



NWT BOARD FORUM

RESOURCE
MANAGEMENT
INFORMATION
FOR THE NWT

ORIENTATION REFERENCE GUIDE

2016

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Introduction to Board Orientation

ABOUT THE NWT BOARD FORUM

The purpose of the NWT Board Forum is to give organizations involved in land use planning, environmental assessment, land and water regulation and resource management an opportunity to learn from one another and to coordinate activities. The Forum is intended to improve and maintain effective lines of communication between its members, resolve common issues, and share expertise. It also provides industry, government and other organizations with a structured forum to engage and interact with the NWT's Co-management Boards.

The NWT Board Forum is made up of the Chairs of NWT resource management Boards and committees set up by NWT Aboriginal rights agreements to co-manage lands and resources in the geographic areas covered by those agreements. Indigenous and Northern Affairs Canada (INAC), the Government of the NWT (GNWT), the Office of the Regulator of Oil and Gas Operations (OROGO) and the National Energy Board (NEB) also participate in the Forum as they share regulatory responsibilities in the NWT with the Boards and committees.

The NWT Board Forum, in cooperation with the INAC Governance and Partnerships Branch, has used its collective interests to enhance the functioning of NWT Boards and committees by developing training programs, templates for strategic and business plans and orientation materials, including this course, for Board/committee members.

For more information: <http://www.nwtboardforum.com/>





TRAINING FOR NEW BOARD MEMBERS

The responsibilities of Board members, particularly new Board members, are challenging. Many of the skills, tools and demands on Board members are similar from Board to Board, whereas others are unique to the Region or to the specific Board itself. This allows for a number of shared learning opportunities but also requires additional training that pertains to specific land claims, pieces of legislation, and individual Board rules, procedures, and guidelines.

It is important that all Board members understand the full NWT regulatory system and have a good understanding of the spirit and intent of all land claim and self-government agreements. It is also important to have members engaged in and motivated about their responsibilities as a Board member, and their role in an important decision-making system in the NWT.

Further, it is important that Board members understand some of the fundamental requirements, constraints, and liabilities of being an appointed Board member.

To ensure Board members and employees have the knowledge, skills and capacity to fulfill their roles, the Governance and Partnerships Branch, in conjunction with the Boards, completed three capacity building projects in 2005/2006:

- “Best Practices of Institutions of Public Governance and NWT Boards”;
- “NWT Boards Training Needs Assessment and Key Considerations for the Development of an Orientation Manual”; and,
- “General Orientation Binder for NWT Board members”.

NWT Board Forum has developed orientation materials and training opportunities that build on the work described above, and focuses on ensuring that Board members and employees have up-to-date and accessible information.

Orientation materials for Board members and staff includes:

- Orientation Reference Guide (this document)
- In-person and online orientation training

NWT Board Forum provides other training materials and courses on key topics for Board members and staff throughout the year.

It is important that all Board members understand the full NWT regulatory system and have a good understanding of the spirit and intent of all land claim and self-government agreements.



ABOUT THIS ORIENTATION REFERENCE GUIDE

This Reference Guide provides the basic concepts on a number of key topics that are important for Board members and staff. It is an introduction and an overview of resource management information in the NWT, as well as key organizational issues for Board members and staff.

The Guide can be used on its own and as a reference tool for training courses. The Guide does not need to be read sequentially. Each chapter can be read on its own, as needed. Links between chapters are provided.

The Guide briefly describes an overview of:

- The integrated resource management system in the NWT
- Northern Land Claim Agreements and the role of management Boards in addressing the objectives of these agreements
- The role of various management Boards and their contribution to a comprehensive and integrated resource management system in the NWT
- The key organizational requirements for each Board to function effectively
- The roles and responsibilities of Board members and staff and expectations of their personal conduct



As this Guide provides only an overview, links to supporting materials and resources are provided throughout the document. NWT Board Forum also provides additional information on certain topics on its website (www.nwtboardforum.com) and upon request. Additional resources and training on specific topics within this Guide may be developed in the future by the NWT Board Forum.

CONTENTS OF THE ORIENTATION REFERENCE GUIDE

Chapter	Description
Part 1: Land and Resource Management in the NWT	
Preface	Introduction to Land and Resource Management in NWT The preface provides an overview of the NWT and introduces the concept of land and resource management in the NWT.
1	Integrated Resource Management System The first chapter describes NWT's integrated resource management system, including: an overview of NWT's two key regulatory jurisdictions and the key principles of the system: co-management and integration and coordination among the various activities of the Boards.
2	NWT Land Claim Agreements This chapter provides an overview of northern land claim agreements in the NWT and how these agreements have changed the approach to resource management in the NWT. It also identifies areas that currently do not have settled land claims.
3	Resource Management Boards This chapter describes the concept of Resource Management Boards and provides a detailed description of each Board. It also describes the relationships between the Boards, and its relationships between governments and regions.
4	Environmental Legislation and Agencies This chapter considers the most relevant federal and territorial legislation for management Boards in the NWT. It also discusses the agencies that are responsible for administering the various pieces of legislation and regulations.
Part 2: Governance	
5	Administrative Law This chapter briefly describes key principles of administrative law and how Boards must exercise their authorities and make decisions in a manner that will withstand public scrutiny and legal challenge.
6	Board Governance This chapter describes principles, practices and standards that characterize good Board governance.
7	Roles and Responsibilities This chapter addresses the roles and responsibilities of the Board Chairperson, members and staff and considers day-to-day operations of a Board.
8	Making Effective Decisions This chapter provides guidance on how Board members can contribute to effective Board decisions.
9	Effective Meetings/Hearings This chapter provides guidance for conducting effective meetings and hearings.
10	Code of Conduct This chapter addresses the expected standards of personal conduct for Board members and staff, as well as examples of what to avoid.



Part 1:

LAND AND RESOURCE MANAGEMENT IN THE NWT



Preface: Introduction to Land and Resource Management in the Northwest Territories

In the Northwest Territories, the negotiation of regional land claim agreements has resulted in different types of land ownership and an integrated and coordinated regulatory system of land, water and resource management.

ABOUT THE NWT

Canada's Northwest Territories (NWT) is located north of the 60th parallel, above Saskatchewan, Alberta, and eastern British Columbia, between the Yukon and Nunavut.

The territory is divided up into areas where land claims have been settled and resource and self-government agreements are in place, and areas where negotiations are still underway.

Over 43,200 people live in the NWT, of which approximately half are Aboriginal. Much of the population lives in small communities, with approximately 20,000 people living in the capital city, Yellowknife.

Mineral and petroleum exploration and development are important components of the NWT economy. The NWT hosts mineral and petroleum projects at various phases of development including exploration, advanced exploration, operation/production, remediation/reclamation, and post-closure monitoring.

On the political front, the NWT operates under a consensus system of government, rather than a system of party politics. Within this system, all 19 members of the Legislative Assembly are



elected as independents in their constituencies and among themselves vote on the Premier and six Cabinet members, who function collectively in much the same way as a provincial legislature.

BACKGROUND ON THE LAND AND RESOURCE MANAGEMENT SYSTEM IN THE NWT

Currently, there are four settled comprehensive land claim agreements, or “modern treaties” in the NWT:

1. Inuvialuit Final Agreement (1984)
2. Gwich’in Comprehensive Land Claim Agreement (1992)
3. Sahtu Dene and Métis Comprehensive Land Claim Agreement (1993)
4. Tlicho Land Claims and Self-government Agreement (2005).

By guaranteeing consultation and participation in the land and resource management regulatory system, modern treaties give Aboriginal groups in the NWT a significant say in land, water and environmental management. Through the signing of these agreements, new laws came into force or were revised and Co-management Boards and other management bodies were established or were provided with additional authority over land, water and environmental management.

The intent of modern treaties is to clarify how renewable and non-renewable resources will be managed by different land owners, how and by whom resource development will be managed and regulated, and how parties will work together when making decisions related to the resources of the NWT.

Modern treaties also include chapters on Economic Measures which ensure, among other things, that governments proposing economic development programs within a region must consult with the governing body or bodies of that region.

In areas of the NWT where modern treaties have not yet been reached, there are original, or “historic” treaties in place. Treaties 8 and 11 in the southern part of the NWT and the rights outlined in them are constitutionally recognized and protected through Section 35 of the *Constitution Act*, as are all Aboriginal rights and treaties in Canada.

Modern treaties give Aboriginal groups in the NWT a significant say in land, water and environmental management.

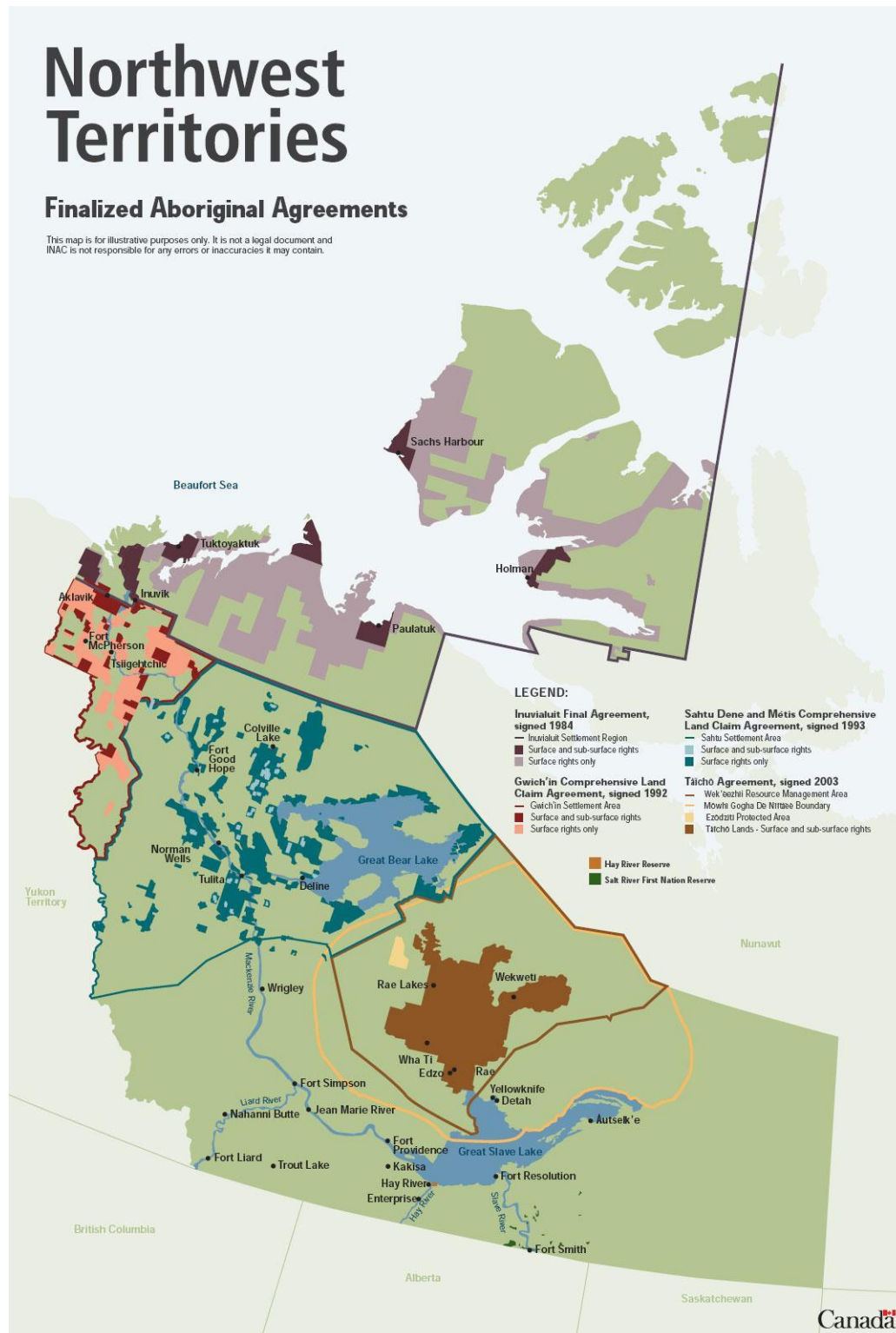


Figure 1: Map of NWT



Chapter 1: Integrated Resource Management System

The regulatory regime for land and resource management in the NWT is unique compared to most of the regulatory regimes in other parts of Canada. The land and resource management system established in the NWT is part of a broader integrated resource management system as defined in land claim agreements and which involves Crown and private land management, land use planning, permitting and licencing, environmental assessment, and wildlife and renewable resource management.

By reading this Chapter, you will be able to:

- ✓ Identify how land and resource management in the NWT is divided into two key jurisdictions: Inuvialuit Settlement Region and the Mackenzie Valley
- ✓ Describe how land and resource management works in the NWT, including:
 - How it is based on the principles of co-management
 - How it is integrated and coordinated across a number of activities such as land ownership, land use planning, environmental assessment and land and water regulation and permitting and wildlife and renewable resource management

Chapter Breakdown:

Section 1.1: Jurisdictions of Land Management

Section 1.2: Principles of Land Management in the NWT

Section 1.3: Co-management

Section 1.4: Integrated Resource Management System



1.1 JURISDICTIONS OF LAND MANAGEMENT IN THE NWT

There are two separate jurisdictions of land management in the NWT. The Inuvialuit Settlement Region (ISR), and the Mackenzie Valley region. The ISR and the Mackenzie Valley are governed by different statutes and have established Co-management Boards to perform regulatory, advisory, planning, and environmental assessment functions related to resource management.

Inuvialuit Settlement Region (ISR)	Mackenzie Valley
<p>The ISR is located in Canada’s western Arctic. The <i>Inuvialuit Final Agreement (1984)</i> created co-management bodies for wildlife, land and environmental management for the Inuvialuit Settlement Region through changes to existing legislation.</p> <p>The Region spans 90,650 km², mostly above the tree line, and includes several sub-regions: the Beaufort Sea, the Mackenzie River delta, the northern portion of Yukon ("Yukon North Slope"), the northwest portion of NWT and the western Canadian Arctic Islands.</p> <p>Section 2.3.1 of this guide provides additional information on the <i>Inuvialuit Final Agreement</i>.</p>	<p>For the most part, the Mackenzie Valley includes all of the NWT, with the exception of the Inuvialuit Settlement Region, and the Wood Buffalo National Park.</p> <p><i>Mackenzie Valley Resource Management Act (1998) (MVRMA)</i>, created an integrated co-management structure for public and private lands and waters throughout the Mackenzie Valley.</p> <p>Section 4.3.1 provides more information on the MVRMA.</p>

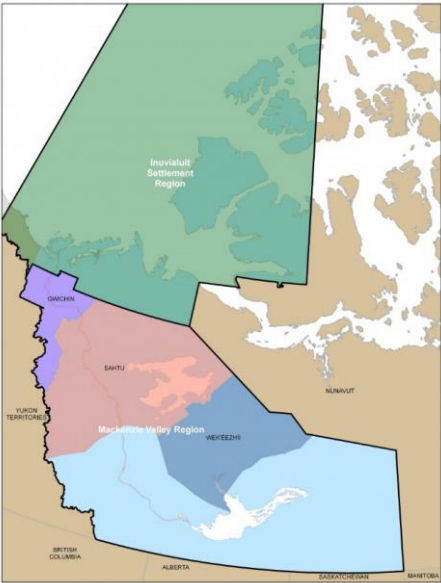


Figure 3: Map of NWT regions



1.2 PRINCIPLES OF LAND MANAGEMENT IN THE NWT

The regulatory regime for land and resource management in the NWT is very different from most of the regulatory regimes in southern Canada. The regulatory regime established in the NWT is part of a broader integrated resource management system as defined in land claim agreements and which involves Crown and private land management, land use planning, permitting and licencing, environmental assessment, and wildlife and renewable resource management.

There are two principles fundamental to the northern regulatory system for land use management, as outlined in the *Mackenzie Valley Resource Management Act* (MVRMA) and the *Inuvialuit Final Agreement* (IFA):



- 1. Integrated and coordinated system**
 - The regulation of land, water and wildlife in the settlement area and in adjacent areas should be coordinated
 - An integrated system of land and water management should apply to the Mackenzie Valley and the Inuvialuit Settlement Region
- 2. Based on the principles of co-management**
 - Co-management of resources between governments and Aboriginal groups

This section provides an overview of these two principles, starting with co-management.

1.3 CO-MANAGEMENT



KEY TERMS:

- **Co-management:** Co-management has come to mean institutional arrangements whereby governments and Aboriginal groups (and sometimes other parties) enter into formal agreements specifying their respective rights, powers and obligations with reference to the management and allocation of resources in a particular area of crown lands and waters. (Source: Royal Commission on Aboriginal Peoples, 1997)
 - **Co-management Boards** are comprised of members who are nominated or appointed by the territorial, federal and Aboriginal governments and Land Claim beneficiaries, which means that decision-making about land, resources and the environment is shared.
-



Co-management in the Mackenzie Valley:

In 1998, the MVRMA established a number of independent Boards that were designed to run the various stages in the environmental impact assessment and regulatory and land use planning processes. Although the federal government enacted this piece of legislation, it resulted from land claim negotiations. This legislation gives Aboriginal people of the Mackenzie Valley, NWT, a greater say in resource development and management. These are independent co-management Boards, meaning Aboriginal land claim organizations nominate half of the Board members, and the federal and territorial governments nominate the other half of the Board members.

Co-management in the Inuvialuit Settlement Region:

The Inuvialuit, along with the governments of Canada, the NWT and Yukon share management responsibilities in the ISR.

The co-management system in the Western Arctic of the NWT and Yukon North Slope is composed of one Inuvialuit Board and five co-management Boards. Government and Inuvialuit interests are equally represented in each group. An impartial, non-government person acceptable to both government and the Inuvialuit, chairs each of the co-management bodies. The Joint Secretariat – Inuvialuit Settlement Region was established to provide technical and administrative support to the Inuvialuit Game Council, the Environmental Impact Screening Committee, Environmental Impact Review Board, Fisheries Joint Management Committee, and Wildlife Management Advisory Council (NWT). A Secretariat office for the Wildlife Management Advisory Council (North Slope) is located in Whitehorse, Yukon.

1.4 INTEGRATED RESOURCE MANAGEMENT SYSTEM

Land and resource management in the NWT is a web of interrelated areas. The four main categories to be considered are:

1. Land and resource ownership and access
2. Land use planning
3. Environmental assessment, land and water regulation, issuance of authorizations
4. Wildlife and renewable resource management

*Inspection and enforcement is presently the responsibility of the federal and territorial governments.

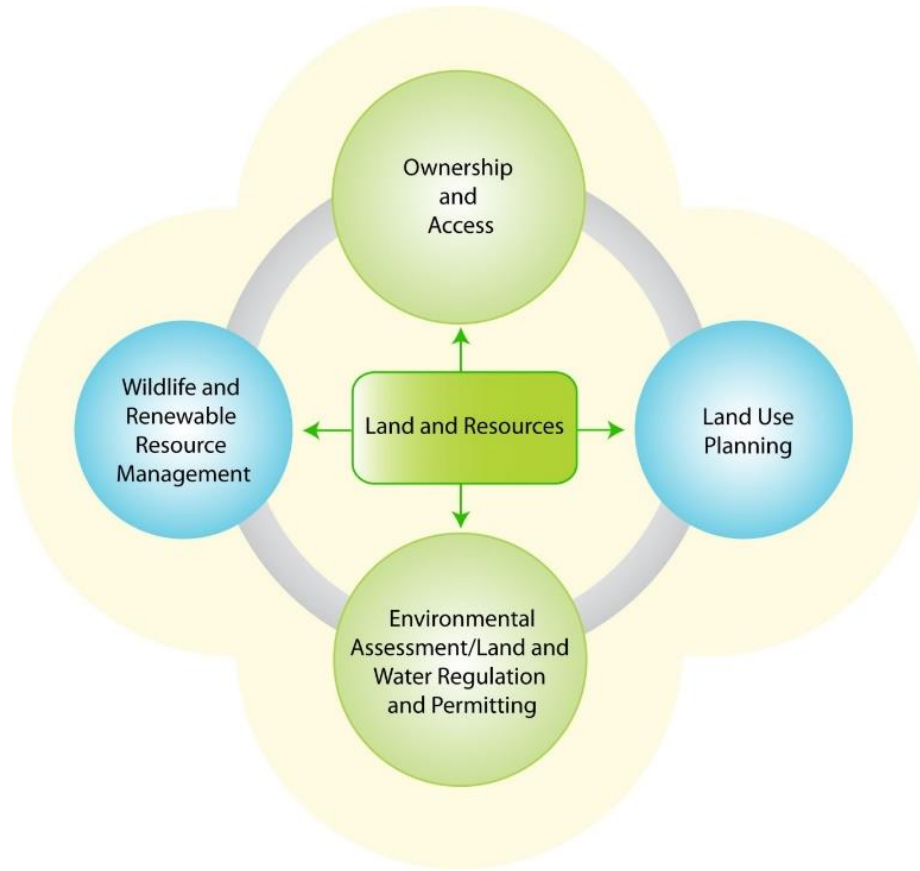


Figure 4: Overview of land and resource management in the NWT

1) Land and resource ownership and access

In the NWT, lands are managed or owned by one of four parties:

1. Government of the NWT (Territorial and Commissioner's land)
2. Government of Canada (Crown land)
3. Aboriginal governments or land corporations (Aboriginal-owned land)
4. Private (Private land)

Devolution transferred most federal-owned lands (including surface and subsurface rights) to the government of the Northwest Territories in 2014. Known as Territorial land or Commissioner's land, these lands are managed and administered by the GNWT. Individuals and companies can apply for permission to access and use resources in, or on these lands, in compliance with the relevant acts and regulations (see Chapter 4).

Remaining federal lands (Crown land) are primarily limited to pre-existing contaminated sites and national parks.

Through the finalization of land, resource and self-government agreements, **Aboriginal governments** have established rights for ownership of land and resources in defined areas. The



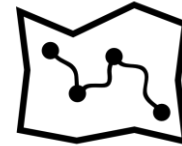
Inuvialuit, Sahtu, Gwich'in and Tlicho now manage significant areas of land in the NWT, with a combination of surface and sub-surface rights.

Each of these Aboriginal governments has established their own land administration systems to manage access by individuals and companies to their lands and resources. Boards, as institutions of public governance, provide an overarching framework for all lands in the NWT.

Other land owners include members of the **public and businesses** who hold title to land either inside or outside of community boundaries.

2) Land Use Planning

In the NWT, land use planning is a critical part of effective management and use of lands and resources.



KEY TERM

- **Land Use Plan:** A land use plan is a public document that sets aside different areas for different uses, and describes what activities are permitted or not permitted in specific areas. The land use plan applies to both Crown and settlement lands. It does not apply to lands within municipal boundaries or lands within national parks or historic sites.

Land use plans help create certainty for if, where, when and how development can take place in a specific region.

While the principles of what land use planning should achieve are generally consistent, the approaches to developing land use plans vary by region within the NWT.

Regional land use plans and approaches to land use planning

In the Mackenzie Valley: Each Board is mandated through the MVRMA to develop a plan to guide the use of Crown, Aboriginal-owned land and other private lands and provide direction with respect to conservation, development and use of the land, water and other resources. The Gwich'in and the Sahtu are the only management areas in the Mackenzie Valley with established Land Use Planning Boards.

DID YOU KNOW?

Under the MVRMA, Land and Water Boards cannot issue licenses or permits that are not consistent with an approved Land Use Plan.

Gwich'in	Nành' Geenjit Gwitr'it T'igwaa'in (Working for the Land), the Gwich'in Land Use Plan was approved in 2003 and was last updated in 2015. http://www.gwichinplanning.nt.ca/publications.html
Sahtu	The Sahtu Land Use Plan (SLUP) has been approved and was effective as of August 8, 2013. https://sahtulanduseplan.org/plan



Wek'èezhii	<p>The Tłıchō Government approved the Tłıchō Lands Protection Amendment Law in 2013 and the Tłıchō Land Use Plan Law, which brought into effect the Tłıchō Wene'ke or Tłıchō Land Use Plan in 2013.</p> <p>https://mvlwb.com/sites/default/files/wlwb/documents/Tłıchō%20Land%20Use%20Plan.pdf</p> <p>On lands outside of Tłıchō lands but within the Wek'èezhii management area, the federal government has the responsibility to establish a process to carry out land use planning. To date, no action has been taken to initiate this process, however the Tłıchō Agreement does suggest that this planning could be coordinated with any land use planning activities undertaken for Tłıchō lands.</p>
Dehcho	<p>A Land Use Planning Committee has been established under the Dehcho Interim Measures Agreement to develop the Dehcho Land Use Plan.</p> <p>http://www.dehcholands.org/about_where_are_we.htm</p>
Akaičho	<p>No formalized land use planning process exists in the Akaičho.</p>

In the ISR:

The ISR, through the Inuvialuit Final Agreement, has a provision that a land use planning Board could be created, but has not as of yet.

Community approach

In the ISR, both community and regional approaches to land use planning have been adopted. Community Conservation Plans have been developed for the lands surrounding each of the Inuvialuit communities.

3) Environmental Assessment / Land and Water Regulation and Permitting



Various Boards and other administrative bodies are responsible for environmental assessment and the use of land and water and the deposit of waste on both public and private lands.

**KEY TERMS****Environmental impact assessment (EIA):**

The overarching process of assessing environmental impacts of a proposed initiative, including three stages: preliminary screening, environmental assessment and environmental impact review. (See Figure 5).

Environmental assessment (EA):

A process to predict environmental effects of proposed initiatives before they are carried out. An environmental assessment:

- Identifies potential adverse environmental effects;
- Proposes measures to mitigate adverse environmental effects;



- Predicts whether there will be significant adverse environmental effects, after mitigation measures are implemented; and
- May include a follow-up program to verify the accuracy of the environmental assessment and the effectiveness of the mitigation measures.

For exact definitions and process, refer to the MVRMA for environmental assessments conducted in the Mackenzie Valley and CEAA, EISC, and EIRB for how they are done in the ISR (Note: Under the MVRMA, environmental effects include impacts to the human environment.)

<http://laws-lois.justice.gc.ca/eng/acts/m-0.2/FullText.html>
www.ceaa-acee.gc.ca

A brief overview of environmental assessment and land and water regulation and permitting

For the most part, the MVRMA replaces the *Canadian Environmental Assessment Act* (CEAA) in the NWT, except in the ISR, where the CEAA still applies.

In the Mackenzie Valley:

- Land and Water Boards in the Mackenzie Valley are responsible for conducting preliminary screenings and for regulating the use of land and water and deposits of waste, primarily through the issuing of Land Use Permits and Water Licences.
 - There are two types of water licences: Type A, generally issued for larger projects, and Type B, issued for smaller projects.
 - Specific criteria for each are set out in the *NWT Waters Regulations* under the federal MVRMA (for projects located within a federal area), and the *Waters Regulations* under the territorial *Waters Act* (for projects located outside of a federal area).
- The Mackenzie Valley Land and Water Board (MVLWB) is a regulatory authority that originates from Part 4 of the MVRMA. Its responsibilities include:
 - Reviewing and making decisions on transboundary projects;
 - Ensuring consistent application of the MVRMA up and down the Mackenzie Valley; and,
 - Reviewing and making decisions on applications filed in the regions where land claims have not been settled.
- Within the MVLWB, there are three regional panels that perform the same function wholly within their management areas:
 - Gwich'in Land and Water Board;
 - Sahtu Land and Water Board; and

Wanting more detailed information on the Boards?

This is just the introduction! Flip to Chapter 3 for a whole chapter on the various co-management Boards in the NWT.

LICENSING / PERMITTING STEPS

1. Eligibility check
2. Land Use Plan Conformity
3. Completeness Check
4. Public Review
5. Preparation of Board Package
6. Permit / Licence Issuance



- Weke'ezhii Land and Water Board.
- A separate Board, the Mackenzie Valley Environmental Impact Review Board (MVEIRB), is responsible for conducting environmental assessments on proposed developments and for striking panels to conduct environmental impact reviews on them if necessary, throughout the Mackenzie Valley. Based on the findings of its assessment, this Co-management Board makes recommendations to the GNWT Minister for developments wholly on territorial lands, federal minister for all other environmental assessments or environmental impact reviews on whether a proposed development proceeds to regulatory review or not, and if so under what conditions.
- Environmental assessments, and/or the issuing permits and licences in the Mackenzie Valley is guided by the following:
 - Federal: *Territorial Lands Act*, MVRMA and regulations such as *Northwest Territories NWT Waters Regulations*; and
 - Territorial: *Waters Act* and regulations; *Wildlife Act*.



Figure 5: Stages of Environmental Impact Assessment in the Mackenzie Valley

In the Inuvialuit Settlement Region:

- As the first claim area to be settled, the ISR has a distinct framework from other claim areas in the NWT. Two Boards are involved in the screening and environmental assessment of developments: the Environmental Impact Screening Committee (EISC) and Environmental Impact Review Board (EIRB), respectively.
- The Inuvialuit Water Board regulates the use of freshwater and disposal of waste that may come into contact with water through the issuance of water licences.
- The GNWT Department of Lands issues land use permits for projects located on crown land and the Inuvialuit Land Administration (ILA) for projects located on Inuvialuit Private Land.



4) Wildlife and Renewable Resource Management

Brief overview of wildlife and renewable resource management in NWT

Federal government departments, territorial government departments, regulatory Boards and advisory bodies all have a role to play in managing wildlife and renewable resource management in the NWT.



Renewable resource Boards, where they exist, act as the regional authority for wildlife management in the settlement region and these Boards work cooperatively with the GNWT.



KEY TERMS:

- **Renewable Resources:** Naturally occurring resources that can be regenerated or replenished through sound resource management practices. Some renewable resources include: forests, fish, and wildlife; solar, wind, and hydroelectric energy
 - **Resource Management:** Resource management means directing the use of renewable and non-renewable natural resources in a sustainable manner. This includes meeting the needs and/or improving the quality of life for humans without increasing the use of natural resources beyond the capacity of the environment to supply them.
-

In the Mackenzie Valley:

- Several Co-management Boards act in the public interest to manage renewable resources—that is, wildlife, fish and forests—in their respective regions.
- In settled claim areas in the Mackenzie Valley, renewable resource Boards have been established through land claim agreements in the Gwich'in, Sahtu and Tłıch'o regions.
- In areas with unsettled land claims, structures for the management of renewable resources have yet to be established, and will be addressed as part of ongoing land claims negotiations. In the meantime, the GNWT fulfills this function.

In the Inuvialuit Settlement Region:

- In the ISR, the Inuvialuit Game Council has a renewable resource management responsibility.
- Hunters and Trappers Committees have similar responsibilities in individual communities and sit on the IGC.
- The IGC in turn appoints members to co-management groups such as the Wildlife Management Advisory Council (WMAC) which also has representation from the GNWT and Environment Canada's Canadian Wildlife Service (CWS)

For more training: NWT Board Forum – Training Course on Renewable Resources Management
<http://www.nwtBoardforum.com/wp-content/uploads/2013/04/Student-Version-NWT-Board-Forum-Renewable-Resources-Managment-Course-March31.pdf>



Chapter 2: NWT Land Claim Agreements

Aboriginal Land Claim Agreements have fundamentally shaped the way land and resources are managed in the NWT as well as the political and administrative framework of the NWT. Areas with land claim agreements each have their own way of managing land and resources, and areas with unsettled claims have their own processes as well.

By reading this Chapter, you will be able to:

- ✓ Describe information about land claims, including the objectives, common elements and how resource management works under the land claims
- ✓ Identify how and when different Aboriginal groups in the NWT negotiated land claims
- ✓ Cite the key details of the four completed land claim agreements in the NWT
- ✓ List which regions currently do not have settled land claims and the processes they are currently taking to settle their claims

Chapter Breakdown:

Section 2.1: About Land Claims

Section 2.2: Short History of Land Claims

Section 2.3: Overview of Land Claim Agreements

Section 2.4: Areas Without Settled Land Claims



Figure 6: Settled Land Claim Agreements in the NWT



2.1 ABOUT LAND CLAIMS

- Land claim agreements are a fundamental underpinning of the integrated resource management system
 - Key principles of resource management that Board members put into practice are based on these claims
- Land and resource management system is designed through the claims
 - Fundamental difference than other jurisdictions...in NWT, the claims dictate what is in the legislation



KEY TERM

- **Comprehensive land claim agreements** are negotiated in areas of the country where Aboriginal rights and title have not been addressed by historic treaties or other legal means, or where there remains outstanding disagreement around the terms of those treaties. In the NWT, comprehensive land claim agreements are modern treaties between Aboriginal groups, Canada and the territorial government. They are negotiated to deal with the uncertainties and disagreements that exist around the original historic Treaties. In areas where both a historic treaty and a modern treaty exist, some rights from the historic treaty are maintained, while others are exchanged for rights in the modern treaty. This is clearly described in the modern treaty. Agreements may also include provisions relating to Aboriginal self-government, or provide for future negotiations of self-government.
- Source: <https://www.aadnc-aandc.gc.ca/eng/1100100027668/1100100027669>

2.1.1 Land Claim Objectives

Generally, the objectives of all Land Claim Agreements are to:

- **Manage the land and its resources** in the context of the “mixed” ownership (private/public) of the land and its natural resources.
- **Recognize and reflect**, in a meaningful manner, the special **relationship that the beneficiaries have to the land** and resources of their traditional area.
- **Provide beneficiaries with a substantive role in the cooperative management** of the natural resources of the settlement area.
- **Provide the beneficiaries with specific benefits**, including cash compensation, land and other economic benefits.
- **Provide the beneficiaries with preferential access to employment and other economic opportunities** within their claim area that will enhance their potential for economic self-sufficiency.
- **Provide clarity and certainty with respect to the ownership of lands and resources** and beneficiary rights.



2.1.2 Common Elements of Land Claim Agreements

All Land Claim Agreements include a number of common elements that reflect the objectives stated earlier.



Figure 7: Common elements of Land Claim Agreements

- **Surrender of Aboriginal Claims**

- This occurs when an agreement has been reached wherein the claim beneficiaries receive specific rights and benefits, such as cash settlements, economic benefits, and specific harvesting rights, in exchange for certainty with the federal government over the ownership of the land.

- **"Supersede All Other Legislation"**

- The Land Claim Agreement is a constitutionally protected agreement, which means that the substance of the Land Claim Agreement supersedes all other legislation where there is a conflict. Boards and agencies must consider both the language of the Land Claim Agreement and the federal or territorial legislation when addressing an issue.

- **Land Ownership**

- **Crown Lands:** Crown lands are government-owned lands. However, NWT Boards share with the federal government in the administration and control of Crown lands and private lands as defined through legislation such as the MVRMA.
- **Private Lands:** These refer to an allotment of land (surface only or surface/sub-surface) that is held under the private collective ownership of the beneficiaries, or in some cases under private non-Aboriginal ownership.

- **Wildlife Harvesting**

- Wildlife harvesting refers to granting beneficiary access to certain wildlife species.
 - **Exclusive access**
 - Exclusive access to certain large species such as:
 - Polar Bear (IFA)

Surface rights

Surface rights refer to the rights and/or interests associated with the surface of the land which may include:



- rights as land owners
- rights of those with an interest in the surface of the land; and
- rights to access or use the surface of land (i.e. trappers and other commercial and non-commercial users of land).

These lands are under the collective ownership and administration of the beneficiaries and are usually about 15 % of the overall settlement area.

Sub-surface rights

Sub-surface rights refer to the rights associated with resources such as minerals and oil and gas, which lie below the surface of the land. In addition to surface rights, the sub-surface rights to a portion of the private lands are assigned to the claim beneficiaries.





- Whales (IFA)
 - All wildlife on Sahtu lands (SFA)
 - **Preferential access**
 - Preferential access to migratory birds and other harvested wildlife species means that the beneficiary needs must be met before any of the allowable harvest may be allocated to other users.
 - **Infringement of harvesting rights**
 - Harvesting rights of beneficiaries may be limited only for reasons of conservation, public safety, or public health.
- **Socio-Economic Measures**
 - These measures include employment opportunities, preferential access to government contracts or training opportunities, and other measures (e.g. impact and benefit agreements) that contribute to the economic security of a settlement area. Financial compensation is also included in the form of a cash settlement.
- **Public Engagement**
 - The federal government has a responsibility which is enshrined in Section 35 of the Constitution to consult with Aboriginal people on issues pertaining to traditional activities of hunting, fishing and trapping, but the agreements themselves make a further commitment to such consultation.
 - Proponents must be seen to be dealing fairly with Aboriginal people and cannot affect their rights without obtaining their views and/or consent. The consultation must be meaningful (sufficient in form and detail) and allow the potentially affected party an adequate time and opportunity to prepare and submit their views. Those views must then be given proper consideration.

2.1.3 Resource Management under Land Claims

Land Claim Agreements are intended to protect the environment and resources of the settlement area and provide the beneficiaries with a meaningful role in resource management. They reflect a number of considerations:

- Beneficiaries have taken an active role in managing their relationship with the land and its resources and wish to maintain that involvement and relationship.
- Beneficiaries have views and values relating to the landscape that differ from “professional” resource managers.
- The beneficiaries have a strong sense of stewardship with respect to the land and its resources.
- The co-management approach is designed for participants to share information, various perspectives, and make better resource management decisions.



2.2 SHORT HISTORY OF ABORIGINAL LAND CLAIMS IN THE NWT

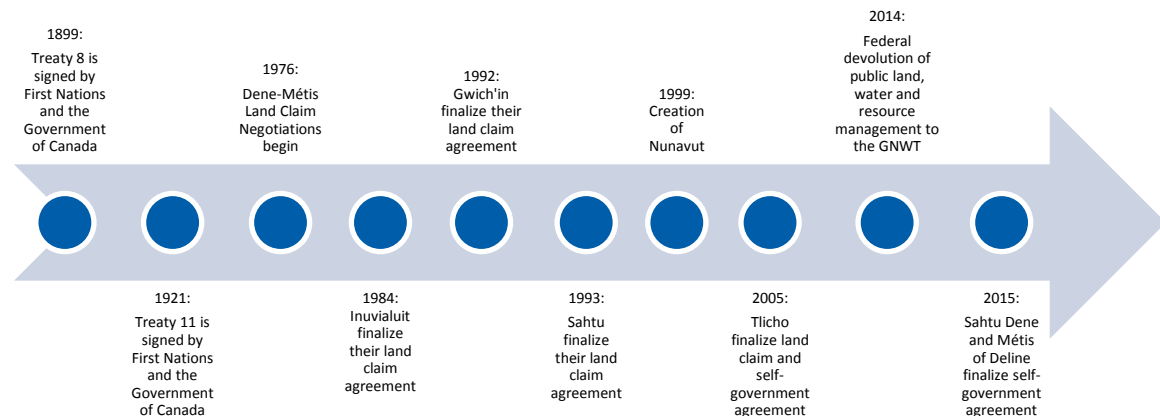


Figure 8: Timeline of land claims in the NWT

2.2.1 Signing of Treaties 8 and 11

During the late 1800s, the federal government signed a number of treaties across Canada. Treaties 8 (1899) and 11 (1921) included parts of the modern-day NWT. The timing of the two treaties is interesting in that they coincided with the North American Gold-rush (Treaty 8) and the discovery of oil at Norman Wells (Treaty 11). The treaties were, essentially, presented as “land sharing” agreements and were relatively vague on the issue of land ownership.

In 1973, a number of Band chiefs filed a claim for the registration of over 1,000,000 square kilometres of land in what is currently the NWT, under the *Land Titles Act*. Their issue, brought before Supreme Court Justice William Morrow, was whether or not the Chiefs who signed Treaties 8 and 11 (or the people they represented) knew they were giving up ‘ownership’ of the land. Most witnesses were resolute in saying that during treaty negotiations the issue of land ownership was not raised. Justice Morrow’s decision allowing the placing of a caveat on a million square kilometers of land in the NWT was overturned on appeal to a higher court, but the partial victory made it obvious that land rights in the NWT needed clarification.

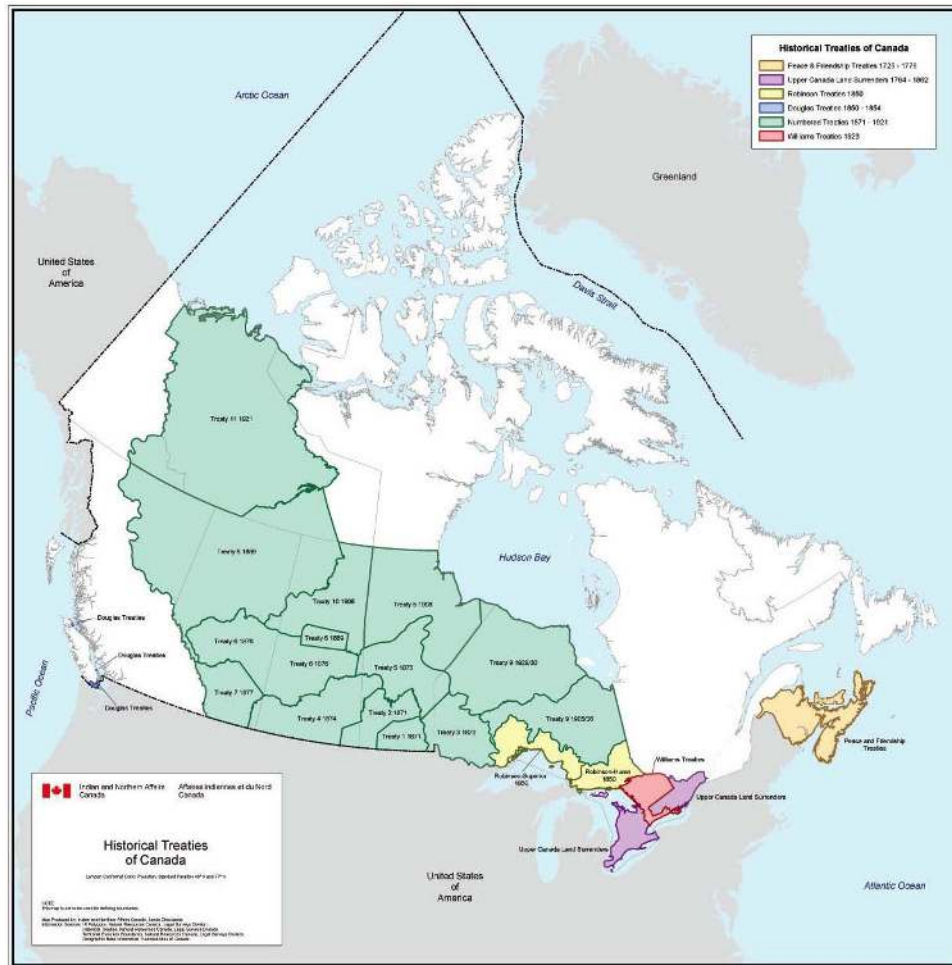


Figure 9: Historical Treaties of Canada (INAC)

2.2.2 Negotiations about land, resources and self-government in the NWT

In the NWT, the federal and territorial governments have negotiated and are continuing to negotiate land, resources and governance matters with a number of Aboriginal groups.

When the Government of Canada began negotiating these modern-day treaties in the 1970s, only land and resource management matters were addressed – thus the common name, “comprehensive land claims”. Then in 1995, Canada formally recognized that Aboriginal peoples have an inherent right of self-government. This made it possible for Aboriginal groups to begin negotiating self-government along with land claims and resolve matters as part of their “comprehensive land claims” or “modern treaty” processes.

The aim of the federal government's Comprehensive Claims Policy is to exchange undefined Aboriginal rights for clearly defined rights and benefits set out in a settlement agreement.

The Government of Canada's Comprehensive Claims Policy was introduced in August, 1973. It was reaffirmed and expanded in 1986. In the NWT, rather than focusing on different interpretations of Treaties and, particularly, pursuing those interpretations



in Court, the Government of Canada decided to resolve outstanding land issues through comprehensive land claim negotiations in the mid-1970s.

(Source: <https://www.aadnc-aandc.gc.ca/eng/1100100025943/1100100025945>)

Here are a few key events in the history of land claims in the NWT:

- **Inuvialuit Final Agreement – The first comprehensive land claim agreement settled in the NWT**
 - On June 5, 1984, the Committee for the Original Peoples' Entitlement (COPE), representing 2,500 Inuvialuit of the Mackenzie Delta and adjacent Arctic Coast, became the first NWT's Aboriginal group to settle a comprehensive land claim. The *Western Arctic Claims Settlement Act* of 1984 gave final Parliament of Canada approval and Constitutional protection to this settlement.
- **Dene-Métis Land Claim process breaks down in 1990**
 - In 1976, the Government of Canada, the Dene Nation and Métis Association of the NWT agreed to enter into negotiations on a Comprehensive Land Claim Agreement that included areas that were under Treaties 8 and 11. Delegates at the 1990 Dene-Métis Annual General Assembly rejected the Government of Canada terms that insisted that the Dene-Métis Comprehensive Land Claim include surrender of Aboriginal Title to the land. Negotiations for a unified Dene-Métis land claim broke down and the claim process became regionalized.
- **Gwich'in, Sahtu and Tlicho Claims established in the 1990s and 2000s**
 - The breakdown of the Dene-Métis Land Claim negotiations led to the negotiations and establishments of smaller claim areas in the NWT south of the Inuvialuit Settlement Region. The Gwich'in Settlement Region and the Sahtu Settlement Area were established in 1992 and 1993, respectively. In 2005, the Tlicho finalized a land claim agreement that included a self-government agreement. Most recently in 2015, the Sahtu Dene and Métis of Déline finalized a self-government agreement (FSGA) under the Sahtu Dene and Métis Comprehensive Land Claim.
- **Nunavut separates from NWT to become its own territory in 1999**
 - The Nunavut Land Claims Agreement, signed in 1993, ultimately resulted in the creation of a new territory, Nunavut, through separate legislation.
- **Federal devolution of public land, water and resource management to the GNWT in 2014**
 - On April 1, 2014, the GNWT became responsible for managing public land, water, and resources in the NWT.
- **Sahtu Dene and Métis of Déline finalize a self-government agreement in 2015**
 - The Déline Final Self-Government Agreement among the Déline First Nation Band, the Déline Land Corporation, the Government of Canada and the GNWT was signed on February 18, 2015.



2.3 OVERVIEW OF LAND CLAIM AGREEMENTS IN THE NWT

Land claim negotiations over the past 30 years have led to the creation of four distinct Land Claim Agreements in the NWT, each with its own resource management system and own set of management institutions. The following settled land claims and land claims under negotiation exist in the NWT. Some areas within the NWT do not have settled land claims.

Settled

- Inuvialuit Final Agreement (1984)
- Gwich'in Comprehensive Land Claim Agreement (1992)
- Sahtu Dene and Métis Comprehensive Land Claim Agreement (1993)
- Tlicho Land Claims and Self-government Agreement (2005)

In Process

- Dehcho
- Akaitcho
- NWT Métis Nation
- (Note: there is a separate process for the Acho Dene Koe First Nation which was previously part of the Dehcho process)

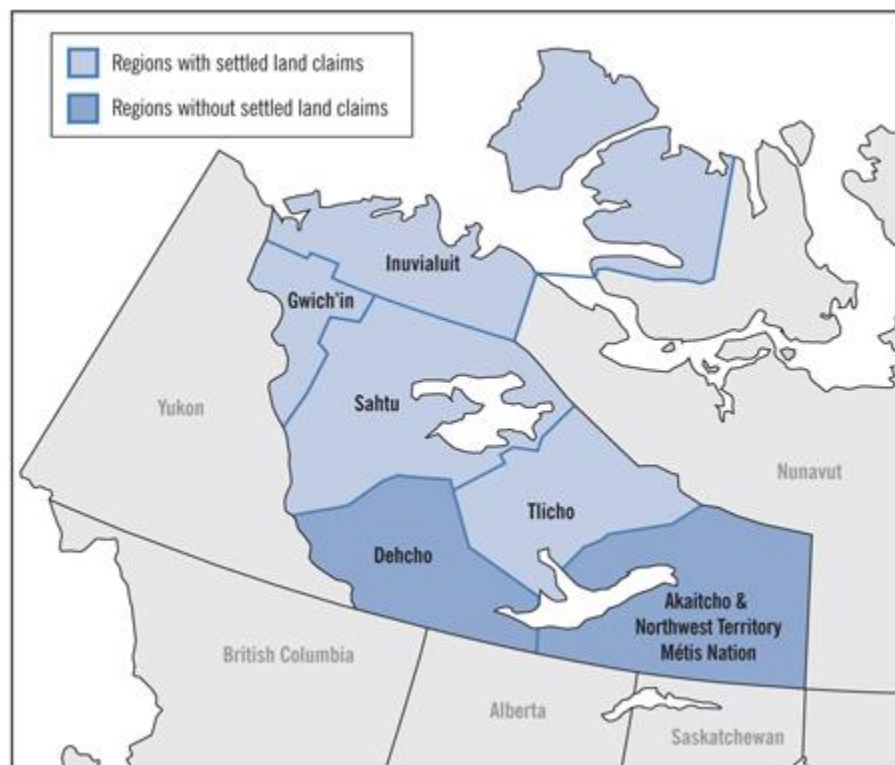


Figure 10: Regions in the NWT with and without settled land claims



2.3.1 Inuvialuit Final Agreement (1984)

Settlement Area: 435,000 square kilometres in the Mackenzie Delta, Beaufort Sea and Amundsen Gulf area of the NWT

Settlement Lands: Approximately 91,000 square kilometres of land, of which 13,000 square kilometres includes mineral rights

Date Settled: June 5, 1984

Effective Date: July 25, 1984

Population: 4,000 Inuvialuit

Communities: Aklavik, Ulukhaktok (Holman), Inuvik, Paulatuk, Sachs Harbour and Tuktoyaktuk

The Settlement: The Inuvialuit Final Agreement, also known as the Western Arctic Claim, was the first comprehensive land claims agreement in the NWT. Signatories to the Agreement include the Committee for Original Peoples' Entitlement and the Government of Canada (representatives of the Governments of the NWT and Yukon).

The agreement provided the Inuvialuit with a financial settlement of \$78 million (1984\$), a one-time payment of \$10 million to an economic enhancement fund and \$7.5 million to a social development fund. The Inuvialuit Final Agreement also includes wildlife harvesting rights, socio-economic initiatives and Inuvialuit participation in wildlife and environmental management regimes.

Implementation: The Inuvialuit Final Agreement does not have an Implementation Plan. The Inuvialuit Final Agreement provides for the establishment of a number of implementing bodies to support implementation:

- Inuvialuit Arbitration Board
- Inuvialuit Regional Corporation
- Joint Fisheries Management Committee
- Wildlife Management Advisory Council - NWT
- Wildlife Management Advisory Council - North Slope
- Inuvialuit Environmental Impact Screening Committee
- Inuvialuit Environmental Impact Review Board
- Inuvialuit Game Council

The parties also oversee the implementation of the Agreement through the Inuvialuit Final Agreement Implementation Coordinating Committee, which forms the primary interface for the overall treaty relationship. This committee is not a requirement of the Inuvialuit Final Agreement. The Inuvialuit, Canada, and GNWT are currently negotiating an Inuvialuit self-government agreement.

(Source: <https://www.aadnc-aandc.gc.ca/eng/1373385502190/1373385561540#s2-3>)

Additional information: [www.daair.gov.nt.ca/ live/pages/wpPages/InuvialuitLandClaim.aspx](http://www.daair.gov.nt.ca/live/pages/wpPages/InuvialuitLandClaim.aspx)



2.3.2 Gwich'in Comprehensive Land Claim Agreement (1992)

Settlement Area: 57,000 square kilometres in the Mackenzie Delta Region of the NWT and a "primary use area" in Yukon

Settlement Lands: 22,422 square kilometres of land in the NWT, of which 6,158 square kilometres includes mineral rights; and 1,554 square kilometres of Tetlit Gwich'in land in Yukon

Date Settled: April 22, 1992

Effective Date: December 22, 1992

Population: 2,500

Communities: Aklavik, Fort McPherson, Inuvik and Tsiigetichic

The Settlement: The Gwich'in of the Mackenzie Delta Region was the second group in the NWT to negotiate a comprehensive land claim agreement. The settlement provided the Gwich'in with \$75 million (1990\$) over 15 years; guaranteed wildlife harvesting rights; and participation in decision-making bodies dealing with renewable resources, land use planning, environmental impact and assessment review, and land and water use regulation.

Implementation: The Agreement provides for a tripartite Implementation Plan and for the establishment of a number of implementing bodies:

- Gwich'in Arbitration Panel
- Enrolment Board
- Gwich'in Land Use Planning Board
- Gwich'in Land and Water Board
- Gwich'in Renewable Resources Board
- Gwich'in Renewable Resource Councils
- Mackenzie Valley Environmental Impact Review Board

As required by the Agreement, the parties also oversee the implementation of the Agreement through the Implementation Committee which forms the primary interface for the overall treaty relationship.

(Source: <https://www.aadnc-aandc.gc.ca/eng/1373385502190/1373385561540#s2-8>)

For more information:

http://www.daair.gov.nt.ca/_live/pages/wpPages/Gwich'inLandClaim.aspx



2.3.3 Sahtu Dene and Métis Comprehensive Land Claim Agreement (1993)

Settlement Area: 280,278 square kilometres in the Mackenzie Valley and Great Bear Lake region of the NWT

Settlement Lands: 41,437 square kilometres of land, of which 1,813 square kilometres includes mineral rights

Date Settled: September 6, 1993

Effective Date: June 23, 1994

Population: 3,200

Communities: Colville Lake, Déline, Fort Good Hope, Norman Wells and Tulita

The Settlement: The Sahtu Dene and Métis were the third group in the NWT to conclude a comprehensive land claim agreement. The settlement provided the Sahtu Dene and Métis with \$75 million (1990\$) over 15 years; guaranteed wildlife harvesting rights; and participation in decision-making bodies dealing with renewable resources, land use planning, environmental impact assessment and review, and land and water use regulation.

Implementation: The Agreement provides for a tripartite Implementation Plan and for the establishment of a number of implementing bodies:

- Sahtu Arbitration Panel
- Enrolment Board
- Sahtu Land Use Planning Board
- Sahtu Land and Water Board
- Sahtu Renewable Resources Board
- Sahtu Renewable Resource Councils
- Mackenzie Valley Environmental Impact Review Board

As required by the Agreement, the Implementation Committee forms the primary interface for the overall treaty relationship.

The Agreement provides for the negotiation of self-government agreements that will be brought into effect through federal and/or territorial legislation.

Source: <https://www.aadnc-aandc.gc.ca/eng/1373385502190/1373385561540#s2-8>

Most recently in 2015, the Sahtu Dene and Métis of Déline finalized a self-government agreement (FSGA) under the Sahtu Dene and Métis Comprehensive Land Claim. This led to them exercising their right to self-government through their very own Délineᑦ Got'ine Government (DGG).

For more information:

http://www.daair.gov.nt.ca/_live/pages/wpPages/SahtuLandClaim.aspx



2.3.4 Tłicho Land Claims and Self-government Agreement (2005)

Settlement Area: Approximately 210,000 square kilometres in the North Slave region of the NWT

Settlement Lands: 39,000 square kilometres

Date Settled: August 25, 2003

Effective Date: August 4, 2005

Population: 3,897

Communities: Behchokò, Whati, Gamètì, Wekweètì

The Tłicho is the fourth group in the NWT to settle a regional land claim agreement and the first treaty in the NWT to incorporate land claims and constitutionally protected self-government provisions.

The Settlement: The Agreement was signed by representatives of the Dogrib Treaty 11 Council, the GNWT and the Government of Canada. The Tłicho Agreement provides for the establishment of a Tłicho government, payment to the Tłicho government of \$152 million (2005\$) over 15 years and a share of resource royalties that the government receives from development activities in the Mackenzie Valley. The Agreement also provides for ownership of and self-government over approximately 39,000 square kilometres of land, including surface and sub-surface resources.

Implementation: The Agreement provides for a tripartite Implementation Plan. The Parties have also negotiated a tripartite Intergovernmental Services Agreement to fund programs and services, as well as a bilateral Financing Agreement to support implementation.

The Agreement also provides for the establishment of a number of implementing bodies:

- Wek'èezhìi Land and Water Board
- Wek'èezhìi Renewable Resources Board
- Dispute Resolution Administrator

As required by the Agreement, the Implementation Committee forms the primary interface for the overall treaty relationship.

(Source: INAC <https://www.aadnc-aandc.gc.ca/eng/1373385502190/1373385561540#s2-11>)

For more information: <http://www.daair.gov.nt.ca/live/pages/wpPages/Tłicho.aspx>



2.4 AREAS WITHOUT SETTLED LAND CLAIMS (INTERIM AGREEMENTS)

Some areas of the NWT do not have settled land claims. The status of land claim negotiations in these regions is described below.

2.4.1 Dehcho Process

The Dehcho Interim Measures Agreement (2001) clarifies the role of the Dehcho First Nations (DCFN) in resource management decisions in the Dehcho region while negotiations are going on and provides guidance to affected stakeholders like industry until a final agreement is in place. It includes provisions for Interim Land Withdrawals, an Interim Resource Development Agreement and a Land Use Planning Committee.

The Interim Measures Agreement established the Land Use Planning Committee to develop a land use plan for the Dehcho Territory. The planning process will consider the traditional use and occupancy information that has been gathered to determine the Interim Land Withdrawals along with other information on the natural resources and the economic and social needs of the communities. In return, the plan will revise the Interim Land Withdrawals based on the new information that has been gathered. Negotiations have resulted in a Framework Agreement and an Interim Measures Agreement.

The Framework Agreement sets out the scope, process, topics and parameters for negotiation of an agreement-in-principle and a final agreement. The Interim Measures Agreement provides for participation of the DCFN in the Mackenzie Valley Resource Management regime; a regional land use planning process and interim land withdrawals and the negotiation of a resource development agreement.

For more information: <http://www.daair.gov.nt.ca/live/pages/wpPages/Dehcho.aspx>

2.4.2 Akaitcho Process

The Government of Canada is engaged in ongoing land, resource and governance negotiations with the Akaitcho Dene First Nations and the GNWT. A Framework Agreement was signed by the three parties on July 25, 2000. This was followed by the signing of an Interim Measures Agreement on June 28, 2001, and an Interim Land Withdrawal Protocol (November 21, 2005), committing the parties to begin negotiations to withdraw certain lands in Akaitcho traditional territory from disposition in order to facilitate conclusion of a final agreement. In August 2006, Canada and the Akaitcho First Nation initialed maps and signed a Memorandum of Understanding. An Order-in-Council was signed on November 1, 2007 by the Governor General for an Interim Land Withdrawal in the Akaitcho traditional territory, a formal announcement is pending.

For more information: <http://www.daair.gov.nt.ca/live/pages/wpPages/Akaitcho.aspx>

2.4.3 NWT Métis Nation Process

When the Dené-Métis Comprehensive Land Claim Agreement failed to be ratified by a majority of the Aboriginal people of the Mackenzie Valley in 1990, the federal government decided to



enter into regional claims in this part of the NWT. However, in the South Slave District, the Akaithcho Treaty 8 Dene opted to seek fulfillment of their treaty land entitlements rather than enter into a regional comprehensive land claim. This left some Métis in the area without a vehicle to press for their concerns.

The Minister of Indian and Northern Affairs Canada offered to enter into a non-rights based process with the Métis of the South Slave District to deal with their concerns. A Framework Agreement was signed in August 1996 that outlines a two stage negotiation process – land and resources and, after the signing of an Agreement-in-Principle, negotiation of self-government issues. In 2006 the Main Table reached agreement on 62 key outstanding issues, clearing the way for the drafting and review process for chapters of the Agreement-in-Principle.

In 2015 the NWT Métis Nation and the Governments of Canada and the NWT ratified the Northwest Territory Métis Nation Land and Resources Agreement in Principle ("AIP"). The objective of the AIP is to protect indigenous Métis harvesting rights in the NWT, provide benefits in relation to land, cash and resource revenue sharing and provide an ongoing relationship with the Government of Canada and the GNWT including consultation, impact and benefit agreements and co-management.

For more information:

http://www.daair.gov.nt.ca/_live/pages/wpPages/Selfgovernmentlandclaims.aspx

2.4.4 Acho Dene Koe First Nation Negotiations

The Acho Dene Koe First Nation (ADK), the Government of Canada and the Government of the Northwest Territories (GNWT) are negotiating a Land, Resources and Self-Government Agreement. The ADK represents the Dene and Métis who are indigenous to Fort Liard.

The Framework Agreement, which was signed on July 14 of 2008, commits the parties to a two-phased approach to negotiations. The Phase One Final Agreement will focus on land and resources, while the Phase Two Final Agreement will focus on self-government.

While Phase One is an Aboriginal government based Land and Resources Agreement, the Framework Agreement acknowledges a preference for Phase Two negotiations within a regional context. Phase Two Final Agreement negotiations are planned to begin no earlier than 10 years after the effective date of the Phase One Final Agreement.

For more information: http://www.daair.gov.nt.ca/_live/pages/wpPages/AchoDeneKoe.aspx



Chapter 3: Resource Management Boards

Over a dozen public Boards have been established to make decisions over the land, water and resources in the NWT. They are responsible for preliminary screening of development proposals, environmental assessments and impact reviews, land use planning, wildlife management and the issuance of water licences and land use permits.

By reading this Chapter, you will be able to:

- ✓ Differentiate how resources were managed prior to the signing of Land Claim Agreements in the NWT
- ✓ Distinguish between all of the Resource Management Boards in NWT, across all regions and for all activities in the integrated and coordinated system (i.e. land use planning, land and water management, environmental assessment, wildlife and renewable resource management, and surface rights)
- ✓ Illustrate the relationships between Boards, between settlement areas and with governments

Chapter Breakdown:

Section 3.1: Introduction to Resource Management Boards

Section 3.2: Overview of All Management Boards

Section 3.3: Management Board Descriptions

Section 3.4: Working Relationships

3.1 INTRODUCTION TO RESOURCE MANAGEMENT BOARDS

3.1.1 History of Co-Management in the NWT

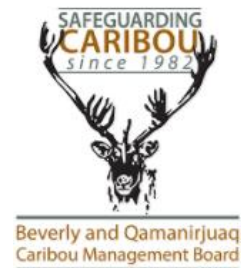
Prior to land claims, land, wildlife and resource management in the Mackenzie Valley, for example, was the responsibility of government departments like INAC, Environment Canada, Fisheries and Oceans, and the GNWT. The various Land Claim Agreements mandated the creation of a number of Boards that share responsibility with INAC for resource management across the NWT.

However, the co-management Board model existed before the settlement of Land Claim Agreements.

- **Beverly Qamanirjuaq Caribou Management Board (1982)**

The Beverly Qamanirjuaq Caribou Management Board is an Aboriginal-led co-management group, established in 1982 to conserve the Beverly and Qamanirjuaq caribou herds, whose migratory routes straddle two territories, two provinces, and four different indigenous cultures. Since the main purpose of the Board is to safeguard the caribou herds in the interest of Aboriginal people who have traditionally relied upon caribou, the majority of Board members represent Aboriginal communities.

For more information: <http://arctic-caribou.com/>



- **Porcupine Caribou Management Board (1985)**

The Porcupine Caribou Management Board is a joint management Board established under the Porcupine Caribou Management Agreement signed in 1985. The main duties of the Board are to manage co-operatively the Porcupine Caribou Herd for subsistence use by Aboriginal users while recognizing that other users may also share the harvest. The Board consists of eight members representing six signatories (Government of Canada, Government of Yukon, GNWT, Inuvialuit Game Council, Gwich'in Tribal Council, and the Council of Yukon First Nations). For more information: <http://www.pcmb.ca/about>



3.1.2 NWT Boards Overview

There are several governing bodies and regulatory organizations that have different mandates and responsibilities for certain areas in the NWT. Resource Management Boards in the NWT are administrative decision-makers (see Chapter 5.1). Today, there are 13 public Boards involved in making decisions over the land, water and resources in the NWT:

- 1) 9 Boards in the Mackenzie Valley
- 2) 2 Inuvialuit Boards and 1 Screening Committee
- 3) 1 Surface Rights Board that applies throughout the NWT



They are responsible for preliminary screening of development proposals, environmental assessments and impact reviews, land use planning, wildlife management and the issuance of water licences and land use permits. Most have members nominated by Aboriginal organizations, the Government of Canada, and the GNWT.

General functions of the Boards:

- **Prepare regional land use plans** to guide resource development, and the use of land, water and other resources
- **Conduct preliminary screening, environmental assessment and environmental impact review** processes
- **Regulate the uses of land and water** primarily through the issuance of licences and permits
- **Manage wildlife and renewable resources**
- **Ensure land and water decisions protect the environment** from any significant adverse impacts of proposed developments
- **Consider the economic, social and cultural well-being of residents and communities** of the region and the territory as a whole

Purpose of Boards

Management Boards were created primarily to carry out their legislative objectives, including meeting the primary objectives of Land Claim Agreements. Boards serve a number of important functions, including:

- **Address claim objectives:** Essentially, Boards address all of the following Land Claim objectives
 - protecting the environment and resources of the settlement area
 - recognizing the special relationship that claim beneficiaries have to the land
 - providing claim beneficiaries with a meaningful role in managing the resources of their Settlement Area
- **Information exchange**
 - Board meetings provide an opportunity for members to gather on a regular basis to share information with each other. Good information is a requirement for making good decisions.
- **Views and values**
 - Information is only part of decision-making, as each member will consider the information in terms of their own views and values. The Board meetings provide an opportunity to hear a variety of views on a particular issue.
- **Forum for decisions**
 - Perhaps most importantly, Boards are a mechanism for making decisions that are evidence-based and objective. These decisions reflect the perspectives of a range of views based on the different members of the Board.

Common Features of Boards

- **Composition**
 - Each Board in the NWT has its own composition, however, each is made up of individuals that have been either recommended by the Government of Canada to the Minister of INAC, nominated or appointed directly by regional Aboriginal land claim organizations or governments, or nominated by a territorial



- government (GNWT or Government of Yukon). In general, the members are appointed by the Minister of INAC.
- The composition and total number of members on the Boards depends on the provisions specified in the relevant land claims and legislation, but in general, half of the appointed Board members are selected from Aboriginal land claim organization nominations and the other half from Federal or territorial government nominations or recommendations. The chairperson is appointed by INAC from persons nominated by a majority of the members or directly appointed by the Minister.
 - Members act as individuals and do not represent their nominating parties or agencies.
 - **Consensus Decisions**
 - Normally, provisions exist for voting but consensus decision-making is the norm. This approach is intended to decrease the possibility for polarization of the membership. In the rare event that consensus cannot be reached, the chairperson votes to break a tie vote among the members.
 - **Regulatory Powers**
 - The government must implement and enforce Board decisions.
 - **Traditional Knowledge and Scientific Evidence**
 - Boards are required to consider both Traditional Knowledge and scientific evidence when making decisions. Traditional Knowledge includes experience and cultural values. This approach is to insure that decisions are acceptable and respectful to the beneficiaries, as well as to those relying on science.
 - **Authority**
 - For many Boards, the Minister has the final decision making authority. The Minister varies, depending upon the issue. The Minister must provide written reasons for having a Board reconsider the Board's decisions, usually within specified time limits.

Types of Boards

Land and resources are managed through five different types of Boards in the NWT:

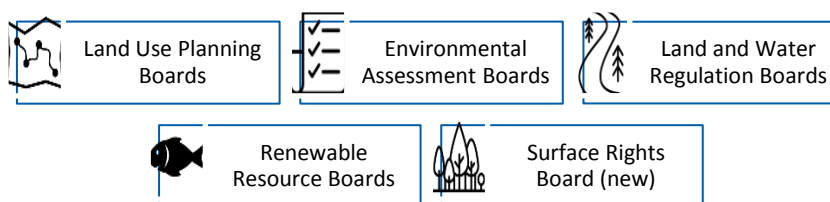


Figure 11: NWT Boards that manage land and resources

A Note on the Term “Management Area” in the Mackenzie Valley

For the purposes of resource management in the Mackenzie Valley, the term “management area” will be used to describe the Resource Management Boards’ respective areas of jurisdiction.

- **For the Gwich'in and Sahtu management areas**, these are the same as the settlement areas negotiated in their land claim (see previous chapter).
- **For the Tl'cho region**, however, the management area corresponds to the Wek'èezhii, which includes Tl'cho Government lands but not the entire traditional territory (Môwhi Gogha Dè Nîitâèè) that is the subject of the Tl'cho Agreement.

*The Act defines “management area” as the Gwich'in and Sahtu settlement areas, and the Wek'èezhii.

3.2 OVERVIEW OF ALL MANAGEMENT BOARDS

The number of Boards and their mandate varies amongst the Settlement Areas. This table summarizes the various management Boards by claim area:

	Inuvialuit Settlement Region	Mackenzie Valley				
Activity	Inuvialuit Final Agreement	Gwich'in Final Agreement	Sahtu Final Agreement	Tl'icho Final Agreement	Dehcho Process	Akai'tcho Process (South Slave)
Land Use Planning	(See note 1)	Gwich'in Land Use Planning Board (GLUPB)	Sahtu Land Use Planning Board (SLUPB)	Tl'icho Government (See note 1)	Dehcho Land use Planning Committee (See note 2)	-
Land	(See note 3)	Gwich'in Land and Water Board (GLWB)	Sahtu Land and Water Board (SLWB)	Wek'èezhii Land and Water Board (WLWB)	Mackenzie Valley Land and Water Board (MVLWB) (also responsible for transboundary projects across the Mackenzie Valley)	
Water	Inuvialuit Water Board (IWB)					
Preliminary Screening	Environmental Impact Screening Committee (EISC)					
Environmental Assessment	Environmental Impact Review Board (EIRB)	Mackenzie Valley Environmental Impact Review Board (MVEIRB)				
Fisheries	Fisheries Joint Management Committee (FJMC)	Gwich'in Renewable Resources Board (GRRB)	Sahtu Renewable Resources Board (SRRB)	Wek'èezhii Renewable Resources Board (WRRB)	-	-
Wildlife and Forestry	Wildlife Management Advisory Council (WMAC) – NWT and North Slope				-	-
Surface Rights	NWT Surface Rights Board					

Notes:



1. The Inuvialuit Settlement Region and Wek'èezhii Management Area do not have formal Land Use Planning Boards but there is provision in each of the claims to undertake land use planning. In the Inuvialuit Settlement Region there are Community Conservation Plans.
2. The Dehcho Land Use Planning Committee was established under the Dehcho First Nation Interim Measures Agreement, not the MVRMA.
3. The GNWT Department of Lands issues land use permits for projects located on crown land and the Inuvialuit Land Administration (ILA) for projects located on Inuvialuit Private Land.



3.3 MANAGEMENT BOARD DESCRIPTIONS



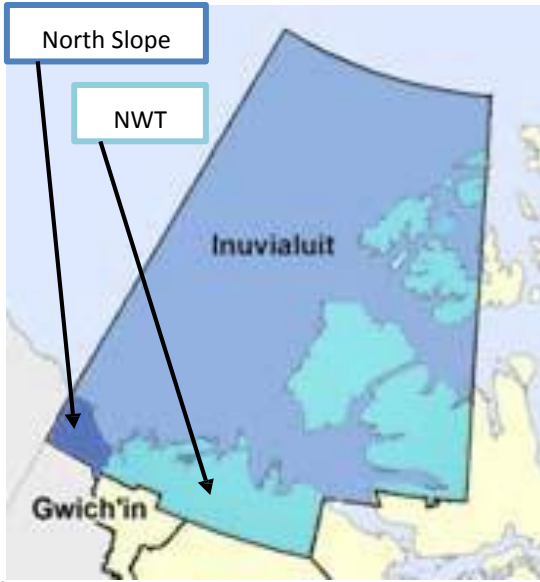
This section provides a brief overview of each of the Boards within the Inuvialuit Settlement Region and the Mackenzie Valley.

Inuvialuit Settlement Region (ISR)

The Inuvialuit Settlement Region is under the Inuvialuit Final Agreement.

WATER	
Inuvialuit Water Board (IWB)  Office: Inuvik # of Staff: ~3 # on Board members: ~5	<ul style="list-style-type: none"> The NWT Water Board (NWTWB) was established in 1972 and was renamed the Inuvialuit Water Board (IWB) in March 2014. The IWB holds authority under the <i>Waters Act</i> (S.N.W.T. 2014) to issue water licences in that portion of the ISR within the NWT. The IWB provides for the conservation, development and utilization of inland waters through its licensing processes to achieve the optimum benefit for all Canadians and, in particular, for the residents of the Inuvialuit Settlement Region. Under the <i>Waters Act</i>, an application must be made to the Board and a licence issued prior to the use of any waters or disposal of any waterborne waste. The requirements for application apply equally to departments and agencies of the federal government and the GNWT. The only exclusions are the use of water for domestic purposes, in-stream users (fishing, swimming, and boating), extinguishing a fire, controlling or preventing a flood, or on an emergency basis. For more information: http://www.inuvwb.com/
ENVIRONMENTAL ASSESSMENT	
Environmental Impact Screening Committee (EISC)  Office: Inuvik (within Joint Secretariat Office)	<ul style="list-style-type: none"> The Environmental Impact Screening Committee (EISC) is responsible for screening all development proposals of consequence in the ISR to determine if they could have a significant impact on the environment or on present or future wildlife harvesting. Proposals identified with potential impacts are referred to the EIRB or another appropriate body for an environmental impact assessment. The Inuvialuit Final Agreement stipulates that licences shall not be issued for any proposed development unless regulators, developers and operators have complied with the provisions of the Environmental Impact Screening and Review Process prior to the start of any development proposals. The EISC can make one of four determinations regarding a proposed development: <ol style="list-style-type: none"> 1) The development will have no significant negative impact and may proceed without an environmental

<p># of Committee members: ~7</p>	<p>impact assessment and review under the Inuvialuit Final Agreement;</p> <ol style="list-style-type: none"> 2) The development, if authorized subject to environmental terms and conditions recommended by the EISC, will have no such negative impact and may proceed without an environmental impact assessment and review under the Inuvialuit Final Agreement. 3) The development could have significant negative impact and is subject to assessment and review under the Inuvialuit Final Agreement; or 4) The development proposal has deficiencies of a nature that warrant a termination of its consideration and the submission another project
<p>Environmental Impact Review Board (EIRB)</p>  <p>Office: Inuvik (within Joint Secretariat Office)</p> <p># of members: ~7</p>	<ul style="list-style-type: none"> • The Environmental Impact Review Board (EIRB) is responsible for the public review of development projects. These projects are referred to the Board by the Environmental Impact Screening Committee (EISC). • The EIRB makes recommendations to the body empowered to authorize development (e.g. INAC). Recommendations may include remedial or mitigative measures to minimize impacts. • Licences or approvals will not be issued for any proposed development until the environmental impact screening and review provisions of the Inuvialuit Final Agreement are met. • The EIRB conducts environmental impact reviews for proposed developments in the Inuvialuit Settlement Region that have the potential for significant adverse environmental effects. • The EIRB decides whether a project should proceed and, if so, under what specific terms and conditions. In making its decision, the EIRB considers the need for wildlife compensation, mitigation, and remedial measures. • For more information: http://eirb.ca/
<p>RENEWABLE RESOURCES (FISHERIES AND WILDLIFE)</p>	
<p>Fisheries Joint Management Committee (FJMC)</p>  <p>Office: Inuvik (within Joint Secretariat Office)</p> <p># of members: ~4</p>	<ul style="list-style-type: none"> • The Fisheries Joint Management Committee (FJMC) was established in 1986, as required by the Inuvialuit Final Agreement, to provide advice on fisheries in the ISR. • The FJMC's mission is: "To ensure that the renewable marine, anadromous and freshwater resources of the ISR are managed and conserved for the wise use and benefit of present and future generations." • The Committee has the following responsibilities: <ul style="list-style-type: none"> ○ Assisting the Government of Canada and the Inuvialuit in administering the rights and obligations related to fisheries under the Inuvialuit Final Agreement. ○ Assisting the Minister of Fisheries and Oceans Canada in the management of fisheries and marine mammals, and on all matters relating to Inuvialuit and fisheries in the Inuvialuit Settlement Region.



<p>of staff: ~2</p>	<ul style="list-style-type: none"> ○ Developing and managing a public registration system for fishing on Inuvialuit lands and for entry on Inuvialuit lands for fishing. ○ Regulating the public right of access to Inuvialuit lands for fishing for conservation purposes or to prevent interference with Inuvialuit activities or use of land. ○ Allocating subsistence quotas among communities. • For more information: http://www.fjmc.ca/
<p>Wildlife Management Advisory Council</p> <p>NWT</p>  <p>Office: Inuvik (within Joint Secretariat Office)</p> <p># of members: ~7</p> <p># of staff: ~1</p> 	<ul style="list-style-type: none"> • The Council focuses on the conservation of land-based wildlife species (including polar bears) and birds within the Inuvialuit Settlement Region. • The Council's mandate is to advise appropriate Ministers on all matters relating to wildlife policy and the management, regulation, research, enforcement and administration of wildlife, habitat and harvesting for the Western Arctic Region, including the NWT. • It is the responsibility of the Council to prepare conservation and management plans, and to determine and recommend quotas for harvesting. • The Council also reviews, and advises the appropriate governments on existing or proposed wildlife legislation and any proposed Canadian position for international purposes that affect wildlife in the Western Arctic Region. <p>There are two parts to Wildlife Management Advisory Committee that share responsibility for Wildlife Management in the ISR:</p> <ol style="list-style-type: none"> 1. <u>The NWT branch has jurisdiction over the NWT portion of the ISR.</u> It is  <p>responsible for:</p> <ul style="list-style-type: none"> ○ Providing advice to government on wildlife matters in the Western Arctic Region ○ Determining and recommending quotas for Inuvialuit harvesting in the NWT portion of the Inuvialuit







North Slope Office: Whitehorse, YK # of members: ~5	<p>Settlement Region</p> <ul style="list-style-type: none">○ Providing advice and input to Inuvialuit co-management bodies○ Preparing a conservation and management plan for the Western Arctic Region <ul style="list-style-type: none">• For more information: http://jointsecretariat.ca/co-management-system/wildlife-management-advisory-council-northwest-territories/ <p>2. The North Slope jurisdiction is limited to the Yukon portion of the Inuvialuit Settlement Region, although some of its powers may apply to the NWT. It is responsible for:</p> <ul style="list-style-type: none">○ Determining harvest quotas on the North Slope, advising the appropriate Minister on activities taking place on the North Slope, and preparing a conservation and Management Plan. <ul style="list-style-type: none">• For more information: http://www.wmacns.ca/
NWT Surface Rights Board (for Aboriginal owned lands within the NWT)	<ul style="list-style-type: none">• The NWT Surface Rights Board came into force on April 1, 2016, under the territorial <i>Surface Rights Board Act</i>. The Surface Rights Board will be empowered to hear applications regarding disputes relating to accessing land and compensation for that access when a negotiated agreement is not reached. The Board's authority applies in all regions of the NWT.• As of spring 2016, no disputes over access through privately owned lands have been referred to the Surface Rights Board.• For more information: www.lands.gov.nt.ca/en/surface-rights-Board



Mackenzie Valley




The Mackenzie Valley includes the Gwich'in and Sahtu Settlement Areas and the Wek'èezhìi Management Area as well as areas which are still subject to land claim negotiations. There are numerous management Boards in the Mackenzie Valley, established through the MVRMA. Two Boards have jurisdiction over certain matters that cover the entire Valley (MVEIRB and MVLWB).

LAND USE PLANNING	
<p>Gwich'in Land Use Planning Board (GLUPB)</p>  <p>Office: Inuvik # of members: ~5 # of staff: ~2</p>	<ul style="list-style-type: none"> The Gwich'in Land Use Planning Board originated from the Gwich'in Comprehensive Land Claim Agreement in 1992. The Board gained official status through the <i>Mackenzie Valley Resource Management Act</i> in 1998. The Planning Board was created to develop and implement a land use plan for the Gwich'in Settlement Area, following the principles outlined in the Land Claim and the <i>Mackenzie Valley Resource Management Act</i>. The Plan provides for the conservation, development and utilization of land, water and resources and focuses on the needs of the Gwich'in claim beneficiaries, while considering the needs of all Canadians. The Gwich'in Land Use Planning Board is responsible for preparing comprehensive land use plans for the Gwich'in Settlement Area. These plans guide the use of Crown, settlement, and other private lands, and provide direction for the conservation, development and use of land, waters and other resources. The Gwich'in Land Use Planning Board creates plans that lay out the permitted and prohibited uses of all land within the Gwich'in Settlement Area. The Gwich'in Land Use Planning Board is also responsible for recommending approvals, exceptions and amendments to related plans. For more information: www.gwichinplanning.nt.ca
<p>Sahtu Land Use Planning Board (SLUPB)</p>  <p>Office: Fort Good Hope # of members: ~5 # of staff: ~2</p>	<ul style="list-style-type: none"> The Sahtu Land Use Planning Board was established through both the Sahtu Dené and Métis Comprehensive Land Claim Agreement and the <i>Mackenzie Valley Resource Management Act</i>. The Sahtu Land Use Planning Board is mandated to develop and implement a Land Use Plan for the Sahtu Settlement Area. The Plan will be reviewed every five years after approval to ensure its relevance and effectiveness in the future. The Board is also authorized to develop procedures for exceptions and amendments to the Plan. The Sahtu Land Use Plan (SLUP) has been approved and is effective as of August 8, 2013. The Plan guides the use of Crown, settlement, and other private lands, and provides direction for the conservation, development and use of land, waters and other resources. For more information: https://sahtulanduseplan.org/
<p>Tłı̄cho Lands Protection</p>	<ul style="list-style-type: none"> The Tłı̄cho Final Agreement provides for the establishment of a land use planning body to prepare a plan for the region but there is no explicit provision of the establishment of a planning Board.

<p>Department</p>  <p>Office: Behchokò</p> <p># of staff: ~8</p>	<ul style="list-style-type: none"> • The Tlicho Land Protection Department, which is a branch of the Tlicho Government, is responsible for developing, implementing, and managing the Tlicho Land Use Plan. It also administers Tlicho Lands and is responsible for monitoring and enforcement of activities in the Wek'èezhii Management Area. • The Department reviews land use permits, water licences, crown land applications, research permits, etc. and communicates Tlicho land use activities to citizens and interested parties. • For more information: <ul style="list-style-type: none"> ○ http://Tlicho.ca/government ○ http://Tlicho.ca/government/departments/culture-lands-protection
<p>LAND AND WATER</p>	
<p>In the Mackenzie Valley, the GLWB, SLWB and WLWB are panels of the MVLWB - and each panel makes decisions on project wholly within their respective management area, while the MVLWB makes decisions on activities that take place wholly outside any management area (e.g., the Dehcho/Akaiicho regions), or that take place in more than one management area.</p>	
<p>Gwich'in Land and Water Board</p>  <p>Office: Inuvik</p> <p># of members:~5</p> <p># of staff: ~3</p>	<ul style="list-style-type: none"> • The Gwich'in Land and Water Board is a regulatory authority established in 1998 under the Gwich'in Comprehensive Land Claim Agreement and given effect by the MVRMA to provide for an integrated and coordinated system of land management in the Mackenzie Valley of the NWT. • The MVRMA authorizes the Board to regulate the use of land and water by issuing, amending, renewing and suspending Land Use Permits and Water Licences throughout the Gwich'in settlement area, which includes all Crown, Gwich'in and any other private lands. • The Board also carries out preliminary screenings of development proposals to judge adverse environmental impacts or public concern, which may lead to the Mackenzie Valley Environmental Impact Review Board carrying out an environmental assessment or environmental impact review on the proposed development • The mandate of the Board is to provide for conservation, development and utilization of the land and water resources in the Gwich'in settlement area in a manner that will provide the optimum benefit for present and future residents of the settlement area and for all Canadians. • For more information: https://glwb.com/
<p>Sahtu Land and Water Board</p>	<ul style="list-style-type: none"> • The Sahtu Land and Water Board is one of the Boards created by the MVRMA and the Sahtu Dené-Métis Comprehensive Land Claim Agreement (1993) which called for the establishment of a land and water Board. • The Sahtu Land and Water Board regulates the use of land and water by issuing, amending, renewing and suspending land use permits and water licences on all crown, Sahtu lands and private

 <p>Office: Fort Good Hope</p> <p># of members: ~5</p> <p># of staff: ~7</p>	<p>lands.</p> <ul style="list-style-type: none"> • The Board also carries out preliminary screenings of development proposals to judge adverse environmental impacts or public concern, which may lead to the Mackenzie Valley Environmental Impact Review Board carrying out an environmental assessment or environmental impact review on the proposed development • The Board also has the authority to hold public hearings and oversee compliance; however, responsibility for the enforcement of regulations belongs to INAC. According to the Land Claim Agreement, the Board may enforce under certain circumstances provided there is no duplication of government services. The Board can oversee compliance by conducting field visits, speaking with land inspectors, and can require an annual reporting on Water Licences. • The mandate of the Sahtu Land and Water Board is to provide for conservation, development and utilization of the land and water resources in the Sahtu settlement area in a manner that will provide the optimum benefit for present and future residents of the settlement area and for all Canadians.
<p>Wek'èezhìi Land and Water Board</p>  <p>Office: Wekweeti</p> <p># of members: ~5</p> <p># of staff: ~9</p>	<ul style="list-style-type: none"> • With the finalization of the Tłjcho Agreement in 2003 and the enactment of <i>The Tłjcho Land Claims Agreement and Self Government Act</i> in 2005, the Wek'èezhìi Land and Water Board was established as a Board under the legal authority of the MVRMA. • Functions of the Board include issuing, amending, extending, renewing or canceling Water Licences and Land Use Permits within Wek'èezhìi Resource Management Area. The Board is guided by the Mackenzie Valley Land Use Regulations, as well as by the Tłjcho Agreement and the MVRMA. • The Board also carries out preliminary screenings of development proposals to judge adverse environmental impacts or public concern, which may lead to the Mackenzie Valley Environmental Impact Review Board carrying out an environmental assessment or environmental impact review on the proposed development. • The mandate of the Wek'èezhìi Land and Water Board is to regulate the use of land and water and the deposit of waste throughout the Wek'èezhìi Management Area and to provide for the conservation, development and utilization of land and water resources to the optimum benefit for all Canadians and, in particular, for residents of Wek'èezhìi. • For more information: https://wlwb.ca/
<p>The Mackenzie Valley Land and Water Board</p>	<ul style="list-style-type: none"> • The Mackenzie Valley Land and Water Board is a regulatory authority that was established under the MVRMA. The Board is empowered to regulate the use of crown and private land and water outside settled land claim areas, as well as those development activities that have impacts on more than one settlement region.

 <p>Office: Yellowknife # of members: ~20 # of staff: ~13</p>	<ul style="list-style-type: none"> • This valley-wide Board is also responsible for ensuring the MVRMA is applied consistently across all regional land and water Boards in the Mackenzie Valley. • The MVLWB has three main functions: <ul style="list-style-type: none"> ○ Issuing land use permits and water licences for areas that do not have settled land claim agreements, until those areas conclude negotiations with a land claim settlement ○ Processing transboundary land and water use applications within the Mackenzie Valley ○ Ensuring consistency in the application of the legislation throughout the Mackenzie • The mandate of the Board is to regulate the use of land and waters and the deposit of waste so as to provide for the conservation, development and utilization of land and water resources in a manner that will provide the optimum benefit to the residents of the settlement area and of the Mackenzie Valley and to all Canadians. • It is also the responsibility of the Mackenzie Valley Land and Water Board to coordinate and compile reviews (if required) and to undertake technical reviews of applications. If necessary, technical reviews may be performed by in-house staff or external experts. The role of the Board is to ensure that reviews are open, inclusive, and transparent, and that all of the terms and conditions mitigate any environmental effects. • The MVLWB Board consists of the MVLWB Chairperson, 5 members of the SLWB, 5 members of the GLWB, 5 members of the WLWB, and 4 members appointed pursuant to Section 99 of the MVRMA. • For more information: https://mvlwb.com
<p>Mackenzie Valley Environmental Impact Review Board</p>  <p>Office: Yellowknife # of members: ~7 # of staff: ~13</p>	<ul style="list-style-type: none"> • The Mackenzie Valley Environmental Impact Review Board was established under the MVRMA and is responsible for the environmental assessment and impact reviews throughout the Mackenzie Valley. • The Board is the main instrument for environmental impact assessment in the Mackenzie Valley and replaces the <i>Canadian Environmental Assessment Act</i> in the Mackenzie Valley. • The Mackenzie Valley Environmental Impact Review Board is responsible for: <ul style="list-style-type: none"> ○ Conducting environmental assessments and impact reviews ○ Providing guidance in the preliminary screening process and review of preliminary screening reports by regulatory authorities and other screeners ○ Making recommendations to INAC and/or the NEB for the rejection or approval of proposals • For more information: www.reviewboard.ca

RENEWABLE RESOURCES	
<p>Gwich'in Renewable Resources Board (GRRB)</p>  <p>Office: Inuvik # of members: ~7 # of staff: ~6</p>	<ul style="list-style-type: none"> The Gwich'in Renewable Resources Board was established under the guidance of the Gwich'in Comprehensive Land Claim Agreement (1992) to be the main instrument for wildlife, fish and forest management in the Gwich'in Settlement Area. The Board is a co-management Board that acts in the public interest to manage renewable resources in the Gwich'in Settlement Area. Having a mix of Gwich'in claim beneficiaries and government appointments provides the diversity and balance needed to allow the Board to make informed decisions. For more information: http://www.grrb.nt.ca/
<p>Sahtu Renewable Resources Board</p>  <p>Office: Tulit'a # of members: ~7 # of staff: ~5</p>	<ul style="list-style-type: none"> The Sahtu Renewable Resources Board was established through the Sahtu Dené & Métis Comprehensive Land Claim Agreement and the <i>Sahtu Dené & Métis Land Claim Settlement Act</i> (1994). The Board is the main instrument for wildlife and forestry management in the Sahtu Settlement Area. This organization is deemed a regional co-management Board, and represents claim beneficiaries as well as non-beneficiaries and the non-Aboriginal population of the Sahtu Settlement Area. The Board, with equal representation from communities and territorial/federal government agencies, is dedicated to protecting, conserving, and managing all renewable resources in the Sahtu. For more information: http://www.srrb.nt.ca/
<p>Wek'èezhii Renewable Resources Board</p>  <p>Office: Yellowknife # of members: ~8 # of staff: ~3</p>	<ul style="list-style-type: none"> The Wek'èezhii Renewable Resources Board is a wildlife co-management authority established by the Tłı̄cho Agreement. The Board is responsible for managing wildlife and wildlife habitat (forests, plants and protected areas) in the area known as Wek'èezhii. The Board is an institution of public government and must act in the public interest. The following key principles guide the Wek'èezhii Renewable Resources Board: <ul style="list-style-type: none"> Making management decisions on an ecosystem basis to recognize the interconnection of wildlife with the environment Applying the principles and practices of conservation Using the best available information including traditional knowledge, scientific information and expert opinion For more information: http://www.wrrb.ca/



SURFACE RIGHTS	
NWT Surface Rights Board (For all Aboriginal-owned lands in NWT)	<ul style="list-style-type: none"> • The NWT Surface Rights Board came into force on April 1, 2016, under the territorial <i>Surface Rights Board Act</i>. The Surface Rights Board will be empowered to hear applications regarding disputes relating to accessing land and compensation for that access when a negotiated agreement is not reached. The Board's authority applies in all regions of the NWT. • As of spring 2016, no disputes over access through privately owned lands have been referred to the Surface Rights Board. • For more information: http://www.lands.gov.nt.ca/en/surface-rights-Board

Areas Where Land Claim Agreements have not been finalized

Land Use Planning	<p>The Dehcho Land Use Planning Committee was established in 2001 as a result of the Interim Management Agreement between the Dehcho First Nations, the GNWT and the Federal Government. The Committee is responsible for guiding the development of a Dehcho Land Use Plan and ensuring proper consultation and communication is occurring amongst all relevant parties.</p> <p>Land use planning is not currently being undertaken in the Akaitcho Land Claim Area.</p>
Renewable Resource Management	<p>Renewable resources are managed by the federal and territorial governments in consultation with the potentially affected parties. The system currently in place is essentially the same as the pre-claim circumstances in the other regions.</p>
Land and Water Management	<p>Land and water management falls under the jurisdiction of the Mackenzie Valley Land and Water Board which performs management functions similar to the Land and Water Boards in the settled land claim areas.</p>
Environmental Assessment	<p>The Mackenzie Valley Environmental Impact Review Board is responsible for overseeing environmental assessments in these areas as well as settled claim areas in the Mackenzie Valley.</p>
Surface Rights	<p>There are no surface rights Tribunals established for these areas.</p>

3.4 WORKING RELATIONSHIPS

This section discusses how the collective mandates/functions of the different Boards relate to each other within and across settlement areas and how they work together with government and each other.

3.4.1 Relationships between Settlement Areas

Most natural resources (water, wildlife) are shared amongst settlement areas. Management Boards must work closely together to ensure that these resources are managed in an effective and consistent manner.

For example, the wildlife management Boards in the NWT and Nunavut have signed a formal agreement to address their cooperation on issues of common concerns. Similar agreements have been signed by some of the other Resource Management Boards.

The overall intent is to ensure that all of the Boards are working effectively with each other and that they exercise their respective roles and responsibilities in a consistent manner, to the extent possible.

3.4.2 Relationships with Governments

Generally, Boards are appointed by the Minister of Indigenous and Northern Affairs Canada or a Governor-in-Council and report to the federal or territorial Minister responsible for the resource sector being considered. Depending on the type of decision being made the Board may either directly authorize a development or recommend to a Minister that a Board decision be implemented. Boards each retain their own staff but generally cooperate with a Minister's departmental staff when seeking technical information or advice.

Table 1: Boards in the Mackenzie Valley report to federal or territorial ministers responsible for the resource sector being considered.

Resource Sector	Agency
Land, Water, and Environmental Assessment The relevant Ministers are: the federal minister for developments wholly or partly on federal lands; GNWT ministers for developments wholly on non-federal lands (Minister of Lands for Environmental Assessment; Minister of ENR for Water Licences). The details are set out in the MVRMA.	<ul style="list-style-type: none"> Indigenous and Northern Affairs Canada (federal) Environment and Natural Resources (GNWT) Lands (GNWT)
Fish	<ul style="list-style-type: none"> Fisheries and Oceans Canada (federal)
Wildlife (mammals) Wildlife management Boards in the Inuvialuit and Gwich'in regions also have some responsibilities inside the Yukon.	<ul style="list-style-type: none"> Environment and Natural Resources (GNWT)
Migratory Birds	<ul style="list-style-type: none"> Environment and Climate Change Canada (federal)

3.4.3 Relationships between Boards

Fundamental to the resource management regime in the NWT is to provide for an integrated and coordinated system of land and water management. The Boards work together using the concepts of “integration and coordination” through mechanisms such as the **NWT Board Forum**, the **Pan Territorial Board Forum**, and numerous other workshops, forums, and meetings.

Coordinated efforts are sometimes formalized through **MOUs, or the joint-development or adoption of policies, guidelines, and procedures**. Sharing resources, in the form of staff, technologies, or in some cases, coordinated public sessions, is also done in the spirit of integration. The Boards’ work is directed towards ensuring processes continually improve. The objective is to ensure all aspects of the resource management system in the NWT—particularly those under land claims—are implemented and are contributing towards the overall goal of responsible economic development within a sound environmental management framework.

Land use plans are intended to set a context for environmental screenings, assessments, and reviews of particular types of activities on particular areas of land; the outcome of these processes, combined with knowledge gained through various monitoring programs, and informed by periodic environmental audits and/or reviews, sets the stage for regulatory decisions.

The settlement of comprehensive land claim agreements was, in part, designed to create certainty and clarity for Aboriginal groups, governments, residents, and developers.

These agreements establish co-management authorities, whose roles—while operating as independent Administrative Tribunals—can effectively ensure the participation of all levels of government, residents, and developers. The objectives of the Boards are to provide for the conservation, development, and utilization of land and water resources in a manner that will provide the optimum benefit generally for all Canadians and in particular for residents of each respective management area and residents of the Mackenzie Valley (see section 101.1 of the MVRMA). The practical implications of this unique and relatively recent history are

several: the resource management regime is effectively a “negotiated” regime, making the “spirit and intent” of the land claims a fundamental underpinning of the system. The co-management system of resource management in the NWT is different than other regulatory regimes in Canada, and it is different by design. This is understood and respected by the Boards in the conduct of their duties, but because of this fundamental difference, not always well understood or fully appreciated by all parties, especially those originating from outside the NWT. To help

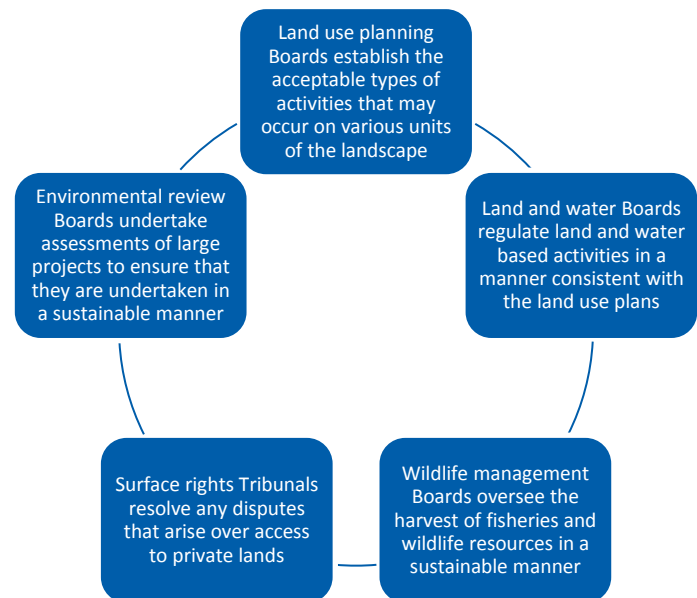


Figure 12: Relationships between Boards

facilitate greater understanding and more effective participation in Board processes, the Boards work together on communication and outreach efforts.

The roles and responsibilities of each Board are intended to contribute to a comprehensive and integrated resource management system within each settlement area.

3.4.4 Relationships by Region

The Boards in each region interact with each other and government in distinct ways. The following diagrams help to illustrate those relationships

Inuvialuit Settlement Region

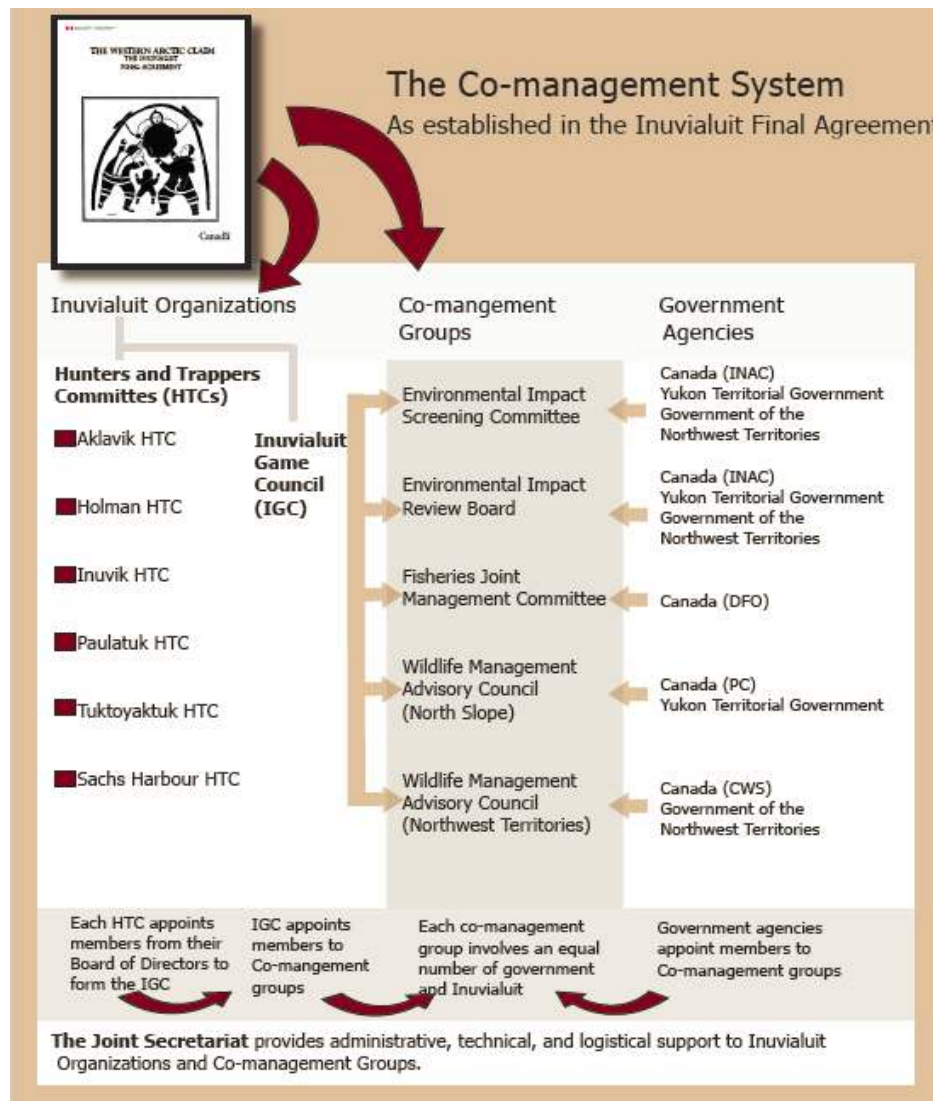


Figure 13: Overview of relationships in the Inuvialuit Settlement Region

Mackenzie Valley

The relationship between the various management organizations in the Mackenzie valley claim areas is equally complex. The processes differ between settled claim areas and those currently under negotiation. In addition, the reporting structure in the Wek'èezhìi Management Area, which is administered by the Tìjcho Government, differs from the Gwich'in and Sahtu Settlement Areas.

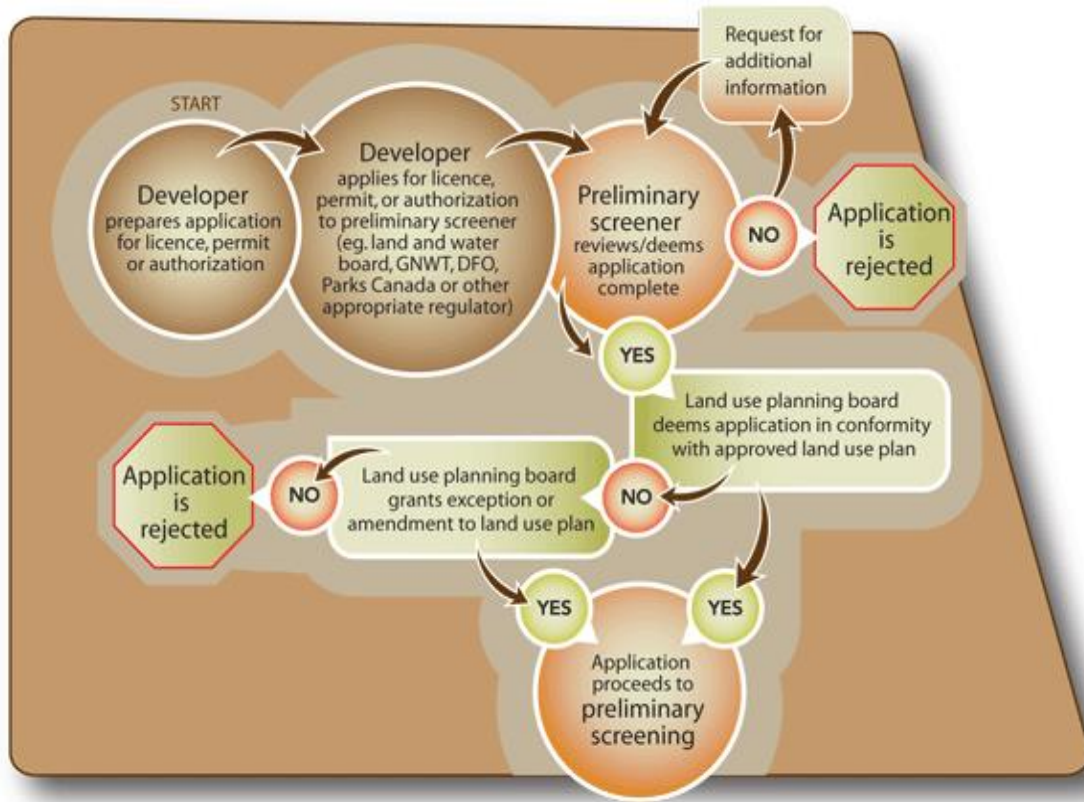


Figure 14: Application for licence/permit/authorization in the Mackenzie Valley

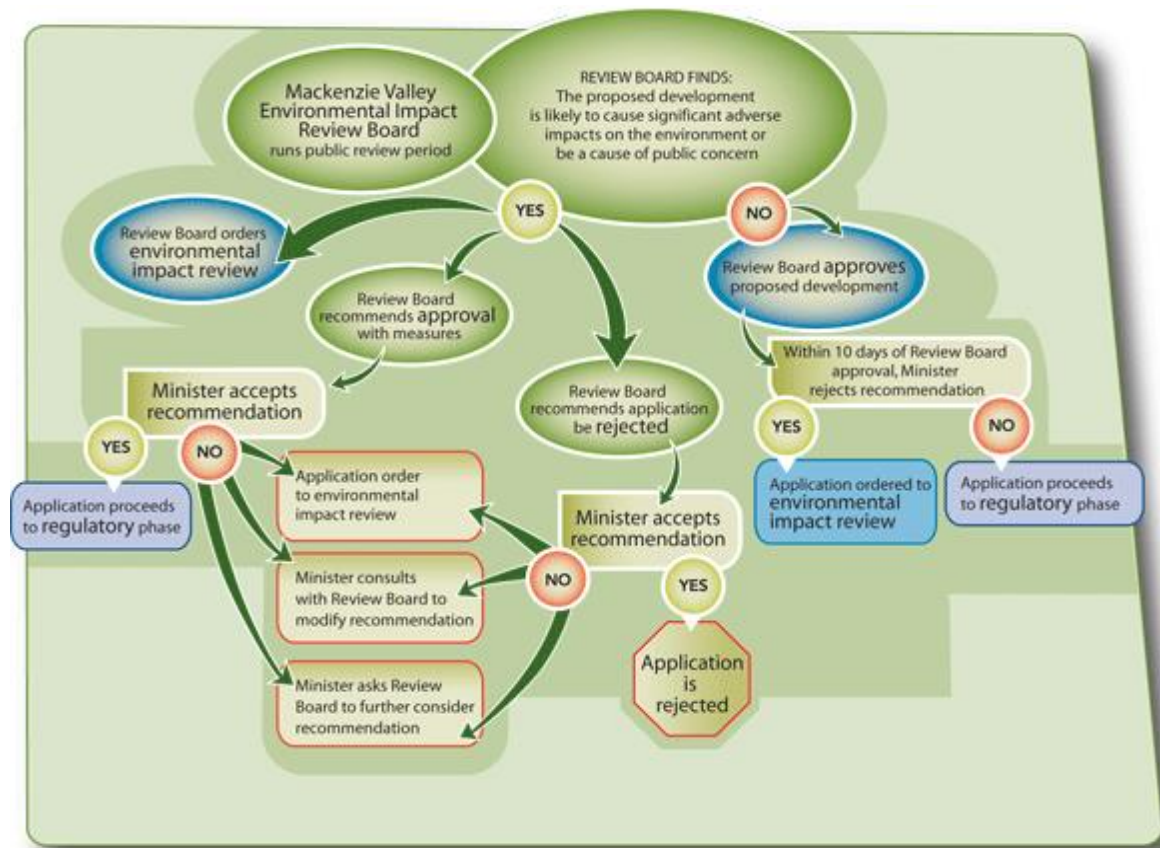


Figure 15: Environmental assessment in the Mackenzie Valley

Areas without settled land claim agreements

The relationship between the various management organizations areas without settled land claims is similar to the “pre-claims” regime across NWT, with one exception: the Mackenzie Valley Land and Water Board is responsible for the regulation of land and water use instead of Indigenous and Northern Affairs Canada.

3.4.5 NWT Board Forum

One mechanism to help coordinate resource management in the NWT is the NWT Board Forum.

The purpose of the NWT Board Forum is to give organizations involved in land use planning, environmental assessment, land and water regulation and resource management an opportunity to learn from one another and to coordinate activities. The Forum is intended to improve and maintain effective lines of communication between its members, resolve common issues, and share expertise. It also provides industry, government and other organizations with a structured forum to engage and interact with the Northwest Territories’ Co-management Boards.



Objectives of the forum include:

- Increasing mutual understanding – presentation on current issues
- Identifying and developing collaborative approaches to resolve issues of concern – developed inter-agency working groups
- Planning strategic and operational initiatives of mutual benefit
- Identifying opportunities to share resources and expertise – cross-Board opportunities
- Acting as a Forum to hear from industry, government and other interest groups.
- Pursuing training and development initiatives—formalized training committee, materials, and the delivery of courses for Board members and staff—is a cornerstone of Board Forum activities.

For more information: www.nwtboardforum.com



Chapter 4: Environmental Legislation and Agencies

As Board members, it is important to understand the various types of federal and territorial legislation and regulations that govern land and resource management in the NWT.

By reading this Chapter, you will be able to:

- ✓ Identify the basic levels of governments within Canada
- ✓ Cite the federal and territorial legislation and regulations that are relevant to Boards
- ✓ Recognize the associated federal and territorial agencies that are responsible for administering the relevant legislation and regulations

Chapter Breakdown:

Section 4.1: Levels of Canadian Government

Section 4.2: Legislation Relevant to the Boards

Section 4.3: Relevant Federal Legislation

Section 4.4: Relevant Territorial Legislation



4.1 LEVELS OF CANADIAN GOVERNMENT

There are several levels of government of Canada: federal, provincial/territorial, municipal and Aboriginal.

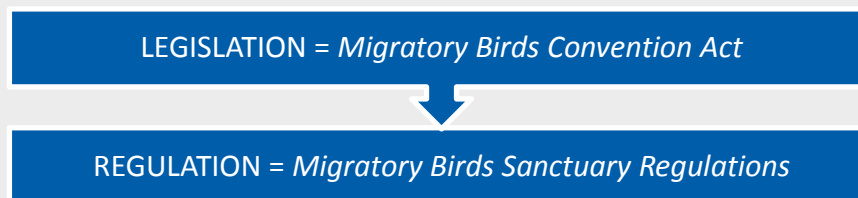
Federal	<p>Canada is a federation – a union of partially self-governing states or regions (provinces and territories) united by a central (federal) government. The authority to make laws is divided between the Parliament of Canada and the provincial or territorial legislatures.</p> <p><u>Examples of federal powers and responsibilities:</u></p> <ul style="list-style-type: none"> • National defence • Foreign Affairs • Banking • Federal taxes • Criminal law • Fisheries • Aboriginal lands and rights 	Aboriginal <p>Many Aboriginal peoples have their own Aboriginal governments across the country. Band councils govern many First Nations. These elected councils are similar to municipal councils and make decisions that affect their local communities. Aboriginal self-government agreements are another means of governance, giving Aboriginal groups greater control and law-making authority over a comprehensive range of jurisdictions, including governance, social and economic development, education, health, lands and more.</p>
Provincial/ Territorial	<p>Each province and territory has their own parliamentary government with three branches: executive, legislative, and judicial.</p> <p><u>Examples of provincial powers and responsibilities:</u></p> <ul style="list-style-type: none"> • Education • Health care • Natural resources (some) <p><u>Territorial powers and responsibilities</u></p> <ul style="list-style-type: none"> • Similar to provincial responsibilities, with changes due to devolution in 2014 • Public land, water and resources <p>While provinces exercise constitutional powers in their own right, the territories exercise delegated powers under the authority of the Parliament of Canada. While historically, the North was largely governed by federal officials, more recent federal statutes have led to province-like powers being “devolved” to territorial governments.</p>	
Municipal (town/ cities)	<p>Municipal governments are a type of local authority council. They receive authority from the provincial governments</p> <p><u>Examples of municipal powers and responsibilities:</u></p> <ul style="list-style-type: none"> • Local services (police, libraries, etc.) • Safety and infrastructure for communities (water, roadways) 	



KEY TERMS

- **Legislation:** Legislation refers to a law or laws which have been approved (enacted) by a federal or provincial/territorial governing body. Often referred to as **Acts** or statutes. Draft legislation, called a bill, is introduced to Parliament and requires the assent of the House of Commons, the Senate and the Crown to become law.
- **Regulations:** Regulations are the rules and procedures that elaborate on an Act, providing more explicit direction for specific elements of the Act. It is sometimes referred to as subordinate legislation. Regulations are enacted by the body to whom the authority to make regulations has been delegated in the Enabling Act, such as the Governor in Council or a minister, etc.
- **Mandate:** Mandate refers to the authorization given to an organization or Board through its founding legislation.
- **Amendment:** Amendment refers to the process of formally altering or adding to an Act or Regulation.
- **Policy:** A policy is a deliberate plan of action to guide decisions and achieve outcomes. It is a written statement that communicates objectives, intent, requirements, responsibilities, and standards.
- **Constitution:** A constitution defines the guiding principles, separation of powers between jurisdictions and the fundamental rights of Canadian citizens.

For example:





4.2 LEGISLATION RELEVANT TO THE BOARDS

Each Board interacts with specific legislation depending on their function and jurisdiction. For example, the Wildlife Management Advisory Councils work closely with the federal and/or territorial department of Environment, depending upon the issues under consideration.

The Boards deal with departments at two levels – technical and ministerial. Technical personnel provide information and advice to Boards during their decision-making process. The Boards either make decisions or provide advice to the relevant minister who makes the final decision. Departmental personnel are required to implement the Board or Minister’s decision.

For the Mackenzie Valley, the table below depicts, in general, which legislation are most relevant for each Board. Please note that a description for each legislation is provided in the following sections.

Boards	Relevant Legislation for Boards in the Mackenzie Valley
Land Use Planning Boards	<ul style="list-style-type: none"> • MVRMA • Land Claim Agreements • Deh Cho Interim Measures Agreement
Land and Water Boards (Issuance of water licenses and land use permits)	<p><u>Preliminary Screening</u></p> <ul style="list-style-type: none"> • MVRMA <ul style="list-style-type: none"> ○ Preliminary Screening Requirement Regulations ○ Exemption List Regulations <p><u>Water licenses</u> (Outside a federal area)</p> <ul style="list-style-type: none"> • Waters Act <ul style="list-style-type: none"> ○ Waters Regulations ○ Expropriation Fees Regulations • Delegation Instrument (ministerial authority) <p>(Inside a federal area)</p> <ul style="list-style-type: none"> • MVRMA <ul style="list-style-type: none"> ○ Northwest Territories Waters Regulations <p><u>Land use permits</u></p> <ul style="list-style-type: none"> • MVRMA <ul style="list-style-type: none"> ○ Mackenzie Valley Land Use Regulations • Land claim agreements (for regional Boards)
Environmental Impact Review Board (Recommendation for project approval or rejection)	<ul style="list-style-type: none"> • MVRMA <ul style="list-style-type: none"> ○ Preliminary Screening Requirement Regulations ○ Exemption List Regulations
Renewable Resources Boards	<ul style="list-style-type: none"> • Land Claim Agreements
Surface Rights Boards	<ul style="list-style-type: none"> • Surface Rights Board Act



4.3 RELEVANT FEDERAL LEGISLATION

4.3.1 Federal Acts and Regulations

Numerous federal Acts relate to resource management in the NWT. Many of them were in existence before claims were settled. If parts of these Acts are not consistent with a Final Agreement, the Final Agreement prevails. Some legislation (e.g. *Species at Risk Act*) has been passed more recently. In that case, the Act was written to recognize claim agreement obligations.



A number of federal Acts have supporting regulations that provide more explicit direction for specific elements of the Act. Regulations are a form of law derived from specific Acts of Parliament. However, regulations are not made by Parliament. Rather, they are made by bodies to which Parliament has delegated the authority such as the Governor in Council, a Minister or an administrative agency.

Table 2: Overview of relevant federal departments, agencies and legislation (Note: Acts and regulations can be administered by more than one department or agency)

Department of Indigenous and Northern Affairs Canada (INAC)	Department of Environment and Climate Change Canada (ECCC)	Department of Natural Resources Canada (NRCan)	Department of Fisheries and Oceans (DFO)
<i>Mackenzie Valley Resource Management Act</i> <i>Territorial Lands Act</i> (remaining federal lands only) <i>Canada Petroleum Resources Act</i> <i>Canada Oil and Gas Operations Act</i>	<i>Canada Water Act</i> <i>Canada Wildlife Act</i> <i>Canadian Environmental Protection Act</i> <i>Migratory Birds Convention Act</i> <i>Species at Risk Act</i>	<i>Arctic Waters Pollution Prevention Act</i> <i>Canada Petroleum Resources Act</i> <i>Canada Oil and Gas Operations Act</i>	<i>Fisheries Act</i> <i>Oceans Act</i> <i>Species at Risk Act</i> (fish and other marine species)
	Canadian Environmental Assessment Agency (CEAA)	National Energy Board (NEB) (Agency)	
	<i>Canadian Environmental Assessment Act</i>	<i>National Energy Board Act</i>	
	Parks Canada (Agency)		
	<i>National Parks Act</i> <i>Species at Risk Act</i> (within a park)		

Department of Indigenous and Northern Affairs Canada (INAC)



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

Indigenous and Northern Affairs Canada (INAC) supports Aboriginal people (First Nations, Inuit and Métis) and Northerners in their efforts to: improve social well-being and economic prosperity; develop healthier, more sustainable communities; and participate more fully in

Canada's political, social and economic development — to the benefit of all Canadians.
Indigenous and Northern Affairs Canada is responsible for:

Mackenzie Valley Resource Management Act (MVRMA)

The *Mackenzie Valley Resource Management Act* was developed as a result of the Gwich'in and Sahtu Final Agreements. The Act has created and provided authorities to Co-management Boards to carry out land use planning, regulate the use of land and water and, if required conduct environmental assessments and reviews of large or complex projects. It also provides for the creation of a Cumulative Impact Monitoring Program (the NWT CIMP) and an environmental audit to be conducted once every five years.

The following Boards were created:

- Mackenzie Valley Land and Water Board
- Mackenzie Valley Environmental Impact Review Board
- Gwich'in Land and Water Board
- Sahtu Land and Water Board
- Gwich'in Land Use Planning Board
- Sahtu Land Use Planning Board
- Wek'eezhii Land and Water Board
- Gwich'in Renewable Resources Board*
- Sahtu Renewable Resources Board*
- Wek'eezhii Renewable Resource Board*

* The Renewable Resource Boards were not technically created under the MVRMA, but in the claims themselves.

The MVRMA includes the following regulations:

- ***Preliminary Screening Requirement Regulations***
The regulation requires a regulatory authority or a designated regulatory agency to conduct preliminary screening of a proposed development before they issue a licence, permit or authorization to an applicant.
- ***Exemption List Regulations***
These regulations state what activities or developments do not require environmental screening before the issuance of a permit, licence or authorization. The regulations distinguish two types of exempted developments: those that occur within National Parks, National Park Reserves, or National Historic Sites, and those that do not.
- ***Mackenzie Valley Land Use Regulations***
These regulations empower the Mackenzie Valley Land & Water Board to regulate the use of land by issuing, amending, extending and suspending land use permits in the unsettled land claims area of the Mackenzie Valley.

The MVRMA is made up of seven parts:

Part I: General Provisions
Respecting Boards

Part II: Land Use Planning

Part III: Land and Water
Regulation

Part IV: Mackenzie Valley Land
and Water Board

Part V: Mackenzie Valley
Environmental Impact Review
Board

Part VI: Environmental
Monitoring and Audit

Part VII: Transitional
Provisions, Consequential
Amendments, and Coming Into
Force

- *NWT Waters Regulations*

These regulations specify the types of undertakings which require water licenses, based on the potential water use or the deposit of waste on federal lands in the Northwest Territories.

Canada Petroleum Resources Act (CPRA)

The Act governs the issuance and exercise of rights to petroleum resources in Canada's 'frontier lands.'

- *Frontier Lands Petroleum Royalty Regulations*

These regulations govern the authorization to set and collect royalties in respect of petroleum produced from frontier lands while providing the Governor in Council the authority to prescribe the royalty rates, the manner of calculating or determining any royalty prescribed, reporting, and any associated interest or penalties.

- *Frontier Lands Registration Regulations*

These Regulations relate to the administration and registration of interests and instruments in relation to frontier lands and prescribing fees to be paid in respect of such interests and instruments.

Territorial Lands Act

This Act provides for the management of federal lands in the NWT. The Act regulates the creation of land management zones, the sale or lease of lands, mining rights, and land withdrawals.

- *Northwest Territories and Nunavut Mining Regulations (Repealed 2014)*

Replaced by NWT Mining Regulations

- *Territorial Quarrying Regulations*

These regulations pertain to the disposal of limestone, granite, slate, marble, gypsum, loam, marl, gravel, sand, clay, volcanic ash or stone in federal lands in the Northwest Territories.

- *Territorial Dredging Regulations*

The scope of these regulations includes every natural substance including gold and silver that may be recovered from the submerged bed of a river by the process commonly known as dredging, but does not include peat, bitumen, oil shales, clay, sand and gravel. Since devolution, these regulations only apply to remaining federal lands in the NWT.

- *Territorial Land Use Regulations*

Permits are required for activities that may alter federal lands. The regulations do not apply to the usual activities while hunting, fishing or trapping or during emergency situations. The regulations do not apply to land in the Mackenzie Valley.

Northwest Territories Devolution Act

An Act to replace the Northwest Territories Act to implement certain provisions of the Northwest Territories Lands and Resources Devolution Agreement and to repeal or make amendments to the *Territorial Lands Act*, the *Northwest Territories Waters Act*, the *Mackenzie Valley Resource Management Act*, other Acts and certain orders and regulations.

Northwest Territories Act (Repealed 2014)

The *NWT Act* was repealed through the process of devolution. See *Northwest Territories Devolution Act* under the Territorial Legislation.

Northwest Territories Waters Act (Repealed 2014)

This Act was repealed and is now mirrored through the GNWT's *Waters Act* (2014). The Inuvialuit Water Board is continued under the *Waters Act*.

Department of Environment and Climate Change Canada (ECCC)



Environment and
Climate Change Canada

Environnement et
Changement climatique Canada

Environment and Climate Change Canada's mandate is to: preserve and enhance the quality of the natural environment, including water, air, soil, flora and fauna; conserve Canada's renewable resources; conserve and protect Canada's water resources; forecast daily weather conditions and warnings, and provide detailed meteorological information to all of Canada; enforce rules relating to boundary waters; and coordinate environmental policies and programs for the federal government. Environment and Climate Change Canada is responsible for:

Canadian Environmental Protection Act

This Act provides for pollution prevention and the protection of the environment and human health in order to contribute to sustainable development.

Canada Water Act

The Act provides for the management of water resources in Canada including research, planning, and the implementation of programs relating to the conservation, development and utilization of water resources.

Canada Wildlife Act

The Act provides for the creation, management, and protection of wildlife areas for wildlife research activities, or for conservation or interpretation of wildlife. The purpose of the Act is to preserve habitats that are critical to migratory birds and other wildlife, particularly those at risk.

- ***Wildlife Area Regulations***

These regulations identify activities which are prohibited on such areas because they may harm a protected species or its habitat. In some circumstances, land use permits may be granted to individuals, organizations, or companies if the intended use is compatible with conservation of the area.

Migratory Birds Convention Act

The purpose of this Act is to implement the Migratory Birds Convention (between Canada and US) by protecting and conserving migratory birds, as populations and individual birds, and their nests.

- ***Migratory Bird Sanctuary Regulations***

The regulations provide for the establishment and management of bird sanctuaries through the prohibition of hunting, interfering with nests, or possession of a firearm. The Minister may approve an application to carry on a prohibited activity inside a migratory bird sanctuary.

Species at Risk Act

The Act (commonly referred to as SARA) is intended to prevent wildlife species from becoming extinct and secure the necessary actions for their recovery. It provides for the legal protection of wildlife species at risk and their critical habitats.

Canadian Environmental Assessment Agency (CEAA)

The Canadian Environmental Assessment Agency administers the *Canadian Environmental Assessment Act, 2012* and is accountable to the Minister of Environment and Climate Change. The Agency's mandate is to provide high-quality environmental assessments that contribute to informed decision-making, in support of sustainable development. The Agency is the responsible authority for most federal environmental assessments; the Canadian Nuclear Safety Commission (CNSC) and the National Energy Board (NEB) are the authorities responsible for federal environmental assessment of projects they regulate.

The Canadian Environmental Assessment Agency's mandate is relatively modest in the NWT, with most environmental assessments carried out by the Environmental Impact Review Board (EIRB) and Mackenzie Valley Environmental Impact Review Board.



The Environmental Impact Screening Committee (EISC) undertakes the screening of projects in the Inuvialuit Settlement Region and the Environmental Impact Review Board (EIRB) undertakes the environmental assessment of the projects that have been referred to it by the EISC.

The Mackenzie Valley Environmental Impact Review Board undertakes environmental assessment for all projects in the Mackenzie Valley other than those proposed in a federal area.

Canadian Environmental Assessment Act, 2012 (CEAA 2012)

CEAA 2012 provides the legal basis for the federal environmental assessment process that applies throughout most of Canada and sets out the responsibilities and procedures for carrying out environmental assessments of projects which involve federal decision-making authorities. In the Mackenzie Valley, however, environmental assessment is conducted under the MVRMA and CEAA only applies in certain instances (e.g. joint review).

- ***Exclusion List Regulations***

The Regulations exclude certain projects from undergoing an environmental assessment.

Parks Canada (Agency)

Parks Canada Agency protects and presents nationally significant examples of Canada's natural and cultural heritage and foster public understanding, appreciation and enjoyment in ways that ensure their ecological and commemorative integrity for present and future generations. Parks Canada is responsible for:

National Parks Act

The Act provides for designation and maintenance of national parks. Natural resources in national parks are dedicated to the "benefit, education and enjoyment" of the people of Canada.

Department of Natural Resources Canada (NRCan)



National Resources
Canada

Ressources naturelles
Canada

NRCan seeks to enhance the responsible development and use of Canada's natural resources and the competitiveness of Canada's natural resources products.

Arctic Waters Pollution Prevention Act

An Act to prevent pollution of areas of the arctic waters adjacent to the mainland and islands of the Canadian arctic

- *Arctic Waters Pollution Prevention Regulations*

The regulations regard the prevention of pollution of areas of the arctic waters adjacent to the mainland and islands of the Canadian arctic.

National Energy Board (NEB) (Agency)

The National Energy Board is an independent federal agency that regulates international and interprovincial aspects of the oil, gas and electric utility industries. The purpose of the Board is to promote safety and security, environmental protection and efficient energy infrastructure and markets in the Canadian public interest within the mandate set by Parliament in the regulation of pipelines, energy development and trade. The Board is accountable to Parliament through the Minister of Natural Resources Canada. **The National Energy Board is also a designated regulatory authority under the Mackenzie Valley Resource Management Act.**

National Energy Board Act

The Act established the National Energy Board as an independent federal agency to regulate international and interprovincial aspects of the oil, gas and electric utility industries.

Department of Fisheries and Oceans Canada (DFO)



Fisheries and Oceans
Canada

Pêches et Océans
Canada

Fisheries and Oceans Canada is responsible for policies and programs in support of Canada's oceans and fresh waters. The Department is also one of the three responsible authorities under the *Species at Risk Act*. Fisheries and Oceans Canada is responsible for:

Fisheries Act

This Act provides for the sustainable development of Canada's seacoast and inland fisheries, through the conservation and protection of fish and fish habitat and the proper management and control of fisheries.

- *Fishery Regulations*

These Regulations relate to fishing and fish habitat in general and the payment of penalty and forfeiture proceeds under the *Fisheries Act*.

Oceans Act

The Act provides for oceans management and providing coast guard and hydrographic services on behalf of the Government of Canada. The Act mandates the minister of DFO to develop a National Oceans Strategy.

4.4 RELEVANT TERRITORIAL LEGISLATION

On April 1, 2014, the Government of the Northwest Territories became responsible for managing public land, water, and resources in the NWT. This devolution is the last major transfer of powers from the federal government to the territorial government.



Table 3: Relevant territorial legislation

Department of Environment and Natural Resources (ENR)	Department of Lands	Office of the Regulator of Oil and Gas Operations (OROGO)	Department of Transportation	Department of Education, Culture and Employment
<i>Waters Act</i> <i>Species at Risk (NWT) Act</i> <i>Wildlife Act</i>	<i>Northwest Territories Devolution Act</i> <i>Northwest Territories Lands Act</i>	<i>Oil and Gas Operations Act</i> <i>Petroleum Resources Act</i>	<i>Public Highways Act</i>	<i>Archeological Sites Act</i>

Department of Environment and Natural Resources



The Department of Environment and Natural Resources promotes and supports the sustainable use and development of natural resources to protect, conserve and enhance the NWT environment for the social and economic benefit of all residents. Environment and Natural Resources is responsible for numerous acts and regulations related to resource management and environmental protection, including:

Waters Act

This Act applies to the use of waters and the deposit of waste in waters in the Mackenzie Valley, except those uses of water and deposit of waste in waters in a federal area in the Mackenzie Valley.

○ *Waters Regulations*

These regulations specify the types of undertakings which require water licenses, based on the potential water use or the deposit of waste.

- *Expropriation Fees Regulations*

These regulations set out the formula for fees to be paid by water license holders or applicants in relation to expropriations of land under section 61 of the Waters Act.

Species at Risk (NWT) Act

The Act serves to identify, protect, and recover species at risk in the NWT and applies to any wild animal, plant or other species managed by the GNWT. The Act applies everywhere in the NWT, on both public and private lands, including private lands owned under a land claims agreement. The Act establishes the mechanisms to assess the status of species within NWT which could differ from the national level, identify the threats facing the species in the NWT, and identify what actions are necessary to protect, conserve and recover that species.

Wildlife Act

The Act regulates the use of wildlife in the NWT including hunting big and small game, furbearer management, and the possession and use of wild animals. The Act also prohibits hunting in NWT wildlife sanctuaries and preserves, subject to some exceptions for subsistence harvesting. The Act recognizes Aboriginal values and practices related to harvesting and conservation of wildlife, and the importance of traditional knowledge in wildlife management and conservation.

Department of Lands



The mandate of the Department of Lands is to manage, administer and plan for the sustainable use of public land in the NWT in a fair and transparent manner that reflects the interests of the people of the NWT.

Northwest Territories Lands Act

The *Northwest Territories Lands Act* provides the GNWT with authority related to the disposition and use of land, including the disposition of subsurface minerals. (Department of Lands administers this piece of legislation, with the exception of the administration of subsurface minerals, which are administered by the Department of Industry, Tourism and Investment.)

- *Mining Regulations*

The regulations provide for mineral prospecting and staking a claim on lands set out in the *Northwest Territories Lands Act*.

- *Quarrying Regulations*

These regulations pertain to the staking and leasing of territorial lands for the purpose of taking carving stone, loam, or any naturally occurring inorganic substance used in construction including gravel, sand, stone, limestone, granite, slate, marble, gypsum, shale, clay, marl and volcanic ash.

- *Reindeer Act*

This Act provides the GNWT with the authority to make regulations governing the management and protection of reindeer.

- *Reindeer Regulations*

The regulations provide for the management and protection of Reindeer in the NWT, including hunting, herding, or transporting reindeer within the NWT.

Surface Rights Board Act

An Act to establish the Surface Rights Board and to make related and consequential amendments to other Acts.

Municipal and Community Affairs (MACA)



The Department of Municipal and Community Affairs' mandate is to support capable, accountable and self-directed community governments providing a safe, sustainable and healthy environment for community residents. Their mission is to work with community governments and other partners in supporting community residents as they organize and manage democratic, responsible and accountable community governments.

Office of the Regulator of Oil and Gas Operations (OROGO)



The Office of the Regulator of Oil and Gas Operations regulates oil and gas operations in the onshore Northwest Territories, outside federal areas and the Inuvialuit Settlement Region, for the primary purposes of ensuring safety, environmental protection, and conservation of oil and gas resources.

OROGO is currently housed in the Department of Justice (GNWT) for administrative purposes, but is an arm's-length agency for regulatory decision-making and policy development purposes.

Oil and Gas Operations Act (OGOA)

The *Oil and Gas Operations Act* governs the exploration, production, processing and transportation of oil and gas in the onshore of the NWT. The following regulations fall under OGOA:

- *Oil and Gas Certificate of Fitness Regulations*
- *Oil and Gas Diving Regulations*
- *Oil and Gas Drilling and Production Regulations*
- *Oil and Gas Geophysical Operations Regulations*
- *Oil and Gas Installations Regulations*
- *Oil and Gas Operations Regulations*
- *Oil and Gas Spills and Debris Liability Regulations*

For more information: <http://www.oro.go.gov.nt.ca/legislation>

Petroleum Resources Act (PRA)

The *Petroleum Resources Act* governs the issuance of oil and gas land rights. OROGO is responsible for the sections of the PRA addressing Significant Discovery Declarations and Commercial Discovery Declarations.

Department of Education, Culture and Employment (ECE)



Northwest Territories Department of Education, Culture, and Employment

The Department of Education, Culture and Employment encompasses many programs and services needed within a government structure. It is a large department with a wide-ranging mandate. Relevant legislation includes:

Archeological Sites Act (mirrored legislation)

This Act concerns archaeological, ethnological and historical resources in the NWT, and provides authority to make regulations concerning the protection, care and preservation of these resources, archaeological permitting, and seizure of inappropriately obtained items.

- *Northwest Territories Archaeological Sites Regulations*

A permit is required to search for archaeological sites or archaeological artifacts, or survey an archaeological site. A permit is also required to excavate, alter or otherwise disturb an archaeological site, or remove an archaeological artifact from an archaeological site.

Department of Transportation



The mandate of the Department of Transportation is to plan, design, construct or reconstruct, acquire, operate and maintain public transportation infrastructure in the NWT, including community airports, docks and the highway system, and to regulate and licence individuals and vehicles operating in the territory.

Public Highways Act

The Act regulates the construction and maintenance of highways, the control and access of adjacent development, and prohibits construction that adversely affects existing drainage systems on lands adjacent to the highway.



Part 2

GOVERNANCE



Chapter 5: Principles of Administrative Law

Administrative law is the body of law that focuses on the conduct of administrative decision-makers to ensure that their actions are fair and legal. Co-management Boards are Administrative Tribunals, which means they must apply specific operating principles under the law.

By reading this Chapter, you will:

- ✓ Identify the key principles of administrative law that are relevant for Administrative Tribunals, such as Resource Management Boards in the NWT
- ✓ Interpret how Boards must conduct their business in a manner that is consistent with the principles of administrative law

Chapter Breakdown:

Section 5.1: Background on Administrative Law

Section 5.2: Operating Principles for Administrative Tribunals

Section 5.3: Applying the Principles

5.1 BACKGROUND ON ADMINISTRATIVE LAW

5.1.1 Administrative Law: Addressing the Conduct of Administrative Decision-Makers

Administrative law focuses on the conduct of administrative decision-makers such as Tribunals, agencies, Boards, commissions, and the manner in which Courts can review their decisions. It ensures that the action of these administrative decision-makers is fair and legal – if it seems that it is not, citizens have the right to challenge or appeal decisions through the Courts.

Wanting more information on administrative law? This chapter is only an overview of the law relating to Administrative Tribunals. A full training course on administrative law can be found here: <http://www.nwtBoardforum.com/Board-forum/Board-forum-training/>



Co-management Boards are considered Administrative Tribunals. Administrative Tribunals play a key role in Canadian society as they are an important part of the way in which certain decisions are made in Canada. Administrative Tribunals make decisions based on powers established by statute (or land claim in the case of many Co-management Boards). Tribunals act in the public interest in various roles as advisors and decision-makers. A Tribunal's public decision-making process is a legal exercise conducted in a specific legal context. Courts ensure that Administrative Tribunals observe the limits on their authority and exercise their authority in an acceptable manner.

Parliament or the Legislature may amend a Tribunal's powers and procedures when necessary, and can eliminate a Tribunal if it no longer serves a public purpose (with the exception of those specific Tribunals established through land claims).

5.1.2 Sources of Law: Enabling Power to the Administrative Tribunals

The powers of Administrative Tribunals are primarily created by a statute or law which is known as the "**enabling statute**". However, the decisions of an Administrative Tribunal are subject to review by the Courts.

Any party (even if not impacted by the decision) may apply to the court for a judicial review of a Board decision.

As you will recall from Chapter 1 the enabling statute for Co-management Boards in the NWT vary according to the jurisdiction and the Board's mandate. They include:

- Settled land claim agreements and interim measures agreement
- The *Mackenzie Valley Resource Management Act*
- *NWT Waters Act* (non-federal areas)
- *Surface Rights Board Act*



5.1.3 Judicial Review: The Court's Power to Review Decisions

A **judicial review** allows the Court to consider the entire decision-making process, including the process and the findings of fact and of law. Courts may also review a decision through a statutory appeal when the review power is explicitly granted within the enabling statute that created the administrative body.

Appeals are typically reviews for errors of jurisdiction or procedural fairness.

The Courts' power of review allows it to consider the content of an Administrative Tribunal's decision and decide whether it was sufficiently incorrect to warrant sending it back to the Tribunal for reconsideration. Any party (even if not impacted by the decision) may apply to the Court for a judicial review of a Board decision.

Where a Court has the power of review, it must determine (the standard of review) the amount of deference (respect) that the Court should give to the Tribunal. Determining the standard of review is a contextual process and can vary based on the type of Administrative Tribunal or even the specific matter at issue.

5.2 PRINCIPLES FOR ADMINISTRATIVE TRIBUNALS

Some of the important operating principles for Administrative Tribunals, such as Resource Management Boards in the NWT include:



Figure 15: Principles for Boards.

5.2.1 Following Jurisdiction

A Board must stay within the legal authority given to it by its enabling statute - the statute (or land claim) that established the Board and granted it certain powers and duties. These powers and duties are described as the Board's jurisdiction or mandate. If a Board acts outside of its jurisdiction, its decision can be struck down by a Court through an appeal or judicial review.

5.2.2 Ensuring a Fair Process

Boards make many decisions that affect people's interests, rights, and quality of life. For example, Boards decide whether to issue licences; they determine what types of land uses are allowed and what types of environmental impacts are acceptable from development projects. **As Administrative Tribunals, A Board's decision-making process must be conducted fairly. This is part of the 'duty to be fair'.**

The concept of fairness refers to procedures (i.e., what procedures must be followed in a process in order for that process to be considered fair?). **When certain people and/or groups will likely be directly affected by a Board's decision, a Board has a duty to:**

Give notice of application/proceeding and provide information ('Know the case against them')

- e.g., provide adequate notice of the proceeding; provide access to evidence, etc.

Provide them an opportunity to be heard ('Have a reasonable opportunity to meet the case')

- e.g., present supporting evidence and arguments of their case; dispute, correct or contradict anything which is unfavourable to their position; etc.

5.2.3 Being an independent and impartial decision-maker

Once the affected party has been made aware of the case he/she must meet, and has been given a reasonable opportunity to be heard, **the third crucial element of the duty to be fair is that the decision-maker is independent and impartial.** The parties have a right to an impartial decision-maker, meaning that Tribunal members must therefore be free of bias and conflicts of interest in making their decisions.

Be independent and impartial ('He or she who hears must decide')

- Each Board member must be prepared to make his/her own decision based on the facts under consideration. Only those who have heard the evidence and arguments can make decisions (meaning Board members must be present for the entire time evidence and arguments are put forward). The Board members must then reach a collective decision on behalf of the Board. Board members and Boards must not allow other agencies or persons (including staff members) to make decisions for them.

Avoid conflicts of interest or bias

- Board members must be careful to avoid conflicts of interest and apprehension to bias. Conflicts of interest are situations where a Board member or their immediate family may stand to benefit from the Board's decision. Board members must also avoid situations where they might have an apprehension to bias – or appear to be biased. That is where they look like they are favoring one person or group over another. For instance, Board members should not accept gifts or other perks from people who have or may have matters before the Board.
- The Board chair or legal counsel should be consulted whenever Board members suspect that they may be in a conflict of interest or in a situation where they appear to be biased.

Conflict of interest = situations where a Board member or their immediate family may stand to benefit from the Board's decision



Apprehension of bias = a predisposition or prejudice → appearance that a Board member is favoring one person or group over another

5.2.4 Exercising Discretion

A Board must exercise its discretion appropriately. Co-management Boards are appointed to make recommendations and decisions. They are asked to be objective and exercise sound judgment based on their knowledge, expertise and the evidence before them. They are expected to make responsible decisions on matters for which they have authority. Board members cannot abuse their powers by using them dishonestly or unfairly. A Board must not discriminate against any party on the basis of sex, religion, race, language, colour or other irrelevant considerations. This excludes situations that are recognized in law. For example, the Inuvialuit Final Agreement provides preferential harvesting rights to the Inuvialuit in the Inuvialuit Settlement Region.

5.2.5 Making decisions based on the evidence

Both the management of the evidence gathering process and decision-making on the basis of the evidence on the record are critical functions of a Tribunal. Tribunals require information or evidence to make decisions. It is an error of law to make a decision that is not supported by the evidence on the record. (See Chapter 8 for more details on the decision-making process).

5.3 SUMMARY OF KEY DO'S AND DON'TS

The following table provides a list of 'do's and don'ts to help guide Board Members align with the principles of administrative law.

Do's	Don'ts
<ul style="list-style-type: none"> ✓ Be relevant to the statute: A Board can only take into account factors that are relevant to the purpose and wording of the statute. If a Board is regulating land use planning, for example, its decisions must be based on reasons relating to land use planning. ✓ Base decisions on evidence: A Board must base its decision on the evidence before it. ✓ Consider <u>all</u> evidence. A Board must consider all of the relevant factors and evidence. It may determine that some 	<ul style="list-style-type: none"> ✗ Do not use knowledge outside the scope of evidence presented: Some Board members are experts in certain areas or have experience from similar applications. Board members are often appointed for their knowledge and they are expected to use their knowledge. They must, however, be careful to base their decisions only on the evidence before them. ✗ Do not bring personal beliefs into decision-making: Board members must not make decisions based on irrelevant factors, such as their own political,



<p>factors do not apply, and it may not decide to accept all of the evidence, but it must at least consider these matters.</p> <p>✓ Exercise discretion: A Board must exercise the discretion granted to it with respect to each individual application. Boards often make guidelines to use when they are considering similar types of applications.</p> <p>✓ Make reasonable, sensible decisions: A Board's decision must be based on the evidence provided. A Court may strike down a Board's decision if it determines that the Board could not reasonably have come to that decision based on the evidence before it. Courts, however, are usually reluctant to interfere with the exercise of a Board's discretion and will only do so in the clearest of cases.</p>	<p>religious or other personal beliefs.</p> <p>✗ Do not refuse an application: A Board cannot refuse to consider an application. If a person makes an application for a licence, it is the duty of the Board to consider that application within a reasonable time.</p> <p>✗ Do not generalize a decision: A Board's guidelines or by-laws, cannot be a substitute for a decision. In each application, a Board's decision must be based on the factors relevant to the individual case.</p> <p>✗ Do not make decisions based on applicant's beliefs: Board members cannot make decisions based on factors such as an applicant's beliefs or background.</p>
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Chapter 6: Board Governance

The concept of governance rests on three dimensions: authority, decision-making and accountability. Board members are responsible for both the decisions of the Board (as defined in the Board mandate) and the effectiveness of the Board as an organization. Board members must ensure that the Board maintains and reinforces acceptable standards of Board governance.

By reading this Chapter, you will be able to:

- ✓ Cite the key features that are unique to Resource Management Boards in the NWT
- ✓ Recognize the principles of good governance
- ✓ Identify specific tools to help ensure good governance

Chapter Breakdown:

Section 6.1: What is Governance?

Section 6.2: Key Features of Co-management Board Governance

Section 6.3: Principles of Good Governance



6.1 WHAT IS GOVERNANCE?



KEY TERM

- **Governance:** The concept of governance rests on three dimensions: authority, decision-making and accountability. Governance is the “activity of governing” and relates to decisions and processes that define the expectations, grant power, or verify the performance of the organization. Governance also relates to consistent management, cohesive policies, and effective decision-making.
 - **Delegation:** Delegation is the assignment of authority and responsibility to another person (normally from a manager to a subordinate) to carry out specific activities. However, the person who delegates the work remains accountable for the outcome of the delegated work. Delegation usually empowers a subordinate to make certain decisions. Therefore it is a shift of decision-making authority from one organizational level to a lower one.
 - **Values:** Values refer to what an organization or an individual considers important. They may refer to standards of personal or collective conduct or organizational performance.
 - **Ethics:** Ethics are generally accepted moral standards or values which govern the conduct of a person (e.g. Board member) or group of persons (e.g. a Board) within society.
 - **Principle:** A principle is a fundamental law, assumption or understanding that underlies effective governance.
 - **Policy:** A policy is normally a deliberate plan of action to guide decisions and achieve rational outcomes. The term may also be used to denote what is actually done, as a matter of practice, even though it is unplanned. In the latter case an approach or process used over time becomes the accepted policy.
 - **Procedures:** A procedure is a specified series of actions or operations that should be executed in a consistent manner in order to obtain the same result under the same circumstances (e.g. consistency and predictability). A procedure is often a defined sequence of tasks, steps, or decisions. Boards usually list procedures in “Board Bylaws”, a “Code of Conduct”, or a “Policies and Procedures” type document.
 - **Rules of Procedures:** Most Boards have made “Rules of Procedure” for the conduct of its proceedings under the enabling statute.
-

6.2 PRINCIPLES OF GOOD GOVERNANCE

In addition to the operating principles for Administrative Tribunals (See Chapter 5), Board members should consider these principles for good governance:



Figure 16: Principles of good governance

Clear Direction

Maintaining a clear direction includes clear policy direction, explicit procedures and a consistent approach to exercising Board responsibilities, including decision making.

- **Strategic Vision:** Boards that practice good governance consider their roles and responsibilities in the larger context of resource management within NWT and over the long term. Boards of good governance understand the historical, cultural and social complexities in which that perspective is grounded.
- **Strategic Thinking:** Boards that practice good governance allocate time to what matters most and regularly engage in strategic thinking to hone the organizations' direction. Organizational goals and priorities are aligned with strategic priorities.
- **Intentional Board Practices:** Boards that practice good governance intentionally structure themselves to fulfill their essential governance duties and to support organizational priorities.

Effectiveness

Boards should make efforts to ensure that results meet the needs of their clients while making the best use of resources.

- **Continuous Learning:** Boards should embrace the qualities of a continuous learning organization where they regularly evaluate their own performance. This is done by putting learning opportunities into routine governance work and activities outside the Boardroom.
- **Culture of Inquiry (using scientific and traditional knowledge):** Boards should establish a culture of inquiry, mutual respect and constructive debate that lead to sound and shared decision-making. Boards of good governance seek more information as required, question assumptions and challenge conclusions so that decision-based on sound analysis can be made.
- **Constructive Partnership:** Boards should govern in a constructive partnership between Board members and the executive director, recognizing that the effectiveness of the Board, members and staff are interdependent. They build this partnership through trust, candour, respect, and honest communication.
- **Revitalization:** Boards should energize themselves through planned succession, thoughtful recruitment, and inclusiveness. They see the correlation between mission, strategy, and Board composition and they understand the importance of fresh perspectives. They revitalize themselves through diversity of experience and through continuous recruitment.

Generally, policy issues and decisions should rest with the Board members. Board members cannot delegate their decision-making responsibilities.



Board members make decisions and recommendations but the Board staff often implement the decisions. What appear to be relatively simple policy decisions may require relatively detailed administrative processes to implement. Written procedures will ensure that a Board's decisions are being addressed consistently and correctly.

Accountability

Boards are accountable to the public and stakeholders for all of their decisions, activities, and achievements as a Board. Boards are also accountable to government for the management of their financial resources.

- **Transparency:** Transparency is based on the free flow of information. Boards with good governance promote transparency by ensuring that stakeholders and the public have access to appropriate and accurate information regarding Board operations, finances and results. Such Boards also practice transparency internally by ensuring that every Board member has equal access to relevant materials when making decisions.
- **Performance evaluations:** Boards that practice good governance may conduct regular performance evaluations to ensure accountability and enhance each member's understanding of the organization. Generally, the Board and-chairperson evaluates the Executive Director and the Executive Director evaluates the staff. Board members are also personally accountable for the management of Board funds and budgets.

Confidentiality

Boards must be sensitive to the confidential nature of matters that are brought before a Board. Board members must be able to recognize information that is received in the course of their duties, both with respect to a matter before a Board or other more general matters of interest for a Board, which may be confidential and must be kept private. Discussions that Board members have amongst themselves while they are in the process of making a decision are also confidential. Where members are in doubt of whether or not certain information must remain confidential and to what degree, the chair of that Board or legal counsel should be consulted.

Tools for ensuring good governance

Policies are positions or plans of action to guide decisions and achieve rational outcome(s).

How do they help? Policies can be beneficial to guide Board decisions and ensure that principles of good governance are upheld, such as consistency and transparency. Formal policies help with repetitive decision making and enable administrative

Procedures are a defined set of actions to ensure a consistent approach is followed.

How do they help? Procedures are an effective tool to manage complex tasks (e.g., permit applications). Procedures can help ensure a Board's policy decisions are being addressed consistently and correctly (by either the Board or the staff). Written procedures also provide clear and consistent direction to proponents.



Chapter 7: Roles and Responsibilities

While each Board may have their own way of working, clear roles and responsibilities are an important requirement for an effective Board. Although meetings and hearings are the public part of Board work, many other activities go on behind the scenes.

By reading this Chapter, you will be able to:

- ✓ Recognize the common elements of how Boards are organized
- ✓ Identify the general responsibilities of the Board
- ✓ Distinguish the individual roles and responsibilities of Board members and staff

Chapter Breakdown:

Section 7.1: Board Organization

Section 7.2: General Responsibilities of the Board

Section 7.3: Individual Roles and Responsibilities of Board Members

7.1 BOARD ORGANIZATION

Each Board in the NWT has its own way of organizing itself, however, the following lists some key features of Board organization.

Nominations and Appointments

Each NWT Board is made up of individuals that have been either:

- Recommended by the Government of Canada to the Minister of INAC
- Nominated by regional Aboriginal organizations or governments
- Nominated by a territorial government (GNWT or Government of Yukon)

In general, the members on NWT Boards are appointed by the Minister of Indigenous and Northern Affairs Canada (INAC).

Board Composition

Each Board in the NWT has its own composition, however, each NWT Board is made up of individuals that have been either:

- Recommended by the Government of Canada to the Minister of INAC
- Nominated or appointed directly by regional Aboriginal land claim organizations or governments
- Nominated by a territorial government (GNWT or Government of Yukon)

In general, the members on NWT Boards are appointed by the Minister of INAC.

The composition and total number of members on the Boards depends on the provisions specified in the relevant land claims and legislation. In general, half of the appointed Board members are selected from Aboriginal land claim organization nominations and the other half from Federal or territorial government nominations or recommendations. The chairperson is appointed by INAC from persons nominated by a majority of the members.

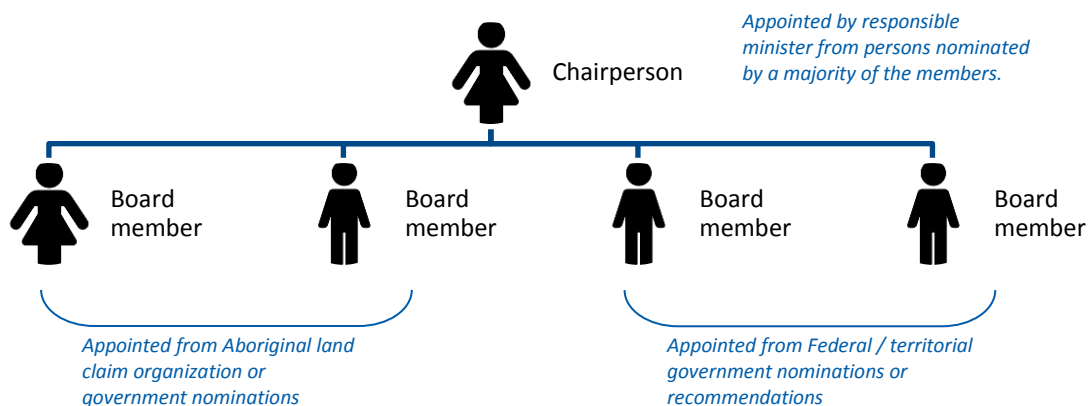


Figure 17: Example of an NWT Board's composition



(See [Chapter 3: Resource Management Boards](#) for a description of the composition of each Board.)

Terms

Appointments are for a fixed term – usually three or five years – that varies from Board to Board.

Honoraria

Members are paid an honorarium for the time that they spend on Board business. An honorarium is a payment made to a person for their services in a volunteer capacity or for services for which fees are not traditionally required. Honoraria rates are set by the federal government (Treasury Board) and are not negotiable.

In most cases, Board members are not personally liable for decisions made in good faith.

Liability

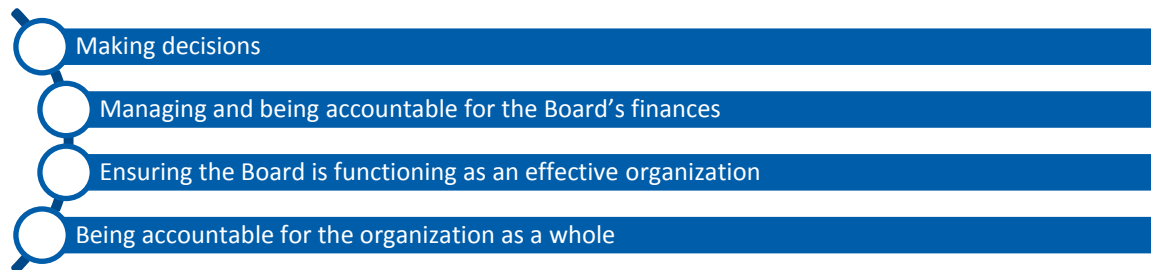
Some Final Agreements contain a clause indicating that members are not personally liable for decisions that their Board makes. This means they cannot be personally sued for the decisions of the Board.

Similar clauses are also found in certain legislation. For example, Section 20 of the Mackenzie Valley Resource Management Board states: “the members and employees of a Board are not liable for anything done or omitted to be done in good faith in the exercise or purported exercise of any powers under this Act.”



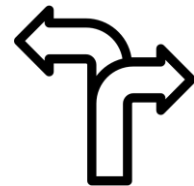
7.2 GENERAL RESPONSIBILITIES OF THE BOARD

Co-management Boards in the NWT are responsible for:



7.2.1 Making Decisions

Board members have a collective responsibility to make appropriate decisions and recommendations as described in their Board's mandate. (See [Chapter 6 on Board Governance](#) and [Chapter 8 on Effective Decision-making](#) for more information on how to make effective decisions.)



7.2.2 Managing and Being Accountable for the Board's Finances

Financial Management

Financial management is the responsibility of the Chair and Board members, as they may be held personally accountable for any mismanagement of Board funds.

- **Operating Funds:** Each Board is provided an annual allotment of funds to cover the costs of its internal operations. The operating funds cover the costs of staff salaries and benefits, member honoraria, meetings and hearings, and other costs of undertaking the internal operations of the Board. The operating funds are provided by the federal government through the Indigenous and Northern Affairs Canada.
- **Trust Funds:** Some of the wildlife management Boards (Gwich'in, Sahtu) also administer a separate trust fund that provides money to pay for wildlife research in the settlement area. In the case of the trust funds, the finances are usually managed by professional money managers under the policy guidance of the Boards.
- **Annual Budget:** Boards must prepare and submit an annual budget to INAC each year before the operating funds are released to the Board. The annual operating budgets are set through ten-year implementation plans for each settled claim area and are negotiated periodically. Normally, the annual Board operating budget is prepared by staff and must be approved by the Board members before it is submitted to INAC. The fiscal year begins on April 1st of each year and continues to March 31st of the following year.

Board members can be held personally accountable for any mismanagement of Board funds.

Financial Accountability

It is the Board members' collective responsibility to:

- ✓ Ensure that the Board manages its money in a proper and cost effective manner



- ✓ Ensure funds are expended in a manner consistent with Board direction
- ✓ Ensure that the Board maintains proper financial accounts
- ✓ Select an independent auditor to review the Board's financial statements

Policies and procedures for managing Board's finances: Generally, organizations develop financial policies and procedures to guide the decisions and actions of their staff. Board members have overall responsibilities for the development and approval of policies and procedures.



Complicated finances? Seek expert financial advice. Financial management is a specialized field for which expert advice may be required on certain issues. Board members should seek expert advice on issues that are outside their collective expertise.

7.2.3 Ensuring the Board is Functioning as an Effective Organization

Personnel Management

Most Boards have a number of staff to administer the internal affairs of the Board including preparation for meetings, analysis of issues, providing technical and other advice to the Board and various other functions. While staff are responsible for their own work, the Board is ultimately responsible for ensuring the organization is following through on its mandate.

Some of the staff positions involved in a Board include:

- **Executive Director:** The Executive Director is the most senior staff member and the primary point of interaction between the Board and the staff. The Executive Director is responsible for ensuring that the Board is adequately informed and properly advised on issues under their consideration. The Executive Director is also responsible for ensuring that the Board's decisions and direction are carried out - either personally or through subordinate staff.
- **Other Staff:** Boards generally have a number of technical staff to provide expert advice and support on technical or administrative issues. Generally, these positions report to the Executive Director.

Tip: Develop clear reporting relationships between the Board and Staff



It is important to clearly establish and respect the formal reporting relationships in any organization. This is particularly important for a Board where ultimate organizational authority resides with a group of members acting as a collective. Generally the Executive Director, although responsible to the entire Board, should report to only one member which is usually the chairperson. Members requesting a particular service from a staff member should make the request through the Executive Director.



7.3 INDIVIDUAL ROLES AND RESPONSIBILITIES OF BOARD MEMBERS AND STAFF

This section provides an overview of the roles and responsibilities of the following:

BOARD	STAFF AND SUPPORT
<ul style="list-style-type: none">• Chairperson• Board members	<ul style="list-style-type: none">• Executive Director• Technical support<ul style="list-style-type: none">• e.g., Policy Advisor, Regulatory Officer, Land Use Planner, Biologist• Administrative support<ul style="list-style-type: none">• e.g., Regulatory Admin, Systems Admin• Specialized expertise<ul style="list-style-type: none">• e.g., Lawyer, Financial Advisor, Specialist

7.3.1 Board's Roles and Responsibilities

Chairperson

The specific roles and responsibilities of chairs are provided by individual Boards. For example, the Chair of the Mackenzie Valley Environmental Impact Review Board is also its Chief Executive Officer. The following are some of the general roles and responsibilities of Board chairs that apply in the NWT:

- **Leadership:** Chairpersons play a critical leadership role through their personal conduct and their influence on the other Board members. Chairpersons must reinforce the expected standards of conduct and contribution and take corrective action as required.
- **Strategic Guidance:** The Chairperson has responsibility for the broad direction of the Board, its public image, the policy direction and vision exhibited by the Board, and its relationship with government, industry and the public. The strategic guidance of a Board includes:
 - Leading the Board and its members in making informed, responsible, fair, unbiased and impartial decisions.
 - Providing leadership which results in a well-informed and coordinated organization.
 - Leading the Board and its members in fulfilling regulatory roles and responsibilities under the principles of good Board governance, ethics and codes of conduct.
- **Manage Meetings and Hearings:** The chairperson manages the agenda and the discussions in Board meetings. The challenge is to ensure that all persons have an opportunity to be heard, while ensuring that the meeting or hearing is concluded in a timely manner.
- **Decision Maker:** The chairperson facilitates the decision-making processes of the Board. Usually a consensus decision is reached. In rare occurrences a vote is needed. The chairperson votes only to break a tie vote among the members.



- **Administrative Oversight:** The Chairperson usually has a number of specific administrative functions:
 - To ensure that the Board and its members behave consistently within the boundaries of legislation, operating guidelines, and codes of conduct.
 - To oversee activities of Board members. This may involve conducting peer reviews, establishing performance criteria, and providing technical advice and counsel on Board policy issues.
 - To ensure proper orientation of Board members regarding their roles and responsibilities.
 - To assist and advise Board members who have been assigned various responsibilities for particular files and projects.
 - To encourage training and the improvement of individual skills and knowledge among Board members.

The Chairperson is the Board spokesperson. As the official spokesperson for the Board, the chairperson represents the Board and act as its chief spokesperson. The Chair facilitates the exchange of information with other Boards and organizations, and performs outreach activities with organizations that have a direct interest in the work of the Board so that an exchange of information and concerns may effectively take place. The Chair may at times delegate this responsibility to an appropriate Board Member or Staff person.

7.3.2 Board Members

Board members are members of a management Board and an institution of public government that is responsible for regulating and/or advising governments on the use and development of resources in the NWT. There are expectations that must be met to ensure that the roles, responsibilities and the integrity of the Boards are fulfilled and upheld.

In addition to the general roles and responsibilities of all Board members, there are specific roles and responsibilities that may be associated with certain Boards. These specific roles and responsibilities are provided to new members by their respective Boards.

- **Acting in the Public Interest:** Members must act in the interests of everyone in their respective jurisdiction (communities, public, Aboriginal people, and Canadians; etc.) and not just in the interests of themselves or the group that nominated them.
- **Being Informed:** Board members must prepare for meetings and strive to understand the issues before them as well as their responsibilities as a Board member. Board members are expected to reach their own conclusions before seeking a Board consensus on an issue.
- **Effective Decisions:** Board members must make informed, responsible, fair, unbiased and impartial decisions regarding licensing or other Board matters, and providing recommendations as required by governing legislation for the Board.
- **Board Governance:** Board members are accountable for their Board's actions and decisions.
- **Accountability:** Fulfilling roles and responsibilities outlined in legislation and individual Board policies and procedural guidelines.
- **Integrity:** Developing, maintaining and ensuring sound Board governance (established in policies and procedural guidelines) to fulfill Board roles and responsibilities. Maintaining



the integrity of their Board's governance and making decisions in a fair, ethical and appropriate manner.

- **Commitment:** Board members are expected to attend all meetings (unless there is a good reason for not doing so), which may take place in another community or region.

7.3.3 Staff Roles and Responsibilities

Board staff are mainly responsible for providing Board members with technical and administrative assistance, so that Board members can make informed decisions regarding a proposed development or application.

Executive Director

Most Boards in the Mackenzie Valley have an Executive Director, who is a member of staff responsible for overseeing the overall operational functions of a Board.

The Executive Director also acts as the primary liaison between the Board Chair and members and the staff. For example, any staff recommendations or information for Board members are communicated via the executive director, and vice versa.

With the exception of the Inuvialuit Water Board, a public agency under the GNWT, Boards in the ISR do not have a dedicated Executive Director. The overall administrative and support organization in the Inuvialuit Settlement Region is provided through an Executive Director of the Joint Secretariat and individual resource staff for each Board.

The Board-specific roles and responsibilities of Executive Directors are provided by individual Boards. However, many responsibilities are common to all Board Executive Directors in the NWT.

- **Keep Board members informed:** As the Executive Director is the most senior staff member for the Board, he/she is aware of the issues currently engaging the Board. A primary responsibility of the Executive Director is to keep the Chair and Board members informed. This requires good judgment to inform Board members adequately without overwhelming them with details.
- **Advice and support to Board:** The Executive Director provides the Board members with proper technical, administrative and financial advice in support of Board decisions.
- **Implement Board decisions:** The Executive Director implements the strategic goals and objectives of the Board.
- **Link between Board and Staff:** The Executive Director acts as the interface between the Board and the staff of the Board.
- **Oversee Board operations:** The Executive Director reports to the Board on all policy and program matters of operation. He or she establishes and maintains effective communication with various stakeholders and provides direction and leadership towards the achievement of the Board's philosophy, mission, strategy and its annual goals and objectives.
- **Manages human resources:** The Executive Director also effectively manages the human resources of the organization according to authorized personnel policies and procedures that conform to legislation and regulations.



Technical Support

Some staff members are responsible for fulfilling the technical requirements of Board functions, for example, conducting reviews of impacts of proposed project developments. Technical support also includes summarizing complex technical issues, such as preparing a consolidation or a summary of complex technical matters in a manner that accurately and succinctly describes the issues.

Technical support personnel may be responsible for providing their respective Board members with analyses and options so that Board members can make informed decisions on a proposed project development. They may also be responsible for providing technical services, such as, Geographical Information System (GIS) services, information technological services, and writing proposals.

Administrative Support

Administrative personnel are responsible for providing financial and administrative services to the Board.

Specialized Expertise

Sometimes, the organization requires outside expertise to support its work. This includes:

- **Legal Counsel:** All Boards require, on an as-needed basis, legal interpretation and advice on implementation of their specific mandate, including advice on issues such as due process, fairness and conflict of interest. The amount and frequency of legal support will depend on the Board in question and the nature of its mandate. Legal Counsel is generally involved in writing or reviewing of Board documents and written decisions and, in some cases, is invited to join the Board in public meetings and hearings.
- **Financial Services:** Financial management is a specialized field for which expert advice may be required on certain issues. Boards should seek expert advice on issues that are outside the collective expertise of members or staff. Boards may retain the services of an accountant or external auditor, when required.

When contemplating options for delegation, Board members should consider:



- ✓ **Delegation of technical vs. policy matters:** Generally, policy issues and decisions should rest with the Board members. Board members cannot delegate their decision-making responsibilities.
- ✓ **A sub-committee of Board members is an effective approach for policy issues,** although technical staff could be engaged to undertake a preliminary analysis of an issue.
- ✓ **Technical issues are often best delegated to staff,** as the individuals are usually hired for their technical expertise and their ability to analyze such issues



Chapter 8: Effective Decision-Making

A Board's primary responsibility is to make recommendations and decisions on issues, within their mandate, that are often complex and constrained by incomplete information. A Board must be able to identify and evaluate the important information and make a decision that is seen to be reasoned, fair and defensible.

By reading this Chapter, you will be able to:

- Apply the process of making effective decisions

Chapter Breakdown:

Section 8.1: Role of Boards: Making Decisions

Section 8.2: Decision-Making Process



8.1 ROLE OF BOARDS: MAKING DECISIONS

Quite simply, the primary role of a Board is to make decisions. These are either final decisions, or recommendations to a particular minister who makes the final decision. The issues that come before a Board may be quite complex and have significant implications for the parties involved (loss of time, money, perceived or real ecological impacts, etc.).

Framework for Decisions

Many issues require a range of considerations including legal, environmental, financial, socio-economic and operational factors. A systematic approach to identifying the key issues, gathering the evidence, and determining the facts will ensure that none of the key elements are overlooked.

Review of Decisions

Boards must always be aware that their decisions are subject to judicial review. The Boards should not be unduly preoccupied with this possibility but should be motivated to develop an effective approach to decision-making that will limit the potential for a review of its decisions.

Meetings and Hearings

Meetings and hearings are an opportunity for a Board to hear evidence and arguments, evaluate the facts and ensure that the proponent has had a proper opportunity to present their views to the Board. Meeting and hearings are an important component of decision-making and will be discussed in Chapter 9.



KEY TERMS

- **Evidence:** Evidence is something that helps decision-makers logically establish a fact. Evidence may be oral or written testimony, physical objects or documents, etc. A legal definition of evidence: “that probative material, legally received, by which the Tribunal may be lawfully persuaded of the truth or falsity of a fact in issue...”
 - **Dispute:** A dispute is a debate, argument or difference of opinion over a particular issue.
 - **Fact:** A fact is something that is known to exist or to have happened through actual experience or observation.
 - **Party:** A party is the person or organization that is presenting its position and arguments to a Board.
 - **Relevance:** Relating to, bearing upon, or connected with the matter at hand.
 - **Weight:** Weight refers to the importance, consequence, or effective influence on the matter at hand.
-



8.2 DECISION-MAKING PROCESS

The most effective way to address complex issues is to address them in a stepwise (checklist) manner. This approach helps to ensure that all aspects of the issue have been considered and all relevant information has been put before the Board. This approach does not need to be limited to large issues that are subject to a hearing. The approach is equally applicable to all issues requiring a Board decision. The Executive Director should consider these factors when preparing information as the basis for a Board decision.

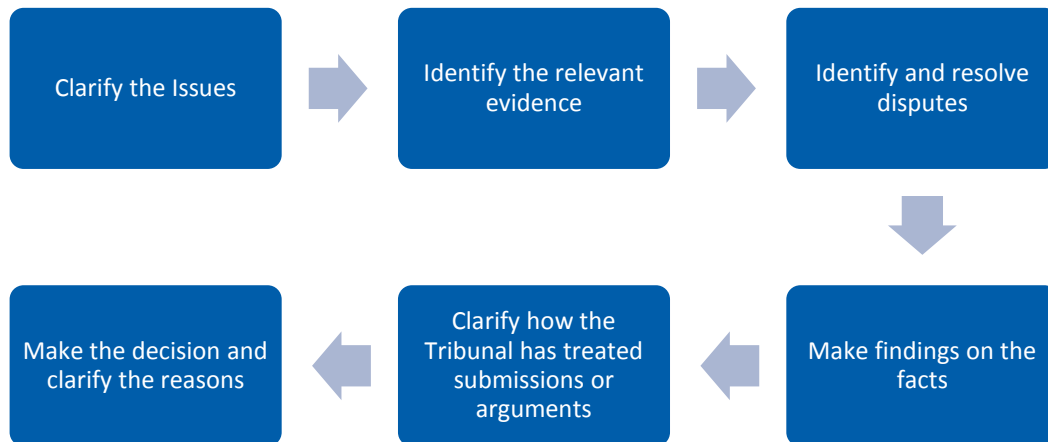


Figure 18: The decision-making process

8.2.1 Clarify the Issues

This is an important first step which is critical to the rest of the process. It is important that the Board members clearly understand the decision that they are required to make. Some decisions may require a number of smaller issues to be resolved before the fundamental issue at hand can be addressed.

The Executive Director, with the help of staff, can play a key role in identifying and defining key issues for Board consideration.

Key things to consider when trying to clarify the issue:

- **Mandate:** Does the decision to be made fall exclusively within your Board’s mandate (geographically or subject matter)?
- **Component Issues:** Some decisions may require a number of smaller issues to be resolved before the fundamental issue at hand can be addressed. These smaller issues are often referred to as “component issues”.

8.2.2 Identify and Review the Relevant Evidence

As a condition of procedural fairness, parties are required to submit their evidence and arguments in advance of a decision. This allows the Board members and staff to review the material in advance and to prepare the questions they will ask during the hearing. Such preparation will help to confirm or challenge the value of the evidence presented.



Decisions are made based on the evidence brought before the Board. The Board must hear or review the evidence relating to the issues(s). The Board must determine if the evidence is admissible, and if so, it must determine the relevance of the evidence to the issue before them, and determine the significance (weight) of the evidence that is deemed relevant.

In advance of a decision, Board members must be prepared to ask questions that will prove or disprove the relevance of evidence that has been presented. In some cases the Board is assisted in this task by their legal counsel.

Most of a Board's time and effort will be devoted to establishing the validity of disputed evidence.

8.2.3 Identify and Resolve Disputes

It is customary for parties to have differing views and positions on an issue before a Board. Differing views, values and opinions are a fact of life that the Boards must address as a part of their mandate. When this occurs, it is the role of the Board to make a decision on the issue.

The challenge for Board members is to reach an agreement (preferably a consensus) on the relevance and weight of the evidence and facts presented and address any disputes in a systematic and objective manner.

- **Disputes between Parties:** It is important to focus on the facts and avoid judgment of the party's position or values. Questions from Board members should seek to establish the facts.
- **Differences of opinions amongst Board members:** A full range of views, positions, and values can also be expected within a Board membership that includes individuals from diverse backgrounds.

It is important to focus on the facts and avoid judgment of members' position or values.

8.2.4 Make Findings on the Facts

As described above, the Board decides if evidence is admissible and relevant. If determined admissible and relevant, the Board then gives weight to the evidence.

When dealing with competing facts, a Tribunal must look at the evidence and evaluate:

- credibility/reliability
- expertise
- corroboration
- weight

8.2.5 Clarify How the Board has Treated Submissions or Arguments

A party's arguments should be clarified and reviewed against the facts. This can be done, for example, through careful questioning of the party and by analysis performed by the Board staff.

Once the facts have been established, the Board must consider the facts in relation to the following:



- **Legal Interpretation:** What must be proven to meet the requirements of the Tribunal's mandate, legislation, and regulations?
- **Policy:** What matters fall within the discretion of the Board? Is there only one possible decision or does the Board have the option to apply its collective judgment to its decision?
- **Logical Reasoning:** The Board members must consider the logic of the arguments it has heard:
 - Do the arguments make sense?
 - Are the arguments supported by the confirmed facts?
 - Can other conclusions be drawn from the same facts?
 - On balance, which argument is the most convincing?

8.2.6 Make the Decisions, Set out the Reasons

The Board then comes to a decision on the issue using the criteria we just discussed.

- **Evidence:** Review the evidence and be able to explain why they think that the evidence is important.
- **Legislation:** Consider the relevant legislation and determine the scope and limits of their decision - making authority.
- **Policy:** Apply relevant policies in considering the evidence once legislative requirements are met.

Member Participation for Decision-making

Each member has an obligation to make an independent assessment of the facts and the application of the law before making a decision. Only the Board members who participated in the hearing may participate in making the decision. Board decisions must be made by a quorum of the Board members (minimum number of a collective who must be present to make a valid decision). Board decision should be undertaken only after each member has indicated her or his position. A consensus decision is desirable but not required. A decision can be made by a majority of the members. In the event of a tie the Board chair may vote to break the tie.

Provide Reasons

In most cases, a Board is required to (or should be prepared to) provide reasons for its decision. Providing sound reasons demonstrates that the Board has seriously considered the issue and contributes to the transparency and fairness of the decision-making process. (See NWT Board Forum's Administrative Law training course for more information.)



Chapter 9: Effective Meetings and Hearings

Public meetings and hearings are the “public face” of the Boards and the main opportunity for them to be seen “in action”. The effective conduct of meetings and hearings serves to establish and maintain public confidence in a Board.

By reading this Chapter, you will:

- ✓ Distinguish the differences between meetings and hearings
- ✓ Properly plan and prepare for meetings and hearings
- ✓ Recognize your role as a Board member during meetings and hearings

Chapter Breakdown:

Section 9.1: Meetings and Hearings



9.1 MEETINGS AND HEARINGS

A large part of a Board member's role is attending and participating in meetings and hearings.

9.1.1 What's the Difference between a Meeting and a Hearing?

Hearings are the only time the public has an opportunity to present their views formally to the Board member themselves. These can be in formal technical hearings or in slightly less formal community hearings. Hearings are the 'public face' of the Board. These are opportunities for the parties, the public and the media to see the Board members in action. Effective hearings do much to enhance public confidence in Board proceedings.

A meeting is a general term for the assembly of people to discuss a certain topic/topics. Meetings are strictly between staff and Board Members and are not public.

The table below describes other ways in which meetings are different from hearings:

	Meeting	Hearing
Formality	Meetings are conducted under the Board's By-Laws generally	Hearings are conducted in a manner described in the Board's Rules of Procedure. In general, hearings are more formal with closer adherence to the hearing rules as they relate to: deadlines for submission of evidence; the person's standing (status) at the hearing; time limits for submissions; or translation for unilingual participants.
Procedural fairness		Greater attention is paid to procedural fairness (e.g., submissions of evidence must be filed by the official deadline; parties need sufficient time to review evidence; stricter adherence to the agenda schedule)
Introduction of evidence		All evidence must be submitted to a Board before the hearing begins, and no new evidence will be accepted after this point.
Record of Deliberations	Generally, summary minutes and a record of decisions is prepared with respect to a meeting	Verbatim (word for word) minutes are usually made at a hearing. Depending on the nature of the meeting, a written record of proceedings is made available for

review.

Decisions	Members may go ‘in camera’ to deliberate issues that are of a sensitive nature (e.g. personnel issues or potential conflict of interest). Generally the Board will not provide written reasons for a decision beyond what was stated at the meeting. (Generally, the wildlife management Boards make the majority of their decisions in a meeting format).	Decisions arising from a hearing are usually made in camera and are issued as a statement. The decision statement is supplemented by the Board’s reasons for the decision. Board hearings must be procedurally fair and Board decisions must be reasoned, logical and within the Board’s mandate. Board decisions may be subject to judicial review.
Judicial Review	If a person or organization feels that a Board hearing was not conducted in a fair manner or that a decision was not justified, they may seek a judicial review of the Board decision. The Courts will consider the content of a Board’s decision, review Board procedures leading to that decision, and decide whether it was sufficiently incorrect (i.e. lack of jurisdiction, procedural fairness, reason, logic) to warrant sending it back for reconsideration.	

9.1.2 Planning Meetings

NOTE: This section provides **general information** on how meetings and hearings are prepared. Each Board may have their own approach for how these are managed including specific roles and responsibilities for Board members and staff. **Be sure to follow any Rules of Procedure that are specific to your Board.**



What’s the purpose of the meetings and hearings?

People may be brought together for a number of different reasons including:

- Inform and explain
- Address problems
- Coordinate activities
- Make decisions



How much does a meeting or a hearing cost?

Gathering people together in person can be expensive! It requires careful planning and administration to make it effective. The true cost of meeting includes the following:

- Member and staff travel
- Accommodation
- Honoraria (members)
- Salary (Staff)
- Per diems
- Meeting Room and Hospitality

How to plan, prepare and organize meetings?

Proper analysis and preparation is very important to the success of a meeting. Some of the steps that should be taken before deciding on a meeting include:

- **Decide first if it's necessary and consider the alternatives.** Alternatives include making the decision yourself, holding a conference call, or holding a smaller meeting.

Ask these questions to decide if a meeting is necessary:	Yes	No
Is a group decision needed?		
How many people need to be involved in the decision?		
Is the decision urgent?		
Will the meeting cost more than the decision?		
Is there a sub-committee that could make this decision?		

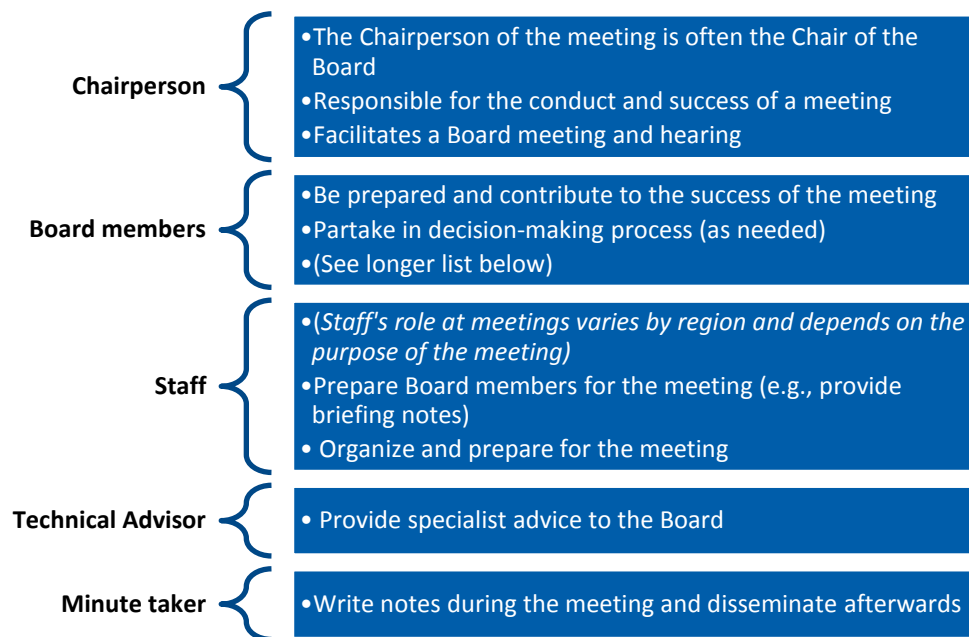
- **Define the purpose and objectives.** Carefully consider the purpose of the meeting, as it will influence many other decisions about the meeting (invitees, length, agenda, and meeting room). Identify clear objectives and outputs from the meeting. At the end of this meeting, what do you hope to achieve?
- **Identify who should attend.** The purpose of the meeting and the substance of the agenda will help to determine who needs to be invited. Identify the critical participants who **MUST** attend and those who should be invited.
- **Prepare the agenda:** Design the agenda around the Prepare and circulate an agenda well in advance of the meeting. Make sure to include the location (address, room) and time of the meeting and any conference call information.
- **Manage the logistics:** Logistics include: room setup, materials needed, travel requirements. The type of meeting will dictate the meeting equipment (projector, flip chart, etc.) and the type of meeting room required. A workshop or conference will



require more space and a different configuration than a regular decision-making meeting. For example, make sure your meeting room has window coverings if participants will be making presentations using a projector... Never assume a meeting room will contain everything you need!

9.1.3 Roles and Responsibilities at Meetings and Hearings

Who plays what role at a meeting or a hearing?



What's a Board Member's Role during a Meeting?

Although the chairperson has overall responsibility for the administration and success of a meeting, the members can make a significant contribution to the success of the chair by:

- **Respecting the Chair:** Pay close attention to the chairperson and respond to his/her guidance and instructions.
- **Preparing in Advance:** Members should read the briefing materials and become familiar with the issue (to the extent possible) in advance of the meeting. This preparation will identify the key questions to be asked and limit the amount of time spent during the meeting on getting informed.
- **Focusing on the Issue:** Ensure that your comments and questions are focused and relevant to the issue being discussed.
- **Making Succinct Statements:** Think carefully before speaking. Formulate your comment or question before speaking (jot down some notes) so that the other participants will clearly understand the point that you are making.
- **Being Constructive:** The objective of Board meetings are generally to share information and make informed and reasoned decisions. Member questions and comments should help the Board achieve these objectives.



9.1.4 Running Meetings

How to run a meeting?

Here is a sample agenda of how a meeting might be run.

Note: Hearings should follow the Board's Rules of Procedures.

Item	Description	Time
1	Welcome and Introductions The chair should introduce himself or herself and welcome any special guests and introduce the meeting participants (everyone, if the meeting is less than 10-15 persons). If there are more people, or a large number of people who are not regular attendees (guests) the chair may ask for a roundtable of introductions.	
2	Administrative Items Walk through the following: <ul style="list-style-type: none"> • Purpose and objectives of the meeting • Agenda and any changes to the agenda • Housekeeping issues (e.g., where are the bathrooms? In case of an emergency, how do we exit the building? Are there breaks and will there be food?) 	
3	Ground rules Share the "ground rules" for the meeting to ensure that it is effective. For example: <ul style="list-style-type: none"> • Only one person speaks at a time • Participants must be acknowledged by the chair before speaking • All participate, no one dominate • Stay on topic • Listen to understand • Disagree without being disagreeable (Note: This list can be made together during the meeting instead of participants being told what the ground rules are. For example, the facilitator can ask the group: "What 'ground rules' do we want to abide by today to ensure we have a successful meeting that meets our objectives?")	
4	Key topic #1 Purpose: Outcomes: Lead: Discussion questions/participation: Materials required:	
5	Lunch	
6	Key topic #2 Purpose: Outcomes:	



	Lead: Discussion questions/participation: Materials required:	
7	Etc....	
8	Closing In closing a meeting or hearing, the Chair should be sure to: <ul style="list-style-type: none">• Restate the issue• Summarize points of agreement• Identify any points of disagreement• Summarize what was accomplished• Identify the next steps and/or action items• Confirm participant assignments as appropriate	

Tips for a successful meeting

1. **Time management:** Set time limits for the meeting (end time, lunch time, break time) and for each agenda item – particularly if this is not reflected on the agenda. During the meeting, keep track of time and remind interveners to stay on track.
2. **Manage the discussion:** The Chair should make sure the meeting stays on track. To accomplish this, the Chair should:
 - Ensure that all participants are provided with an opportunity to speak
 - Restate the issue, as needed, to keep participants focused
 - Compartmentalize the issues to facilitate agreement
 - Recap and summarize, noting points of consensus
 - Encourage participants to be constructive– focus on solutions
 - Keep participants conscious of time constraints



Chapter 10: Code of Conduct

Confidence in a Board is dependent upon all of its actions including the day-to-day activities and actions of its members and staff.

By reading this Chapter, you will be able to:

- ✓ Express the meaning and importance of Codes of Conduct
- ✓ Employ what is expected of your personal conduct as a Board member

Chapter Breakdown:

Section 10.1: Code of Conduct



10.1 ABOUT CODES OF CONDUCT

Purpose

The personal conduct of Board members is a major contributor to the credibility of a Board. The purpose of a Board's Code of Conduct is to affirm publicly the commitment of the members to carry out their duties in the best interests of the public. A Code of Conduct establishes standards and accountability for fulfilling this commitment.

Most Boards have a Code of Conduct in some form or another. It may be in the form of 'Board Bylaws', or a 'Policies and Procedures' document, for example. A Board's Executive Director or Chair would normally make this document available to Board members.

Scope

A Code of Conduct generally applies to all Board members including the chairperson. It may also include the Executive Director and staff (or they may have a separate code). A Code of Conduct applies to all member activities during the term of appointment (not limited to Board-related work).

Values

A set of values form the foundation of a Board's conduct. They also govern the conduct expected of every member. Some of these values may include:

- Relationships based on mutual respect, trust, and honesty
- Acting with integrity, objectivity and fairness
- Quality and efficiency in decision-making
- Accountability for conduct and decision-making
- Consensus decision-making
- Transparency and accessibility

KEY TERMS



- **Bias:** A bias is a perceived tendency or inclination, especially one that prevents an objective consideration of a question. A common concern for Board members in small communities is an "apprehension of bias". This is when parties feel they are not being treated fairly or respectfully because a Board member appears to show bias. Board members must not appear to be making decisions that are influenced (negatively or positively) by personal bias.
 - **Conflict of Interest:** A Conflict of interest arises when there is a conflict between the private interests of a Board member and his or her duties as a member of the Board. The interests of a Board member include the interests of his or her family. This can be especially challenging in small communities.
 - **Family:** Family generally includes the member and his or her dependents.
-



- **Private Interest:** Private interest includes, in relation to a Board member and/or his or her family: Any personal interest that may conflict with a Board member's duty to the Board; A personal or monetary benefit or potential benefit including a contract or proposed contract with the Board; Any financial benefit that may result either directly or indirectly from a relationship with the Board
-

Principles

The Boards act in the interests of the public, so a Board member must undertake all actions and activities on behalf of the Board with complete integrity, and the intention to fulfill the Board's purpose with honesty.

To achieve success for a Board, Board members must act with a high level of individual initiative, commitment, spirit and desire to work together. Board deliberations are strictly confidential and should never be discussed outside of the Board.

Board members should perform their duties in an objective manner and without prejudice to any person or party. Board members shall behave in a professional, respectful and Courteous manner to other Board members, employees and parties with whom they have dealings.

Board members must act in a manner that helps achieve the purpose, values and visions of a Board, ensuring their behaviour will bear the closest public scrutiny. Board members must minimize, to the degree practical, the legal risk of their actions to their Boards.

10.1.1 Member Conduct

Personal conduct

- **Obey the law:** Board members are expected to obey Federal and Territorial laws and Municipal Bylaws. A Board member convicted of an indictable offence while serving his or her term shall be removed from the Board.
- **Not be under the influence of drugs or alcohol:** Board members shall not be under the influence of alcohol or drugs while attending Board meetings or participating in other Board related business.
- **Attend all meetings:** Board members are expected to attend all meetings of the Board unless there are justifiable reasons for not doing so.
- **Expense appropriately:** Board members who have spending authority shall use such authority for Board business only.
- **Treat people fairly:** Board members, staff, contractors and representatives are to be treated fairly and equitably and protected from harassment while in the workplace or on duty



Conflict of Interest

Do's	Don'ts
<ul style="list-style-type: none"> ✓ Board members must be aware that certain involvement in outside employment and other activities may result in an appearance of bias or a conflict of interest, and should take steps to avoid such situations. ✓ If a member is unclear on what counts as inappropriate behaviour, they should consult the Board Chair. ✓ Board members must report to the Chairperson and/or Executive Director and/or the Board as a whole, any apprehension of bias or conflict of interest when it arises and in sufficient detail to ensure the scope of the bias or conflict is clear. 	<ul style="list-style-type: none"> ✗ Board members shall not exercise official power or perform official duties in a way that might reasonably be expected to further their financial interests (e.g. assets, liabilities, income, real estate or corporate assets), their private interests or the private interests of their family. ✗ Board members must not engage in partisan or political activities that could jeopardize the impartiality or neutrality of the Board. Board members should avoid activities that could be viewed by others as creating bias. ✗ Board members should avoid social contact with members of organizations, companies or individuals currently involved in a matter before the Board.

Confidentiality

- **Don't share confidential information.** Anything deemed as confidential, as defined by the Board, shall be kept confidential during and after a Board member's term of service, unless disclosure is authorized by the Board.
- **Don't share confidential information. Ever.** Any matter that is confidential for reasons of law or Board policy remains confidential once a Board member's term expires.
- **Return confidential information.** Any Board documents, records, computer records or other material that are in a Board member's possession should be returned to the Board at the end of the term of service.

Dealing with Media

- **One voice:** Boards speak to the media with one voice through the Chair or only through a Board or staff member as directed by the Board.
- **Do not share personal views:** Board members should not share their personal views with the media – only the position of the Board.

Gifts and other Benefits

- **Be careful about accepting gifts.** Board members should not accept gifts, benefits or advantages if it could bring suspicion on the Board member's objectivity or impartiality or could be perceived as influencing the actions or decisions of the Board.
- **Do not take advantage of your position for personal benefit.** Board members must not knowingly take advantage of, or benefit from, information that is obtained in the course



of their official duties and responsibilities as a Board member, and that is not generally available to the public. Board members must not engage in conduct that exploits, for private reasons or personal gratification, their position of authority or that discredits Board professionalism.

Compliance

Dealing with non-compliances of the Code of Conduct. Any matter of real or potential non-compliance by a Board member may be referred to the Chairperson, a sub-committee of the Board for investigation and recommendation of action. Final decisions would rest with the full Board membership.



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