



Board Bylaws

March 2019

Contents

Approval	iii
Introduction	1
1 Definitions	1
2 Compliance	2
3 Membership of the Review Board	2
3.1 Review Board members.....	2
3.2 Chairperson	2
3.3 Alternate members	3
3.4 Review panels.....	3
4 Duties and powers of Review Board members	4
4.1 Chairperson	4
4.2 Review Board members.....	4
4.3 Absence or incapacity of Review Board members	5
5 Term of office	5
5.1 Review Board members.....	5
5.2 Alternate members	5
5.3 Acting after expiry of term	6
6 Removal of a Review Board member by the federal Minister	6
7 Conflict of interest	6
8 Protection from personal liability	7
9 Staff	7
9.1 Executive Director	7
10 Board meetings	7
10.1 General procedures.....	7
10.2 Notice of meetings.....	8
10.3 Participation	8
10.4 Decisions of the Review Board.....	9
10.5 Meeting minutes	9
11 Financial matters	9
11.1 Fiscal year	9

Mackenzie Valley Environmental Impact Review Board

11.2	Annual budget	9
11.3	Books of account.....	10
11.4	Consolidated financial statements.....	10
11.5	Audits	10
11.6	Signing authorities	10
11.7	Borrowing powers	10
12	Location of the office	11
13	Establishment of committees.....	11
14	Review Board policies	11
15	Record keeping.....	11
16	Amendment of bylaws	11

Approval

These Board Bylaws were approved by Review Board Motion #032619-04 on March 26, 2019. The Bylaws were amended according to Section 10 of the Board's previous Bylaws (2005). Future bylaw amendments will be made in accordance with Section 16 of these Bylaws.

Introduction

The Mackenzie Valley Environmental Impact Review Board (Review Board) is established by the *Mackenzie Valley Resource Management Act* (the Act) to conduct environmental assessments and environmental impact reviews of proposed developments in the Mackenzie Valley. The Review Board is a quasi-judicial administrative tribunal that has powers and employs procedures similar to a court of law.

Under section 29 of the Act, these bylaws guide the conduct and management of the Board's internal administrative affairs and enable the Board to create policies which set out more detailed administrative functions. The Board's guidelines, policies, and processes (e.g. Rules of Procedure) for carrying out its environmental impact assessment responsibilities are described elsewhere.

For each bylaw that relates directly to a provision of the Act, reference to the Act is noted in the text. In the case of a discrepancy between these bylaws and the Act, the Act prevails.

1 Definitions

the Act: means the *Mackenzie Valley Resource Management Act*.

Chairperson: means the person appointed as the Chairperson of the Review Board pursuant to subsection 12(1) of the Act. The Chairperson is also the Chief Executive Officer of the Review Board.

Environmental impact assessment: includes the processes set out in part 5 of the Act, including preliminary screening, environmental assessment, and environmental impact review.

Federal Minister: means the Minister of Indian Affairs and Northern Development (Crown-Indigenous Relations and Northern Affairs Canada).

Review Board: means the Mackenzie Valley Environmental Impact Review Board established by section 112 of the MVRMA.

Review Board member: includes all members of the Review Board, including the Chairperson and alternate members.

Review panel: means a panel of three or more people appointed by the Mackenzie Valley Environmental Impact Review Board to conduct an environmental impact review of a proposed development.

Review panel member: means a member of a Review Panel appointed pursuant to subsection 132(1) of the Act.

Words having a defined meaning in the Act have the same meaning in these Bylaws.

2 Compliance

- a) Review Board members will conduct themselves and Board business in a manner consistent with these bylaws.

3 Membership of the Review Board

3.1 Review Board members

- a) The Review Board will consist of not less than seven Review Board members, including a Chairperson (per ss. 112(1)).
- b) All of the Review Board members will be appointed by the federal Minister (per ss. 11(1)).
- c) Other than the Chairperson (per ss. 112(2-3)):
 - I. half of the Review Board members will be nominated by first nations and the Tłı̨chǫ Government, including at least one nominated by the Gwich'in First Nation, one nominated by the Sahtu First Nations, and one nominated by the Tłı̨chǫ Government,
 - II. at most one half of the Review Board members, other than those appointed in accordance with I., will be nominated by the territorial Minister, and
 - III. the remaining Review Board members will be appointed directly by the federal Minister.

3.2 Chairperson

- a) The Chairperson will be appointed by the federal Minister from persons nominated by a majority of Review Board members (per ss. 12(1)). If a majority of Review Board members do not nominate a person acceptable to the federal Minister within a reasonable time, the Minister may appoint any person as Chairperson (per ss. 12(2)).
- b) Review Board members may nominate by motion a Chairperson whenever the position becomes vacant. The person nominated may, but need not be, an existing member of the Review Board.

- c) The Review Board may adopt a policy that sets out the process for nominating a Chairperson.
- d) Review Board members may designate by motion an acting Chairperson that will exercise the powers and perform the duties of the Chairperson in the case of absence or incapacity of the Chairperson (per ss. 12 (3)). Review Board members must preserve quorum when designating an acting Chairperson.

3.3 Alternate members

- a) An alternate member may be appointed by the federal Minister to act in the event of the absence or incapacity of a Review Board member (per ss. 11 (2)).
- b) Where the Review Board determines that its ability to conduct Board business could be compromised as a result of the incapacity or absence of a Review Board member, the Chairperson will notify the federal Minister and request that the federal Minister appoint an alternate member.
- c) The Chairperson will ensure that an alternate member is provided with an orientation to the matters under consideration by the Review Board.
- d) Upon return of the Review Board member, the alternate member's responsibilities will terminate except that the alternate member will continue in any environmental assessment or review processes in which they have participated, until a decision is made.

3.4 Review panels

- a) When a development proposal is referred to environmental impact review, the Review Board will appoint a panel of at least three members, including a chairperson, to conduct the review (per ss. 132 (1)). Review Panel members can include members of the Review Board or others with expertise related to the development (per ss. 132 (2)).
- b) The members of the Review Board who participate in the appointment of Review Panel members must include in equal numbers members appointed to the Review Board on the nomination of first nations or the Tłı̨chǫ Government, and members not so appointed, other than the Chairperson (per ss. 132 (3)).

4 Duties and powers of Review Board members

4.1 Chairperson

- a) The Chairperson of the Review Board is its Chief Executive Officer and has the powers and duties prescribed by the bylaws of the Review Board (per s.13).
- b) As the Chief Executive Officer, the Chairperson has principal responsibility for the administrative and financial affairs of the Review Board. The Chairperson may delegate, at their discretion, certain administrative duties to the Review Board and/or the Executive Director.

4.2 Review Board members

- a) Review Board members, including the Chairperson, may:
 - i. participate in Review Board decision-making on matters related to preliminary screenings, environmental assessments, and environmental impact reviews;
 - ii. participate in decisions on internal administrative affairs and other Board business; and
 - iii. act as a member of committees that may be established by the Review Board from time to time.
- b) Review Board members, including the Chairperson, will:
 - i. conduct themselves in accordance with good faith and the highest standards of corporate governance;
 - ii. be familiar with the Act, regulations, and the legal and administrative context for Review Board operations and decision-making;
 - iii. be aware of the purposes, functions, roles and responsibilities of the Review Board, and stay informed on development proposals before the Review Board;
 - iv. conduct themselves and Board business in a manner consistent with these bylaws and with Review Board policies;
 - v. prepare for meetings by reviewing the material being considered;

- vi. subject to Section 4.3, attend and actively participate in all Review Board activities and meetings;
- vii. represent the Review Board as required;
- viii. in the conduct of environmental assessments and environmental impact reviews, adhere to the principles of natural justice and administrative fairness; and
- ix. when necessary and by a motion of the Review Board perform the duties of the Chairperson.

4.3 Absence or incapacity of Review Board members

- a) Review Board members will:
 - I. where possible, notify the Chairperson and Executive Director in a timely manner of any anticipated absence or incapacity;
 - II. where possible, notify the Chairperson or the Executive Director as soon as reasonably possible in advance of a Review Board meeting if they are unable to attend a meeting; and
 - III. whenever possible, use alternate means of participating in Review Board meetings, if attendance is not possible.

5 Term of office

5.1 Review Board members

- a) Review Board members, including the Chairperson, hold office for a term of three years, and may be reappointed by the federal Minister in the same or another capacity (per ss. 14(1-2)).

5.2 Alternate members

- a) An alternate member holds office for the period of absence or incapacity of the Review Board member being replaced. Upon return of the Review Board member, the alternate member will continue in any environmental assessment or environmental impact review in which they have participated until a decision is made.

5.3 Acting after expiry of term

- a) If, in the opinion of the Chairperson, it is necessary for a Review Board member to continue to act after the expiry of that member's term in relation to an environmental assessment, an environment impact review or an examination of impacts on the environment that stands in lieu of an environmental impact review, the Chairperson may request that the federal Minister authorize the Review Board member to continue to act in relation to that proceeding (per ss. 112.1(1)¹).
- b) The request in a) will be made by the Chairperson at least two months before the day on which the Review Board member's term expires (per ss. 112.1(2)²). If the federal Minister neither accepts nor denies the request within two months after the day on which it is made, the request is deemed to be accepted (per ss. 112.1(3)³).

6 Removal of a Review Board member by the federal Minister

- a) A Review Board member who has been appointed by the federal Minister may not be removed from office except after consultation by the federal Minister with the Review Board and, where applicable, with the territorial Minister, the first nation or the Tłı̄chǫ Government that nominated the Review Board member (per ss. 14(3)).

7 Conflict of interest

- a) A Review Board member will not act in relation to an application to the Review Board or participate in a decision of the Review Board that would place the member in a material conflict of interest (per ss. 16(1)).
- b) A Review Board member is not placed in a material conflict of interest merely because of any status or entitlement conferred on the Review Board member under the Gwich'in Agreement, the Sahtu Agreement, the Tłı̄chǫ Agreement or any other land claim agreement, or the Déline Agreement (per ss. 16(2)).
- c) Where there is potential for a material conflict of interest or bias with respect to the participation of a Review Board member in a Review Board decision, the member will inform the Chairperson, or in the case of the

¹ Not yet in force

² Not yet in force

³ Not yet in force

Chairperson, inform the Review Board, of the nature and extent of the conflict or bias.

- d) Potential for material conflict of interest or bias, when declared by a Board Member or the Chairperson, will be recorded in the minutes of a Review Board meeting at the earliest opportunity.

8 Protection from personal liability

- a) Review Board members and employees are not liable for anything done or omitted to be done in good faith in the exercise or purported exercise of any powers under the Act (per s. 20).

9 Staff

- a) The Review Board may employ any persons and retain the services of any contractors necessary for the conduct of its business and may fix the conditions of their employment or contract and pay their remuneration (per ss. 18(1)).
- b) The Review Board may make agreements to share employees, facilities, and the services of contractors with other co-management Boards or other organizations (per ss. 18(2)).

9.1 Executive Director

- a) The Review Board will appoint an Executive Director who will manage the day-to-day affairs of the Review Board, including hiring and managing Review Board employees and contractors consistent with Board policy.
- b) The Executive Director is responsible for ensuring that staff comply with policies and procedures approved by the Board. Any discipline of staff is the Executive Director's responsibility, consistent with Board policy.

10 Board meetings

10.1 General procedures

- a) The Review Board may hold meetings for the purpose of conducting Board business, including internal administrative affairs.
- b) The Chairperson will, when present, preside at all meetings.

- c) Review Board meetings will be held:
 - i. on such fixed schedule as the Review Board may establish from time to time;
 - ii. at any time at the call of the Chairperson; or
 - iii. when any two Review Board members request a meeting by presenting a written request to the Chairperson 14 days in advance and specifying the reason for the meeting.
- d) The quorum for meetings will consist of five Review Board members, including: the Chairperson; two of the Review Board members appointed on the nomination of first nations and the Tłı̨chǫ Government; and two of the Review Board members not so appointed (per ss. 112 (4)).
- e) The Review Board adopts *Robert's Rules of Order* to guide the conduct of its meetings and decision-making.
- f) The Review Board's deliberations are strictly confidential.
- g) A Board meeting will not be open to the public unless the Review Board decides to open all or part of the meeting to the public.

10.2 Notice of meetings

- a) Notice of regularly-scheduled Review Board meetings, together with an agenda and all supporting materials, will be given to the Review Board members at least five days in advance of the date set for such a meeting or upon such reduced notice as the Chairperson deems adequate.
- b) A notice may be provided by personal communication, by mail, facsimile, phone, or by email or other electronic means.

10.3 Participation

- a) Any Review Board member may participate in a meeting by being physically present or by other means (e.g. telephone) that enable all persons in the meeting to hear each other; a Review Board member participating by such other means is deemed to be present at the meeting (per ss. 21(2)).
- b) No Review Board member will have any power to attend or vote at any meeting of the Review Board by proxy.

10.4 Decisions of the Review Board

- a) A motion passed by a majority of the quorum of the Review Board at a Review Board meeting is a decision of the Review Board (per ss. 21(1)).
- b) If quorum is not available at a meeting or a meeting cannot be scheduled, a motion of the Review Board may be circulated to all Review Board members in writing (including email or other electronic means) by the Chairperson. Such a motion will be approved if a majority of the quorum of the Review Board members signify in writing that they approve of the motion. A motion approved in this way will be recorded in the minutes of the next Review Board meeting.

10.5 Meeting minutes

- a) The Review Board will prepare and keep meeting minutes. The minutes will include, but not be limited to a record of:
 - i. the names of the Review Board members present at each Review Board meeting;
 - ii. all motions, including a record of the names and votes of members voting, or abstaining from voting, for and against, each motion.
- b) Meeting minutes will be circulated among the Review Board members for review and approval at the next Review Board meeting. Once approved, these minutes constitute the Review Board's official record of discussion and decisions.

11 Financial matters

11.1 Fiscal year

- a) The fiscal year of the Review Board will be the twelve-month period beginning April 1 and ending March 31 of each year.

11.2 Annual budget

- a) The Review Board will before the beginning of each fiscal year prepare and submit an operating budget for the following year to the federal Minister for consideration (per ss. 26 (1)).

11.3 Books of account

- a) The Review Board will maintain books of account and related records in accordance with generally accepted accounting principles recommended by the Canadian Institute of Chartered Accountants or its successor (per ss. 26 (2)).

11.4 Consolidated financial statements

- a) The Review Board will annually prepare consolidated financial statements (including supporting information as required) in accordance with generally accepted accounting principles recommended by the Canadian Institute of Chartered Accountants or its successor (per ss. 26 (3)).

11.5 Audits

- a) The Review Board will retain an auditor for each fiscal year.
- b) The accounts, financial statements and financial transactions of the Review Board may be audited by the Auditor General of Canada who will make a report of the audit to the Review Board, which will transmit the report to the federal Minister (per ss. 26 (4)).

11.6 Signing authorities

- a) Contracts, documents and instruments in writing requiring execution by the Review Board will be signed by the Chairperson or Executive Director in accordance with the Act and Board policy. The Review Board may from time to time, by motion, appoint any other person on behalf of the Review Board to execute contracts, documents, or other instruments in writing either generally or for specific matters.

11.7 Borrowing powers

- a) Subject to 11.7(b), the Review Board will not borrow money, mortgage, pledge, or encumber any of its assets in any way.
- b) The Review Board may maintain at a chartered bank, and may draw down on, a line of credit sufficient to provide bridge financing from one fiscal year to another for the purposes of paying staff wages and benefits, Review Board member honoraria, and costs associated with maintaining the Review Board office in the event that transfer payments are not received in a timely fashion. The line of credit will be repaid immediately

from the proceeds of transfer payments when received from the Government of Canada.

12 Location of the office

- a) The main office of the Review Board will be at Yellowknife, or at such other place in the Mackenzie Valley as is designated by the Governor in Council (per s. 113).

13 Establishment of committees

- a) The Review Board may, from time to time, form a committee of Review Board members to study and advise the Review Board on any matter within the Review Board's mandate.

14 Review Board policies

- a) The Review Board may from time to time, approve and adopt policies to guide the conduct of its administrative affairs including, but not limited to: a code of conduct for Review Board members and/or employees; a Board administrative policy; and a staff administrative policy.
- b) Review Board members and employees will conduct themselves and Board business in a manner consistent with Board policies.
- c) An approved copy of all Board policies will be signed by the Chairperson and the Executive Director, and provided to all Review Board members and/or staff where applicable.

15 Record keeping

- a) Minutes and records of the Review Board (including bylaws, policies, and guidelines) will be kept in a secure location at the offices of the Review Board, or any other place designated by the Review Board.

16 Amendment of bylaws

- a) These bylaws may be amended through the following process:
 - i. First, two Review Board members must provide notice at a Board meeting or written notice to the Chairperson and Executive Director to begin the process of amending the bylaws;

Mackenzie Valley Environmental Impact Review Board

- ii. Second, details of the proposed amendments must be provided to the Review Board members in accordance with the meeting notice provisions under Section 10.2;
- iii. Following these two steps, bylaws may be amended at a Board meeting by motion of the Review Board.