

GN-01: BOUNDARIES FOR PROPOSED PROTECTED AREA	
Department	Environment
Organization	Government of Nunavut (GN)
Subject/Topic	Project Boundaries / Exclusion of Small Enclosed Bays
References	<ul style="list-style-type: none"> • Letters of Support for the Proposed Qikiqtait Marine Protected Area. NIRB File No. 24VN053, NIRB Project No. 126015. (2024a) • Nunavut Lands and Resources Devolution Agreement. (2024b). Retrieved from: https://www.rcaanc-cirnac.gc.ca/eng/1702495657169/1702495761711. • Project Description: Proposed Ministerial Order Marine Protected Area in Qikiqtait. NIRB File No. 24VN053, NIRB Project No. 126015. (2024c) • Order Designating the Qikiqtait Marine Protected Area. (2024d) Canada Gazette, Part I, 158(51). https://gazette.gc.ca/rp-pr/p1/2024/2024-12-21/html/reg9-eng.html
CONCERNS	
<p>The Government of Nunavut (GN) is concerned about the proposed boundary of the area described in the Department of Fisheries and Oceans’ (DFO or the Proponent) Project, “Qikiqtait Marine Protected Area by Ministerial Order” (NIRB File No. 24VN053, Application No. 126015). Specifically, the GN notes a lack of clarity regarding this boundary.</p> <p>In particular, the GN notes a discrepancy in how the definition of Small Enclosed Bays under the Nunavut Lands and Resources Devolution Agreement is being interpreted and applied for the Qikiqtait Marine Protected Area (MPA) relative to other areas in Nunavut (2024b). In particular, there is a concern that the criteria being used to identify Small Enclosed Bays is being applied by the proponent in a manner that is inconsistent with other federal departments and other interpretations that could be reasonably advanced based on international law. For example, the GN notes that the marine area north of Sanikiluaq – bounded by Renouf Island, Wiegand Island, and Flaherty Island – may qualify as a Small Enclosed Bay, but it is not recognized as such in the current MPA proposal. The GN recognizes that while the</p>	

Proponent’s legal descriptions aim to exclude Small Enclosed Bays (including the water column) from the proposed MPA, the ambiguity in the application of the definition makes it unclear what areas are within the boundaries of the MPA.

The Proponent’s project description states that “the boundaries were refined in collaboration with the community of Sanikiluaq and QIA” (p.3, 2024c). As the geographic scope of the project affects areas that are to be devolved to the GN, it is critical that the Proponent engage with the GN on the boundary for the proposed project.

As stated in the GN’s conditional support letter included in the Proponent’s application, the GN had requested a formal boundary confirmation by the Qikiqtait and Sarvarjuaq Working Group that is led by the Proponent (p. 2-3, 2024a). Due to the enduring uncertainty about Small Enclosed Bays, the Proponent has not yet fulfilled this request to the satisfaction of the GN.

The GN requires further discussions with the Proponent to agree on the identification and exclusion of Small Enclosed Bays from the Qikiqtait MPA boundary, as proposed.

Furthermore, the GN is seeking a commitment from the Proponent to acknowledge that until the Small Enclosed Bays issue is resolved, the boundary has not been finalized and can be amended.

The lack of clarity with the boundary affects the GN’s ability to properly assess the potential environmental and socioeconomic impacts from the proposed project, and resolving this issue promptly is critical for effective project review.

REQUESTS / RECOMMENDATIONS

The GN requests that the Proponent:

- Engage with the GN’s Devolution Secretariat to clarify and achieve consensus on the application/interpretation of the Small Enclosed Bays definition for the purpose of clarifying the MPA boundaries and broader devolution efforts. The GN notes that it may be beneficial to include other GC departments, such as Natural Resources Canada, Crown-Indigenous Relations and Northern Affairs Canada, and other implicated federal departments, in these discussions.
- Collaborate with GN to develop joint language to address the GN’s concerns about Small Enclosed Bays prior to issuing any MPA Ministerial Orders.

- Update their Regulatory Impact Statement to acknowledge the concerns raised with respect to the boundaries, and the ongoing efforts to clarify and interpret the Small Enclosed Bays definition for MPA mapping.

ADDITIONAL COMMENTS

For the NIRB's awareness, the GN also submitted comments on this matter to the Canada Gazette (2024d).