

**PROCEDURE FOR THE PUBLIC HEARING**  
**ON THE SAHTU LAND USE PLAN**



**SAHTU LAND USE PLANNING BOARD**

**JULY, 2010**

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## **INTRODUCTION AND PURPOSE**

Pursuant to s. 42(2) of the *Mackenzie Valley Resource Management Act (MVRMA)*, the Sahtu Land Use Planning Board ("Board") has decided to hold a public hearing on the draft Sahtu Land Use Plan ("draft plan").

The purpose of the hearing will be to enable the following persons and organizations to participate in the development of the Sahtu Land Use Plan:

1. the residents and communities of the Sahtu Settlement Area;
2. the Sahtu Secretariat Incorporated (SSI) and other designated Sahtu organizations;
3. the governments of Canada and the Northwest Territories and their departments and agencies;
4. any body having authority under any federal or territorial law to issue an interest or authorization relating to the use of land, waters or resources in the Sahtu Settlement Area;
5. any person or organization having an interest in the conservation, development or use of land, waters or other resources in the Sahtu Settlement Area.

The Board has adopted this procedure to provide for an effective hearing and to ensure that the hearing meets the requirements of procedural fairness.

Following the hearing, the Board will evaluate the draft plan in light of the comments received, and may revise the document. The Board will then adopt the land use plan and submit it to the SSI and the territorial Minister and federal Minister for approval pursuant to s. 43 of the *MVRMA*.

The Board may amend or add to this procedure at any time.

## **SECTION 1: INTERPRETATION**

1.1 In this procedure,

"Agreement" means the *Sahtu Dene and Metis Comprehensive Land Claim Agreement*;

"notice" means written notice

- i. delivered to the person;
- ii. sent by email, facsimile or other reliable electronic means, the receipt of which is reliably confirmed; or
- iii. mailed, receipt of which will be deemed to have occurred on the 10th day after posting, unless the Board is satisfied that the document was received on a later date;

but in the case of notice to residents or the public, "notice" means announcement by newspaper, radio, community poster or other public means, according to any reasonable directions given by the Board;

"party" means

1. any resident of the Sahtu Settlement Area;
2. any organization that duly represents a community in the Sahtu Settlement Area respecting land use planning matters;
3. SSI and other designated Sahtu organizations;
4. the Department of Environment and Natural Resources, Government of the Northwest Territories;
5. Indian and Northern Affairs Canada; and
6. any of the following interested persons or bodies that registers and is recognized as a party by the Board before or during the hearing:
  - other departments and agencies of the federal and territorial governments;
  - any body having authority under any federal or territorial law to issue an interest or authorization relating to the use of land, waters or resources in the Sahtu Settlement Area;
  - any person or organization having an interest in the conservation, development or use of land, waters or other resources in the Sahtu Settlement Area.

1.2 This procedure will be interpreted fairly and liberally in order to ensure a just and effective hearing.

1.3 In the event of any inconsistency between this procedure and the Agreement or the *MVRMA*, the Agreement or *MVRMA*, as the case may be, prevails.

## **SECTION 2: GUIDING PRINCIPLES**

- 2.1 In implementing this procedure, the Board will be governed by the following general principles set forth in s. 35 of the *MVRMA*:
- (a) the purpose of land use planning is to protect and promote the social, cultural and economic well-being of residents and communities in the settlement area, having regard to the interests of all Canadians;
  - (b) special attention shall be devoted to the rights of the Sahtu First Nations under their land claim agreements, to protecting and promoting their social, cultural and economic well-being and to the lands used by them for wildlife harvesting and other resource uses; and
  - (c) land use planning will involve the participation of the first nation and of residents and communities in the settlement area.

## **SECTION 3: DIRECTIONS**

- 3.1 The Board may at any time give directions regarding hearing-related matters that are not provided for in this document.
- 3.2 Without departing from the requirements of procedural fairness, the Board may waive any requirement of this procedure at any time, either before or after the matter arises.

## **SECTION 4: THE HEARING RECORD**

### **Duty to Maintain the Record of Hearing**

- 4.1 The Board will prepare and keep a record of the hearing, containing:
- the notice of the hearing issued by the Board;
  - the record of any procedural decisions made by the Board before or during the hearing;
  - all documents and materials, including written submissions and directed questions and responses, placed in the record by the Board;
  - the transcript of the hearing; and
  - any written reasons for procedural decision given by the Board at or pertaining to the hearing.
- 4.2 Failure to produce or retain the transcript of the hearing on account of a mechanical or other dysfunction or other accident, including delays caused by weather, does not invalidate the hearing or record of hearing.

### **Access to the Record**

- 4.3 The record of hearing will be open to inspection at the Board's head office by a participant

or any member of the public at any reasonable time, other than when the record is being used by the Board in the course of Board business.

- 4.4 When requested by a person who is otherwise unable to secure copies, the Board will, upon payment of the Board's reasonable fees and in reasonable time, provide the person with copies of anything on the record of hearing.
- 4.5 As soon as is reasonably possible following the hearing, and upon payment of the Board's reasonable costs of reproduction, the Board will make available a copy of the written transcript to any participant requesting it.
- 4.6 The record of hearing kept by the Board in accordance with this procedure will be deemed correct as to the veracity of its details unless a person challenging it can show that it contains omissions or is inaccurate in some way.

## **SECTION 5: NOTICE OF HEARING**

### **Notice of Public Hearing and Procedure**

- 5.1 Pursuant to s. 42(2) of the Act, the Board will call the hearing by publishing a notice:
  - a) of the date, time and place of the hearing, and
  - b) specifying the procedure to be followed.
- 5.2 The notice of public hearing and procedure will be published at least 60 days prior to the hearing date.

### **Notice of Hearing Information**

- 5.3 At least 60 days prior to the hearing date, the Board will make available to all parties:
  - the draft plan to be considered at the hearing; and
  - the preliminary agenda for the hearing.

This notice may identify particular issues on which the Board invites the parties' views.

- 5.4 Notwithstanding the foregoing requirements, failure to give adequate notice does not invalidate the hearing where:
  - a) the person entitled to notice consents;
  - b) there is no actual prejudice to any participant arising out of the failure; or
  - c) prejudice caused can be offset by
    - i) adjourning the hearing where the Board feels that an adjournment would not unduly compromise the planning process, or
    - ii) through some other means that would not unduly compromise the planning process.

## **SECTION 6: SCHEDULING AND LOCATION OF HEARING**

- 6.1 In scheduling the time and place of the hearing, the Board will attempt to be mindful of any needs which the parties bring to the Board's attention, subject to the responsibility of the Board to schedule its proceedings such that the hearing is fair and the Board is able to accomplish its mandate in an orderly and expeditious manner.
- 6.2 The Board, or such person as the Board may designate, may adjourn or re-schedule the hearing to a specific or uncertain date, with or without terms and conditions.

## **SECTION 7: WRITTEN SUBMISSIONS**

- 7.1 On or before the 10<sup>th</sup> day prior to the hearing date, parties may submit representations respecting the subject-matter of the hearing to the Board in writing, and the Board will place such submissions in the hearing record.
- 7.2 Parties are encouraged to provide copies of their written submissions to each other prior to the hearing.

## **SECTION 8: DIRECTED QUESTIONS & GOVERNMENT INFORMATION**

- 8.1 At any time prior to or after the hearing the Board may direct written questions to any person on any issue relevant to the hearing, and will provide copies of any such directed questions to all participants.
- 8.2 Government responsibility to provide the Board with relevant information that the Board may request is provided in s. 22 of the *MVRMA*, as follows:

"Subject to any other federal or territorial law ... a board may obtain from any department or agency of the federal or territorial government ... any information in the possession of the department or agency ... that the board requires for the performance of its functions."

## **SECTION 9: THE HEARING**

### **Language of the Hearing**

- 9.1 Simultaneous English and North Slavey interpretation will be provided at the hearing to the extent reasonably possible.

### **Board Authority to Direct the Hearing**

- 9.2 The Board may give oral directions for the conduct of the hearing, before or during the hearing.

- 9.3 The Board may prohibit, limit or exclude the receipt of documents, materials, or oral representations that are:
- a) not relevant to the subject of the hearing;
  - b) repetitious; or
  - c) not likely to contribute materially to the purpose of the hearing.
- 9.4 The Board may set time limits for oral submissions, questions and answers by any or all parties at the hearing.
- 9.5 The powers referred to in Sections 9.2 - 9.4 may be exercised before or during the hearing, but any such exercise will take full account of the guiding principles referred to in Section 2 of this procedure.

### **Participation at the Hearing**

- 9.6 A party has the right to participate fully in the hearing.
- 9.7 Where there is any question as to the right of a person, body or organization to participate in the hearing as a party, the Board will provide that person and all other parties with an opportunity to make their views on the question heard before making its determination.
- 9.8 The right of a party to participate fully in the hearing includes the right:
- a) to represent himself or herself personally, with assistance from any person if he or she so wishes;
  - b) to make comments and provide information relevant to the subject-matter of the hearing;
  - c) to have a reasonable opportunity after the hearing to submit written comments responding to
    - i. written submissions provided before the hearing by any party, to
    - ii. questions or commitments requested of them by the Board, or
    - iii. statements made at the hearing by any other person;
  - d) through the Chairperson, to invite any other participant to respond at the hearing to any question relevant to the subject-matter of the hearing on which the party may have views or information.
- 9.9 Where a party who has been given notice of a hearing does not appear at the hearing, the hearing may proceed in the person's absence.



**Opportunity for Questioning**

- 9.10 Any member of the Board, its staff, consultants or legal counsel may ask any party any question relating to their submission, or their knowledge relevant to the subject-matter.
- 9.11 Any party may ask relevant questions of any other party at the hearing.
- 9.12 Any party making a submission may be asked to respond to questions at the hearing relating to their submission, or their knowledge relevant to the subject-matter of the hearing.
- 9.13 If a party is unable to respond to a question during the hearing, the Board may request the party to answer the question or provide any relevant information within its knowledge or ability to obtain, in writing, within a reasonable period following the hearing.

**Adjournment and Reopening of the Hearing**

- 9.14 Subject to the requirements of procedural fairness, the Board may adjourn the hearing from time to time, and may for any reason reopen the hearing upon reasonable notice to the parties, for the purpose of receiving further representations.