versions of the NWB Guides are available in English from the NWB electronic public registry. Translated versions will be made available upon request. (See NWB Contact Information at the end of this Guide.)*

1. What are the pre-licensing land use planning and impact assessment requirements?

The pre-licensing process begins with two (2) questions that the applicant must ask in sequence to determine which processing scenario (1, 2, or 3) the application must follow and whether or not the application will require a land use planning determination from the Nunavut Planning Commission (NPC) and/or a development impact review by the Nunavut Impact Review Board (NIRB). The Process Flowchart entitled *Chart 1: Pre-Licensing Regulatory and Impact Assessment Requirements* located in Appendix A of this Guide illustrates the pre-licensing process described in this section. This is only a generalized framework and each application is assessed on an individual basis.

Question #1: Is the proposed undertaking located in a region with an approved land use plan?

There are six (6) land use planning regions in Nunavut including the West Kitikmeot, Keewatin, North Baffin, South Baffin, Kuininiq, and Sanikiluaq. As of the date of this Guide, two (2) regions have approved land use plans, the *North Baffin Regional Land Use Plan*, (NPC, 1997) and the *Keewatin Regional Land Use Plan*, (NPC, 1991).

If the spatial boundaries of a proposed undertaking or its effects are located, in whole or in part, within a region with an approved land use plan the application must follow processing scenario #1 described in section 1.1 of this Guide requiring a land use planning conformity review of the application by the NPC.

Generally, projects located within a municipality are within the jurisdiction of the Government of Nunavut (GN) and do not require NPC review. However, the NPC and the GN Community Government Services (CGS) have signed a Memorandum Of Understanding (MOU) respecting the NPC's concerns for development close to municipal boundaries that may affect land outside a municipal boundary because such

development may, together with other developments in a planning region, create cumulative effects.

The MOU sets out an agreement that the GN will send information on any development occurring close to a municipal boundary or on any development with potential impacts outside the municipal boundary to the NPC, and that the NPC will send plans that have the potential to impact municipal development to the GN.

Based upon this agreement, if a clause in a municipal plan directs the developer to forward an application to NPC, the application must follow processing scenario #1 described in section 1.1 of this Guide requiring review of the application by the NPC for cumulative effects. Otherwise the applicant must go to Question #2.

If the spatial boundaries of a proposed undertaking and its effects are located entirely within a region without an approved land use plan the applicant must go to Question #2.

Applicants are encouraged to contact the NPC for assistance in answering Question #1.

Question #2: Does the application require screening by NIRB?

Unless a water licence application falls within Schedule 12-1: *Types of Project Proposals Exempt from Screening (Schedule 12-1 Exemptions)* of the *Nunavut Land Claims Agreement* (NLCA), the application will require screening by NIRB.

If the application requires screening by NIRB the applicant must follow processing scenario #2 described in section 1.2 of this Guide.

If the application is exempt from screening by NIRB the applicant must follow processing scenario #3 described in section 1.3 of this Guide.

Applicants are encouraged to contact the NIRB for assistance in answering Question #2. The applicant is also referred to NIRB's Guide 4, *Guide to Project Proposals Exempt from Screening*.

1.1. Scenario 1 – Project is located in a region with an approved land use plan

If the water licence application for a new or amended water licence is for an undertaking located in a region with an approved land use plan, the applicant must first send its application to the NPC for either a conformity determination with the applicable land use plan, or for a cumulative effects review.

If the NPC determines that a water licence application is in conformity with the approved land use plan or a variance has been approved, the NPC forwards the application with its determination and recommendations to the NIRB for screening in accordance with the NLCA. An exception to this process is when an application is exempt from screening under *Schedule 12-1 Exemptions*. The NPC will forward an application that is exempt from screening directly to the NWB unless the NPC has concerns respecting the cumulative impact of development activities on the planning region. If there are cumulative impact concerns, the NPC may refer an otherwise exempted project proposal to NIRB for screening.

The NWB will not proceed until it is advised by the NPC that an application conforms to an applicable land use plan or a variance has been approved.

Once an application is sent to the NPC, it becomes subject to the NPC's own internal process and timelines, which are not controlled by the NWB. Applicants should contact NPC directly with questions regarding the need for conformity determination and the applicability of land use plans related to a project.

Applications will proceed more quickly through the NWB process if the applicant provides a land use conformity determination from NPC using proper documentation and references in its application to the NWB.

1.2. Scenario 2 – Project is not located in a region with an approved land use plan and project is not exempt from screening

Water licence applications that are not subject to an NPC determination and are not exempt from screening must be sent directly to NIRB for screening. However, if an NPC conformity determination is required, NIRB will not begin the screening process until it is advised by the NPC that an application conforms to the applicable land use plan or a variance has been approved. The applicant is referred to NIRB's Guide 3, *Guide to Filing Project Proposals and the Screening Process* for more information.

At the completion of NIRB's screening process, NIRB issues a screening determination to the appropriate Minister recommending that the application either be:

- a) Processed without a review subject to recommended terms and conditions to be attached to any approval; or
- b) Referred to a review in accordance with Article 12 Part 5 or 6 of the NLCA.

If the NIRB recommends that the application can be processed without a review, the NWB can process the application.

If the NIRB recommends that the application requires a review, the Minister must respond with a decision regarding the recommended review before the review may commence. Upon completion of the review, the NIRB issues a final decision to the Minister for approval, following which the NIRB issues a project certificate allowing the project to proceed to the water licensing phase. The NWB cannot issue a water licence that forms part of the NIRB review until the NIRB has issued a project certificate. In some cases, however, the NWB may issue interim, short-term approvals for water uses related to exploration or developmental work for a proposal under development impact review.

Once the application is sent to the NIRB, it becomes subject to the NIRB's own internal process and timelines, which are not controlled by the NWB. Applicants should contact NIRB directly with questions regarding the applicability of environmental assessment requirements related to a project.

Applications will proceed more quickly through the NWB process if the applicant provides a development impact review determination from NIRB using proper documentation and references in its application to the NWB.

1.3. Scenario 3 – Project is not located in a region with an approved land use plan and project is exempt from screening

Water licence applications that are not subject to an NPC determination and are exempt from screening must be sent directly to the NWB with written confirmation from NPC and NIRB that the application does not require any land use planning or development impact determination(s).

2. How is application information transferred between the NPC, NIRB and NWB?

It is the applicant's responsibility to ensure that the NPC, NIRB and NWB are adequately informed of the water licence application's progress through the pre-licensing land use plan and development impact assessment processes.

In Scenario 1 - Project is located in a region with an approved land use plan, discussed in section 1.1 of this Guide, it is the applicant's responsibility to submit its water licence application to the NPC. In doing so, the applicant must copy the NWB and NIRB for information purposes. Upon receipt of a conformity determination or land use plan variance from NPC, the applicant should submit to the NIRB and the NWB copies of the NPC's determination. If the water licence application requires a screening by NIRB, the applicant should provide a copy of the NIRB's determination to the NWB as part of its completed water licence application. If the water licence application does not require a screening by NIRB, it is the applicant's responsibility to obtain written confirmation from NIRB confirming that a screening is not required, and submit the written confirmation to the NWB as part of its completed water licence application.

In Scenario 2 - Project is not located in a region with an approved land use plan and project is not exempt from screening, discussed in section 1.2 of this Guide, it is the applicant's responsibility to submit its water licence application to the NIRB. In doing so, the applicant must copy the NWB for information purposes. Upon receipt of a screening determination from NIRB, it is the applicant's responsibility to provide a copy of the NIRB's determination to the NWB as part of its completed water licence application. In addition, it is the applicant's responsibility to obtain written confirmation from the NPC confirming that a land use plan conformity review is not required, and submit the written confirmation to the NWB as part of its completed water licence application.

In Scenario 3 - Project is not located in a region with an approved land use plan and project is exempt from screening, discussed in section 1.3 of this Guide, it is the applicant's responsibility to obtain written confirmations from both NPC and NIRB confirming that neither land use planning or development impact assessment determinations are required, and submit the written confirmations to the NWB as part of its completed water licence application.

At the time of writing this Guide, the NPC, NIRB and NWB are developing a coordinated approach for submitting and processing applications. In the meantime, the direction

provided above is intended to ensure that application information is transferred as efficiently as possible between the Commission and the Boards.

3. How are water licences processed?

The first step in the water licensing process is for the applicant to submit a water licence application in accordance with the NWB's *Guide 4: Completing and Submitting a Water Licence Application for a New Licence*. Upon receipt, the NWB will confirm the classification of undertaking and whether the water licence application is for a type B or type A water licence in accordance with the *Northwest Territories Waters Regulations* (NTWR or Regulations) (see sections 3 and 4 of the NWB's *Guide 3: Activities that Require a Water Licence and Types of Water Licences*). See section 5 of this Guide for the steps to process a type B application and section 6 of this Guide for the steps to process a type A application.

As an Institute of Public Government (IPG) the NWB conducts a public review of every water licence application by giving public notice of every application and inviting interested persons to make representations. The extent of the public review, meaning whether or not a public hearing is required, depends on the type of licence and nature of the proposed undertaking. See section 4 of this Guide explaining how the NWB determines whether a public hearing is required.

Applications are processed by the NWB in order of their receipt, unless, in the opinion of the Board, an application should be advanced due to an urgent or emergency situation.

See section 7 of this Guide for more information regarding the time frames for completing the type A and type B water licensing processes.

4. How does the NWB determine whether a public hearing is required?

Generally, public hearings are not required for type B water licence applications. Public hearings are also not required in the following circumstances:

- a) If the Board conducts a joint hearing or participated in the hearing of NIRB or the federal environmental assessment panel contemplated in Article 12.4.7 of the NLCA;
- b) If the applicant consents in writing to the disposition of a matter without a public hearing, provided that no person informs the Board by the tenth day before the day of the proposed hearing of the person's intention to make representations;
- c) Where an application is rejected due to a non-conforming determination from NPC; or
- d) An application for an amendment of a licence where the Board, with the consent of the Minister, declares the amendment be required on an emergency basis.

However, the Board may decide to hold a public hearing in connection to any matter relating to its objects where it is satisfied that it is in the public interest to do so.

With few exceptions, a public hearing is required for type A water licence applications. However, the Board may waive the requirement for a public hearing in relation to a type A water licence where there is no public concern expressed.

The steps for processing a type B water licence application are set out in section 5 of this Guide and the steps for processing a type A water licence application are set out in section 6 of this Guide.

5. What are the steps to process a type B water licence application?

The Process Flowchart entitled *Chart 2: Type B Water Licensing Process* located in Appendix A of this Guide illustrates the type B process described in this section. This is only a generalized framework and each application is assessed on an individual basis. Applicants are encouraged to contact the NWB.

5.1. NWB receives application and confirms classification of undertaking and type of licence

Following the completion of any NPC and/or NIRB requirements described in section 1 of this Guide, the first step in the water licensing process is for the applicant to submit a water licence application in accordance with the NWB's *Guide 4: Completing and Submitting a Water Licence Application for a New Licence*. Upon receipt, the NWB will confirm the classification of undertaking and type of water licence application in accordance with the Regulations (See sections 3 and 4 of the NWB's *Guide 3: Activities that Require a Water Licence and Types of Water Licences*).

5.2. NWB conducts preliminary completeness check

Once the NWB has received the application, the NWB conducts an internal preliminary check of the application for completeness to ensure that the information requirements outlined in the NWB's *Guide 4-Completing and Submitting a Water Licence Application for a New Licence* have been addressed. If the application is determined to be materially incomplete, meaning that items included in Table 1: Application Checklist are missing, the applicant will be informed by the NWB that their application has been rejected. In other cases, NWB staff will correspond with the applicant to resolve deficiencies before proceeding. A complete application will be assigned a NWB file number.

Table 1: Application Checklist

<input type="checkbox"/>	Completion of the General Water Licence Application Form in accordance with the guidance provided in the NWB's <i>Guide 4-Completing and Submitting a Water Licence Application for a New Licence</i> (Guide 4), part 1, section 5.
<input type="checkbox"/>	Information that satisfies the checklist requirements outlined in any Supplemental Information Guidelines that are relevant to the project as described in Guide 4 part 1 section 6 as well as information required to complete Plans, Designs and Studies as described in Guide 4, part 1, section 7.
<input type="checkbox"/>	Executive Summary of the application in English as described in Guide 4, part 1, section 9.
<input type="checkbox"/>	Translated Executive Summary of the application into the appropriate language and dialect depending upon the applicable region as described in Guide 4, part 1, section 10.
<input type="checkbox"/>	Application fee in accordance with Guide 4, part 1, section 11.
<input type="checkbox"/>	Water use fee deposit accordance with Guide 4, part 1, section 11.

5.3. NWB issues notice of application

Once the NWB determines the application to be complete, the NWB gives notice of the application. Typically, the NWB will give notice via email by referring the application to a distribution list comprised of interested parties including the applicant, federal and territorial government departments, community representatives, Designated Inuit Organizations (DIO), Hunter and Trapper

Organizations (HTO), as well as other agencies or individuals that the Board deems appropriate.

The notice invites persons to provide representations within a specified time period, usually a minimum of thirty (30) days, and will advise of the consequences of any failure to respond to the notice (ie. Applicant may not need to compensate an existing or other user, as discussed in *Guide 4 – Completing and Submitting a Water Licence Application for a New Licence*, part 1 section 5 Block 17, if that person fails to respond within the time period specified in the notice). Interested parties are advised to begin their technical review of the application upon receiving the public notice.

Information and correspondence related to the application is uploaded to the NWB electronic public registry in an application specific directory identified by the application number.

The Board may not act on the application until at least thirty (30) days after notice of the application has been published or distributed unless, in the opinion of the Board, there are urgent circumstances that justify the Board acting on the application in a shorter time period, but the shorter time period will not be less than ten (10) days. For clarity, the Board does not consider delayed filing of an application as an urgent circumstance. Applicants are encouraged to undertake proper planning to ensure applications are submitted with sufficient time for the NWB to conduct its process. Generally, for an application to be deemed urgent by the Board, the applicant is required to demonstrate that unless the application is expedited through the process, there will be an adverse environmental consequence.

5.4. Technical Review

The technical review phase begins on the date of the public notice and ends on a date specified by the Board. It includes a public review and submission of written representations, an internal NWB technical review, followed by a determination from the NWB regarding whether or not a public hearing is warranted, as described in sections 5.4.1 to 5.4.3 of this Guide.

The technical review involves a detailed review of the water licence application with the intent of analyzing the quality of the information presented in the application.

The timeframe for the technical review phase is typically 60 days as shown in the Type B (no public hearing) Time Chart located in Appendix B of this Guide, depending upon the completeness of the initial application and the number of applications requiring the attention of the Board.

5.4.1. Public review and written representations

The issuance of the notice of application marks the start of the public review period. The end of the public review period is marked by the submission of representations from interested persons to the NWB by the deadline set in the notice. Representations may include:

- Summary of party interests, role and/or responsibilities;
- Summary of party understanding of the application;
- Indication of party's approval authority;
- Indication of the party's entitlement to compensation;
- Summary of the results of the party's technical review;
- Expression of concern for potential impacts;
- Comments on security requirements;
- Indication of support for or against the application;
- Request for additional information;
- Recommended conditions of water licence approval; and/or
- Opinion regarding the requirement for a public hearing.

Persons who are considered existing or other users of waters and who would be adversely affected by the proposed application, must respond to the Board within the specified time period in order for the Board to consider the need for those persons to receive compensation from the applicant.

Interested parties should consider the following in conducting a technical review:

- a) Whether the parties agree/disagree with the conclusions in the application, as they relate to the use of water or the deposit of waste on the drainage basin, where the use is to be undertaken or the deposit is to be made:
 - i. Qualitative and quantitative effects;
 - ii. Anticipated impact of the use or deposit on other users;
 - iii. Mitigation measures;
 - iv. Compensation measures;
 - v. Monitoring program; and
 - vi. Options available

as well as any proposed alternative mitigation and/or monitoring measures which may be more appropriate, and evidence supporting the parties position;

- b) Whether the conclusions in the application are supported by the analysis, and evidence supporting the parties' position;
- c) Whether the appropriate methodology was used in the application to develop conclusions, any proposed alternative methodologies which may be more appropriate and evidence supporting the parties' position;
- d) Assessment of the quality of the information presented; and
- e) Any additional information that would be useful.

If necessary, the NWB may request additional information from the applicant during the public review period. Depending upon the promptness of the applicant's response to the request, the deadline for the submission of written representations may be extended to allow parties additional time to review any new information. The amount of additional review time granted will be determined on a project specific basis.

Written representations are posted on the NWB's electronic public registry in an application specific directory.

5.4.2. NWB internal technical review

Following the submission of written representations, the NWB will conduct an internal technical review, taking into account all public documents in relation to the application to ensure that the following conditions have been satisfied:

- a) Any waste produced by the undertaking will be treated and disposed of in a manner that meets water quality and effluent criteria;
- b) The applicant, taking into account its past performance, is financially capable of managing the undertaking, which must consider the mitigation of any possible adverse impacts (i.e. spills, erosion problems) as well as the restoration of the site upon closing or abandonment of the undertaking. The applicant may be required to provide security payable to the Receiver General of Canada to ensure the liability for reclamation is minimized;
- c) The proposed undertaking will not have an adverse effect on existing or other water users, or waters flowing through IOL as described in the NWB's *Guide 4 – Completing and Submitting a Water Licence Application for a New Licence*, part 1, section 5, Blocks 17 and 18. If an adverse effect to such other water users or water flowing through IOL is anticipated, the NWB must be satisfied that compensation measures have been addressed as described in the NWB's *Guide 4 – Completing and Submitting a Water Licence Application for a New Licence*, part 1, section 5, Blocks 17 and 18.

Should issues concerning the above conditions remain unresolved, the NWB may request further clarification from the applicant before proceeding and if necessary engage parties in further public review.

5.4.3. NWB determines whether public hearing is warranted

Based on the internal technical review and public interest, the NWB will determine whether the application warrants a public hearing. See section 4 of this Guide regarding how the NWB determines whether a public hearing is required.

If the NWB determines that a public hearing is required, the type B application begins to follow a process similar to the type A water licence application process starting at the step entitled "If required, the NWB may issue project specific guidelines for the development of a water licence application" described in section 6.3 of this Guide and the following Step 5.5 of the type B process does not apply. The applicant is also referred to the *NWB's Rules of Practice and Procedure for Public Hearings*. When referred to a hearing, that type B water licence application does not change to a type A, rather it follows the same hearing process as a type A water licence application.

5.5. NWB issues decision

Following due consideration of the application and the requirements of the Act, the NWB will issue a water licence or reject the application. If a water licence is issued, the Board may attach any terms or conditions it deems integral to the approval.

It is important to understand that the Board will not issue a licence if issues respecting water rights have not been resolved. Refer to the NWB's *Guide 4: Completing and Submitting a Water Licence Application for a New Licence* part 1, section 5, Blocks 17 and 18 for more information.

6. What are the steps to process a type A water licence application?

The Process Flowchart entitled *Chart 3: Type A Water Licensing Process* located in Appendix A of this Guide illustrates the type A process described in this section. This is only a generalized framework as each application is assessed on an individual basis. Applicants are encouraged to contact the NWB.

6.1. NWB receives application and confirms classification of undertaking and type of licence

Following the completion of any NPC and/or NIRB requirements described in section 1 of this Guide, the first step in the water licensing process is for the applicant to submit a water licence application in accordance with the NWB's *Guide 4: Completing and Submitting a Water Licence Application for a New Licence*. Upon receipt, the NWB will confirm the classification of undertaking and the type of water licence application in accordance with the Regulations (See sections 3 and 4 of NWB's *Guide 3: Activities that Require a Water Licence and Types of Water Licences*).

6.2. NWB conducts preliminary completeness check

Once the NWB has received the application, the NWB conducts an internal preliminary check of the application for completeness to ensure that the information requirements outlined in the NWB's *Guide 4-Completing and Submitting a Water Licence Application for a New Licence* have been addressed. If the application is determined to be materially incomplete, meaning that items included in *Table 1: Application Checklist* are missing (see section 5.2 of this Guide), the applicant may be informed by the NWB that their application has been rejected. In other cases, NWB staff will correspond with the applicant to resolve deficiencies before proceeding. A complete application will be assigned a NWB file number.

6.3. If required, NWB may issue project specific guidelines for the preparation of a water licence application

The NWB may provide project specific guidelines to the applicant respecting the information to be provided by the applicant in relation to the application.

In developing the project specific guidelines, the NWB incorporates any requirements of the NIRB project certificate and may circulate draft guidelines to interested parties, offering an opportunity to comment. The NWB integrates those comments and recommendations it considers appropriate before finalizing and issuing the project specific guidelines to the applicant.

6.4. If required, applicant prepares and submits project specific water licence application in accordance with the guidelines

It is the responsibility of the applicant to prepare the water licence application in accordance with the project specific guidelines established by the NWB in section 6.3 of this Guide. Depending upon the completeness of the original water licence application submitted as described in section 6.1 of this Guide, the NWB may require submission of additional information to supplement the original application or resubmission of the entire application. The applicant is also responsible for circulating electronic and hardcopies of the water licence application package to all parties likely to be involved in the public hearing process.

For more information regarding how to file or submit a water licence application, refer to the NWB's *Guide 4 – Completing and Submitting a Water Licence Application for a New Licence* as well as the NWB's *Guide 6 – Electronic Documentation: Submission and Registry*.

6.5. NWB conducts concordance review

Once the NWB receives a copy of the water licence application, it conducts a concordance assessment to determine whether the application documents address the provisions of the project specific guidelines such that the NWB may issue a public notice of application. For clarity, the concordance assessment is an analysis of the presence or absence of the required information. It is not intended as a step to evaluate the quality of the information presented.

In conducting the assessment, the NWB may, depending upon the expected level of public concern, request comments from interested parties on application concordance.

The applicant will be notified by the NWB of the results of the assessment and any deficiencies identified. Upon receiving the results, it is the responsibility of the applicant to respond accordingly, with the submission of additional information, if necessary.

6.6. NWB issues notice of application

Once the Board deems the application complete, a public notice is issued to the council of each municipality in the area affected by the application, and the NWB publishes the notice in a newspaper of general circulation in the area affected or, if there is no such newspaper, in such other manner as the Board considers appropriate. Typically, the NWB also gives notice via email by referring the application to a distribution list comprised of interested parties including the applicant, federal and territorial government departments, community

representatives, DIOs, Hunter and Trapper Organizations (HTOs), as well as other agencies or individuals that the Board deems appropriate.

The notice also invites persons to provide representations within a specified time period advising of the consequences of any failure to respond to the notice (ie. the applicant may not need to compensate an existing or other user, as discussed in the NWB's *Guide 4 – Completing and Submitting a Water Licence Application for a New Licence*, part 1 section 5 Block 17, if that person fails to respond within the time period specified in the notice).

Information and correspondence related to the application is uploaded to the NWB electronic public registry in an application specific directory identified by the application number.

To ensure that information provided to the Board in relation to the application is made available to the public within a reasonable time period before the commencement of the hearing, the Board may direct the applicant to make available to any interested parties all information and documents filed by the applicant.

6.7. Technical review

The technical review phase begins on the date of the public notice and ends on a date specified by the Board prior to the public hearing. It includes the submission of written representations, the technical meetings and pre-hearing conference, and the notice of public hearing, as described in sections 6.7.1 to 6.7.4 of this Guide.

The technical review involves a more detailed review of the water licence application than the concordance assessment with the intent of analysing the quality of the information presented in the application.

Throughout the technical review phase interested parties are encouraged to work cooperatively with the applicant to address minor issues in advance of the proposed technical meetings. The NWB requests receiving notice on issues clarified between the parties for inclusion on the public registry.

The timeframe for the technical review phase is typically 50 days as shown in the Type A (Public Hearing) Time Chart located in Appendix C of this Guide, depending upon the completeness of the initial application and the number of applications requiring the attention of the Board. This timeframe may be expedited for smaller, less complex projects.

6.7.1. Parties submit written representations

Written representations are to be submitted to the Board by the deadline provided in the public notice.

Written representation may include, among other things:

- Summary of party interests, role and/or responsibilities;
- Summary of party understanding of the application;

- Indication of party's approval authority;
- Indication of the party's entitlement to compensation;
- Summary of the results of the party's technical review;
- Expression of concern for potential impacts;
- Comments on security requirements;
- Request for additional information;

Interested parties must consider the following in conducting a technical review:

- a. Whether Parties agree/disagree with the conclusions in the application regarding the following as they relate to the use of water or the deposit of waste on the drainage basin where the use is to be undertaken or the deposit is to be made:
 - i. Qualitative and quantitative effects;
 - ii. Anticipated impact of the use or deposit on other users;
 - iii. Mitigation measures;
 - iv. Compensation measures;
 - v. Monitoring program; and
 - vi. Options available

as well as any proposed alternative mitigation and/or monitoring measures which may be more appropriate, and evidence supporting the parties position;

- b. Whether the conclusions in the application are supported by the analysis, and evidence supporting the parties' position;
- c. Whether the appropriate methodology was used in the application to develop conclusions, any proposed alternative methodologies which may be more appropriate and evidence supporting the parties' position;
- d. Assessment of the quality of the information presented; and
- e. Any additional information that would be useful.

If necessary, the NWB may request additional information from the applicant during the public review period. Depending upon the promptness of the applicant's response to the request, the deadline for the submission of written representations may be extended to allow parties additional time to review any new information. The amount of additional review time granted will be determined on a project specific basis.

Written representations are posted on the NWB's electronic public registry in an application specific directory.

6.7.2. NWB holds Technical Meeting (TM) and Pre-Hearing Conference (PHC)

According to Rule 14.1 of the NWB's *Rules of Practice and Procedure for Public Hearings*, PHC's may be held in person, in writing or by teleconference. The Board typically delegates the holding of a PHC to NWB

staff. At the time of writing this Guide, it is the Board's preference for the PHC to be held in person.

For logistical purposes, where the PHC is held in person, the TM and PHC are generally scheduled together with the PHC immediately following the TM. This way, both meetings can be conducted at the same location, over the course of a few days.

The purpose of the TM is to informally resolve technical matters between interested parties and the applicant, prior to the PHC, particularly those matters that could affect the Board's determination on any PHC issues. Given the informal nature of the meeting, the NWB Board members are not present at the TM, and the meeting is facilitated by NWB staff. Depending on time constraints and the nature and extent of technical issues to be addressed, the TM may be divided into specific break-out groups (for example water quality, geotechnical, other issues) with each group chaired by a NWB staff member. During the TM, a list of commitments made by the various parties may be compiled and carried forward to the PHC.

The purpose of the PHC is to deal with administrative matters related to the public hearing including:

- a) The timetable for the exchange of information;
- b) The list of issues to be dealt with at the hearing;
- c) The identification of interested parties;
- d) The desirability of amending an application for the purpose of clarification;
- e) The procedures to be followed in a hearing; and
- f) Any other matters that may aid in the simplification and disposition of the application at the Hearing, such as site visits.

The PHC is an opportunity for parties to present any issues that were unresolved during the technical meeting and to hear comments from the public.

If appropriate, a community session is held to facilitate discussion and address concerns from the public.

6.7.3. NWB issues PHC decision

Following the PHC, the NWB issues a PHC decision containing the Board's decision on the matters discussed at the PHC and often includes the list of commitments generated during the TM.

The Board's decision as well as any documents received during the TM or PHC are posted on the NWB's electronic public registry in an application specific directory.

6.7.4. NWB issues notice of public hearing

Typically, following the PHC, the Board issues a formal notice of public hearing. The notice of public hearing must be issued at least sixty (60) days before the commencement of the hearing outlining the location, date, and time of the hearing. In determining appropriate hearing locations, the Board takes into consideration the community or communities within Nunavut most affected by the application.

The notice of public hearing is issued to the council of each municipality in the area affected by the application, and published in a newspaper of general circulation in the area affected, or if there is no such newspaper, in such other manner as the Board considers appropriate. The NWB also gives notice via email to a distribution list comprised of interested parties including the applicant, federal and territorial government departments, community representatives, DIOs, HTOs, as well as other agencies or individuals that the Board deems appropriate.

In some cases the formal public hearing notice is issued prior to the PHC and confirmed at the PHC.

6.8. Parties exchange written interventions

The deadline for the exchange of written interventions is determined by the Board and communicated as part of the PHC decision and public hearing notice. In accordance with Rule 12.4 of the NWB's *Rules of Practice and Procedure for Public Hearings* parties are to submit written interventions no later than 15 days before the commencement of the public hearing. This is to allow all parties time to review the interventions in preparation for the public hearing.

To facilitate the review of interventions, submissions must generally be organized by the categories of "issues" identified at the PHC which generally correspond to the typical sections of a water licence including:

- Term of Licence;
- Type and Amount of Security;
- Compensation Agreements;
- Construction;
- Water Use;
- Water Management;
- Waste Management;
- Modifications;
- Contingency Planning;
- Monitoring;
- Closure and Reclamation; and
- Other Issues.

In addition, technical review comments, particularly for matters such as air quality, noise, wildlife, and marine waters must be provided within the context of the NWB's

jurisdiction over the use of waters and the deposit of waste in waters or that may enter waters. Interventions must include an executive summary in English as well as the appropriate language and dialect for the region.

Submissions are posted on the NWB's electronic public registry in an application specific directory and filed in the public registry upon receipt. A copy of the public registry as it relates to the application is made available at the hearing.

6.9. Parties prepare for public hearing

Following the deadline for the exchange of written interventions, the Board generally schedules a time period for parties to review interventions and prepare for the public hearing. This time period is typically a minimum of 15 days.

6.10. NWB holds public hearing

Hearings usually take place in person, but may occur via teleconference, or in writing.

The Board may consider a written hearing for applications that elicit limited public concern and issues with a relatively low level of complexity which can be dealt with in a written format. While written hearings require less travel and may be less costly than in-person hearings, they do not necessarily require less time. The general process of exchanging information, questioning and responding in an orderly manner through written correspondence can cause a written hearing to take more time than an oral hearing. Typically a written hearing will take six (6) weeks to complete. If a written hearing is contemplated, the Board will issue specific direction in its PHC decision.

The purpose of the public hearing is to provide an open public forum for the discussion of the application in front of the Board. Interested parties, including members of the public, are identified and introduced, the application and interventions are presented, and questions are asked and directed in an orderly fashion.

Typically, unless there are outstanding issues, at the end of the public hearing, the Board will close its record, meaning that no new evidence or information is permitted for the Board's consideration in making a decision.

Significantly, the hearing gives due regard and weight to the opinion of Elders and community members, Inuit culture and knowledge, and to the tradition of Inuit oral communication and decision making.

For further details on the hearing proceedings and format, refer to the NWB's *Rules of Practice and Procedure for Public Hearings*.

6.11. NWB issues decision to Minister

Following the public hearing the Board will issue its decision to the Minister of Indian and Northern Affairs Canada (INAC) for approval. The Board typically issues its decision within 30-45 days following the closing of the hearing, however

the length of time to issue its decision depends upon the complexity of the project, as well as the number of other applications requiring the attention of the Board.

The Board will not issue its decision if issues respecting the following have not been resolved:

- a) Any waste produced by the undertaking will be treated and disposed of in a manner that meets water quality and effluent criteria;
- b) The applicant, taking into account its past performance, is financially capable of managing the undertaking, which must consider the mitigation of any possible adverse impacts (i.e. spills, erosion problems) as well as the restoration of the site upon closing or abandonment of the undertaking. The Applicant may be required to provide security payable to the Receiver General of Canada to ensure the liability for reclamation is minimized;
- c) The proposed undertaking will not have an adverse effect on existing or other water users, or waters flowing through IOL as described in the NWB's *Guide 4 – Completing and Submitting a Water Licence Application for a New Licence*, part 1, section 5, Blocks 17 and 18. If an adverse effect to such other water users or water flowing through IOL is anticipated, the NWB must be satisfied that compensation measures have been addressed as described in the NWB's *Guide 4 – Completing and Submitting a Water Licence Application for a New Licence*, part 1, section 5, Blocks 17 and 18.

6.12. Minister issues approval

The time required for approval by the Minister of INAC is 45 days. This time may be extended for a further 45 days if the Minister notifies the Board of the extension within the first 45 days. If the Minister does not respond within this time period, the Minister is deemed to have approved the Board's decision.

Once the Minister has made its decision on whether to approve the NWB decision, the Minister sends a copy of its decision and, in the case of a decision to withhold approval, the reasons for the decision, to the Board, the applicant, and if required to the DIO and any other person with a right to compensation.

Applicants are advised to consider the timeframe associated with the Minister's decision when planning work schedules.

7. How long is the water licensing process?

The Time Charts in Appendices B and C outline: the steps of the type B and type A processes as they are defined in sections 5 and 6 of this Guide respectively; who is responsible for initiating the step; and the associated timeframes.

It is important to note that these timeframes are approximate. Actual timeframes are determined on a project specific basis and are dependent upon the nature and quality of information contained in the initial application, the responsiveness of the applicant to requests for additional information, the public notification process, the complexity of the project, as well as the number of other applications requiring the attention of the Board.

Typically, after completing and confirming any pre-licensing land use or development impact requirements, it is reasonable to allow approximately three (3) months for the processing of a type B application that does not require a public hearing. However, if the Board determines that there are urgent circumstances related to the application, the Board may act on the application in a shorter time period, but not less than ten (10) days. Also, if there is a sudden occurrence that requires immediate amendment of a type B licence the Board can dispense with the public notice period if the Board, with the consent of the Minister, declares that the amendment is required on an emergency basis.

For clarity, the Board does not consider delayed filing of an application on behalf of the applicant as an urgent circumstance or an emergency situation. It is the responsibility of the applicant to undertake proper planning to ensure applications are submitted with sufficient time for the NWB to conduct its process. Generally, for an application to be deemed urgent by the Board, the applicant is required to demonstrate that unless the application is expedited through the process, there will be an adverse environmental consequence.

Typically, after completing and confirming any pre-licensing land use or development impact requirements, it is reasonable to allow approximately one year for the processing of a type A application or an application requiring a public hearing.

8. What conditions can the NWB include as part of a water licence?

The Board may include in a licence any conditions that it considers appropriate, including conditions relating to:

- a) The manner in which waters may be used;
- b) The quantity, concentration and types of waste that may be deposited and the manner of depositing the waste;
- c) The studies to be undertaken, works to be constructed, plans (including contingency plans), to be submitted, and monitoring programs to be undertaken;
- d) Any future closing or abandonment of the appurtenant undertaking; and
- e) The provision and maintenance of financial security with the Minister.

With respect to monitoring programs, the Board may specify monitoring responsibilities to the applicant, NIRB, or her Majesty in right of Canada. The Board may also include in a licence, the terms and conditions of any project certificate or screening determination issued by NIRB in respect of the use of waters or deposit of waste or the appurtenant undertaking to which that use or deposit relates.

The Board may include conditions in a licence that are at least as stringent as effluent quality standards prescribed by regulations for the deposit of waste into waters, regulations made under section 36(5) of the Fisheries Act, and any standards prescribed by regulations for the design, construction, operations and maintenance of works used in relation to the undertaking.

9. What if I do not agree with the NWB decision?

Every decision of the Board is final. Questions of law and jurisdiction may be appealed to the Federal Court.

10. How do I contact the NWB?

If you have any questions regarding the content of this Guide contact the NWB. The NWB's Licensing Administration department is the first point of contact and will direct inquiries accordingly. The NWB's contact information is:

Nunavut Water Board
P.O. Box 119
Gjoa Haven, Nunavut
X0B 1J0

Phone: (867) 360-6338

Fax: (867) 360-6369

E-mail: licensing@nunavutwaterboard.org

Website: <http://www.nunavutwaterboard.org/>

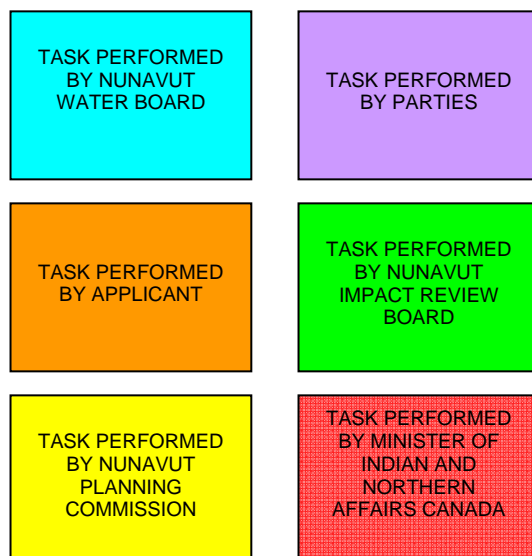
All correspondence with the NWB related to a water licence application or approved licence must reference the application or licence number, the project name and the applicant's name. E-mail correspondence must include this information in the e-mail subject line.

FTP Site: ftp://nunavutwaterboard.org/ Username: public Password: registry

APPENDIX A Process Flowchart

FLOWCHART LEGEND AND NOTES

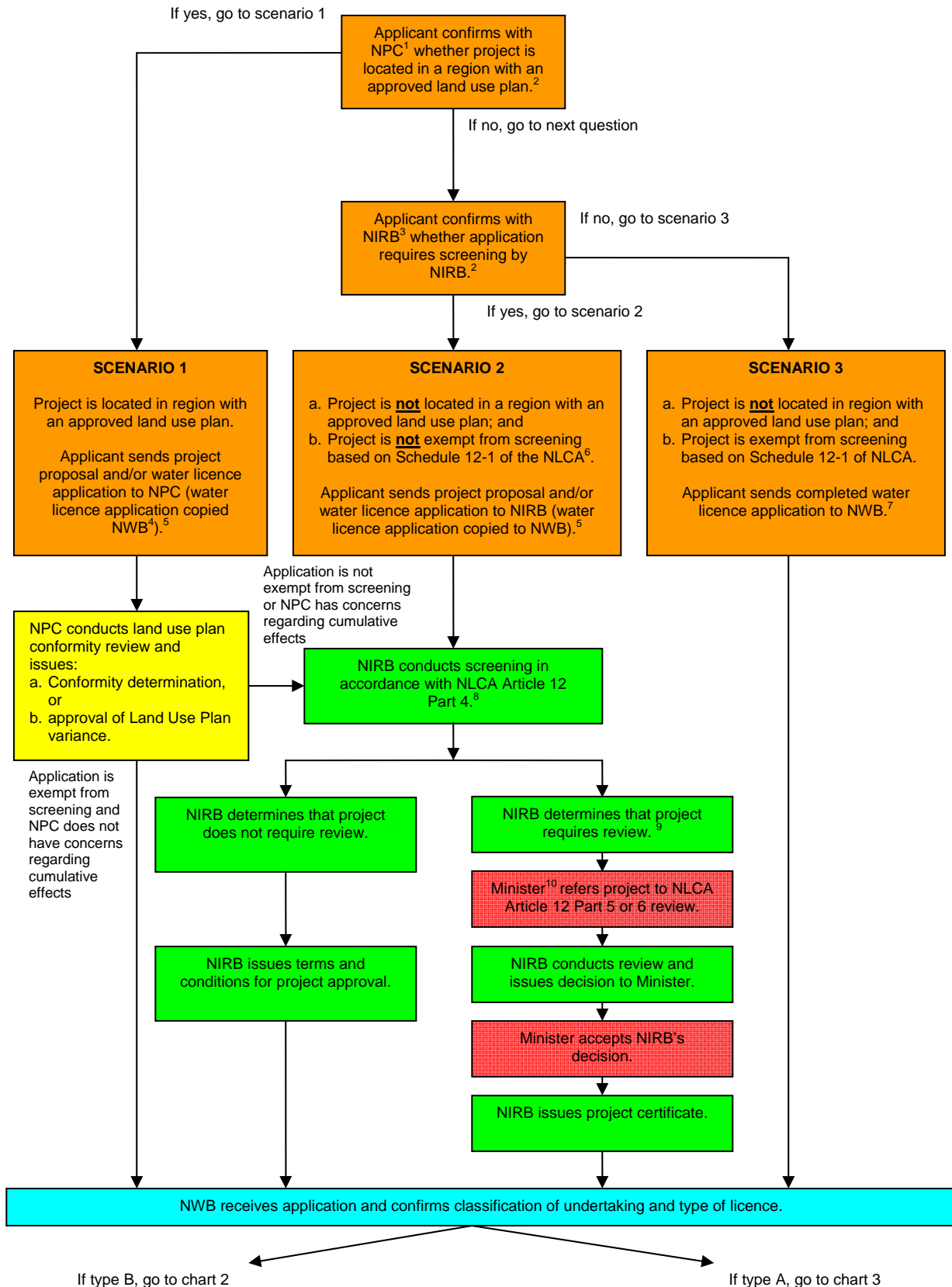
Legend:



Notes:

1. NPC refers to the Nunavut Planning Commission.
2. The onus is on the applicant to consult with the Nunavut Planning Commission and the Nunavut Impact Review Board regarding land use planning and impact assessment requirements.
3. NIRB refers to the Nunavut Impact Review Board.
4. NWB refers to the Nunavut Water Board.
5. The water licence application should be complete except for NPC and NIRB determinations.
6. NLCA refers to the Nunavut Land Claims Agreement.
7. The responsibility for securing a determination from NPC and NIRB rests with the applicant.
8. NIRB's screening process and timelines are outlined in their Guide #3: Guide to Filing Project Proposals and the Screening Process.
9. NIRB's review process and timelines are outlined in their Guide #5: Guide to the NIRB Review Process
10. Minister refers to the Minister of Indian and Northern Affairs Canada (INAC).
11. Timeframes associates with the steps in Process Charts 2 and 3 are outlined in the following Time Charts.
12. TM refers to Technical Meeting.
13. PHC refers to Pre-Hearing Conference

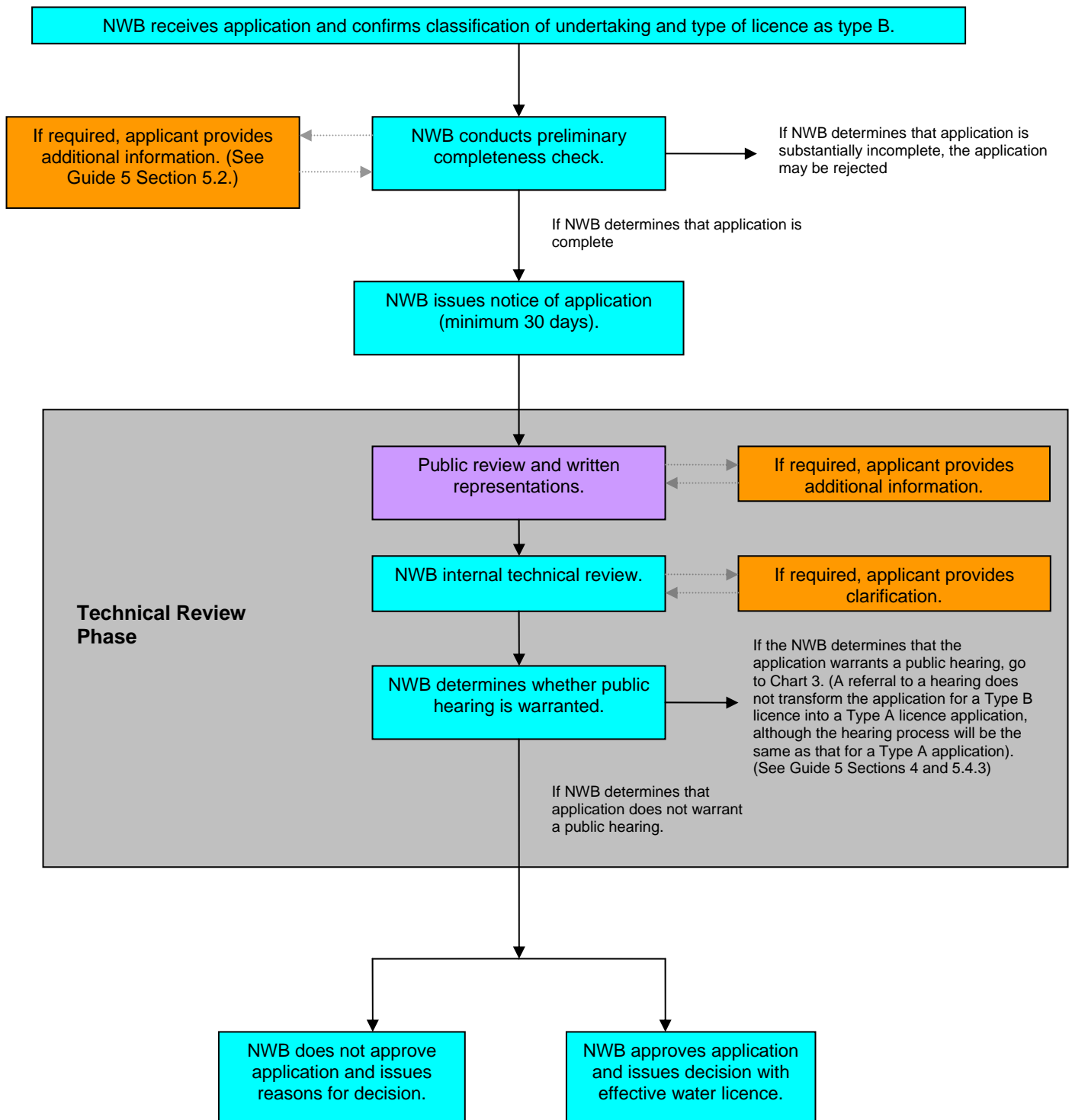
FLOWCHART 1: PRE-LICENSING LAND USE PLANNING AND IMPACT ASSESSMENT REQUIREMENTS



¹⁻¹³ See the beginning of this Guide for the flowchart legend and notes.

FLOWCHART 2: TYPE B WATER LICENSING PROCESS ¹¹

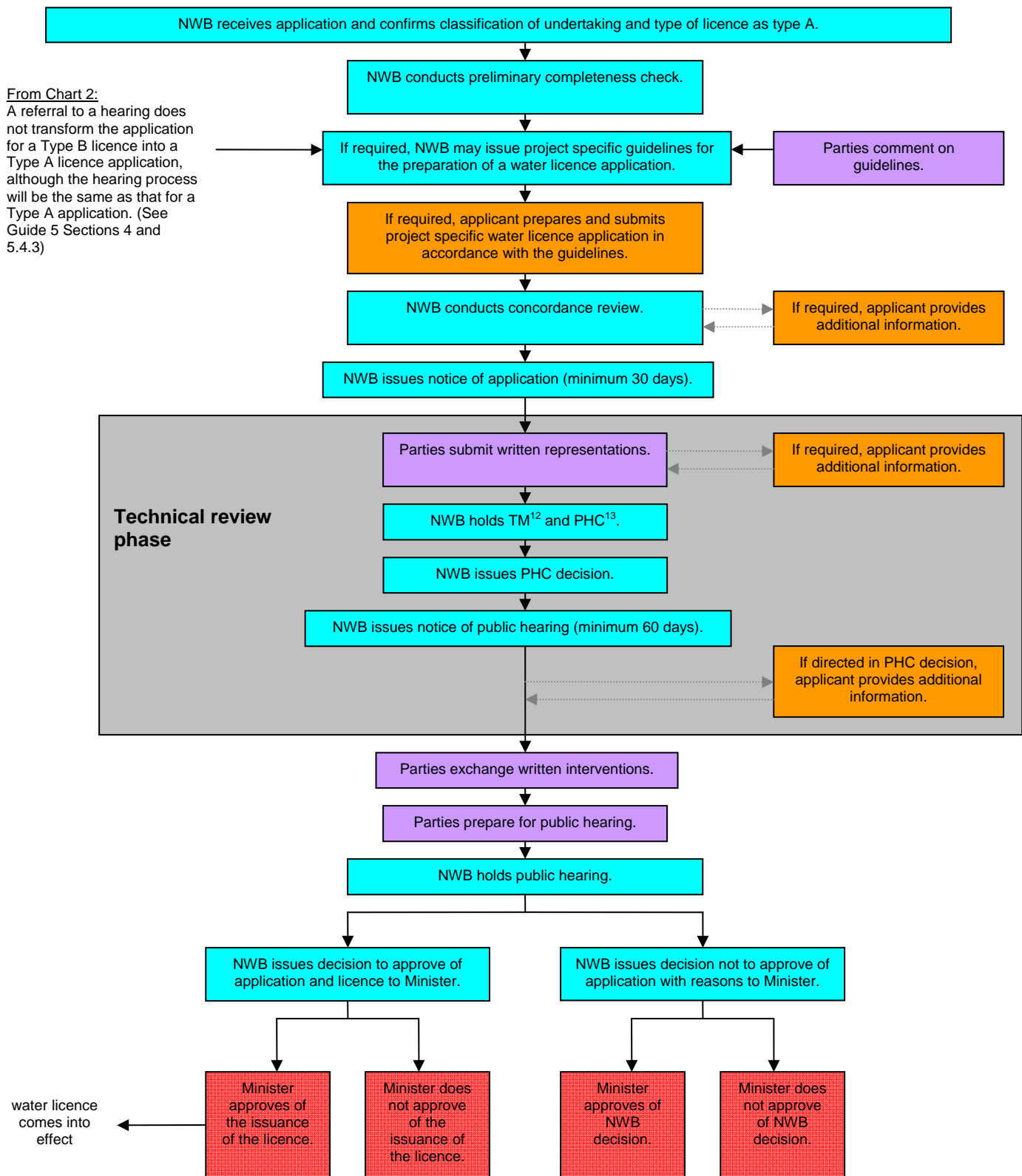
See Chart 1



¹⁻¹³ See the beginning of this Guide for the flowchart legend and notes.

FLOWCHART 3: TYPE A WATER LICENSING PROCESS ¹¹

See Chart 1



¹⁻¹³ See the beginning of this Guide for the flowchart legend and notes.

APPENDIX B

Type B (no Public Hearing) Time Chart

TIME CHART 1: TYPE B (NO PUBLIC HEARING)

As shown in the time chart, the approximate time to complete the type B water licence application process is between 73 and 80 days. This timeframe is approximate and does not account for the time to complete any pre-licensing land use planning or development impact requirements or the time for the applicant to respond to requests for additional information.

Actual timeframes are determined on a project specific basis and are dependent upon the nature and quality of information contained in the initial application, the responsiveness of the applicant to requests for additional information, the public notification process, the complexity of the project, as well as the number of other applications requiring the attention of the Board.

The onus is on the applicant to file a complete application. Deficiencies in the application will extend the timeline.

Step	Appox. Duration	Day	Applicant	NWB	PARTIES	Section of Guide 5
NPC Driven			Land Use Plan Conformity Review			1
NIRB Driven			Development Impact Assessment Review			1
1	1	1		NWB receives application and confirms classification of undertaking and type of licence as type B		5.1
2	5	6	If required, applicant provides additional information	NWB conducts preliminary completeness check		5.2
3	7-14	13-20		NWB issues notice of application	Public review and written representations	5.3
4	30	43-50	If required, applicant provides additional information			5.4
5	30	73-80	If required, applicant provides clarification	NWB internal technical review		5.4
6				NWB determines whether public hearing is warranted. ^a		5.4
7				NWB issues decision		5.5

Notes

- a) If the NWB determines that the type B water licence application warrants a public hearing, the process transfers to step 3 of the Type A (Public Hearing) Time Chart, entitled "If required, the NWB may issue project specific guidelines for the preparation of a water licence application". The approximate time to complete the process for a type B water licence application that warrants a public hearing is between 309 and 376 days.

APPENDIX C

Type A (Public Hearing) Time Chart

TIME CHART 2: TYPE A (PUBLIC HEARING)

As shown in the time chart, the approximate time to complete the type A water licence application process is between 252 and 312 days. This timeframe is approximate and does not account for the time to complete any pre-licensing land use planning or development impact requirements, the time for the applicant to prepare and submit a water licence application in accordance with any project specific guidelines issued by the NWB, or the time for the applicant to respond to requests for additional information.

This timeframe is approximate and may vary with project specific requirements. Actual timeframes are determined on a project specific basis and are dependent upon the nature and quality of information contained in the initial application, the responsiveness of the applicant to requests for additional information, the public notification process, the complexity of the project, as well as the number of other applications requiring the attention of the Board.

The onus is on the applicant to file a complete application. Deficiencies in the application will extend the timeline. The timeframe also depends upon the number of applications requiring the attention of the Board.

See chart on next page.

TIME CHART 2: TYPE A (PUBLIC HEARING)

Step	Approx. Duration (days)	Day	Applicant	NWB	Parties	Minister	Section of Guide 5
NPC Driven		Land Use Plan Conformity Review					1
NIRB Driven		Development Impact Assessment Review					1
1	1	1		NWB receives application and confirms classification of undertaking and type of licence as type A			6.1
2	15	16		NWB conducts preliminary completeness check			6.2
3	30	46		If required, NWB may issue project specific guidelines for the preparation of a water licence application	Parties comment on project specific guidelines		6.3
4	Applicant Driven	46	If required, applicant prepares and submits project specific water licence application				6.4
5	15	61	If required, applicant provides additional information	NWB conducts concordance review			6.5
6	1	62		NWB issues notice of application	Parties start technical review		6.6
7	30 ^a	50	92	Applicant reviews written representations	NWB receives written representations from parties	Parties submit written representations	6.7.1
8	5 ^b		97	Technical meeting/ pre-hearing conference	NWB holds technical meeting/ pre-hearing conference	Technical meeting/ pre-hearing conference	6.7.2
9	15 ^c		112		NWB issues pre-hearing conference decision		6.7.3
10					NWB issues notice of public hearing		6.7.4
11	45	60	157	Parties exchange written interventions	Parties exchange written interventions	Parties exchange written interventions	6.8
12	15		172	Parties prepare for public hearing	Parties prepare for public hearing	Parties prepare for public hearing	6.9
13	5 ^{b,d}	177	Public Hearing	NWB holds Public Hearing	Public Hearing		6.10
14	30-45 ^e	207-222		NWB issues decision to Minister			6.11
15	45-90	252-312				Minister issues approval	6.12

Notes

- The NWB requests written representations in 30 days. Often, parties request an extension of up to 60 days.
- The duration of the technical meeting and pre-hearing conference and public hearing are dependent upon the form of the hearings and venue(s).
- This Time Chart assumes that the pre-hearing conference decision and public hearing notice are issued concurrently.
- The duration of the public hearing assumes that the public hearing is held in-person.
- The time for the Board to issue its decision depends upon the capacity of the Board and its staff.