

Request for Nunavut Wildlife Management Board Approval of a Second Ministerial Order Marine Protected Area in Tuvaijuittuq

Project Description

1. Request for Approval

Fisheries and Oceans Canada, Marine Planning and Conservation Program, is seeking approval from the Nunavut Wildlife Management Board (NWMB) to establish a marine conservation area in Tuvaijuittuq through designation of a second Marine Protected Area (MPA) by Ministerial Order (or “Order”) under the *Oceans Act*, s35.1(2), consistent with the Nunavut Agreement s9.3.2 (establishment of conservation areas).

The new Order is intended to replace the current Order in Tuvaijuittuq which extends to July 31, 2024.

2. Collaboration and Proposal for a Second Ministerial Order MPA Under the *Oceans Act*

Fisheries and Oceans Canada (DFO) and the Qikiqtani Inuit Association (QIA) are proposing a second interim protection measure for the High Arctic marine area referred to as Tuvaijuittuq (“the place where the ice never melts”). A second Order under the *Oceans Act* would freeze the footprint of ongoing activities in the area for up to an additional five years, meaning any activity that has occurred in Tuvaijuittuq over the twelve months prior to designation (or that has been authorized to occur) would be allowed to continue, while new activities would be prohibited, with some exceptions (S.4[2]¹). The Order would not apply with respect to the wildlife harvesting rights of the Inuit in the Nunavut Settlement Area, as provided for in the Nunavut Agreement.

The current Order in Tuvaijuittuq was designated under the *Oceans Act* in 2019, and protects the area for a period of up to five years while the Government of Canada, the QIA and the Government of Nunavut completes an assessment of the feasibility and desirability of long-term protection. The Order is covered under the Tallurutiup Imanga National Marine Conservation Area Inuit Impact and Benefit Agreement (IIBA), signed in 2019 by Canada and the QIA. The Government of Canada (represented by DFO and Parks Canada Agency), the QIA, and the Government of Nunavut also signed a Memorandum of Understanding (MoU) to develop a joint process for determining the feasibility and desirability of long-term protection in Tuvaijuittuq. The Tuvaijuittuq Steering Committee, which has representation from all parties to the MoU, is responsible for guiding this feasibility assessment which began in February 2020 and was to be completed within two years of the signing of the MoU.

The COVID-19 pandemic caused unforeseen and significant challenges to the parties’ ability to meaningfully consult with the impacted Inuit communities and to complete the feasibility assessment, including components such as a QIA-led Inuit Qaujimajatuqangit study of the Ellesmere Island region and additional scientific research. In January 2023, the President of QIA sent a letter to the Minister of Fisheries, Oceans and the Canadian Coast Guard, formally requesting that the current Order in Tuvaijuittuq be repealed and replaced with a new Order to help recover the time lost due to the pandemic and to collaboratively explore an Inuit-led Protected and Conserved Area (IPCA) for the area. In March 2023, the Minister agreed to this request and approved a process seeking to repeal and

¹ <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-282/page-1.html>

replace the Order. The intent of the proposed new Order is to continue marine protection in this ecologically important and vulnerable area while partners determine the most suitable long-term option. The proposed new Order would be covered under the Tallurutiup Imanga National Marine Conservation Area IIBA.

3. 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. On June 14, 2022, Canada and the Kingdom of Denmark announced that they had signed an agreement resolving the disputed Lincoln Sea boundary, and Canada’s ratification of the treaty is ongoing. Once ratified, the boundary of Tuvaijuittuq that falls within this area will be adjusted to match the coordinates of the new international boundary.

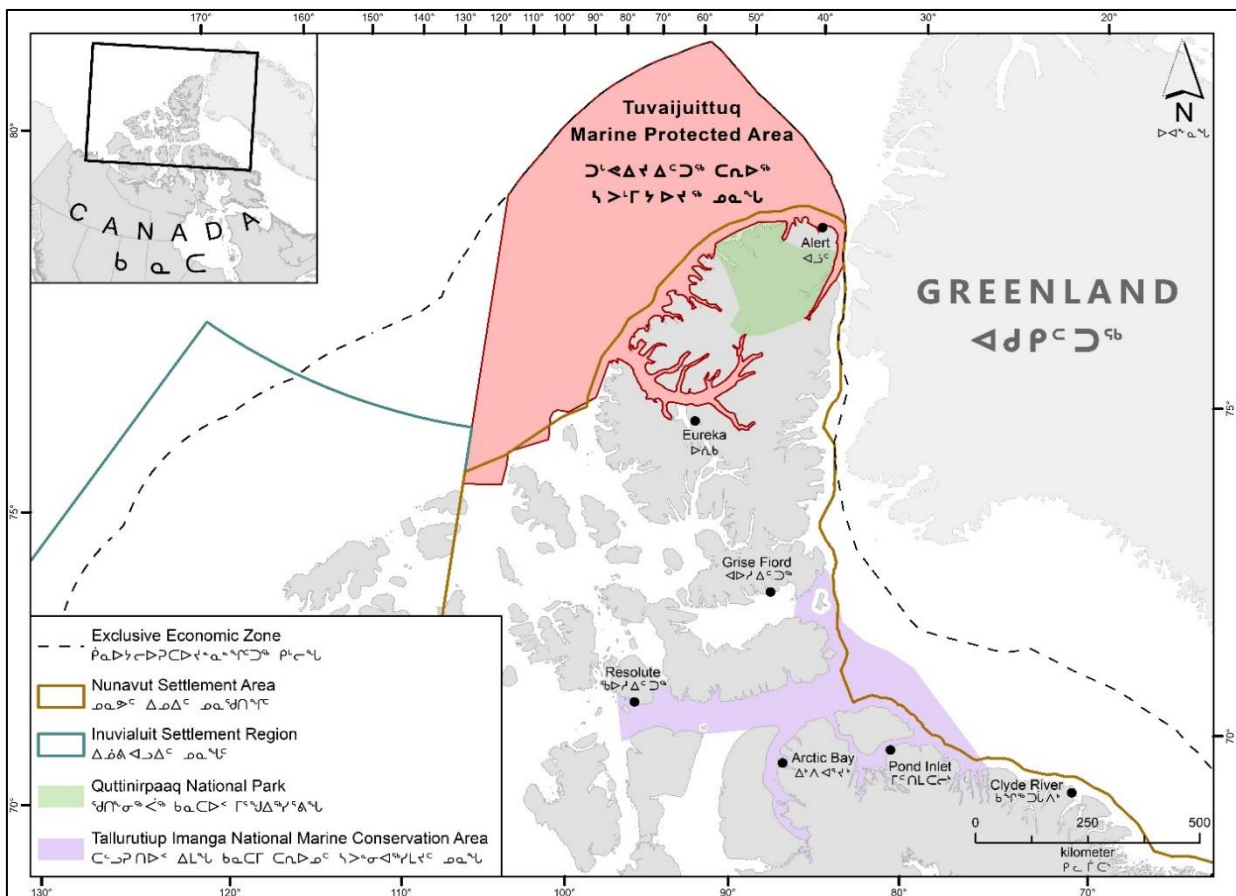


Figure 1. Map of the Tuvaijuittuq Marine Protected Area by Ministerial Order

Ecological Importance

Tuvaijuittuq is considered to be globally, nationally and regionally unique due to the presence of multi-year pack ice, and is expected to become a critical refuge for ice dependent and culturally significant species as sea ice declines throughout the Arctic due to climate change. The area overlaps multiple Ecologically and Biologically Significant Areas (EBSAs) identified by DFO in 2011 (Figure 2), and a portion of the area was identified by PCA as a candidate National Marine Conservation Area (NMCA) due to its unique features and ecological significance.

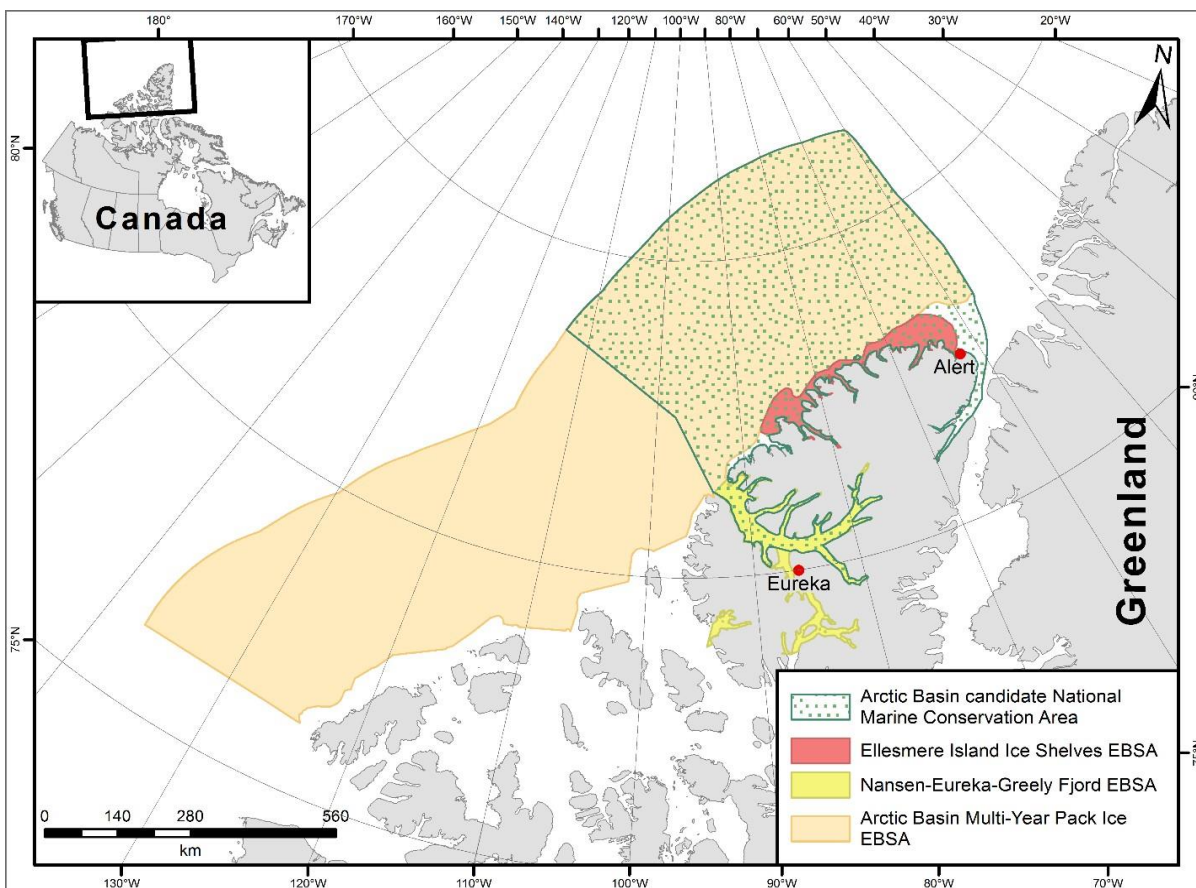


Figure 2. Map of Ecologically and Biologically Significant Areas (EBSAs) identified by DFO and the Candidate National Marine Conservation Area identified by Parks Canada Agency.

Science-led assessments have identified a number of Ecologically Significant Species and Community Properties within Tuvaijuittuq, including ([DFO 2020](#); [Charette et al. 2020](#)):

- **Multi-year ice:** Tuvaijuittuq contains the oldest and thickest sea ice in the Canadian Arctic and provides important habitat for ice-dependent and ice-associated species. The area is an important source of multi-year ice and Arctic Ocean waters to the Canadian Arctic Archipelago and Baffin Bay and as a result, can influence sea ice and other conditions throughout the Canadian Arctic;
- **Ellesmere Island ice shelves:** Remaining ice shelves in Tuvaijuittuq host unique microbial mats and important nesting and feeding habitat for the Endangered Ivory Gull and At Risk species such as the Red Knott and Ross's Gull;

- **Fiord systems:** Tuvaijuittuq’s fiord systems play an important role in the connectivity between Ellesmere Island, the Ellesmere ice shelves and adjacent ecosystems. Fiords in Tuvaijuittuq act as conduits for the transfer of snow and ice meltwaters from Ellesmere Island to the Arctic Ocean and support diverse habitats, including important marine mammal (e.g., Atlantic walrus, bearded and ringed seals, narwhal) habitat. Both the High Arctic Atlantic walrus population and narwhals are listed as Special Concern by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and observations of both species in Archer Fiord between 2018 and 2023 were farther north than their known distribution ranges;
- **Sea ice-associated communities:** Multi-year sea ice habitat in Tuvaijuittuq supports a number of ice-associated species such as algae and krill which are critical to high Arctic food webs; and
- **Biodiversity:** Despite its far northern location, Tuvaijuittuq contains a remarkable diversity of habitat types and associated marine communities. In addition to the multi-year ice, fiord and ice shelf habitats, the MPA includes areas of annual sea ice, inshore habitats, leads of varying size and duration, and coastal lagoons retaining ancient seawater from the coastal ocean.

Current research in Tuvaijuittuq is led by the ArcticCORE program, which is a multi-tiered program that includes ship-, ice- and aerial-based research and long-term observations (e.g., moorings, community-based observations/monitoring) to characterize the unique ecosystems of Tuvaijuittuq and connectivity to adjacent ecosystems. The remote nature of Tuvaijuittuq and its extensive ice cover make researching the area difficult and as a result, wide gaps in knowledge of the area still exist. Initial research in Tuvaijuittuq was carried out as part of the Multidisciplinary Arctic Program (MAP) – Last Ice, which informed the development of an ecosystem review and the identification of knowledge gaps and unique ecological features for Tuvaijuittuq (Charette et al., 2020; DFO, 2020). The ArcticCORE program is continuing the ecosystem characterization of Tuvaijuittuq to address existing knowledge gaps and to provide ecological information which is critically needed to inform decisions around long-term protection of the area.

While limited Inuit Qaujimagatuqangit is available to inform this proposal, DFO undertook a preliminary scan of existing Inuit Qaujimagatuqangit from nearby communities in 2018-2019 to inform the current Order, which included information from a 2012 Nunavut Coastal Resource Inventory as well as Inuit Qaujimagatuqangit shared with DFO in 2010 for the purposes of conservation planning. In 2022, the Tuvaijuittuq Working Group, which has representation from DFO, Parks Canada, QIA and the Government of Nunavut, consulted with the communities of Arctic Bay, Clyde River, Grise Fiord, Pond Inlet and Resolute Bay in part to seek additional input on the importance of the area to Inuit. QIA is currently conducting an in-depth Inuit Qaujimagatuqangit study of the Ellesmere Island Region which will further inform the Tuvaijuittuq feasibility assessment and future decisions regarding long-term protection. Inuit have identified that this area has historical importance as a travel corridor between Greenland and Canada.

Socio-economic Considerations

DFO has compiled socio-economic information to support an updated socio-economic analysis. Given that a Ministerial Order regulation has been in place since 2019, the activities occurring in Tuvaijuittuq during the 12 months leading up to the establishment of the current Order was used as a baseline for “ongoing” activities.

Tuvaijuittuq is a marine area, the majority of which is located offshore. There are minimal activities occurring in Tuvaijuittuq due to its remoteness and inaccessibility. The area is far from any settled communities. For example, Grise Fiord and Resolute Bay are the closest settled communities, located over 350 and 550 km southeast of Tuvaijuittuq, respectively². Most of Tuvaijuittuq is ice-covered year round and the extensive ice cover results in exceptionally difficult conditions to navigate.

There are no commercial or recreational fisheries or aquacultures in Tuvaijuittuq, and these activities are unlikely to occur in the foreseeable future due to extensive sea ice coverage. There are no active mining projects or licenses in Tuvaijuittuq, and no existing oil and gas licenses, or expressions of interest for these activities. Additionally, the area is included in the federal oil and gas moratorium, which is reviewed every five years and prohibits new oil and gas exploration licensing in the Canadian Arctic Ocean. In June 2023 following consideration of the review, Canada maintained the moratorium for another five years. The Geological Survey of Canada conducted an analysis of petroleum potential in Tuvaijuittuq and predicted that there is a 95% chance that some hydrocarbon resources are present within the MPA, though high uncertainty exists regarding the locations and volume of recoverable petroleum resources (Lister et al. 2022). The areas of highest petroleum potential are located in the Lincoln Sea Basin (northeast) and the Northwest Canada Arctic Margin (southwest) portions of the MPA. Available information indicates that potential resources in Tuvaijuittuq are unlikely to be produced economically under current conditions, and development in the area is not expected for the foreseeable future.

There are no known tourism and recreational activities in Tuvaijuittuq. Quttinirpaaq National Park, located on Ellesmere Island, is adjacent to Tuvaijuittuq and receives a limited number of tourists whose activities do not extend into Tuvaijuittuq. Vessel traffic in Tuvaijuittuq is rare. Between 2012 and 2019, only five vessels accessed Tuvaijuittuq, and all but one (a transiting passenger ice-breaker) were Canadian Coast Guard vessels. Since 2019, only two vessels, both Canadian Coast Guard, have entered Tuvaijuittuq.

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 pose a risk to the habitat, biodiversity and ecosystem function within Tuvaijuittuq.

4. Consultation and Engagement

A more detailed description of the consultations and engagements undertaken for Tuvaijuittuq is provided in a separate “Consultation and Engagement Summary” document, included in this submission.

Between November 14 and December 6, 2022, the Tuvaijuittuq Working Group traveled to the communities of Arctic Bay, Clyde River, Grise Fiord, Pond Inlet and Resolute Bay to seek input on the feasibility assessment process, including community use and interests for the area, and to share the results of various assessments completed for Tuvaijuittuq (biophysical overview, petroleum potential and economic assessment, socioeconomic overview). A common theme heard across communities was a desire to learn more about Tuvaijuittuq as research continues, to be updated on the progress of the

² Distances measured from the community to the nearest border of Tuvaijuittuq (straight line). Eureka is currently used a seasonal research station.

assessment and long-term protection options, and the importance of Inuit-led decision-making in conservation.

Between April 3-18, 2023, the Tuvaijuittuq Working Group returned to these five communities to seek input on the proposed new Ministerial Order MPA in Tuvaijuittuq. Both consultation processes included meetings with community Hunters and Trappers Associations (HTAs), hamlet councils, Nauttisuqtiit, and community open-houses. The Working Group undertook additional virtual follow-up meetings with select community groups to ensure quorum. During those meeting, the HTAs and hamlet councils in all five communities gave permission for DFO to seek formal letters of support for the proposal. There is interest from all five communities to protect Tuvaijuittuq in both the short-term and long-term, but also in balancing protection with economic opportunities for future generations. Interest in protecting the area is based on Tuvaijuittuq's ecological importance, its significance to Inuit, and interest in the area's resources by other countries.

In June 2023, follow-up letters were sent to the HTAs and hamlet councils of all five communities, to provide additional clarity on questions raised during the consultation process and to offer additional meetings if needed to discuss the proposed regulation. As part of the consultation process, individual "What We Heard" reports were also circulated to each community group summarizing the feedback provided by community members. These reports contained the same information shared in the follow-up letters for ease of reference. The reports were circulated to each community's HTA board and hamlet council for their review. To date, DFO has received letters in support of the proposed second Ministerial Order MPA from the HTAs and hamlet councils of all five communities.

In July 2023, parties to the MoU sent a joint project description and letter to industry and other stakeholders inviting them to comment on the proposal to repeal and replace the Tuvaijuittuq Ministerial Order MPA. In their letter to stakeholders, the parties also offered to meet with each organization. Stakeholder groups included territorial stakeholders, environmental non-government organizations, fishing industry, shipping industry, cruise ship industry, oil and gas and mining industries, tour operators, and academia. Stakeholders in Nunavut were engaged through the Nunavut Marine Conservation Target Steering Committee (represented by ECCC, PCA, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), Transport Canada (TC), DFO, the Government of Nunavut Department of Environment, and Nunavut Tunngavik Inc. [NTI]), and Nunavut Water Board. The Qikiqtaaluk Wildlife Board was also included in this process for awareness, with a commitment to providing updates and copies of any community letters in support of the proposal if received. Stakeholders in the Inuvialuit Settlement Region (ISR) were engaged on the proposal through the Beaufort Sea Partnership Regional Co-ordination Committee, which is comprised of the Inuvialuit Regional Corporation, the Inuvialuit Game Council, the Fisheries Joint Management Committee (FJMC), PCA, CIRNAC, the Government of the Northwest Territories, the Yukon Government, ECCC, Natural Resources Canada (NRCan) and TC.

Industry and environmental non-government organizations included the Canadian Marine Advisory Council, Nunavut Fisheries Association, Eastern Arctic Groundfish Stakeholder Advisory Committee (EAGSAC), Arctic Security Consultants, Oceans North, World Wildlife Fund-Canada (WWF-Canada), Ecology Action Centre, and Inuit Circumpolar Council. Key cruise ship industry stakeholders were also engaged during that period. Of those external stakeholders engaged, only WWF-Canada provided input and was fully supportive of the proposal.

In September 2023, DFO re-engaged the Qikiqtaaluk Wildlife Board in writing to provide an update on Tuvaijuittuq and copies of the community letters of support received, as well as to notify the Board that DFO would be presenting an update on this proposal and seeking their approval during the Board's fall quarterly meeting. On November 22, 2023, DFO presented updates on the proposal to the QWB, and sought clarity from the Board on how they would like to be involved and informed on next steps for this site. No comments were received from the Board. DFO will continue to engage the QWB on this site.

In response to DFO's submission of this proposal to the Nunavut Planning Commission (NPC) for conformity determination in September 2023, the NPC indicated that pursuant to the *Nunavut Planning and Project Assessment Act* the proposed Ministerial Order was not subject to the land use plan conformity process and therefore did not require a conformity determination.

5. Establishment Timeline and Next Steps

If the NWMB approves of DFO's proposal to establish a second Order in Tuvaijuittuq, DFO will proceed to publication in Canada Gazette Part II, which designates the new MPA. Following establishment, the Aulattiqatigiti Board will continue to co-manage the MPA consistent with the Tallurutiup Imanga National Marine Conservation Area IIBA. Data collection will also continue, including the QIA-led Inuit Qaujimagatuqangit study and additional scientific research, to inform the exploration of an IPCA in collaboration with Inuit and northern partners.

References Cited

Charette, J., Melling, H., Duerksen, S., Johnson, M., Dawson, K., Brandt, C., Remnant, R. and Michel, C. 2020. Biophysical and Ecological Overview of the Tuvaijuittuq Area. Can. Tech. Rep. Fish. Aquat. Sci. 3408: xi + 110 p. https://publications.gc.ca/collections/collection_2021/mpo-dfo/Fs97-6-3408-eng.pdf

DFO. 2020. Identification of Ecological Significance, Knowledge Gaps and Conservation Objectives for the Tuvaijuittuq Marine Protected Area. DFO Can. Sci. Advis. Sec. Sci. Resp. 2020/056. <https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/40964449.pdf>; <https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/40965107.pdf> (Inuktitut)

Lister, C.J., Atkinson, E.A., Dewing, K.E., King, H.M., Kung, L.E., and Hadlari, T., 2022. High Arctic basins petroleum potential, northern Canada; Geological Survey of Canada, Open File 8897, 88 p. https://publications.gc.ca/collections/collection_2022/rncan-nrcan/m183-2/M183-2-8897-eng.pdf