

Proposal to Establish a Conservation Area: Tuvaijuittuq

DFO is seeking approval from NWMB for the establishment of a conservation area for Tuvaijuittuq, through designation of a Marine Protected Area by Ministerial Order under the proposed Oceans Act amendment (Bill C-55), consistent with the Nunavut Land Claims Agreement s9.3.2 (establishment of conservation areas).

1. Proposed Marine Protection Measure for up to 5 years

Fisheries and Oceans Canada (DFO) and Parks Canada Agency (PCA) received funding in Budget 2017 to work with Inuit and Northern partners to pursue marine protection initiatives in the High Arctic marine environment. DFO and PCA are now pursuing establishment of an interim protection measure for the High Arctic Basin, also called Tuvaijuittuq, which means the place where the ice never melts. This area is considered globally, nationally and regionally unique due to the presence of multi-year pack ice. Tuvaijuittuq is believed to be a critically important habitat for Arctic under-ice communities and may also play an important role for ice-dependent species (e.g. beluga, narwhal, walrus, seals, polar bear). This area represents a portion of the Canadian High Arctic projected to retain multi-year ice (MYI) over the long term and will likely become an important refuge for ice-associated biota as sea ice loss continues throughout the Arctic due to climate change.

It is proposed that the area be designated as a Marine Protected Area (MPA) through a Ministerial Order under the *Oceans Act* meaning that it would be in place for up to five years. This proposed interim protection measure will only be available if Bill C-55 and associated proposed amendments to the Oceans Act receive Royal Assent. Protection via a Ministerial Order would allow the Minister of Fisheries, Oceans and the Canadian Coast Guard to freeze the footprint of human activities in the area for up to five years. Before the end of the five year period a decision must be made to establish a long-term protected measure or repeal the order. Freezing the footprint means that any activity that has occurred in the proposed MPA over the twelve months prior to designation (or that has been authorized to occur) would be allowed to continue in the proposed MPA. In addition, scientific research, safety, security and emergency activities, as well as certain activities carried out by a foreign national, entity, ship or state, would be permitted in the proposed MPA. Inuit harvesting rights will be respected in Tuvaijuittuq, consistent with the Nunavut Agreement.

An interim protection measure would help protect and conserve the important biological diversity, structural habitat, and ecosystem functions within the area while additional information is collected and appropriate conservation tools are assessed for long-term protection. The proposed MPA would be the first step in a phased approach to determine long-term objectives and potential protection measures for Tuvaijuittuq. While the Ministerial Order is in place, DFO and PCA would continue to work with key Inuit and northern governments to evaluate options for long-term protection measures in the proposed MPA as set out in the March 2019 Memorandum of Understanding signed by Canada, Nunavut and QIA.

Given the existing and potential importance to this unique environment, and the rapidly growing interest in marine activities in the Arctic, there is a real need to both protect and better understand the ecological importance of this region before additional disturbances intensify the impacts from climate change. Protecting this area would signify its importance and foster partner collaboration to support the continued assessment of the area. It would also increase the profile and awareness of the area by national and internationally interested parties.

2. About the Area

Location

Tuvaijuittuq includes a portion of the marine waters off northern Ellesmere Island starting from the low water mark and extending to Canada's Exclusive Economic Zone (Figure 1). The majority of the area lies outside two adjacent land claim agreement areas, the Inuvialuit Settlement Region and the Nunavut Settlement Area. However, the proposed MPA extends into the Nunavut Settlement Area and thus the Nunavut Agreement provisions apply with respect to the establishment of a conservation area. The eastern portion of this area is located in the Lincoln Sea. Canada has a maritime boundary dispute with Denmark in that area and announced on 28 November 2012 that a tentative agreement on the Lincoln Sea boundary had been reached and ratification of the treaty is ongoing. Once a treaty has been reached between Canada and Greenland on an international border, this portion of the boundary may need to be modified.

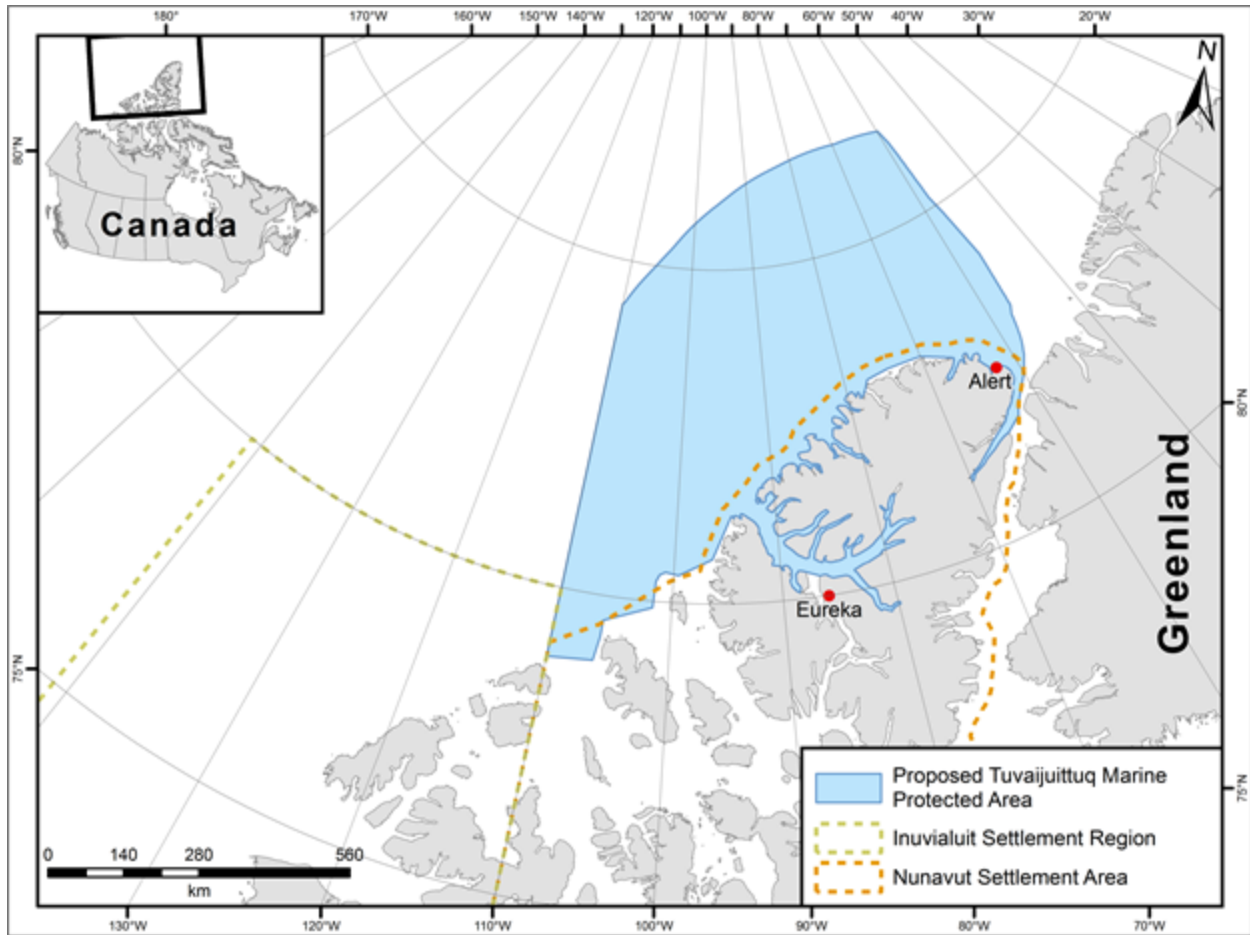


Figure 1. Map of the proposed Tuvaijuittuq Marine Protected Area (MPA)

Ecological Importance

Portions of Tuvaijuittuq were identified by the Department of Fisheries and Oceans as Ecologically and Biologically Significant Areas in 2011, and also selected by the Parks Canada Agency as a candidate site for their system of National Marine Conservation Areas (Figure 2). The ecological importance of this area has been acknowledged by academia and Environmental Non-Government Organizations who have been calling for its protection due to the area's increasing significance under a changing climate.

The Multi-year ice in this area provides important habitat to ice-associated species that depend on it for food, protection from predators, reproduction and other behaviors. This habitat is especially important for under-ice communities as they form the basis of the food web and support higher trophic level species whose distributions include the entire High Arctic region. As a result, significant changes to this habitat may have repercussions for marine communities throughout the Arctic.

The ecosystem of Tuvaijuittuq is also unique due to circulation of the Beaufort Gyre, an Arctic Ocean current that contains a globally significant accumulation of fresh water from North American and Eurasian Arctic rivers. The Gyre transports Multi-year ice to this area making it globally unique ice environment. Because of this, models predict the persistence of Multi-year ice in this area over the long-

term meaning that this area may become a critical refuge for ice-associated species as sea ice declines due to climate change.

While relatively little is known about the area, existing ecological information has been collected and compiled when and where available. Available ecosystem information was used to determine the conservation objective for the area which is “to contribute to the conservation, protection and understanding of the natural diversity, productivity and dynamism of the High Arctic sea ice ecosystem”.

While no Inuit Qaujimatugangit (IQ) has been collected for this particular proposal, the Department undertook a preliminary scan of existing IQ from nearby communities. This included information from the Nunavut Coastal Resource Inventory as well as IQ collected by the Department of Fisheries and Oceans in 2011 for the purposes of conservation planning. Given that the area is primarily beyond present and historical traditional use by Inuit, little IQ for this area was expected. Collecting IQ will be a priority for future planning.

A DFO science program called Multidisciplinary Arctic Program is currently underway in a portion of Tuvaijuittuq. This research mission aims to study the multi-year ice ecosystem in Canada’s High Arctic. This mission will provide the first ecological assessment of the northern Canadian Archipelago, the knowledge from which is essential to understand the structure, function and role of the sea-ice associated ecosystem in the Arctic Ocean.

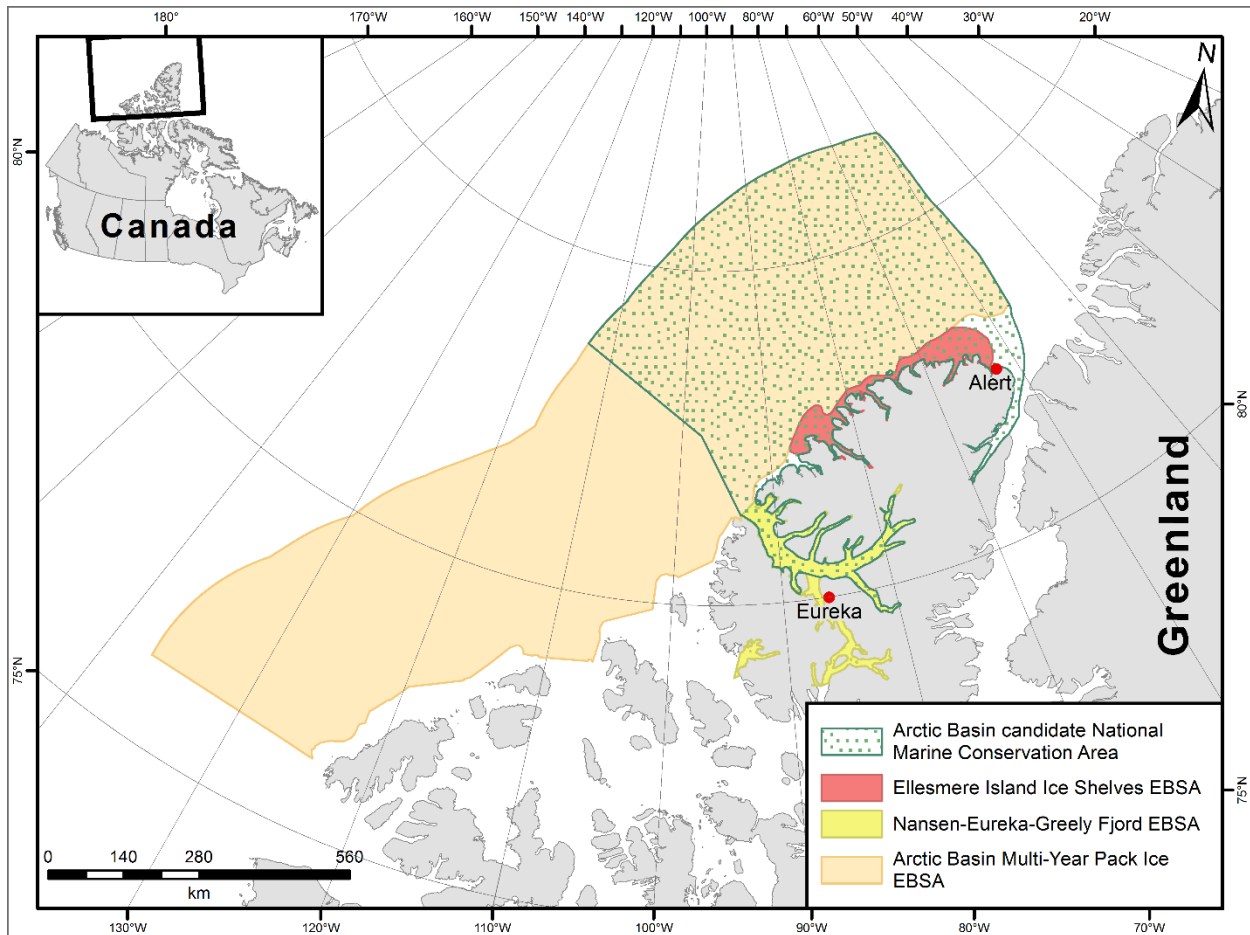


Figure 2. Map of Candidate National Marine Conservation Area and Ecologically and Biologically Significant Areas (EBSAs).

Socio-economic considerations

DFO has compiled socio-economic information to support the socio-economic analysis. Natural Resources Canada has produced a report titled “High Arctic Basin (Tuvaijuittuq) Petroleum Potential”. The socio-economic analysis and Natural Resources Canada report was used to develop a cost-benefit analysis which is based on the proposed Ministerial Order regulations.

There are currently very few marine activities taking place in the area, primarily due to its remoteness and inaccessibility. The area is far from any settled communities and most of it is ice-covered year round. Extensive ice cover in the area results in exceptionally difficult conditions to navigate. The Arctic climate is experiencing rapid change resulting in the loss of sea ice and more specifically, multi-year pack ice. These changes are opening up new opportunities and challenges for the Arctic. For example, warming may result in an extended shipping season and the creation of new shipping routes which, in turn, may increase the feasibility of activities such as mining and, oil and gas exploration, commercial fishing, research and tourism across the Arctic. Increased accessibility for these types of activities poses a risk to the habitat, biodiversity and ecosystem function within Tuvaijuittuq.

3. Consultation, Engagement and Collaboration

In August 2018, the Qikiqtani Inuit Association (QIA) expressed their interest to include an area in Tuvaijuittuq, located in the northwestern-most region of the Arctic Ocean and adjacent to Ellesmere Island, as part of the IIBA for the candidate TINMCA. PCA, along with DFO and Transport Canada are engaged in the negotiation of the IIBA. In response to QIA's proposal, representatives from PCA and DFO, supported by Transport Canada, and the QIA negotiated an Agreement in Principle on the IIBA that committed the parties to, among other things, work collaboratively with the Government of Nunavut (GN) to advance protection of Tuvaijuittuq, including the consideration of interim protection measures under the proposed revisions to the *Oceans Act*.

Pursuant to the agreement in principle signed in April 2019, PCA and DFO (representing Canada), the GN, and the QIA signed a Memorandum of Understanding articulating a process for consideration of environmental designations in Tuvaijuittuq. The memorandum of understanding provides for the establishment of a steering committee with representatives from Canada, GN and QIA to guide the feasibility assessment for marine protection in Tuvaijuittuq.

To date, DFO and PCA have provided information to, and requested feedback from, many stakeholders and partners including the QIA and GN, Nunavut Tunngavik Inc., Inuvialuit Regional Corp., Inuvialuit Game Council, Fisheries Joint Management Council, Government of Northwest Territories, and the Yukon Government on a proposed phased approach to marine protection whereby interim protection would be established in Tuvaijuittuq to allow time for the collection of baseline scientific information and for further engagement with co-management partners and stakeholders with regard to long-term protection options. Use of the interim protection option will be dependent on recommendations from the Steering Committee and the support of the parties to the memorandum of understanding.

Initial engagement of communities closest to Tuvaijuittuq began in April 2018. QIA led a community tour (November, December 2018) to provide an update to the five adjacent communities associated with Tuvaijuittuq on the agreement in principle described above. Community members supported in principle the potential protection of Tuvaijuittuq, but echoed the importance of Inuit being involved in research taking place in the area. More recently (February 25-28, 2019), DFO and PCA engaged with the Hunter's and Trapper's Organizations (HTOs) and communities of Arctic Bay, Resolute Bay and Grise Fiord to discuss potential protection measures and ongoing Science initiatives in Tuvaijuittuq. Representatives from both the GN and the QIA also participated in these meetings. HTOs and attending members from all three communities were generally supportive of both interim and long-term protection of Tuvaijuittuq, as well as the collection of scientific data to better understand the area. Community concerns related to Tuvaijuittuq included the appropriate regulation of small and large vessel traffic to avoid impacts to ice, marine mammals and other biota, and potential impacts from activities such as oil and gas exploration and research.

The parties have committed to completion of an IIBA for TINMCA by June 2019. This document will be made public once ratified by all parties. Additional information can be found in the 'consultation and engagement' summary.

4. General Timelines

This proposal requires the use of a Ministerial Order under the *Oceans Act* which would freeze the footprint of the area for up to 5 years. This tool will only be available to the Minister of Fisheries and Oceans Canada if Bill C-55 receives Royal Assent.

Oceans Act Marine Protected Areas (including those established through Ministerial Order) fall within the definition of 'Conservation Areas' under the Nunavut Agreement and are therefore subject to the requirements that apply to the establishment of Conservation Areas pursuant to the Nunavut Agreement. The Department is therefore required to seek conformity determination through the Nunavut Planning Commission (NPC) prior to designation under the *Oceans Act*. Should the NPC find the project proposal in conformity with the existing North Baffin Regional Land Use Plan, the NPC will forward the proposal to the Nunavut Impact Review Board for screening. In the case that it does not conform other processes set out in the *Nunavut Planning and Project Assessment Act* would apply.

Section 9.4.1 of the Nunavut Agreement stipulates that Government agencies responsible for conservation areas and Designated Inuit Organizations will negotiate an Inuit Impact and Benefits Agreement (IIBA). Parks Canada, along with DFO and Transport Canada are engaged with the Qikiqtani Inuit Association in the negotiation of the IIBA for Tallurutiup Imanga National Marine Conservation Area (TINMCA). The parties have committed to completion of an IIBA for TINMCA by June 2019, with agreement that the IIBA will also address potential marine protected area designations within Tuvaijuittuq. This document will be made public once ratified by all parties.

If supported by the Parties to the Tuvaijuittuq MOU DFO will advance this proposal by seeking additional public comment through Canada Gazette 1 in June 2019. Through this public comment period the public will be made aware of the proposal, including the fact that the Department is seeking approvals from the Nunavut Wildlife Management Board, the Nunavut Planning Commission and the Nunavut Impact Review Board prior to considering establishment of an MPA.