

Conservation Council of New Brunswick's Review of New Brunswick's Policy Framework for Data Centre Development

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Executive Summary

The Conservation Council of New Brunswick welcomes the Government of New Brunswick's initiative to establish a policy framework for data centre development. The proposed framework identifies many important issues, including electricity costs, water use, environmental impacts, community benefits, public reporting, financial assurances and decommissioning. However, it does not yet provide the measurable standards, transparent decision-making process, independent oversight or enforcement mechanisms required to assess and approve individual projects responsibly.

Many of the proposed protections depend on undefined or discretionary language and require developers to prepare plans or make commitments without specifying the results that must be achieved, the evidence required, or the consequences of non-compliance. The framework also does not adequately address cumulative environmental effects, long-term risks to ratepayers and taxpayers, or the opportunity cost of allocating limited electricity, water and infrastructure capacity to data centres.

CCNB therefore recommends a temporary moratorium on new data centre approvals, construction and reservation of grid capacity until a complete framework has been publicly reviewed and supported by appropriate legislation and regulations.

Before any projects proceed, the framework should:

- establish objective and enforceable environmental, electricity, water and ratepayer standards;
- require independent assessment, verification and public reporting;
- ensure that developers bear all project-related costs and risks without direct or indirect public subsidies;
- require meaningful host-community approval through a transparent process;
- preserve the Crown's constitutional obligations to consult and, where appropriate, accommodate First Nations;
- require enforceable and lasting public benefits; and
- provide regulators with clear inspection, enforcement, suspension and penalty powers.

New Brunswick should approve data centre development only where proponents demonstrate that their projects will protect ratepayers, taxpayers, communities and the environment, respect Aboriginal and treaty rights, provide meaningful public benefits and assume the full costs and risks of development.

Introduction

The Conservation Council of New Brunswick welcomes the Government of New Brunswick's effort to establish a province-wide framework for evaluating data centre development. Large data centres can place extraordinary demands on electricity systems, water supplies, land, municipal services and public infrastructure while creating relatively few permanent jobs compared with their resource use. A clear policy is therefore necessary before committing electricity or other scarce public resources to individual projects.

The proposed framework contains several important principles. It states that data centres will not increase electricity rates, that developers must pay new electricity-system costs associated with their projects, that public financial incentives will not be provided, and that projects must address environmental and community impacts. It also recognizes the importance of water efficiency, decommissioning, public reporting and measurable economic benefits.

However, the framework remains largely aspirational. Many of its most important protections depend on undefined terms such as "viable," "credible," "anticipated," "appropriate," and "clean energy." Other provisions use discretionary language such as "may," "should," and "where appropriate." The document says what government wants to consider, but often does not specify the result a project must achieve, the evidence required, who will verify compliance or the consequences of failing to deliver.

These gaps matter because data centres are long-lived, electricity-intensive facilities. Once grid capacity, generation, transmission, or water infrastructure has been committed, the public may bear costs and risks for decades. New Brunswick should therefore establish a temporary prohibition, or moratorium, on new data centre approvals and development until the framework is complete, enforceable and publicly reviewed. Government should not reserve grid capacity, approve associated infrastructure or allow construction to begin during this period.

Completion of the framework should not create an automatic path to development. No data centre should be developed where the host community does not want it. Community support should be demonstrated through an early, transparent and meaningful local decision-making process, not inferred from developer-led engagement or the absence of formal opposition. This community condition must operate alongside, and not replace, the Crown's distinct constitutional obligations to First Nations.

Overall assessment

The policy framework is a useful starting point; however, it is not yet a complete approval or accountability framework and should not be used to authorize data centre development in its current form. It sets broad policy objectives but does not translate them into a decision-making process with rules that can be applied consistently and fairly. As currently drafted, two officials could apply this policy framework to the same proposal and reach different conclusions because it lacks a scoring system, minimum thresholds, prescribed evidence, or a transparent decision record.

The policy framework also relies too heavily on data centre developers' plans and anticipated benefits. A plan demonstrates intention, not performance. An anticipated benefit is not necessarily a benefit that will materialize. Project proponent commitments regarding electricity rates, water, emissions, employment, local procurement, decommissioning and community benefits should be independently verified and secured in enforceable agreements before a project is recommended.

For these reasons, the immediate policy response should be a temporary ban on new data centre approvals and development while the framework is completed. After that work is done, community acceptance should be a mandatory threshold: a project should not proceed when the people who will host it and experience its impacts do not support it.

Where the framework works

- It acknowledges that taxpayers should not subsidize data centre development.
- It indicates that data centre developers should pay project-related electricity-system costs and provide financial assurances.
- It prohibits financial support, payroll rebates and below-market transfers for new data centre projects.
- It recognizes water, biodiversity, municipal capacity, emissions, noise, light, traffic, waste and decommissioning as relevant considerations.
- It calls for measurable economic and community benefits, public reporting and, in some circumstances, independent auditing.
- It recognizes Canadian data sovereignty, privacy, security and public trust as public-interest considerations.

Where the framework needs improvement

- Key terms and decision tests are not well defined.
- Environmental and community concerns are not translated into measurable minimum standards.
- The language used demonstrates expectations but does not convey binding, enforceable commitments and actions.
- The process for reviewing, scoring, prioritizing and approving projects is not described.
- There is no guaranteed public notice, disclosure, comment period or publication of reasons for decisions.
- Cumulative effects and the opportunity cost of allocating limited clean electricity are not addressed.
- The policy framework does not clearly require lifecycle greenhouse gas accounting or consistency with New Brunswick's climate obligations.
- First Nations engagement is too narrowly described and is not clearly distinguished from the Crown's constitutional duty to consult and accommodate.
- Compliance, auditing and enforcement are conditional rather than mandatory.

Priority recommendations

- Prohibit approvals, development, construction and reservation of grid capacity for new data centres until the policy framework is complete, enforceable and publicly reviewed.
- Grant host communities legally recognized decision-making authority. A project should require community approval through a transparent local process and should not proceed if the community does not want it.

- Prohibit all direct and indirect public subsidies, including grants, tax breaks, rebates, discounted electricity, below-market land or services, publicly funded project infrastructure, loans, guarantees, and public assumption of project risk.
- Complete the standards before assessing or prioritizing projects. Environmental performance targets cannot remain “to be determined.”
- Publish a transparent and consistent project assessment framework with mandatory criteria, scoring, evidence requirements and minimum passing thresholds.
- Require an independent, publicly available assessment of full electricity-system and ratepayer impacts.
- Set absolute limits and minimum performance standards for water, greenhouse gas emissions, air pollution, noise, waste and other important issues.
- Prohibit data centres from being located in or on oceans, lakes, rivers, wetlands and other natural waterbodies, including submerged and floating facilities. Waterbodies must not be treated as industrial sites or used as substitutes for responsible land-based cooling and facility design.
- Require cumulative-effects assessment and a provincial plan for allocating scarce electricity, water and infrastructure capacity.
- Ensure promised jobs, investment, procurement, mitigation and community benefits through enforceable agreements backed by financial assurance.
- Require public disclosure, meaningful participation, independent verification and published reasons for each recommendation.
- Establish clear penalties, suspension and revocation powers, and decommissioning security before approvals are granted.

Language and accountability concerns

Undefined and discretionary language

Currently, some of the terms used weaken the strength of the policy framework. “Must” generally creates an obligation, while “may,” “should,” “where appropriate,” and similar terms preserve discretion. The following terms should be defined or replaced with objective tests.

Term	Why it is weak	Required clarification
Viable	Could mean merely possible, affordable to the developer or likely to work. No evidentiary test is given.	Technically demonstrated at the proposed scale; independently reviewed; fully costed and funded; enforceable; capable of meeting prescribed standards under foreseeable conditions.
Credible pathway	Allows present impacts based on a future promise without a deadline or guarantee.	A binding, financed transition plan with milestones, a firm completion date, reporting and penalties.
Clean energy	No eligible sources, lifecycle test or emissions threshold is stated.	Define eligible sources and maximum lifecycle emissions; address additionality and time-matching.
Anticipated benefits	Developer forecasts may be uncertain and are not necessarily binding.	Independently verified benefits secured through enforceable agreements.

Term	Why it is weak	Required clarification
Where appropriate	Leaves independent auditing and enforcement optional.	Identify the commitments for which auditing is always required.
Should	Expresses a preference rather than a condition of recommendation.	Use “must” for environmental, economic, Indigenous and community commitments.
May include	Makes listed economic-value targets optional.	Specify mandatory minimum benefit categories and thresholds.

“Plan” is repeatedly substituted for performance

The framework often requires a developer to produce a plan to address an impact. A plan may be necessary, but it is not sufficient. Approval should depend on whether the project will meet defined outcomes, not merely on whether a developer has described the activities it proposes to undertake.

Recommended revision

- For each environmental and community concern, specify the applicable standard and baseline, monitoring method, reporting frequency and corrective-action trigger.
- Require demonstration that the proposed measures can meet the standard under normal operations, emergencies, drought, heat, and other foreseeable conditions.
- Require financial assurance and enforceable approval conditions sufficient to implement mitigation, corrective action and decommissioning.

No transparent decision process

The framework refers to a “positive recommendation,” governance, prioritization and limited capacity, but does not identify the decision-maker, the stages of review, the public record, the scoring method or the legal effect of a recommendation. It is also unclear how the framework interacts with electricity approvals, environmental assessment, municipal decisions and other permits.

Recommended revision

- Publish the complete review pathway, decision authorities and relationship to all other approvals.
- Do not accept, assess, prioritize or approve projects, reserve grid capacity or authorize construction until this pathway and its substantive standards are complete.
- Require public notice when a proposal enters review, disclosure of the application and supporting studies, a meaningful comment period and a written response to identified concerns.
- Publish the assessment score, independent reviews, recommendation, conditions and reasons for decision.
- Provide a process to reconsider decisions when information is substantively changed or commitments are not met.

Responsibility for monitoring

The framework does not identify who will monitor compliance, which public body will oversee the work or who will pay the associated costs. These responsibilities should not be left to individual project agreements or determined after a project has been approved.

Data centre developers should pay the full cost of monitoring, inspections and independent audits associated with their projects. Developer funding must not, however, give a developer control over the

monitoring program, the selection of experts or the reporting of results. Qualified experts selected or approved by the legally designated regulator should conduct monitoring or independently verify it. The government must retain authority to inspect facilities, verify information, and require corrective action.

Monitoring should cover electricity demand and curtailment; project-related electricity-system costs; water withdrawal, consumption, and discharge; greenhouse gas emissions and air pollutants; noise, light, traffic, waste, and biodiversity effects; employment, procurement, tax, and community-benefit commitments; and compliance with municipal, environmental, and decommissioning requirements.

Government should prescribe the data, calculation methods, baselines, reporting frequency, quality controls and performance thresholds that apply to every facility. Project-specific reports should be filed in a centralized, searchable public reporting system so communities can compare approved commitments with actual performance over time. The system should identify exceedances, corrective actions, inspection results and unresolved non-compliance, rather than publishing only developer summaries.

Recommended revision

- Require developers to pay the full cost of regulatory monitoring, inspections and independent audits.
- Ensure monitoring programs and experts are selected, approved or overseen by the legally designated regulator rather than controlled by the developer.
- Designate a lead regulator responsible for receiving, verifying and publishing monitoring information and coordinating other responsible bodies.
- Establish standardized data requirements, calculation methods, baselines, reporting schedules and performance thresholds before projects are approved.
- Create a centralized public reporting system containing facility-level monitoring results, commitments, exceedances, inspections, corrective actions and compliance status.
- Require immediate public reporting of exceedances and significant incidents.
- Give the regulator authority and resources to inspect, independently verify information and require corrective action.

Legislative authority for enforcement

The framework states that implementation “may include legislative changes and new enforcement mechanisms”. It also says there should be consequences and enforcement mechanisms for non-compliance. However, a policy framework does not itself necessarily provide legal authority to inspect facilities, compel information, issue orders, impose penalties, suspend operations or revoke an approval.

The framework does not identify the enabling legislation under which requirements and project commitments would be imposed, monitored or enforced. It is unclear whether government intends to rely on new data centre legislation, amendments to existing statutes and regulations, environmental assessment conditions, utility contracts, municipal agreements or some combination of these mechanisms.

The government must answer the following questions before any project is approved:

- What legislation and regulations will make each requirement enforceable?
- Which department, regulator or Crown corporation will be responsible for compliance and enforcement?

- What statutory authority will permit inspections, information demands, corrective orders and responses to violations?
- Under what authority could penalties be imposed or an approval suspended or revoked?
- Which requirements would be enforceable by government and which would depend only on contracts with NB Power, municipalities or other parties?
- How will enforcement responsibilities be coordinated among provincial departments, NB Power, municipalities and other regulators?
- What appeal or review process will apply?
- Will compliance records, orders, penalties and enforcement decisions be made public?

Contractual provisions may help NB Power recover electricity costs or enforce curtailment requirements, but contracts alone may not provide adequate authority to address water use, pollution, community benefits, decommissioning and other public-interest obligations.

Recommended revision

- Identify and enact the necessary enabling legislation and regulations before lifting the temporary ban on data centre development.
- Clearly establish regulatory responsibility, monitoring and inspection powers, enforceable standards, corrective-order powers, consequences for non-compliance, financial-security provisions, public reporting and appeal procedures.
- Explain how statutory approvals, environmental assessment conditions, NB Power contracts and municipal agreements will work together without leaving enforcement gaps.

Community authority, not simply engagement

The framework requires developers to engage local governments and First Nations, but engagement does not give a host community authority over whether a project proceeds. A developer could hold meetings, document concerns and continue with substantially the same proposal. For facilities that may transform local land use, electricity and water demand, noise, traffic, municipal services and the surrounding environment, that is not sufficient.

Host communities should have a legally recognized role in the approval decision. A data centre should not proceed where the community that will host the facility does not support it. Community support should be demonstrated through a transparent, representative and accountable public process, not inferred from the absence of opposition, developer-sponsored engagement or a general provincial approval.

The appropriate mechanism may differ among local governments and rural districts. For an incorporated local government, community approval could require a formal council resolution following public notice, disclosure of the full proposal, and a meaningful public process, in addition to all required planning and zoning decisions. Rural districts require an equivalent locally accountable process; this could include a binding community vote or another decision made by a democratically accountable local body. The government should consult communities on the mechanism and set it out in legislation before considering projects.

Provincial authorities should not be able to use the framework, electricity allocation or another approval to override a host community's refusal. Community authority must also continue through major project changes and expansions, not just the original proposal.

This principle extends beyond data centres. Communities asked to host major developments with significant environmental, infrastructure, health or quality-of-life effects should have a meaningful share of decision-making authority. Establishing that authority would strengthen public trust and reduce the risk that consultation becomes a procedural exercise after key decisions have already been made.

Community approval is separate from the Crown’s constitutional duty to consult and, where appropriate, accommodate First Nations. A municipal or community decision cannot replace First Nations consultation, and provincial or community support cannot extinguish or limit Aboriginal or treaty rights.

Recommended revision

- Make approval from the host community a mandatory condition for a positive recommendation and project development.
- Define in legislation how community approval will be determined for local governments and rural districts.
- Require full public disclosure, adequate participation time and an independently documented record before the community decision is made.
- Ensure provincial authorities cannot override a host community’s refusal through electricity allocation or another provincial approval.
- Require renewed community approval for substantive expansions or changes in electricity demand, water use, generation, technology or environmental effects.
- Preserve the Crown’s separate constitutional obligations to First Nations.

Detailed review of the framework

Purpose

Protection of resources and environmental sustainability

“Its purpose is to protect electricity ratepayers, support the responsible use of energy, water, land, and other resources, generate measurable economic and community benefits, promote environmental sustainability, and advance Canadian data sovereignty and artificial intelligence objectives.”
(Framework, p. 1)

The purpose is broad and generally appropriate, but it gives no direction for resolving conflicts among objectives. For example, a project might advance artificial-intelligence objectives while increasing electricity demand, greenhouse gas emissions or water use. The framework does not say whether protecting ratepayers and the environment is a minimum condition or one factor to balance against economic objectives. The purpose should not be limited to protecting ratepayers; it should also focus on protecting community members and all New Brunswickers.

“Responsible use” and “environmental sustainability” are not defined. Without measurable meaning, these terms offer little direction to decision-makers or developers.

Recommended revision

- State that ratepayer protection, environmental limits, Indigenous rights and legal compliance are mandatory conditions, not interests that can be traded away for economic benefits.
- Add demonstrated support from the host community as a mandatory condition. Engagement alone should not satisfy this requirement.

- Define responsible resource use through efficiency standards, absolute limits, cumulative-effects analysis and consideration of alternative uses of scarce public resources.
- Add protection of public health, climate stability and intergenerational equity to the purpose.

Relationship to existing requirements

“This policy complements, and does not replace, applicable legislative, regulatory, environmental, municipal, utility, engagement, and permitting requirements.” (Framework, p. 1)

This is useful, but the framework does not explain whether a positive recommendation may be issued before environmental assessment, utility review or municipal approval. A policy review should not prejudge or create momentum that undermines later regulatory processes.

The term “engagement requirements” is unclear and should not be treated as a substitute for the Crown’s duty to consult and, where required, accommodate First Nations.

Recommended revision

- Clarify that a recommendation under the framework confers no entitlement to subsequent approvals or grid capacity.
- Require coordination while preserving the independent statutory tests and public processes of each regulator.
- Explicitly preserve the honour of the Crown and the duty to consult and accommodate.

Policy directive and governance

Governance framework still to be established

“The Government of New Brunswick will establish and maintain a governance framework to oversee the assessment, review, and prioritization of data centre proposals, and ensure alignment with provincial strategic, economic, and fiscal objectives.” (Framework, p. 1)

The proposed governance framework is not included. As a result, the public cannot assess who will make decisions, how conflicts of interest will be handled, what expertise will be represented, or how environmental and community objectives will be weighed against economic and fiscal objectives.

Environmental protection, ratepayer interests, public health, municipal capacity and Indigenous rights should be explicit governance objectives, not left within a general reference to provincial alignment.

Recommended revision

- Publish the governance structure for consultation before it is implemented.
- Include independent expertise in electricity regulation, water, climate, public health, municipal planning and Indigenous rights.
- Require conflict-of-interest rules, reasons for decisions and public disclosure of meetings and material considered.

Positive recommendation and competing proposals

“A data centre proposal will receive a positive recommendation under this policy only where it satisfies each of the core criteria set out below.” (Framework, p. 1)

This appears strong, but the core criteria are largely qualitative. A project can be said to “satisfy” a criterion without meeting a defined threshold because terms such as viable, credible and appropriate remain open to interpretation.

The framework also does not say whether failure on one criterion is fatal, who certifies satisfaction or whether conditional recommendations may be issued before evidence is complete.

Recommended revision

- Create pass/fail minimum requirements for each core criterion, supplemented by a transparent scoring system for comparison among projects.
- Prohibit positive or conditional recommendations where required evidence, standards or financial assurances are incomplete.
- Publish a criterion-by-criterion decision record.

Colocation customer exemption

“While colocation customers are not subject to assessment under this policy, Government may consider future measures to encourage strategic economic, innovation, workforce, and research benefits associated with major data centre users operating within New Brunswick.” (Framework, p. 1)

This exemption may allow the users driving a facility’s electricity demand, security profile and economic claims to escape assessment. A data centre operator could meet formal requirements while major tenants change over time or produce few benefits in New Brunswick.

The phrase “may consider future measures” creates no present protection. Tenant identity may also matter for data sovereignty, privacy, security, sanctions compliance, and reputational risk.

Recommended revision

- Assess major colocation tenants individually where they exceed defined electricity, capacity or floor-space thresholds.
- Require operators to disclose tenant categories and substantive changes, subject to narrowly defined confidentiality protections.
- Reassess conditions where a change in users substantively changes demand, risk or promised economic benefits.

Ratepayer and electricity-system impact

Promise that rates will not increase

“Data centre developments will not increase electricity rates.” (Framework, p. 1)

This is one of the framework’s most important commitments, but it is not supported by a methodology. The framework does not identify the protected rate classes, the baseline, the analysis period, or whether indirect costs must be included.

Potential costs include new generation, firm capacity, transmission, substations, reserve requirements, system balancing, fuel infrastructure, financing, accelerated maintenance and stranded assets if a project

is delayed, downsized or closed. A narrow connection-cost analysis would not demonstrate that rates are protected.

Recommended revision

- Require an independent, publicly released, lifecycle ratepayer-impact assessment before any recommendation or grid allocation.
- Include all direct, indirect, incremental and stranded costs across generation, transmission, distribution, capacity, balancing and administration.
- Test multiple demand, electricity-price, fuel-price, delay, closure and curtailment scenarios.
- Require periodic true-ups so costs that emerge later remain with the developer rather than ratepayers.

Payment of new electricity-system costs

“If connecting to the electricity system, developers must agree to pay any new electricity system costs related to the project and agree to manage demand during periods of electricity system constraint.” (Framework, p. 1)

“Related to the project” is not defined and could be interpreted narrowly. “Agree to manage demand” also lacks a required reduction, response time, duration, notice period or penalty.

A contractual promise is only as strong as the counterparty’s security and the enforcement provisions. The framework should prevent costs from being socialized if ownership changes or the project fails.

Recommended revision

- Define attributable electricity-system costs broadly and specify a cost-allocation methodology approved through an open regulatory process.
- Require binding curtailment levels, response times, verification, non-performance charges and emergency procedures.
- Require creditworthy guarantees, security deposits or letters of credit that survive ownership changes and insolvency.

Prioritization of limited grid capacity

“Government will prioritize projects for electricity grid access based on the project’s anticipated economic and community benefits.” (Framework, p. 1)

The framework does not require comparison with non-data-centre uses of the same electricity. Allocating limited clean power to a data centre may increase the cost or delay electrification of buildings, transportation and industry, or require new fossil generation.

“Anticipated” benefits may rely on optimistic developer forecasts. There is no scoring system or requirement to value permanent employment relative to electricity demand.

Recommended revision

- Assess the opportunity cost of electricity allocation, including effects on affordability, electrification and climate targets.
- Use transparent metrics such as permanent jobs, payroll, tax revenue and local procurement per megawatt and per unit of water consumed.
- Prioritize only benefits that are independently verified and contractually secured.

Financial assurances

“Developers must provide financial assurances and contractual commitments against project delay, reduced demand, closure, or cancellation.” (Framework, p. 1)

The framework does not specify the form, amount, duration or beneficiary of the assurance. It also does not address recalculation due to cost changes, project scale, or ownership changes.

Assurance must cover more than unpaid bills. It should protect against stranded generation and grid assets, municipal infrastructure, site remediation and decommissioning.

Recommended revision

- Require independently calculated security covering all reasonably foreseeable public liabilities and stranded costs.
- Use secure, accessible instruments such as irrevocable letters of credit, trusts or bonds rather than unsecured corporate promises.
- Review and adjust security regularly and before any expansion, ownership transfer or substantive operating change.

On-site generation and the “credible pathway” loophole

“Projects that include on-site electricity generation must use clean energy sources, mitigate any associated greenhouse gas emissions, or demonstrate a credible pathway to transitioning to clean generation.” (Framework, p. 2)

The use of “or” permits fossil generation where emissions are “mitigated” or a future transition is considered credible. Neither term is defined. No transition deadline, emissions limit or restriction on offsets is included.

This language could enable long-term gas or diesel generation based on future technology or fuel availability. It also does not address upstream methane emissions or lifecycle emissions.

Recommended revision

- Define clean generation using a stringent lifecycle greenhouse gas threshold.
- Prohibit routine fossil-fuel generation and limit emergency backup generation through operating-hour and emissions limits.
- Require direct emissions reductions; do not allow offsets to substitute for compliance with facility standards.
- If transitional generation is permitted, require a binding, fully financed schedule with near-term milestones and a firm end date.

Water, environmental and municipal impacts

Adverse impacts or a “viable” mitigation plan

“Data centre developers must demonstrate that projects won’t have an adverse impact on infrastructure, groundwater and surface-water resources, and local biodiversity, or have a viable plan to mitigate anticipated impacts.” (Framework, p. 2)

The first part appears protective, but “or” substantially weakens it. Almost any adverse effect could be accepted if the developer presents a plan described as viable. The framework does not define acceptable residual effects or identify impacts that cannot be mitigated.

A mitigation plan may rely on untested technology, future approvals or uncertain water availability. It also may not account for drought, low flows, climate change or cumulative withdrawals by multiple facilities.

Recommended revision

- Define “viable” using technical demonstration, independent review, full funding, enforceability and performance under foreseeable climate conditions.
- Establish no-go thresholds for unacceptable impacts on drinking water, aquatic ecosystems, wetlands, species at risk and critical municipal infrastructure. These thresholds should include an absolute prohibition on locating data centres in or on oceans, lakes, rivers, wetlands and other natural waterbodies.
- Apply the mitigation hierarchy: avoid impacts first, then minimize and restore; compensation should be a last resort and should not justify unacceptable effects.
- Require watershed-scale and cumulative-effects assessment.

Data centres in oceans and other waterbodies

The framework does not address proposals to locate data centres directly in or on oceans, lakes, rivers, wetlands or other natural waterbodies. This includes submerged facilities, floating facilities and associated cooling, power and servicing infrastructure located within a waterbody.

These projects present a fundamentally different level of risk from land-based facilities. They could introduce heat, cooling fluids, fuels, battery chemicals, metals and other contaminants directly into aquatic environments. Corrosion, equipment failure, extreme weather, vessel collisions and damage to power or communications connections could result in releases that are difficult to detect, contain and clean up. Construction, anchoring, maintenance and eventual removal could also disturb habitat, sediments, fish, marine mammals and other aquatic life.

Locating a data centre in a waterbody would make public inspection, independent monitoring, emergency response and enforcement more difficult. Some effects, including localized warming, underwater noise, habitat disturbance and cumulative impacts from related infrastructure, may continue throughout the facility’s operation. Decommissioning could leave damaged habitat, cables, anchors, debris or contaminated equipment behind.

Waterbodies are shared ecological and public resources. They support biodiversity, fisheries, recreation, drinking-water supplies, cultural practices and Aboriginal and treaty rights. They should not be converted into industrial real estate simply because the surrounding water may reduce a developer’s cooling costs. Lower-water and closed-loop cooling options are available for appropriately located land-based facilities, so there is no compelling public interest in accepting the additional, uncertain risks of placing data centres directly in aquatic environments.

A mitigation plan would not adequately address these risks. Prevention is the appropriate policy. New Brunswick should establish a clear prohibition rather than reviewing these projects individually or attempting to determine after an application is submitted whether their impacts can be managed.

Recommended revision

- Prohibit the construction, installation and operation of data centres in or on oceans, estuaries, bays, lakes, rivers, streams, wetlands and other natural waterbodies, including submerged, seabed-mounted and floating facilities.

- Apply the prohibition to the data centre itself and to associated cooling or servicing equipment intended to use the waterbody as the facility’s operating environment.
- Do not permit proponents to satisfy this prohibition through mitigation, habitat compensation, offsets or claims that impacts can be monitored or reversed.
- Ensure the prohibition does not create an exemption from the assessment and regulation of water withdrawals, wastewater discharges, intake structures, transmission connections or other water-related impacts associated with land-based data centres.

First Nations and water information

“Developers must share information on water use and mitigation with First Nations communities, in acknowledgement of their unique cultural relationship to water resources.” (Framework, p. 2)

Information-sharing alone is inadequate. First Nations have constitutionally protected rights and may have title and treaty interests affected by water withdrawal, discharge, electricity infrastructure and land disturbance. Their relationship to water is not merely cultural.

The provision does not ensure early participation, capacity funding, incorporation of Indigenous knowledge or accommodation of impacts.

Recommended revision

- Recognize Aboriginal and treaty rights and the Crown’s duty to consult and, where appropriate, accommodate.
- Require early, ongoing and adequately resourced participation before sites or infrastructure pathways are effectively selected.
- Respect Indigenous data sovereignty and agreed protocols for Indigenous knowledge.
- Do not treat developer engagement as discharging the Crown’s constitutional obligations.

Water efficiency and conservation

“Developers must incorporate water efficiency and conservation measures (such as closed-loop cooling systems) into facility design.” (Framework, p. 2)

This requires measures, but not a minimum level of performance. Closed-loop cooling is given only as an example. The framework does not establish water-use effectiveness targets, potable-water restrictions or requirements to use lower-water cooling technologies.

Efficiency alone may not protect a watershed if the total facility is very large or if several facilities operate in the same region.

Recommended revision

- Require best available low-water cooling technology and justify any departure from closed-loop or dry cooling.
- Set facility-specific withdrawal and consumptive-use limits based on watershed and municipal capacity.
- Restrict use of treated drinking water where suitable alternatives exist.
- Require drought, heat-wave and low-flow operating plans with mandatory reduction triggers.

Water disclosure and monitoring

“Developers must disclose anticipated water withdrawal, consumption, discharge, water sources, treatment requirements, and impacts on municipal infrastructure, groundwater and surface-water resources.” (Framework, p. 2)

Disclosure of anticipated use is useful but does not require disclosure of actual use once operations begin. Nor does it specify the public reporting frequency, measurement method, temperature and quality of discharges, or consequences for exceeding projections.

Withdrawal and consumption should be reported separately because returned water may be warmer, treated or discharged to a different location.

Recommended revision

- Require continuous metering and public monthly reporting of actual withdrawal, consumption and discharge.
- Report source, receiving environment, discharge temperature and quality, treatment chemicals and variance from approved levels.
- Require immediate reporting, corrective action and enforceable consequences for exceedances.

Other environmental effects and decommissioning

“Developers must demonstrate a viable plan for addressing emissions, noise, light pollution, traffic, waste management, decommissioning, and other local environmental effects.” (Framework, p. 2)

No performance limits, monitoring standards or decommissioning outcomes are provided. The phrase “addressing” does not necessarily mean preventing or reducing an effect to an acceptable level.

The provision should also expressly cover air pollutants from backup generation, refrigerants, hazardous materials, electronic waste, spill prevention, emergency response, habitat fragmentation and construction impacts.

Recommended revision

- Replace the general planning requirement with issue-specific standards and monitoring requirements.
- Require baseline studies before construction and ongoing monitoring at the facility boundary and sensitive receptors.
- Require a decommissioning and site-restoration plan, schedule and financial security before construction.
- Apply extended-producer-responsibility and circular-economy principles to servers, batteries, cooling equipment and other electronic waste.

Environmental performance targets “to be determined”

“Developers must agree to environmental performance targets (to be determined), such as Greenhouse Gas (GHG) emissions per provincial economic activity (GDP).” (Framework, p. 2)

Projects should not be assessed before the targets are known. Agreement to an undefined future target does not provide predictability or protection.

GHG emissions per provincial GDP is not an appropriate facility-performance metric. Provincial GDP can grow while a facility’s absolute emissions increase, and the metric obscures the emissions attributable to the project.

Recommended revision

- Establish all environmental targets before accepting or recommending proposals.
- Use facility-level absolute and intensity limits, including lifecycle emissions and electricity-related emissions.
- Require consistency with New Brunswick’s legislated climate targets and carbon budgets, not merely an improvement in emissions intensity.
- Publish performance annually and require corrective action where targets are missed.

Economic value

Economic benefits that “may include” targets

“New data centre developments must deliver economic value to the province, which may include targets related to capital investment, construction and permanent employment, local hiring, wages, workforce development, procurement, tax revenues, research and development, partnerships, and other measurable benefits.” (Framework, p. 2)

The listed categories are relevant, but “may include” does not require any particular target. A project could therefore claim economic value primarily through construction spending while providing few permanent jobs or lasting local benefits.

Gross investment is not the same as net public benefit. The assessment should deduct public infrastructure costs, electricity opportunity costs, foregone revenues and environmental liabilities.

Recommended revision

- Establish mandatory minimum thresholds for permanent employment, wages, local procurement, tax contribution, training and research benefits.
- Assess net economic value after all public and system costs and risks are accounted for.
- Use standardized metrics, including permanent jobs, payroll, taxes and local procurement per megawatt of peak demand.
- Require independent verification and public reporting of actual results against commitments.

No public incentives

“Government will not provide financial support or incentives, land transactions or asset transfers below market value, payroll rebates or other investment incentives to new data centre projects.” (Framework, p. 3)

This is a strong principle, but the framework should use and define the broader term “public subsidy.” Without a comprehensive definition, assistance could be relabelled or delivered indirectly through a Crown corporation, municipality, utility tariff or infrastructure agreement.

A public subsidy should include any measure that transfers public value to a project, reduces a cost the developer would otherwise bear, provides financing or risk protection on terms unavailable in the market, or causes government to forgo revenue. This includes grants, tax credits, exemptions and abatements, payroll or property-tax rebates, discounted electricity or water, below-market land or services, publicly funded project-specific infrastructure, loans, loan guarantees, equity investments, indemnities and public assumption of stranded-asset or closure risk.

“Market value” requires independent determination. The framework also does not clearly say whether the prohibition applies to municipalities, NB Power, other Crown corporations and all provincial departments and agencies.

Recommended revision

- State plainly that data centre projects will not receive direct or indirect public subsidies.
- Apply the prohibition to all provincial departments, agencies and Crown corporations, including NB Power, and to municipalities where provincial authority permits.
- Define public subsidy to include grants; tax credits, exemptions, abatements and rebates; preferential electricity or water rates; below-market land, assets or services; publicly funded project-specific infrastructure; loans, loan guarantees and equity; indemnities; and public assumption of project delay, default, stranded-asset, remediation or closure risk.
- Require developers to pay the full incremental cost of all electricity, water, road, emergency-service and other infrastructure needed for their projects.
- Require independent valuation and public disclosure of all land, asset, infrastructure and service arrangements.

Use of excess heat

“Projects will be prioritized if they include a business case or business partnership for the economic use of excess heat.” (Framework, p. 3)

A business case or partnership does not ensure that heat will actually be recovered. The value depends on temperature, distance to users, infrastructure, seasonal demand and a binding off-take arrangement.

Heat recovery should improve a project but should not compensate for failure to meet economic or environmental thresholds.

Recommended revision

- Award priority only where a technically feasible, financed and contractually supported heat-use project will be implemented.
- Require milestones and public reporting of actual heat captured and useful energy delivered.
- Do not allow heat-recovery benefits to offset non-compliance with mandatory criteria.

Project viability and alignment

Undefined project viability test

“Developers must demonstrate the viability of new data centre developments, including financial capacity, operating experience, site control, project readiness, evidence of customer demand, compatibility with provincial economic, environmental, and infrastructure objectives, and commitments to ongoing public reporting.” (Framework, p. 3)

The listed considerations are sensible, but the test has no minimum evidence, scoring or independent due diligence. “Compatibility” with provincial objectives is particularly subjective.

Evidence of demand should be robust enough to prevent speculative projects from reserving scarce grid capacity. The framework should address corporate structure, beneficial ownership, financing sources, creditworthiness and experience with environmental and community compliance.

Recommended revision

- Publish a viability test that includes required documentation for each factor.
- Require binding customer commitments and capacity milestones before grid capacity is reserved.
- Require reassessment before ownership, scale, technology, generation or major customers change in a substantive way.

Public reporting commitment

“Developers must demonstrate ... commitments to ongoing public reporting.” (Framework, p. 3)

The required information, frequency, format, assurance and duration are not defined. A general commitment may be undermined by broad claims of commercial confidentiality.

Reporting should cover both predicted and actual performance so the public can determine whether the project continues to meet the basis on which it was recommended.

Recommended revision

- Create a standard public reporting schedule and open-data format.
- Require reporting of electricity demand, curtailment, water use, emissions, waste, incidents, employment, wages, procurement, taxes, community benefits and compliance and any other information communities ask for.
- Limit confidentiality to narrowly justified information and publish aggregated information only when necessary.

Data sovereignty, privacy and public trust

“Government will consider data centre usership and prioritize projects that support Canadian data sovereignty, privacy protection, security, transparency, public trust, and opportunities for domestic use of facility capacity.” (Framework, p. 3)

These are important considerations, but “consider” and “support” do not establish minimum requirements. The framework does not describe cybersecurity, privacy, beneficial ownership or security-review standards.

The meaning of “usership” should be clarified, particularly in light of the exemption for colocation customers.

Recommended revision

- Establish minimum privacy, cybersecurity, ownership-transparency and incident-reporting requirements.
- Define the circumstances in which users and ownership must be disclosed and independently reviewed.
- Require continuing compliance and notification of material changes in users, ownership or security risk.

Community benefits and participation

Engagement with local governments and First Nations

“Developers must engage with local governments and First Nations and agree to measures to ensure public engagement, participation/partnership, economic opportunities and community benefits.” (Framework, p. 3)

The framework does not define when engagement begins, what information must be disclosed, how feedback affects decisions or how participation will be funded. Engagement after a preferred site or infrastructure route is chosen may be too late to influence the project.

Local governments may face costs for roads, emergency services, water, wastewater and planning. Their capacity and consent to service the project should be demonstrated rather than assumed.

Recommended revision

- Require early engagement before key project decisions are fixed and provide complete, accessible information.
- Require approval from the host community through a transparent, legally recognized and democratically accountable process. Where the community does not approve the project, it should not receive a positive recommendation or proceed to development.
- Require a public engagement report documenting issues raised, project changes and unresolved concerns.
- Require binding municipal servicing and cost-recovery agreements.
- Provide capacity support for affected communities and First Nations.

Optional measurable commitments

“Developers should identify measurable financial, legal, and performance commitments related to employment, training, infrastructure, community services, environmental mitigation, public engagement, and benefit-sharing tailored to Indigenous interests.” (Framework, p. 3)

The phrase “should” makes commitments needed to deliver community benefits optional. “Identify” is also weaker than “enter into” or “fulfil.”

Benefit-sharing tailored to Indigenous interests should be developed with affected First Nations, not unilaterally tailored by a developer.

Recommended revision

- Replace “should identify” with “must enter into and comply with.”
- Require community-benefit agreements before a positive recommendation.
- Ensure Indigenous benefit arrangements are distinctions-based and co-developed without limiting Aboriginal or treaty rights.

Duplicated requirement for an impacts plan

“Developers must have a plan to address emissions, noise, air quality, light, traffic, waste management, land use, decommissioning, and demands on municipal services.” (Framework, p. 3)

This largely duplicates section 2.2 but adds air quality, land use and municipal services. The duplication risks inconsistent interpretation because one provision requires a “viable” plan and the other simply requires a plan.

The two provisions should be consolidated into a single set of mandatory performance and planning requirements.

Recommended revision

- Consolidate all environmental and local-impact requirements in section 2.2.
- Specify baseline studies, standards, monitoring, public reporting, corrective action and enforcement for each.
- Require full cost recovery for demands placed on municipal services.

Auditing and enforcement “where appropriate”

“All commitments should be measurable, monitored, publicly reported, and independently auditable where appropriate, with consequences and enforcement mechanisms for non-compliance.”

(Framework, p. 3)

This is the right concept but is weakened by the phrases “should,” “where appropriate,” and the absence of an identified legal mechanism. The framework does not say what enabling legislation will authorize monitoring, inspections, corrective orders, consequences for non-compliance, suspension or revocation.

Recommended revision

- Replace “should” with “must” and define which commitments require independent annual audit.
- Identify the enabling legislation, responsible regulator and legal authorities through which each requirement will be monitored and enforced.
- Enact any necessary legislation and regulations before projects are approved or the temporary ban is lifted.
- Publish compliance reports, audit findings, exceedances, corrective actions and enforcement decisions.
- Explain how financial security and contractual remedies will interact with statutory enforcement authority.

Conclusion

New Brunswick needs a strong policy framework in place before allocating large amounts of electricity, water and public infrastructure capacity to data centres. The proposed framework recognizes many of the correct issues, but recognition alone will not protect ratepayers, communities or the environment. Until the policy contains clear standards, a transparent decision process and enforceable protections, the province should prohibit new data centre approvals and development, including construction and the reservation of grid capacity.

The framework should be revised so that its central safeguards are objective, measurable, independently verified and enforceable. Terms such as “viable” and “credible” must be defined. Expectations described with “may” and “should” should become mandatory where they concern important public interest issues. Environmental targets, ratepayer tests, community-benefit requirements and enforcement mechanisms should be established before any project is assessed or prioritized.

The completed policy must also prohibit all direct and indirect government subsidies. This prohibition should extend beyond grants to include tax breaks, rebates, preferential electricity or water rates, below-market land or services, publicly funded project infrastructure, loans, guarantees and any public

assumption of financial or stranded-asset risk. Data centre developers, rather than taxpayers or ratepayers, should bear the full costs and risks of their projects.

Once a complete framework is in place, development should still be conditional on local acceptance. No community should be required to host a large data centre that it does not want. Support must be demonstrated through an early and transparent community process rather than assumed from consultation conducted by the proponent. This local requirement must complement, not diminish, the Crown's duties and obligations to First Nations.

The completed framework should also permanently prohibit data centres from being located in or on oceans, lakes, rivers, wetlands and other natural waterbodies. Aquatic environments are shared ecological and public resources, not industrial sites. Submerged and floating facilities would create additional risks of thermal effects, contamination, habitat disruption, difficult emergency response and incomplete decommissioning. These risks are unnecessary when data centres can be located on land and designed to use closed-loop, dry or other low-water cooling systems. The province should prevent these developments rather than relying on mitigation after aquatic environments have been put at risk.

Most importantly, government should not reserve grid capacity or provide a positive recommendation on the strength of projected benefits and future plans. Projects should proceed only where developers demonstrate, through public and independently reviewed evidence, that they can protect ratepayers and taxpayers, operate within environmental limits, provide meaningful and lasting benefits, respect Indigenous rights and assume the full costs and risks of their development.