



Box 32, Wekweètì, NT X0E 1W0
Tel: 867-713-2500 Fax: 867-713-2502

#1-4905 48th Street, Yellowknife, NT X1A 3S3
Tel: 867-765-4592 Fax: 867-765-4593
www.wlwb.ca

July 28, 2022

File: W2020L2-0004

Kurtis Trefry
Arctic Canadian Diamond Company Ltd.
900-606 4 Street SW
Calgary, AB T2P 1T1

Sent by email

Dear Kurtis,

Re: Ekati – Closure and Reclamation Plan, Version 3.1 – Information Package – Lac de Gras, NT

The Wek'èezhìi Land and Water Board met on July 19, 2022 and considered Arctic Canadian Diamond Mine Ltd.'s (Arctic's) Closure and Reclamation Plan (CRP), Version 3.1 - Information Package.¹ This Information Package was required by the Board's Reasons for Decision to approve an extension request to Version 3.1 of the Closure and Reclamation Plan.²

As detailed in the attached Reasons for Decision, the Board has decided not to approve the revised closure criteria for UG-1 and UG-2. With respect to reclamation research, the Board has decided not to approve any of the revised Reclamation Research Plans. The Board has also decided that Arctic is to complete research associated with areas of the mine where mining has ended or will be completed by December 2024. With respect to the Returning Land Use Plan (RLUP), the Board has rejected Arctic's request to use the Returning Land Use Plan, as currently proposed, as a metric for closure criteria. The Board is informing Arctic that the RLUP should not be considered the sole approach to engagement to inform closure planning on the topic of land use.

The attached Reasons for Decision also provide direction for Version 3.1 of the CRP. Specifically, Arctic is to incorporate CRP Requirements A through Y. Version 3.1 is currently due by October 31, 2022. The Board has decided that should Arctic identify that additional time is necessary to address the Board-required updates to the CRP, that Arctic is to work with Board staff to establish a submission date no later than December 31, 2022.

¹ See WLWB Online Registry (www.wlwb.ca) for [Ekati - CRP Version 3.1 - Information Package - Apr 14_21.pdf](#)

² See WLWB Online Registry for [Ekati - Interim Closure and Reclamation Plan V3.1 - Extension Request - Decision Letter - Feb 10_22.pdf](#)

Sincerely,



Mike Nitsiza
Acting Chair, Wek'èezhii Land and Water Board

Bcc'd to: Ekati Distribution List
Attached: Reasons for Decision



Box 32, Wekweètì, NT X0E 1W0
Tel: 867-713-2500 Fax: 867-713-2502

#1-4905 48th Street, Yellowknife, NT X1A 3S3
Tel: 867-765-4592 Fax: 867-765-4593
www.wlwb.ca

Reasons for Decision

Reference/File Number:	W2020L2-0004 (Type "A" Water Licence)
Licensee:	Arctic Canadian Diamond Company Ltd. (Arctic)
Subject:	CRP Version 3.1 – Information Package

Decision from the Wek'èezhìi Land and Water Board Meeting of July 19, 2022

1.0 Decision

On July 19, 2022, the Wek'èezhìi Land and Water Board (WLWB or the Board) considered Arctic Canadian Diamond Company Ltd.'s (Arctic's) Closure and Reclamation Plan, Version 3.1 - Information Package (Information Package).¹ The Information Package was required by the Board's Reasons for Decision to approve an extension request to Version 3.1 of the Closure and Reclamation Plan (CRP).² The Information Package includes revised closure criteria, a revised closure criteria work plan, revised reclamation research plans, and a preliminary workplan and table of contents for the Returning Land Use Plan (RLUP).

In consideration of the submission, previous Board direction, reviewer comments and proponent responses, the Board has made the following decisions:

1. Not to approve the revised closure criteria for UG-1 and UG-2;
2. Arctic is to complete research associated with areas of the mine where mining has ended or will be completed by December 2024;
3. Not to approve any of the revised Reclamation Research Plans;
4. To reject Arctic's request to use the RLUP, as currently proposed, as a metric for closure criteria. The RLUP should not be considered the sole approach to engagement to inform closure planning on the topic of land use; and

¹ See WLWB Online Registry (www.wlwb.ca) for [Ekati - CRP Version 3.1 - Information Package - Apr 14_21.pdf](#)

² See WLWB Online Registry for [Ekati - Interim Closure and Reclamation Plan V3.1 - Extension Request - Decision Letter - Feb 10_22.pdf](#)

5. With respect to Version 3.1 of the CRP, Arctic is to incorporate CRP Requirements A through Y.

Version 3.1 of the CRP is currently due by October 31, 2022. The Board has decided that should Arctic identify that additional time is necessary to address the Board-required updates to the CRP, that Arctic is to work with Board staff to establish a submission date no later than December 31, 2022.

2.0 Background

The Mackenzie Valley Land and Water Board (MVLWB) first approved the Ekati Mine Interim CRP in 2002. Several versions of the Interim CRP were submitted between 2003 and 2011, until the WLWB approved Version 2.4 on November 7, 2011.^{3,4} The Interim CRP was then updated to Version 3.0, which received WLWB approval with additional direction on January 29, 2020.^{5,6} At the request of Arctic, the submission of Interim CRP Version 3.1, which addresses the Board's previous direction, was extended from October 26, 2021⁷, to July 31, 2022⁸, and more recently extended to October 31, 2022.⁹ The CRP is required under Part K, Condition 2 of Water Licence W2020L2-0004.

In its July 23, 2021, decision, the Board directed Arctic to propose final closure criteria in the Interim CRP Version 3.1 for any mine component closing in the next three years (i.e., prior to December 2024).¹⁰ To advance closure planning towards development of closure criteria, and as required by the WLWB,¹¹ between November 30 and December 2, 2021 Arctic conducted a workshop¹² to receive participant feedback on the proposed draft closure criteria¹³ prior to preparation of CRP Version 3.1. This workshop considered materials provided in a pre-submission information package, including how the CRP Version 3.0 direction would be incorporated into the CRP Version 3.1.¹⁴ As directed by the Board,¹⁵ Board staff solicited the preference of Parties during the workshop as to whether a public review of the proposed closure criteria in advance of submission of CRP Version 3.2 would be beneficial. On April 14, 2022, as part

³ See WLWB Online Registry for [W2009L2-0001 - BHP - ICRP - Version 2.4 - Aug 31 11.pdf](#)

⁴ See WLWB Online Registry for [W2009L2-0001 - BHP - ICRP - Version 2.4 - Reasons for Decision - Dec 5 11.pdf](#)

⁵ See WLWB Online Registry for [W2012L2-0001 - Ekati - ICRP Version 3.0 - Aug 15 18](#)

⁶ See WLWB Online Registry for [W2012L2-0001 - Ekati - ICRP Version 3.0 - Decision Letter and Reasons for Decision - Feb 19 20](#)

⁷ See WLWB Online Registry for [W2012L2-0001 - Ekati - Interim Closure and Reclamation Plan Version 3.1 - Request for Extension - Dec 13 21](#)

⁸ See WLWB Online Registry for [Ekati - Interim Closure and Reclamation Plan Version 3.1 - Request for Extension - Reasons for Decision - Sep 30 21.](#)

⁹ See WLWB Online Registry for [Ekati - Interim Closure and Reclamation Plan Version 3.1 - Request for Extension - Decision Letter - Feb 10 22.](#)

¹⁰ See WLWB Online Registry for [W2012L2-0001 - Ekati - Interim Closure and Reclamation Plan Version 3.1 - Proposed Closure Objectives - Reasons for Decision - Jul 23 21](#)

¹¹ See WLWB Online Registry for [W2012L2-0001 - Ekati - Interim Closure and Reclamation Plan Version 3.1 - Proposed Closure Objectives - Reasons for Decision - Jul 23 21](#)

¹² See WLWB Online Registry for [Ekati - CRP Version 3.1 - Closure Criteria Workshop Agenda - Nov 8 21.](#)

¹³ See WLWB Online Registry for [Ekati - CRP Version 3.1 - Presubmission Information Package - Part 1 - Nov 5 21.](#)

¹⁴ [Ekati - CRP Version 3.1 - Presubmission Information Package - Part 1 - Nov 5 21.pdf](#); [Ekati - CRP Version 3.1 - Presubmission Information Package - Part 2 - ENP Investigation Report - Oct 26 21.pdf](#).

¹⁵ See WLWB Online Registry for [Ekati - Interim Closure and Reclamation Plan V3.1 - Request for Extension - Reasons for Decision - Sep 30 21.](#)

of the Information Package, Arctic submitted revised closure criteria based on feedback from the workshop.¹⁶

In the Information Package cover letter, Arctic requested feedback on the revised closure criteria from Parties to assist in the preparation of the CRP Version 3.1. Arctic also requested Board approval of the revised closure criteria for the underground mine objectives UG-1 and UG-2. All other closure criteria were not proposed for Board approval.

The Information Package also included revised Reclamation Research Plans (RRPs) for Board approval. The RRP included revisions to reflect the Board's decision on CRP Version 3.0.¹⁷

Further, the Information Package included a preliminary work plan and table of contents for the Returning Land Use Plan (RLUP) and Arctic requested the Board determine whether it should be included in future versions of the CRP and utilized as a metric for related closure criteria. Arctic informed the "purpose of the plan is to define and build consensus around the required actions and closure criteria for the site as a whole, and with consideration of" closure objectives SW-1, SW-2 and SW-9.

The Information Package was distributed for public review on April 25, 2022. Comments were received by the deadline of May 25, 2022 from Tłıchq Government, Deniu K'ue First Nation (DKFN), Environment and Climate Change Canada (ECCC), Department of Environment and Natural Resources of the Government of the Northwest Territories (GNWT-ENR), and the Independent Environmental Monitoring Agency (IEMA). WLWB staff also submitted questions. Comments were received after the deadline of May 25, 2022 from Fisheries and Oceans Canada (DFO) and the North Slave Métis Alliance (NSMA); DFO's one comment stated they have no recommendations at this time (DFO comment 1) and the NSMA's one comment identified that select recommendations from the Tłıchq Government and IEMA be emphasised (NSMA comment 1). Arctic provided responses to reviewer comments by the deadline of June 10, 2022. The Review Summary Table and attachments can be found on the Online Review System.¹⁸

3.0 Reasons for Decision

The Reasons for Decision are organized into the sections presented in the Information Package, as follows:

- Closure criteria
- Closure criteria work plan
- Reclamation research plans
- Returning Land Use Plan

As described throughout the following sections of this Reasons for Decision, the Board has set out requirements for CRP Version 3.1. Version 3.1 of the CRP was originally due on January 29, 2020 and in

¹⁶ See WLWB Online Registry for [Ekati – CRP Version 3.1 – Information Package – Apr 14 22](#).

¹⁷ See WLWB Online Registry for [W2012L2-0001 – Ekati – ICRP Version 3.0 – Decision Letter and Reasons for Decision – Feb 19 20](#).

¹⁸ See WLWB Online Review System for [Ekati – Closure and Reclamation Plan – Information Package – Review Summary](#)

response to several extensions to facilitate Arctic's closure planning, is now due by October 31, 2022. The Board is of the opinion that the extensions granted to date have provided the opportunity to advance Version 3.1 of the CRP. ***The Board has decided that should Arctic identify that additional time is necessary to address the Board-required updates to the CRP, that Arctic is to work with Board staff to establish a submission date no later than December 31, 2022***

3.1 Closure Criteria

Arctic provided revised closure criteria for all closure objectives for review by Parties. Arctic identified that the closure criteria associated with the underground mine objectives UG-1 and UG-2 are to be considered final closure criteria and requested Board approval. Closure criteria associated with objectives UG-1 and UG-2 are discussed in Section 3.1.1 of this Reasons for Decision. Closure criteria associated with all other closure objectives have not been submitted for Board approval and are discussed further in Section 3.1.2. Section 3.1.3 provides additional discussion regarding updating closure criteria for inclusion in Version 3.1 of the CRP.

3.1.1 Final Closure Criteria Requested for Board Approval

Final closure criteria associated with underground mine objectives UG-1 and UG-2 were proposed by Arctic for Board approval. During the public review, no Party provided recommendations on the proposed UG criteria. Clarification questions were submitted by Board staff (WLWB staff comments 1 to 4).

WLWB staff comment 1 requested clarification regarding the items that will be assessed by the Qualified Professional during the post-closure inspection and the reason for selecting a five-year temporal timeframe for performance monitoring. Arctic provided the clarification of the monitoring items to be completed post-closure; however, Arctic proposed no change to the closure criteria for UG-1 to define the conditions of acceptable performance (e.g., extent of acceptable differential settlement or cracking in the vent raise foundation pads). The Board notes that a five-year timeframe for performance monitoring does not provide a long-term understanding of the vent raise caps and seals for the portal, which could degrade over time (e.g., due to exposure to the environmental elements).

- ***CRP Requirement A: In Version 3.1 of the CRP, Arctic is to include: a) a description of the performance monitoring that will be completed by the Qualified Professional during their inspections of the vent raise caps and portal seals, and b) a description of the long-term maintenance or repair, if any, of the vent raise caps and portal seals.***
- ***CRP Requirement B: In Version 3.1 of the CRP, Arctic is to revise the final closure criteria for objective UG-1 to include the measures used to define the conditions of acceptable performance monitoring.***

Closure criteria for objective UG-1 require that the design of the vent raise caps and portal seals be designed and constructed per the *Mine Health and Safety Act*. WLWB staff comment 2 inquired if a certification, or other form of approval notification, will be received by a *Mine Health and Safety Act*

representative to confirm that both the design and construction of the vent raise caps and portal seals satisfy the requirements of this Act. Arctic responded that they have provided detailed designs associated with the Panda and Koala pits within the 2021 Annual Closure and Reclamation Report and that a Mine's inspector will confirm construction. As described in the Closure Guidelines, "[a]ny proposed final designs will be for Board approval and should be incorporated into the next update of the CRP". Arctic did not request that the 2021 Annual Closure and Reclamation Report that contained the proposed vent raise designs be considered for approval by the WLWB or inform that the proposed designs should be considered as an update to the CRP. Therefore, the vent raise design has not been subject to review and approval by the WLWB. The Board also notes that a detailed design for the portal seal was not provided in the 2021 Annual Closure and Reclamation Report. The Board is of the opinion that a designated representative under the *Mine Health and Safety Act* has authority to confirm that the design and construction satisfies the requirements of the *Mine Health and Safety Act* and that the WLWB is responsible for review and approval of the CRP, which is inclusive of mine component closure designs. The Board thus requires that the vent raise closure designs for Panda and Koala be included in Version 3.1 of the CRP so they can undergo the typical review and approval process as part of the CRP.

- ***CRP Requirement C: Arctic is to include the vent raise closure designs for Panda and Koala pits for review and approval in Version 3.1 of the CRP.***
- ***CRP Requirement D: Arctic is to update the language in Version 3.1 of the CRP to inform that closure designs for the vent raises and portal seals for all mine workings at Ekati are subject to review and approval as part of the CRP.***

Closure criteria for objective UG-1 do not specify the conditions required to satisfy the requirements of the *Mine Health and Safety Act*. For example, in reference to the *Mine Health and Safety Act* Part XVII 17, criteria associated with ensuring mine openings are filled with materials that do not subside and that adequate strength of concrete in caps is achieved are not included in the closure criteria. The Board requires that closure criteria for UG-1 be updated to propose the specific design criteria that is required to satisfy the requirement of the *Mine Health and Safety Act*.

- ***CRP Requirement E: Arctic is to revise the final closure criteria for objective UG-1 in Version 3.1 of the CRP to include submission to the WLWB of formal correspondence by the designated representative under the Mine Health and Safety Act that confirms that each vent raise cap and portal seal is designed and constructed to satisfy the requirements of the Mine Health and Safety Act.***
- ***CRP Requirement F: Arctic is to update the language of closure criteria UG-1 to also include the closure design criteria that are required to satisfy the requirements of the Mine Health and Safety Act.***

WLWB staff comment 3 requested clarity on how to interpret the measure of success in achieving the closure criteria for objective UG-2. Further, WLWB staff comment 4 requested further information to define when remediation of a spill location within the underground mine no longer poses a risk to water

quality. Arctic's responses proposed updated language to the closure criteria to address this question; however, other Parties have not had the opportunity to review the revised wording. The Board is of the opinion that the revised language should be reviewed by Parties prior to consideration for approval.

- ***CRP Requirement G: Arctic is to include revised language for closure criteria for objective UG-2 in Version 3.1 of the CRP.***

As described above, the Board is requiring updates to the closure criteria for UG-1 and UG-2; therefore, the Board is not approving these criteria at this time. Also as described above, the updates are to be proposed in Version 3.1 of the CRP.

- ***Decision #1: The Board has decided not to approve the revised closure criteria for UG-1 and UG-2.***

3.1.2 Closure Criteria Not for Board Approval

All closure criteria, with the exception of the closure criteria associated with the underground mine, were provided by Arctic in an effort to receive feedback from Parties to inform Version 3.1 of the CRP. Arctic stated that these criteria are still under development and has not requested Board approval at this time. Reviewer comments were received by several Parties and relevant information is documented within the following topics:

- Topic 1 – In response to reviewer recommendations, Arctic has revised the closure criteria or interpretation of the closure criteria may be influenced by Arctic's definition of temporal stability.
- Topic 2 – In response to reviewer recommendations, Arctic has committed to an activity that may further inform closure planning or closure criteria; however, no change was made to the closure criteria.
- Topic 3 – In response to reviewer recommendations, Arctic provided additional information or clarity that did not result in a change to the closure criteria.
- Topic 4 – In response to reviewer recommendations, Arctic disagreed with the recommendation or Arctic had a differing opinion compared to the recommendation and therefore no change was made to the closure criteria.

Topic 1

In response to some reviewer recommendations (see Table 1), Arctic has either provided a definition of temporal stability to aid in interpreting relevant closure criteria or proposed revisions to specific closure criteria. In addition to Arctic's response to reviewer recommendations, revised closure criteria were been provided by Arctic within an updated document titled "Closure Objectives and Criteria Tables". Closure criteria associated with the following objectives that are relevant to this topic are summarized in Table 1. For each objective, the reviewer comment number is provided.

Table 1. Closure objectives associated with Topic 1 closure criteria and associated Party comment.

Closure Objective	Party Comment
SW-1	WLWB staff comment 9
SW-3	IEMA comments 4 and 5
SW-4	WLWB staff comment 10
SW-5	IEMA comment 2
SW-6	IEMA comment 2
SW-8	Tłıchq Government comment 13; IEMA comment 1
SW-9	IEMA comment 6
SW-10	IEMA comment 1; GNWT-ENR comment 3; ECCC comment 1
OP-1	IEMA comment 1; GNWT-ENR comment 4; ECCC comment 2
OP- 4	IEMA comment 8
OP-5	Tłıchq Government comment 15
OP-7	IEMA comment 2
WR-1	IEMA comment 2
WR-2	IEMA comment 2
WR-3	IEMA comment 10; GNWT-ENR comment 5
WR-3	Tłıchq Government comment 18; GNWT-ENR comment 6
WR-4	Tłıchq Government comment 19
WR-5	IEMA comment 12; WLWB staff comment 26
LLCF-1	IEMA comment 2
LLCF-2	IEMA comment 13
LLCF-3	Tłıchq Government comment 21; IEMA comment 1
LLCF-4	Tłıchq Government comment 22
LLCF-5	Tłıchq Government comment 23
WM– 1	IEMA comment 14; WLWB staff comment 36
BI-1	WLWB staff comment 36
BI-2	Tłıchq Government comment 25; IEMA comment 15
BI-3	IEMA comment 16
BI-4	IEMA comment 4

Closure criteria associated with objectives WM-3 and WM-4 were also updated by Arctic in the “Closure Objectives and Criteria Tables” document. It is unclear to if these proposed revisions to the closure criteria were in response to a review comment or not.

The Board notes that Parties have not had the opportunity to review the proposed revisions to the closure criteria provided in Arctic’s responses. Thus, the Board requires that the updated closure criteria be proposed in Version 3.1 of the CRP Version.

- **CRP Requirement H: Arctic is to include revised language for closure criteria in Version 3.1 of the CRP to address comments and recommendations summarized in Table 1.**

Topic 2

In response to some reviewer recommendations (see Table 2), Arctic has either provided a commitment to further consider the recommendation or provided additional information that may be useful to informing closure criteria in a future revision. No changes to the revised closure criteria were provided in Arctic's response to reviewers. Table 2 summarizes the subjects and associated closure objectives relevant to each topic. For each topic and objective, the reviewer comment number is provided.

Table 2. Subject or closure objectives associated with Topic 2 closure criteria and associated Party comment.

Subject or Closure Objective	Party Comment
Cultural use criteria for water quality	Tłıchq Government comment 1
Community representatives	Tłıchq Government comments 2 and 3
Objectives involving aesthetics, suitability for cultural use, wildlife use and caribou management	Tłıchq Government 4
SW-5 and SW-6	WLWB staff comment 11
SW-8	WLWB staff comment 12
SW-10	Tłıchq Government comment 14
LLCF-2	Tłıchq Government comment 20
LLCF-5	WLWB staff comment 31
LLCF-6	WLWB staff comment 32
BI-1	Tłıchq Government comment 24
BI-4	WLWB staff comment 37

Arctic committed to further consider these reviewer recommendations in updates to the closure criteria. The Board requires that Arctic revise the closure criteria based on their responses to reviewer comments and include the updated closure criteria within Version 3.1 of the CRP.

- ***CRP Requirement 1: Arctic is to include revised language for closure criteria in Version 3.1 of the CRP to address the comments in Table 2.***

Topic 3

In response to some reviewer recommendations requesting additional information or clarification (see Table 3), Arctic provided a response that has not been considered by reviewers, and in the opinion of the Board, the information provided could be useful to help inform the closure criteria and/or may be useful to include in Version 3.1 of the CRP. No changes to the revised closure criteria were provided in Arctic's response to reviewers. Table 3 summarizes the subjects and closure objectives relevant to this topic. For each subject and objective, the reviewer comment number is provided.

Table 3. Subject or closure objectives associated with Topic 3 closure criteria and associated reviewer comment.

Subject or Closure Objective	Party Comment
Rational for the timeframe associated with performance criteria	WLWB staff comment 5
SW-5 and SW-6	GNWT-ENR comment 1
SW-10	WLWB staff comments 13 and 14; DKFN comment 5, GNWT-ENR comment 9
OP-1	WLWB staff comments 15 and 16
OP-2	WLWB staff comment 19
OP-3	WLWB staff comment 20
OP-4	WLWB staff comment 17 and 19
OP-5	IEMA comment 9
OP-6	WLWB staff comment 21
WR-1	WLWB staff comments 21, 23, and 24
WR-3	IEMA comment 11; WLWB staff comment 25
LLCF-1	WLWB staff comment 27
LLCF-2	WLWB staff comment 28
LLCF-3	WLWB staff comment 29
LLCF-4	WLWB staff comment 30
LLCF-5	WLWB staff comment 31; DKFN comment 6
WM-1	GNWT comment 8
WM-3	WLWB staff comment 34, DKFN comment 4
BI-1	Tłıchǫ Government comment 24

The Board notes that Parties have not had the opportunity to comment on Arctic’s responses. Since these reviewer recommendations provide additional information and/or clarification, the Board is of the opinion that the reviewer recommendations and associated responses should be further considered by Arctic for inclusion in Version 3.1 of the CRP.

- ***CRP Requirement J: Arctic is to include revised language for closure criteria, or provide additional information, in Version 3.1 of the CRP to address the comments listed in Table 3.***

Topic 4

In response to select reviewer recommendations, where Arctic disagreed with the recommendation, or Arctic had a differing opinion compared to the reviewer, no changes were proposed to the closure criteria. The following subjects are relevant to this topic and described below:

- Evaluating the success of achievement of a closure objective by a Party through site inspection.
- Closure criteria associated with closure design of the mine components.

- Closure criteria associated with achievement of acceptable erosional performance.
- Engagement with Tłıchq Government on the topic of water quality criteria and cultural use criteria.
- Engagement with DKFN on the topic of wildlife use.

WLWB staff and GNWT-ENR provided comments associated with closure criteria that include the requirement for an inspection by a Qualified Professional, GNWT Lands Inspector, or appointed Community Representative. For closure criteria that rely on a Qualified Professional to determine if an objective is achieved, WLWB staff asked Arctic to define the conditions to be evaluated by the Qualified Professional (WLWB staff comment 35). Tłıchq Government provided a similar recommendation specific to closure criteria associated with objective WR-2 (TG comment 17). The Board is of the opinion that Arctic’s response to WLWB staff comment 35 does not provide additional clarity to understand how the closure criteria will evaluate whether the objective has been achieved. GNWT-ENR recommended the closure criteria be updated to require a “pass” from all Parties conducting the inspection (GNWT-ENR comment 7). Arctic disagreed with the recommendation and informed that it may not be possible without a “negotiated outcome”. If an inspection is not passed by an inspecting Party, it is unclear to the Board if the closure objective can still be considered successfully achieved. The Board is of the opinion that the closure criteria should include the conditions that will be evaluated by the inspecting Parties to determine when the closure objective is achieved. The Board is of the opinion that conducting an inspection by a Party is not a closure criterion, but an activity; the acceptance of conditions by the inspecting Party is the outcome needed to demonstrate the closure objective is achieved, and the conditions that are considered acceptable are the closure criteria.

- ***CRP Requirement K: Arctic is to include in Version 3.1 of the CRP revised language for closure criteria that reference an inspection by a Qualified Professional, GNWT Lands Inspector, or appointed Community Representative to include the requirement that approval of each inspecting Party is required to be achieved.***
- ***CRP Requirement L: Arctic is to include in Version 3.1 of the CRP revised language for closure criteria that specifies the acceptable conditions that will be used by the inspecting Party to determine if the closure objective is achieved.***

Tłıchq Government and WLWB staff requested clarity associated with criteria that use the phrase “build is per WLWB approved design” or equivalent (TG comments 6 and 17; WLWB staff comment 7). In response to WLWB staff’s question, Arctic informed that the closure criteria are “written from a future perspective, where a WLWB approved FCRP design is already in place” and that closure designs associated with mine components would be included as part of the FCRP submission. Arctic’s response is unclear to the Board. For example, it could be interpreted that Arctic is a) informing that closure criteria are approved in an interim CRP prior to the Final CRP or a component-specific CRP and that these approved criteria are used to inform the closure designs of mine components; or b) informing that the closure criteria and closure designs of mine component are both approved in the Final CRP. The Board is of the opinion that overarching/key closure criteria are needed to inform closure designs for mine components and

understand that some additional criteria and or more detailed specifics may be necessary once a closure design is finalized. The Board thus requires that additional closure criteria be proposed to define the conditions that must be accounted for in the closure design to determine if the closure objective is achieved. Please refer to the previous decisions for additional context.^{19,20}

- ***CRP Requirement M: Arctic is to include in Version 3.1 of the CRP, additional closure criteria to define the conditions that must be accounted for in the closure design to determine if the closure objective is achieved, in addition to, closure criteria that demonstrate that the mine component was constructed (built) according to the approved closure design.***

Tłıchq Government, GNWT-ENR, and WLWB staff provided comments and/or recommendations associated with the use of the Erosional Framework as a closure criterion. The Erosional Framework is to provide a prediction of the erosional performance for mine components and the landscape. Arctic proposes to include a preliminary version of the Erosional Framework in CRP Version 3.1. Tłıchq Government noted that until it reviews the Erosional Framework, it “cannot know how well it serves as criteria” (TG comment 6). GNWT-ENR recommended the final Erosional Framework be completed prior to submission of the FCRP (GNWT-ENR comment 12). Arctic noted that the final Erosional Framework will not be provided until the FCRP because it relies on the final closure configurations of the mine components. WLWB staff sought clarity on the closure criteria that will be used as a measure of acceptable erosion (WLWB staff comment 8). Arctic’s response informed that “numerical final closure criteria for material types and placements for post-closure landforms will be derived with the Erosional Framework and incorporated into the FCRP”. The Board notes that the outcomes of the Erosional Framework may be necessary to inform closure designs for mine components and their performance. The Board understands the Erosional Framework will provide a prediction of the erosional performance for a mine component or landscape; the framework itself may not define the acceptable conditions for erosion or how these conditions are achieved in the closure design. Therefore, the Board is of the opinion that revised closure criteria are required to define the design criteria to achieve acceptable erosional performance in closure design and define the measure of acceptable erosional performance.

- ***CRP Requirement N: Arctic is to include in Version 3.1 of the CRP revised language for closure criteria that clearly defines the design criteria required to achieve acceptable erosional performance.***

Tłıchq Government provided recommendations associated with water quality criteria (TG comments 1 and 16). More specifically, Tłıchq Government recommended cultural use criteria for use at the Ekati site for water quality (TG comment 1). Arctic’s response did not accept the Tłıchq Government’s recommended cultural use criteria but agreed to further discuss with the Tłıchq Government how culturally relevant water quality can be incorporated into closure planning. The Board requires Arctic to

¹⁹ See WLWB Online Registry for [W2012L2-0001 – Ekati – ICRP Version 3.0 – Decision Letter and Reasons for Decision – Feb 19 20](#)

²⁰ See WLWB Online Registry for [Diavik – CRP – Version 4.1 – Reasons for Decision – Jun 10 21](#)

engage with Tłıchǫ Government on the topic of water quality criteria and cultural use criteria and update the CRP Version 3.1 accordingly.

- ***CRP Requirement O: Arctic is to engage with Tłıchǫ Government regarding Tłıchǫ Government comments 1 and 16 and update Version 3.1 of the CRP with the outcomes from this engagement.***

DKFN provided recommendations regarding wildlife use for the Long Lake Containment Facility (DKFN comments 1 to 3). In response to DKFN comments 1 and 2, Arctic removed two criteria work plan actions from the closure criteria tables and indicated these items do not support achievement of the closure objective LLCF-5. This modification to the closure criteria work plan actions are directly related to DKFN's recommendations and if the change were implemented, would result in DKFN's recommendations to no longer be relevant. The Board notes that DKFN has not had the opportunity to comment on Arctic's response. Thus, the Board requires Arctic to engage with DKFN on the topic of wildlife use and update the CRP Version 3.1 accordingly.

- ***CRP Requirement P: Arctic is to engage with DKFN regarding DKFN comments 1 to 3, update Version 3.1 of the CRP accordingly, and clearly indicate the outcomes from this engagement in the cover letter for Version 3.1 of the CRP.***

3.1.3 Updates to Closure Criteria

During the public review, Parties asked about timelines for progressive reclamation of specific mine components. GNWT-ENR requested clarity regarding the closure timelines and more specifically the planned submission of a Pigeon Pit final CRP and the timing for an application of a water licence for a new water source to flood the Pigeon Pit (GNWT-ENR comments 11 and 12). GNWT-ENR requested clarity regarding the timing of submitting Version 4.0 of the interim CRP and the FCRP, and the timing for ending deposition of processed kimberlite into Beartooth Pit (GNWT-ENR comments 13 and 14). WLWB staff also requested clarity regarding the timing of submission of the Pigeon Pit final CRP (WLWB staff comment 18).

In review of Arctic's responses, it is understood that a Pigeon Pit final CRP is planned for submission in December 2022 with the possibility for submission at a later date in early 2023, and amendments to the Water Licence are planned for inclusion as part of the Water Licence Renewal Application that is anticipated to be submitted in October 2022. In response to GNWT-ENR comment 13, Arctic identified that if Underwater Remote Mining occurs, the end of mine life could extend past 2029, otherwise end of mine life would coincide with the end of Point Lake pit mining (2029). The final CRP is required for Ekati a minimum of two years prior to end of mining (Part K, Condition 5 of the Water Licence) and therefore this final CRP would be due in 2027. Part K, Condition 1 states that the Licensee "shall endeavor to carry out progressive Reclamation of areas as soon as is reasonably practicable". The Board notes that mine components associated with areas where mining has ended could be subjected to progressive reclamation or final closure in advance of submission of the final CRP.

WLWB staff also requested clarity on the timing for the Fox Pit final CRP (WLWB staff comment 18). Arctic noted that a flooding plan for this pit will be provided in 2022 and the Fox Pit final CRP will be included with the full mine final CRP. As noted above, this is currently scheduled for 2027. It is not clear to the Board if the timing to submit the Fox Pit final CRP would change if Underwater Remote Mining occurs, which would extend the mine life beyond 2029. The Board is unaware of any reason to delay progressive reclamation of Fox Pit until the end of life for the Ekati project, in accordance with Part K, Condition 1.

To further understand opportunities for progressive reclamation, the integrated schedule of activities provided within the CRP Package was reviewed and the following mine areas in which active mining has ended or is nearing end of mining was identified:

- Panda / Koala – end of 2019
- Beartooth – prior to 2019
- Fox – prior to 2019
- Lynx – 2020
- Misery – mid 2023
- Pigeon – end of 2022
- Sable – end of 2023

It is not clear to the Board if all these pits and associated mine components, inclusive of Waste Rock Storage Areas, can commence reclamation at the end of mining or not. For example, it is understood that processed kimberlite deposition is occurring in the Panda, Koala, and Beartooth pits. With the exception of pits that are currently receiving processed kimberlite, the remaining pits (except for Point Lake pit) appear to be available to commence progressive reclamation now or at the end of their active mining phase (2022 or 2023). Further, after mining ends for each pit, there are mine components within the vicinity of the pit that could be subject to closure at the end of pit mining, rather than a later time. The Board requires Arctic to identify the mine workings that are to end mining by end of 2024 and identify the mine components within this area. For each pit and associated mine component, Arctic is to identify if these mine components can commence either progressive reclamation or final closure at end of mining the associated pit, and if not, Arctic should provide rationale within the cover letter for Version 3.1 of the CRP.

- ***CRP Requirement Q: Arctic is to identify the mine pits that have ended mining or are to end mining by end of 2024 and identify the mine components within each pit area. For each of the pits and associated mine components, identify any limitations to commencing either progressive reclamation or final closure at the end of pit mining. If mining in an area has ended but progressive reclamation or final closure of a mine component is not planned, provide rationale for delaying these closure activities.***

Parties expressed concern with the timelines for advancing closure planning, in particular finalizing the closure criteria. Tłıchǵ Government recommended that final criteria be proposed in Version 3.1 of the CRP, and where information is missing to define final criteria, the criteria work plan is to be updated to complete the activities in a timeframe so that final criteria are developed prior to the final CRP (TG

comments 7 and 8). This recommendation is consistent with previous Board direction for CRP Version 3.1.²¹ GWNT-ENR recommended the criteria work plan provide specific timelines to finalize closure criteria prior to the final CRP (GNWT-ENR comment 15). ECCC and WLWB staff also requested clarification regarding the timeline and scheduling to complete the closure criteria work plan activities (ECCC comment 3; WLWB staff comment 38). In response to reviewer comments, Arctic is of the opinion that they will not be able to propose final closure criteria in Version 3.1 of the CRP and provided the following statement:

While Arctic Canadian acknowledges that establishing criteria earlier has some benefits related to planning for closure; there are also benefits associated with taking more time. This provides operational flexibility, and also a larger dataset for use in developing final closure criteria. In the criteria work plan and reclamation research plans, Arctic Canadian has identified the priorities to be advanced in the next few years, and those that are better addressed closer to final closure. Arctic Canadian has outlined steps to develop final criteria for individual mine components that are to be decommissioned progressively.

The Board acknowledges that there may be an opportunity to refine closure criteria based on the complete dataset available with the FCRP; however, based on these reviewer recommendations, are of the opinion that closure criteria are needed on or before submission of the final CRP.

As outlined in the Board's Reasons for Decision for Proposed Closure Objectives (Decision #4 and #5),²² final closure criteria are to be proposed in Version 3.1 of the CRP for any mine component closing prior to December 2024. Arctic's CRP Package provided final closure criteria for the underground mine objectives UG-1 and UG-2, but no final closure criteria for other mine components that are closing by 2024. Further to the discussion above, it is not clear to the Board why final closure criteria were not submitted for Pigeon Pit or Fox Pit, which are being flooded. More specifically, the Pigeon Pit final CRP is proposed to be submitted in December 2022 or early in 2023 and Arctic provided no reasons why final closure criteria have not been provided to address this previous Board direction. Consistent with previous Board direction,²³ the Board is requiring that final closure criteria for any mine component associated with an area of the mine where mining has ended or will be completed by December 2024 be included in Version 3.1 of the CRP or a component-specific CRP. The Board is of the opinion that Arctic has not provided sufficient rationale for not providing proposed closure criteria for these mine components. The Board is also of the opinion, that for efficiency for all Parties, all final CRPs, such as for Pigeon and Fox, could be submitted within Version 3.1 of the CRP to avoid simultaneous closure-related submissions and public reviews.

- ***CRP Requirement R: Arctic is to include in Version 3.1 of the CRP final closure criteria for any mine component associated with an area of the mine where mining has ended or will be***

²¹ See WLWB Online Registry for [W2012L2-0001 – Ekati – ICRP Version 3.0 – Decision Letter and Reasons for Decision – Feb 19 20](#)

²² See WLWB Online Registry for [W2012L2-0001 – Ekati – Interim Closure and Reclamation Plan Version 3.1 – Proposed Closure Objectives – Reasons for Decision - Jul 23 21](#)

²³ *Ibid.*

completed by December 2024. Alternatively, these can be provided earlier in a mine component-specific CRP.

3.2 Criteria Work Plan

To aid in the review of the revised closure criteria by Parties, Arctic submitted a revised criteria work plan that summarizes tasks to be completed to reach approved closure criteria. The criteria work plan was required by the Board to provide all Parties with an understanding of what additional work may be required to develop final criteria and provide Parties confidence that the necessary work to develop closure criteria will be completed within an appropriate timeframe.²⁴ Because Arctic did not request feedback on the Criteria Work Plan, it is unclear how much time or consideration this was given by reviewers.

In addition to reviewer comments associated with the development of closure criteria prior to final CRP that were discussed in Section 3.1 of this Reasons for Decision, some reviewers requested further clarity or information about the Criteria Work Plan. Arctic has provided a response to reviewer comments that the Board considers useful to include in an updated Criteria Work Plan with CRP Version 3.1. The items are summarized below:

- Remove steps that are not necessary for finalizing the criteria (TG comment 9);
- For OP-3, inform the process and approach to decide which pit lakes will include littoral zones (IEMA comment 7); and
- Report on status of completion of work plan activities (WLWB staff comment 39).

Overall, review of the Criteria Work Plan and the comments received by Parties have identified that the proposed Work Plan does not clarify the steps by which final closure criteria will be developed or that they will be developed and in place in a reasonable time frame.

- ***CRP Requirement S: Arctic is to include in Version 3.1 of the CRP: a) an updated Criteria Work Plan with a schedule (inclusive of start and end timelines) for each closure criteria work plan activity, and b) that reflects the requirements described in Section 3.1 of this Reasons for Decision.***
- ***CRP Requirement T: Arctic is to update the Criteria Work Plan with Arctic's responses to the following reviewer comments: Tłıchq Government comment 9, IEMA comment 7, and WLWB staff comment 39.***

3.3 Reclamation Research Plans

Arctic has requested the RRP be considered for Board approval. In response to WLWB staff comment 40, Arctic informed that approval of the RRP would mean the current state of the plan would be included in

²⁴ See WLWB Online Registry for [Ekati - Interim Closure and Reclamation Plan Version 3.1 – Request for Extension – Decision Letter - Feb 10 22.](#)

CRP Version 3.1 and that this would not restrict future revisions/updates to the RRP, which would be communicated to the WLWB through the Annual Progress Reports or in a future CRP.

Several reviewer recommendations sought clarity on an item that in the opinion of the Board does not require an update to the RRP (TG comment 11; DKFN comments 9 and 10; GNWT-ENR comment 16; WLWB staff comment 41). Arctic provided an adequate response to these reviewer recommendations and therefore no further actions are needed at this time.

In response to comments, Arctic agreed to revise reclamation research plan RP-4 (IEMA comment 18) and provided the missing content associated with reclamation research plan RP-7 (WLWB comment 42). To reflect this commitment, the Board requires these revisions be incorporated into Version 3.1 of the CRP.

- ***CRP Requirement U: Arctic is to revise RP-4 and RP-7 to reflect the responses to IEMA comment 18 and WLWB comment 42 and incorporate into Version 3.1 of the CRP.***

GNWT-ENR comment 18 recommended Arctic include in the RRP a seepage and thermal modelling investigation component in the Waste Rock Storage Area Risk Assessment Framework (WRAF). Arctic noted that this activity is a requirement of the Water Licence (Part F, Condition 3), to be provided with the Waste Rock Storage Area Design Report and therefore is redundant to include in the RRP. The Board notes that the timeframe for submission of the design report is anticipated to be before the submission of Version 3.1 of the CRP. The Board is of the opinion that the RRP do not need to be updated to include the Point Lake seepage and thermal modelling investigation component of the WRAF because the investigation is likely to be completed before the RRP can be updated. The Board thus requires that any closure uncertainty identified after completion of the seepage and thermal modelling investigation for the Point Lake WRAF be considered in future updates to the RRP within the CRP.

The following reviewers recommended additional content and considerations pertaining to methodology, timing, monitoring, analysis, or interpretation be included in select reclamation research plans:

- RP-1 – DKFN comments 7 and 8
- RP-2 – IEMA comment 17
- RP-4 – IEMA comment 19
- RP-5 – GNWT-ENR comment 19

These Parties did not disagree with the proposed research tasks, but the recommendations aimed to broaden or enhance the proposed research task. Arctic disagreed with the recommendations and generally informed that the current research plan and associated tasks achieve the research objective(s). The Board requires that Arctic engage with these Parties to further consider the merit of including their recommendations in an updated RP for inclusion in Version 3.1 of the CRP.

- ***CRP Requirement V: Arctic is to engage with DKFN, IEMA and GNWT-ENR regarding the merit of including their recommendations associated with RP-1, 2, 4, and 5 into an updated RP for inclusion in Version 3.1 of the CRP.***

With regards to the research schedule, GNWT-ENR recommended additional detail for RP-2, specifically the schedule for the installation of continuous seepage flow monitoring (GNWT-ENR comment 17). The Board is of the opinion that Arctic's response does not clearly answer the recommendation by defining the schedule. The Board thus requires this aspect be addressed with the revised schedule to complete the research as described further below.

Tłıchq Government comment 10 and GNWT-ENR comment 20 pertained to the timing to complete the research so that the research outcomes can inform the final CRP or closure criteria. Tłıchq Government recommended that research should be completed as soon as possible, or otherwise provide a reason why an indefinite period of time is needed. GNWT-ENR recommended additional definition regarding the scheduling of the research to more clearly demonstrate how research will advance from now until the development of the final CRP, in addition to a detailed schedule when Arctic will initiate and complete the "Future Planned Research Tasks". Arctic disagreed with the Tłıchq Government and GNWT-ENR recommendations noting that research progress is reported annually, that research may evolve over time based on research outcomes, and that research to be completed over the next few years has been prioritized to inform closure. The Board is of the opinion that where possible, research should be completed to a state to inform CRP planning to resolve uncertainties and as more information or data becomes available, the remainder of the uncertainties addressed. Associated with the discussion included in Section 3.1.3 of this Reasons for Decision, the Board requires finalization of reclamation research for mine components associated with an area of the mine where mining has ended or will be completed by December 2024.

- ***Decision #2: The Board has decided that Arctic is to complete research associated with areas of the mine where mining has ended or will be completed by December 2024.***
- ***CRP Requirement W: Where research required by Decision #2 cannot be completed by December 2024, Arctic is to provide the reasons and time to complete the remaining research tasks.***

The Closure Guidelines state "It is essential that proponents initiate reclamation research as early as possible and that it be fully supported so that the Boards and stakeholders can use the resulting information in the closure planning process in a timely manner". The Board agrees with reviewer comments regarding the need to ensure research is completed in a timely manner and are of the opinion this research should be completed prior to the final CRP or mine-component specific final CRP. The Board recognizes that some research may not be possible to complete prior to the final CRP. For example, engagement to support wildlife safety (RP 1) and research plans that desire longer operational period data such as vegetation monitoring (RP 7). In these instances, the Board is of the opinion that the rationale for not completing research prior to the final CRP should be described in Version 3.1 of the CRP. The Board requires that all research is to be completed before submission of the final CRP or mine component-specific CRP, and a revised schedule (inclusive of start and end times) is included in Version 3.1 of the CRP (e.g., Pigeon FCRP to be submitted in December 2022 and WRSA cover RRP not planned to be completed until 2026). For specific research plans where this is not possible, rationale for why a longer timeframe is required and the proposed schedule to complete this research is to be included in Version 3.1 of the CRP.

- ***Decision #3: The Board has decided not to approve any of the revised Reclamation Research Plans.***
- ***CRP Requirement X: Arctic is to include in Version 3.1 of the CRP a revised RRP schedule, inclusive of start and end times, to complete all research prior to completion of the final CRP or component specific CRP. For specific research plans where it is not possible to complete the research prior to the final CRP or component specific final CRP, Arctic is to provide rationale for why a longer timeframe is required and the proposed schedule to complete the research is to be presented.***
- ***CRP Requirement Y: Arctic is to include a revised RRP schedule for the timeframe for the installation of continuous seepage flow monitoring.***

3.4 Returning Land Use Plan

On the topic of land use, the Board has previously identified the need to further understand how end land use at the Ekati mine has been considered in closure objectives and activities.²⁵ This resulted in the requirement for Arctic to address this topic as part of the March 24-26, 2021 closure workshop on closure objectives and the subsequent submission proposing revised closure objectives for the Board's consideration. Following the Board's consideration of the revised closure objectives, the Board required new closure objectives specific to the topic of land use. In the April 15, 2022 submission, Arctic's proposed revised closure criteria associated with land use-related closure objectives reference the outcomes of the RLUP to inform closure planning and also reference the RLUP as the closure criteria.

In Arctic's cover letter for the CRP Package, it is noted that during an engagement workshop between Arctic and Indigenous Government Organizations, Arctic presented the RLUP work plan to gain feedback on a path forward regarding closure land use. Arctic submitted a preliminary work plan and table of contents for the RLUP as part of the CRP Package and informed the "purpose of the plan is to define and build consensus around the required actions and closure criteria for the site as a whole, and with consideration of" closure objectives SW-1, SW-2, and SW-9. Arctic has requested feedback from the WLWB on whether the contents of the RLUP should be included in a future iteration of the CRP and be utilized as a metric for related closure criteria. The following sections are organized according to Arctic's requests for Board feedback on the following two items:

- Topic 1 - Inclusion of the RLUP in a future iteration of the CRP
- Topic 2 - Use of the RLUP as a metric for related closure criteria

Mining has occurred for more than 20 years, with the initial closure plan completed in 1998 and various subsequent updates and ongoing engagement. The Closure Guidelines identify future use to be a closure principle that is intended to be considered in all aspects of closure planning. It is not clear to the Board

²⁵ See WLWB Online Registry for [W2012L2-0001 – Ekati – ICRP Version 3.0 – Decision Letter and Reasons for Decision – Feb 19 20](#)

why the general expectations of end land use, which will inform closure criteria, are not further defined at this time; or how defining future use so late in the closure planning process may influence the closure plan.

3.4.1 Inclusion of the RLUP in a Future Iteration of the CRP

The Board understands the activities associated with completion of the RLUP to be as follows:

- Arctic proposes to include the RLUP workplan in CRP Version 3.1 (note the preliminary work plan has been provided with Arctic's CRP Package).
- In response to WLWB staff comment 44, Arctic informed that a draft RLUP would be available for inclusion in CRP Version 4.0 and a final RLUP included with the Final CRP.

Arctic described that it envisions the RLUP would be summarized in a report format that would form an Appendix in the CRP and that relevant content would be incorporated into the main body of the CRP document. The Board recognizes there are different ways to gather information related to land use and are of the opinion that the primary focus should be on the outcome of desired land use being incorporated into the appropriate closure objectives and criteria.

In response to WLWB staff comment 44, Arctic further summarized the purpose of the RLUP as follows:

[The] purpose of developing the RLUP is to develop a collaborative forum specifically to discuss and document community expectations around future land use. If the RLUP was not developed as a specific activity and document, Arctic Canadian would continue to undertake community engagement and seek input in relation to traditional knowledge and community expectations through other avenues (e.g., RP-1, TKEG). Arctic Canadian has proposed the RLUP as the recommended path forward. If the RLUP were not to proceed, then Arctic Canadian would seek input from other parties on what would be a more appropriate forum to accomplish the same purposes.

From Arctic's response, the Board understands the RLUP is Arctic's recommended method to collect community information to inform closure planning on the topic of land use; however, other methods are available. Of the reviewers that provided comments and/or recommendations on the topic of the RLUP (Tłıchq Government, IEMA, DKFN, GNWT, and WLWB staff), there was no objections to the proposed work plan for the RLUP; however, there were recommendations or comments on specific items as summarized below:

- Member participants (Tłıchq Government comment 26; WLWB staff comment 45)
- Timing for completion of the work (Tłıchq Government comment 27; WLWB staff comment 46)
- How the RLUP will inform closure criteria (IEMA comment 3; WLWB staff comment 43)
- The use of the Bathurst Caribou Range Plan as a guide for the development of the RLUP on this topic (DKFN comment 11)

- Approval of the RLUP with the Final CRP (GNWT comment 2)

Arctic generally agreed to work with these Parties to advance the RLUP to address the recommendations and comments. Arctic also agreed with GNWT-ENR that the RLUP could be subject to Board approval with the final CRP. Arctic is currently proposing to include the RLUP as an appendix of the CRP. The Board is of the opinion that regardless of having a completed RLUP or not, Arctic is required to complete engagement to inform closure planning and it is recommended that Arctic work with Parties to understand how best to conduct engagement to inform closure planning, and that the outcomes from engagement are documented and incorporated into future iterations of the CRP. The Board is of the opinion that the RLUP should not be considered the sole approach to engagement to inform closure planning on the topic of land use and that engagement on other aspects of closure planning are necessary. The Board notes that the Closure Guidelines provide further discussion and guidance to proponents for effective engagement approaches to inform closure planning and that the Board identified²⁶ the need for further engagement during review of Version 3.0 of the Interim CRP.

3.4.2 Use of the RLUP as a Metric for Related Closure Criteria

Arctic has referenced the RLUP to further inform the closure criteria associated with numerous closure objectives (SW-1, SW-2, SW-9, OP-5, WR-3, WR-5, LLCR-2, LLCF-4, LLCF-5, LLCF-6, WM-1, BI-1, BI-2) and for some closure objectives, the development of the RLUP is proposed as the closure criteria (e.g., SW-9, WR-3). In response to WLWB staff comment 6 regarding the use of the RLUP to inform closure criteria, Arctic states “Given that development of the RLUP has not yet been initiated, it is not possible to preclude what final criteria should be”. In response to WLWB staff comment 6, Arctic stated:

The Returning Land Use Plan is expected to provide information related to community expectations associated with aesthetics of the surrounding natural area that make areas suitable for cultural uses, and contribute to the restoration of wildlife use and caribou movement. This information will be incorporated into final designs for various components.

It is not clear to the Board how the RLUP can be a metric for closure criteria. The Board is of the opinion that Arctic has not demonstrated how a plan, in this case the RLUP, can have attributes of a closure criterion (e.g., measurable, achievable, or have a temporal aspect). The Board thus does not think that the RLUP, as proposed in the April 14, 2022 submission, should be used as a metric for closure criteria but that the outcomes of the engagement (in this case the outcome being a RLUP) should inform the closure criteria and be incorporated into the closure objectives and closure criteria as appropriate.

- ***Decision #4: The Board has decided to reject Arctic’s request to use the RLUP, as currently proposed, as a metric for closure criteria. The Board is also informing Arctic that RLUP should not be considered the sole approach to engagement to inform closure planning on the topic of land use***

²⁶ See WLWB Online Registry for [W2012L2-0001 – Ekati – ICRP Version 3.0 – Decision Letter and Reasons for Decision – Feb 19 20](#)

Signed the 28th day of July 2022, on behalf of the Wek'èezhìi Land and Water Board



Mike Nitsiza
Acting Chair, Wek'èezhìi Land and Water Board



Witness