



Guide to the Land Use Permitting Process

DRAFT

Mackenzie Valley Land and Water Board

Gwich'in Land and Water Board

Sahtu Land and Water Board

Wek'èezhìi Land and Water Board

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Definitions and Acronyms

This section of the Guide provides a list of common terms and their definitions.

Term	Definition
AANDC	Aboriginal Affairs and Northern Development Canada
Boards	Land and Water Boards of the Mackenzie Valley, as mandated by the <i>Mackenzie Valley Resource Management Act</i>
complete application	an application that has been deemed to contain the appropriate amount and type of information necessary to be considered by a Board (See section 4.1 for more details.)
GNWT	Government of the Northwest Territories
GLWB	Gwich'in Land and Water Board
land use fees	fees to be included with the application form for the proposed land use operation. The first two hectares are included in the \$150. application fee and additional hectares are \$50. each (See section 7.3 for more details.)
MVEIRB	Mackenzie Valley Environmental Impact Review Board or Mackenzie Valley Review Board
MVLUR	Mackenzie Valley Land Use Regulations
MVLWB	Mackenzie Valley Land and Water Board
MVRMA	<i>Mackenzie Valley Resource Management Act</i>
NWTWA	<i>Northwest Territories Water Act</i>
NWT	Northwest Territories
land use permit	a land use permit required for an activity set out in sections 4 and 5 of the MVLUR, or a land use permit (type C) required by Tlicho law for use of Tlicho lands for which a type A or type B land use permit is not required
Permittee	a person who holds a land use permit issued by a Board
project	any activity that requires a water licence or land use permit
Proponent	applicant for, or holder of, water licence and/or land use permit
SLWB	Sahtu Land and Water Board
security	funds held by the Crown that can be used in the case of abandonment of an undertaking to reclaim the site or carry out any ongoing measures that may remain to be taken after the abandonment of the undertaking. The Boards set the amount based on section 32 of the MVLUR. (See section 7.4 for more details.)
stakeholders	includes industry, federal agencies, the territorial government, Aboriginal governments and organizations, communities, landowners, and other interested parties

1.0 Introduction to Guide to the Land Use Permitting Process (the Guide)

1.1 Purpose

The Land and Water Boards (or Boards) of the Mackenzie Valley regulate the use of land through the issuance of land use permits in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA) and the Mackenzie Valley Land Use Regulations (MVLUR). The purpose of this Guide is to outline:

- When land use permits are required (section 3.0);
- How to complete a land use permit application (section 4.0);
- Steps and time frames in the application process (section 5.0);
- Other types of land use permit applications and submissions (section 6.0); and
- General information about land use permits (section 7.0).

The MVLUR are the authority in any case where there is a conflict or inconsistency between the Guide and the MVLUR.

1.2 Authority

The Boards' authority to develop this Guide is granted under sections 65, 102, and 106 of the MVRMA.

1.3 How This Guide Was Developed

This document was developed by the Application Processes Working Group, one of the Standard Procedures and Consistency Working Groups established by the Land and Water Boards in 2008.

1.4 Application of Guide

This document will be applied by the following Boards:

- Mackenzie Valley Land and Water Board (MVLWB)
- Gwich'in Land and Water Board (GLWB)
- Sahtu Land and Water Board (SLWB)

- Wek'èezhìi Land and Water Board (WLWB).

This Guide applies to all projects that require a land use permit.

1.5 Monitoring and Performance Measurement for this Guide

Mechanisms will be required to monitor and measure performance and to evaluate the effectiveness of this Guide. In accordance with the principles of a management systems approach (e.g., Plan-Do-Check-Act), the MVLWB will develop a performance measurement framework. This Guide will be reviewed and amended as necessary within that framework. The framework will also describe how stakeholders will be involved in the review process.

1.6 Structure of this Document

The content of this document is as follows:

- (a) Section 1 provides an introduction to the Guide.
- (b) Section 2 provides an introduction to land use permitting.
- (c) Section 3 outlines when land use permits are required.
- (d) Section 4 outlines how to complete a land use permit application.
- (e) Section 5 summarizes the steps and timelines in the application process.
- (f) Section 6 discusses applications and requests for amendments, extensions, storage authorizations, assignments, renewals, and discontinuances.
- (g) Section 7 provides general information about land use permits.
- (h) Appendix A includes the application form.
- (i) Appendix B provides contact information for land owners.
- (j) Appendix C is a template that Proponents can use to describe environmental and resource impacts and mitigations measures.

2.0 Introduction to Land Use Permitting

The Boards regulate the use of land in the Mackenzie Valley, except for National Parks and National Historic Sites. Any person who wishes to conduct an activity that triggers the thresholds outlined in the MVLUR requires a land use permit (see next section). For example, holders of mineral claims, leases, rights-of-way, quarry permits, timber cutting permits, etc., will most likely require a land use permit to undertake land use activities in relation to their interest. Depending on the scope and magnitude of the proposed land use operation, the Boards may issue a type A or B land use permit; however, the same time lines are used to process both to provide reviewers with adequate time to comment on the application.

Communities, governments, co-management boards, and Aboriginal organizations are key participants in the permitting process, and Proponents must make efforts to inform and obtain feedback on their proposed land use activities. This must be done before an application is submitted and is expected throughout the life of the land use permit. Guidance is provided in the Boards' [Draft Engagement Policy](#) and [Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#).

3.0 When are Land Use Permits Required?

3.1 Land Use Activities that Require a Land Use Permit

On land **outside** the boundaries of a local government¹, a type A or B land use permit is required for:

Activity	Type A land use permit	Type B land use permit
Explosives	Use of a quantity equal to or exceeding 150 kg in any 30-day period	Use of a quantity equal to or exceeding 50 kg, but less than 150 kg, in any 30-day period
Use of vehicles or machines	Use of a vehicle or machine of a weight equal to or exceeding 10 t, other than on a road or on a community landfill, quarry site, or airport	Use of a vehicle the net vehicle weight of which equals or exceeds 5 t but is less than 10 t or the use of a vehicle of any weight that exerts a pressure on the ground equal to or exceeding 35 kPa, other than on a road or within a community landfill, quarry site, or airport
Storage of fuel (single container)	Use of a single container that has a capacity equal to or exceeding 4,000 L	Use of a single container for the storage of petroleum fuel that has a capacity that equals or exceeds 2,000 L but is less than 4,000 L
Storage of fuel (facility)	Establishment of a petroleum fuel storage facility with a capacity equal to or exceeding 80,000 L	Establishment of a petroleum fuel storage facility with a capacity that equals or exceeds 4,000 L but is less than 80,000 L
Machinery	Use of a self-propelled power-driven machine for moving earth or clearing	

¹ See paragraphs 4(a), 4(b), 5(a), and 5(b) of the MVLUR.

	land	
Machinery	Use of a stationary power-driven machine, other than a power saw, for hydraulic prospecting, moving earth, or clearing land	
Lines, trails, or right-of-ways	Leveling, grading, clearing, cutting, or snowploughing of a line, trail or right-of-way, other than a road or existing access trail to a building, that exceeds 1.5 m in width and 4 ha in area, for a purpose other than the grooming of recreational trails	Leveling, grading, clearing, cutting or snowploughing of any line, trail or right-of-way, other than a road or existing access trail to a building, that exceeds 1.5 m in width but does not exceed 4 ha in area, for a purpose other than the grooming of recreational trails
Campsites	Use of a campsite outside of a territorial park for a duration of or exceeding 400 person-days	Use of a campsite outside of a territorial park for a duration of or exceeding 200 person-days but less than 400 person-days
Buildings		Construction of a building with a footprint of more than 100m ² and a height of more than 5 m
Drilling	Use of power-driven earth drilling machinery the operating weight of which, excluding the weight of drill rods, stems, bits, pumps, and other ancillary equipment, equals or exceeds 2.5 t, for a purpose other than the drilling of holes for building piles or utility poles or the setting of explosives within the boundaries of the local government	Use of power-driven earth drilling machinery the operating weight of which, excluding the weight of drill rods, stems, bits, pumps, and other ancillary equipment, equals or exceeds 500 kg but is less than 2.5 t, for a purpose other than the drilling of holes for building piles or utility poles or the setting of explosives within the boundaries of the local government

On land **within** the boundaries of a local government², a Type A or B land use permit is required for:

Activity	Type A land use permit	Type B land use permit
Drilling	Use of power-driven earth drilling machinery the operating weight of	Use of power-driven earth drilling machinery the operating weight of

² See paragraphs 4(b) and 5(b) of the MVLUR.

	which, excluding the weight of drill rods, stems, bits, pumps, and other ancillary equipment, equals or exceeds 2.5 t, for a purpose other than the drilling of holes for building piles or utility poles or the setting of explosives within the boundaries of the local government	which, excluding the weight of drill rods, stems, bits, pumps, and other ancillary equipment, equals or exceeds 500 kg but is less than 2.5 t, for a purpose other than the drilling of holes for building piles or utility poles or the setting of explosives within the boundaries of the local government
Campsites	Use of a campsite outside of a territorial park for a duration of or exceeding 400 person-days	Use of a campsite outside of a territorial park for a duration of or exceeding 200 person-days but less than 400 person-days
Storage of fuel (facility)	Establishment of a petroleum fuel storage facility with a capacity equal to or exceeding 80,000 L	
Machinery	Use of a stationary power-driven machine, other than a power saw, for hydraulic prospecting, moving earth, or clearing land	

3.2 Land Use Activities that Do Not Require a Land Use Permit

The MVLUR do not apply to:

- National Parks and National Historic Sites; or
- The use of previously cleared land now authorized for grazing or for agricultural purposes after its initial clearing.³

The MVLUR also do not apply to following activities⁴ (unless these activities require the use of equipment or material listed under section 3.1):

- Harvesting and the construction and occupation of cabins and camps for the purpose of harvesting as that term is defined in the Tlicho Land Claims and Self-Government Agreement, the Sahtu Dene and Métis Comprehensive Land Claim Agreement, and the Gwich'in Comprehensive Land Claim Agreement;
- Hunting, trapping or fishing; or

³ See subsection 2(2) of the MVLUR.

⁴ See subsection 2(3) of the MVLUR.

- Anything done in the course of prospecting, staking, or locating a mineral claim.

4.0 Applying for a New Land Use Permit

4.1 What Information is needed in a Complete Application?

All land use permit applications must include the following:

- Application form** – as prescribed by schedule 2 of the MVLUR. See section 4.2 and Appendix A for more information;
- Proof of eligibility** - see section 4.2 #4;
- Site plan to scale** – see section 4.2 #16;
- Appropriate fees** – see section 4.2 #18;
- Waste management plan** – see section 4.2 #9;
- Spill contingency plan** – see section 4.2 #12;
- Traditional Knowledge** - see section 4.2 #6 (it is a requirement for a complete application in the Sahtu management area);
- Security estimate for all mining, oil and gas, and power activities** – see section 7.4;
- Proof of adequate community engagement**
 - Engagement log** outlining any correspondence and/or meetings, access agreements, or authorizations with affected parties and Aboriginal organizations in the project area; and
 - Engagement plan (if applicable)** – An engagement plan is required to be submitted for land use permit applications for all mineral, oil and gas, and power activities.

Engagement should be initiated well in advance of the submission of the application to allow affected parties enough time to review the information and provide comments. More detail and guidance on engagement expectations are provided in the Boards' [Draft Engagement Policy](#) and [Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#)⁵, as the requirements may differ slightly depending on which management area your project is in.

Optional items that can be included with the application package are:

- A draft security estimate** (for activities other than mining, oil and gas, and power activities) – see section 7.4
- Land use plan conformity information** – see section 5.0 #3

⁵ The *Draft Engagement Policy* and *Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences* are expected to be publicly distributed prior to the *Draft Guide to the Land Use Permitting Process*.

❑ Proposed draft land use permit conditions

The amount of information that the Boards require to assess an application **depends on the nature and scale of the land use activities being proposed**. Typically, type A land use permit applications have more extensive information requirements than type B land use permit applications. However, the Board may in its discretion request more information for any land use permit application in order to complete a preliminary screening of the project and/or to set terms and conditions for the land use permit. **The Boards will only process applications that are complete, so all relevant information must be submitted.**

Renewals

Before the Board can issue a permit, the proposed land use activity must meet the requirements of Part 5 of the MVRMA, which means that a preliminary screening, environmental assessment, or environmental impact review for the proposed activity needs to be completed (see section 62 of the MVRMA). Previously permitted activities that have already undergone an environmental assessment process established by the MVRMA, the *Canadian Environmental Assessment Act*, or the *Environmental Assessment Review Process Guidelines Order* may be exempt from further screening. Therefore, Proponents should provide a project summary and explain why the project should be exempt from Part 5 of the MVRMA in the cover letter attached to the application. This explanation should include confirmation that the project has not been modified (see Exemption List Regulations) or falls under section 157.1 of the MVRMA. For more information about renewals, see section 6.5 of this Guide. For more information about the environmental impact assessment process, refer to MVEIRB's [Environmental Impact Assessment Guidelines March 2004](#).

Before the application and the relevant information is submitted, Proponents should contact federal, territorial, and Aboriginal governments and other parties to ensure all appropriate authorizations are obtained (e.g. Fisheries authorizations, access permits, etc.). Further, Proponents should contact the appropriate land use planning board or committee to discuss whether the proposed project conforms to the approved or draft land use plan.

4.2 Completing the Land Use Permit Application Form

The following sequence of numbered statements corresponds to specific numbered sections in the Land Use Permit Application form (see Appendix A to obtain a form). Additional pages or supporting documents should be attached to the application form where required.

1. Indicate the full name, address, telephone number, fax number, and email of the person or company (who is in good standing and is registered to do business in the Northwest Territories) applying for the land use permit. Please be advised that initials are not acceptable.
2. Indicate the full name, address, telephone number, fax number, and email of the organization's head office, if not the same as in # 1.
3. Provide the full names, addresses, and functions of any and all contractors and sub-contractors involved in the project, along with the maximum number of people that will be on site at any time and for how long they will be on site.
4. Eligibility: An applicant must hold an appropriate interest (e.g. a mineral claim, quarry permit, or lease from the Crown) or right of access (e.g. access agreement to go on private lands) for the type of operation and from the appropriate landowner. Proponents must submit confirmation of access in writing from the landowner. Contact information for landowners, including the federal and territorial governments, the Tlicho Government, the Sahtu Dene and Métis, and the Gwich'in Tribal Council, is listed under Appendix B.

After confirming a right of access, **an applicant must circle the appropriate reference to section 18 of the MVLUR that outlines the eligibility of the person or company applying for the land use permit.**

Paragraph 18(a) of the MVLUR applies to proposed land-use operations that are in the exercise of a right to search for, win, or exploit minerals or natural resources. Proponents should check off:

- (a)(i) if the Proponent holds the right;
- (a)(ii) if the Proponent jointly holds the right (with one or more people who have entered into an agreement) and has been designated as the manager of operations; **or**
- (a)(iii) if the Proponent jointly holds the right (with one or more people who have not entered into an exploration or operating agreement) and has not been designated as the manager of operations.

Paragraph 18(b) of the MVLUR refers to all other proposed land-use operations that do not involve a right to search for, win, or exploit ~~of~~ minerals or natural resources. For these applications, the Proponent should check off:

- (b)(i) if the Proponent has the right and who contracts out the work; **or**
- (b)(ii) if the Proponent has the right and is the one who is going to carry out the operation.

In certain cases, the Boards may process a land use permit application (i.e. deem the application complete) while the applicant is pursuing the right of access or interest; however, the Boards cannot issue a land use permit until the right of access or interest is granted.

Eligibility for roads on Crown lands

To build a new private access road on Crown lands, a lease or licence of occupation is not required, as long as a land use permit is in place. However, if a lease or a licence of occupation has been issued by the Crown for a road, confirmation from AANDC needs to be submitted with the land use permit application to the Board. If a Proponent wants to construct, maintain, and/or use a road that has a lease held by another party, the Proponent must provide evidence showing it has an agreement with the lease holder. This is because a lease gives the holder the exclusive right to use the road. A licence of occupation, on the other hand, does not give the holder the exclusive right to use the road; however, a copy of the licence of occupation is to be submitted with the application in case there is a requirement for a user agreement.

5. (a) A complete description and summary of the land use activity is required. The purpose, nature, and location of all activities must be described. Include the size of the area to be used in each phase of the operation. For exploration, specify the maximum number of drill holes to be drilled over the life of the land use permit, including over the possible two-year extension. A separate project description may be attached to the application form if the space provided is inadequate. Please indicate on the application form if readers are to refer to the separate project description for further detail.

(b) The following information is required if a camp may need to be set-up: the location and distance from any water bodies; number and type of structures; square footage of the structures and number of personnel stationed in the camp; number of person-days required to complete the operation (number of people x number of operating days = number of person-days); and water sources and volumes (maximum volume of water to be used per day) required to support the camp.

6. Describe environmental and resource impacts of the proposed land use operation and all environmental management and monitoring programs required to mitigate the impacts. This information is used for the preliminary screening of the project and/or to develop terms and conditions for the land use permit. **It is important to indicate whether any of the mitigation measures have been developed as a result of input from affected parties.** The information can be provided in a table format as shown in Appendix C.

Proponents are encouraged to contact the Prince of Wales Northern Heritage Centre (PWNHC) to obtain archaeological site data prior to submitting an application to a Board. The PWNHC has developed [Guidelines for Developers for the Protection of Archaeological Sites in the Northwest Territories](#). In some cases, Boards have included the requirement of an archaeological impact assessment as a condition in a land use permit; therefore, it is important that Proponents become aware of the PWNHC's requirements about how to conduct one.

Traditional Knowledge

Please note that traditional knowledge is a requirement for a complete application in the Sahtu management area. In other areas, the collection of traditional knowledge is recommended as it will be considered by the Boards.

7. Provide a description of the proposed closure and reclamation plan. In most cases, the plan will outline how the area will be returned to, as near as possible, the original state. In cases where the landowner, or another interested party, has requested restoration to a different standard, please provide all relevant information and documentation. For most activities on Crown land, AANDC has prepared land use guidelines for reclamation. (See [Northern Land Use Guidelines Publications](#) and follow the links.)

For advanced mineral exploration and mining projects that also trigger a type A or B water licence, Proponents need to submit a closure and reclamation plan as per the [Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the Northwest Territories](#). This plan is to be referenced in the land use permit application.

8. Indicate other rights, licences, or permits that relate to this land use permit application (e.g. water licences, fisheries authorizations, leases, licences of occupation, etc.). Confirmation of rights, licences, or permits (e.g. copy of the authorization or confirmation from the regulator) must be submitted with the application. (Copies of water licences and land use permits issued by the Boards are not required.)

It is the responsibility of the Proponent to be aware of, and comply with, all legal requirements (e.g., applicable legislation) within the jurisdiction in which their activities will occur.

If applicable, also indicate whether a road is to be pioneered (i.e., built for the first time) and whether it has been laid out or ground truthed. Also provide details regarding the route, construction, and maintenance of the road.

9. To complete this section of the application form, a waste management plan for the proposed activity is to be developed in accordance with the Boards' [Guidelines for Developing a Waste Management Plan](#) and submitted as an attachment to the application form. A template for this plan is provided in the Guideline.
10. List the type, number, weight, and proposed uses of all equipment to be used. (Include ground pressures of vehicles if known.) Indicate whether some or all of the equipment is covered under another land use permit or licence and the duration of the authorization.
11. Indicate all fuel types (e.g. diesel, gasoline, aviation fuel, propane, etc.) and for each, list the number of containers, the capacity of containers to be used, and the maximum volume that will be on site at any one time. The maximum volume, which is required for the security calculation (see section 7.4), can be added to the right hand column of the application.
12. A spill contingency plan is to be developed in accordance with [AANDC's Guidelines for Spill Contingency Planning](#). This plan is to be submitted as an attachment to the application form.
13. Indicate fuel transfer methods (e.g. pumps, gravity fed, etc.) and any methods used to prevent spills such as the use of drip pans, absorbent pads, etc.
14. Indicate all periods of operation (i.e. specify the months) including seasonal shut down and closure and reclamation activities.
15. Indicate term for which the land use permit is required (up to five years, with a maximum of a two-year extension. The extension should be applied for closer to the expiry date of the land use permit—see section 6.2).
16. Indicate the locations of land use activities by providing the minimum and maximum latitude and longitude. Provide maps at 1:50,000 and 1:250,000 scales which indicate:

- Lands included in proposed land use operation, including an area estimate in hectares;
- Location of all existing and new lines, trails, rights-of-way, and cleared areas proposed for the land use operation;
- Location of all buildings, structures, campsites, air landing strips, air navigation aids, fuel and supply storage sites, excavations, and any other works/sites proposed to be constructed/used in the operation or which would be affected by the operation; and
- Geographic co-ordinates for the various elements of the operations.

For major projects, Proponents must submit GIS data as per the [Standards for Geographical Information Systems \(GIS\) Submissions](#).

17. Please ensure an original signature is included from a person who is authorized to sign for the applicant. Print your full name before signing and dating the application. Initials are not sufficient. Documents can be submitted electronically by scanning the signature page or by including an electronic signature as per the [Document Submission Standards](#).

18. Circle the type of land use permit you are applying for (A or B). Forward the appropriate fees with your application:

- For land use operations that will use two hectares of land or less, submit the application fee of \$150. (which includes two hectares); or
- For land use operations that will use more than two hectares, submit the \$150. application fee plus \$50. per hectare for any additional land disturbed by the project.
- **The assignment fee of \$50. need only be paid if a land use permit is being transferred to another person or company.**

5.0 The Land Use Permitting Process

The Boards follow the process outlined below in administering applications for land use permits:

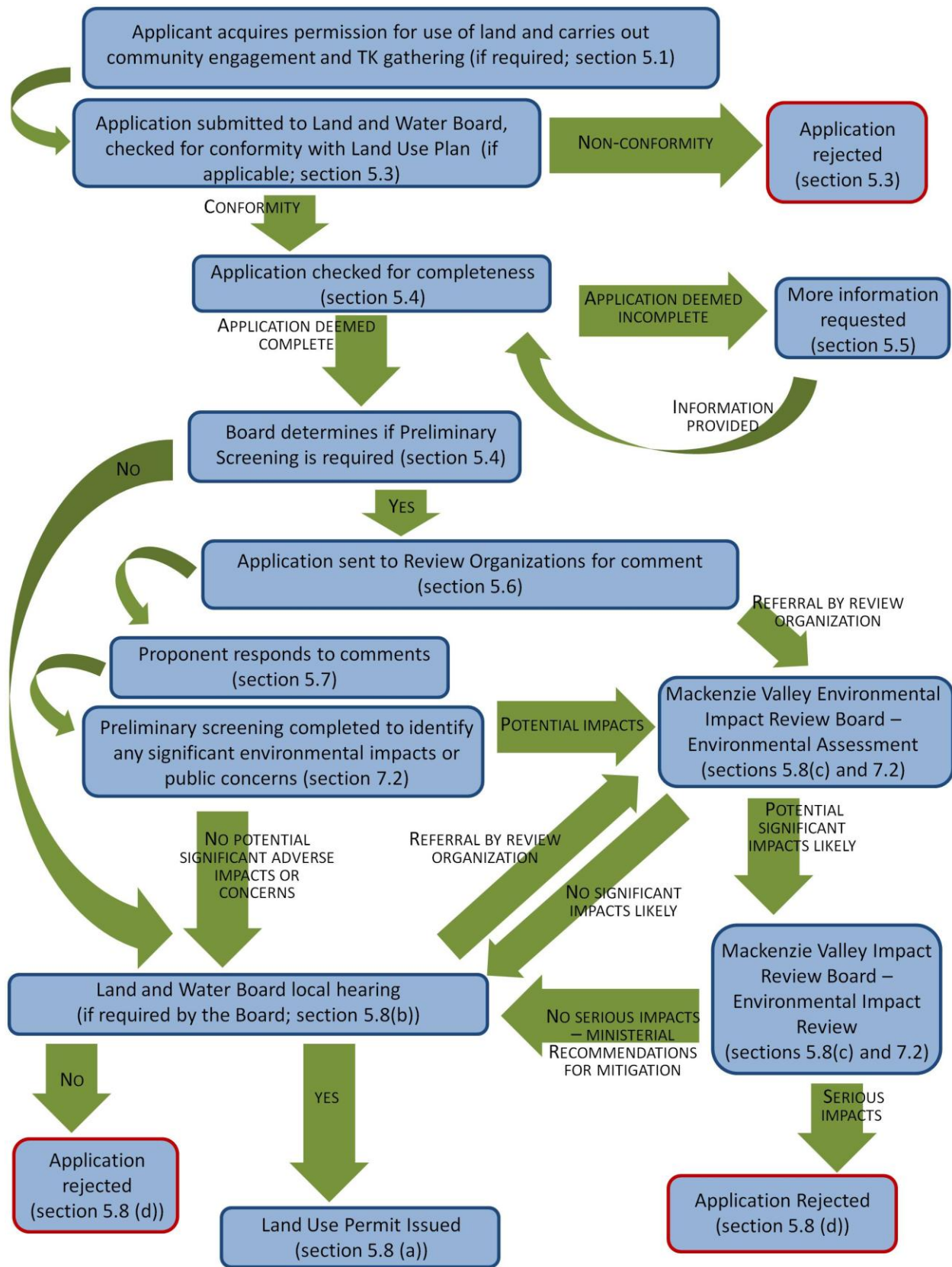


Figure 1.0 – The Land Use Permitting Process

5.1 Pre-application and Gaining Permission to Access Lands

Prior to submitting an application to the Boards, the Proponent must:

- Carry out engagement in accordance with the Boards' [Draft Engagement Policy and Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#);
- Obtain permission from the landowner, if necessary (e.g. obtain quarry permit, licence of occupation, lease, access authorization, etc.); and
- Gather any information required to support their application (see section 4.1), including traditional knowledge.

5.2 Submission of Application

The Proponent submits a land use permit application, including supporting documentation, to the Board (see section 4.1). Submission standards are outlined in the [Document Submission Standards](#).

5.3 Land Use Plan Conformity Check (for projects in the Gwich'in Management Area)

Currently, the [Gwich'in Land Use Plan](#) is the only approved land use plan in the Mackenzie Valley. GLWB staff or Gwich'in Land Use Planning Board (GLUPB) staff (if referred to the GLUPB) checks the application for conformity to the relevant land use plan. If the proposed project does not conform to the land use plan, the GLWB will return the application and inform the Proponent of the non-conformance issue. The Proponent then has the option of applying to the GLUPB for an exemption. If an exemption is granted, the Proponent can re-submit the land use permit application to the GLWB.

Draft land use plans are available for the Sahtu management area ([Draft Sahtu Land Use Plan](#)) and the Dehcho region ([Final Draft Dehcho Land Use Plan - June 2, 2006](#)). Although these plans are in draft form, it is recommended that Proponents contact the appropriate land use planning board or committee prior to submitting an application.

5.4 Initial Board Staff Review of Application

Completeness Check

Board staff reviews the application to ensure that all necessary information is included and confirms the right type of land use permit has been applied for (see section 4.1).

Preliminary Screening Exemption Confirmation

Board staff also evaluates the application to determine if the application is exempt from Part 5 of the MVRMA. If the staff believes the application is exempt, staff will inform reviewers and the Proponent of their opinion within the letter (review letter) that is circulated to the distribution list once the application is deemed complete (see step #5.6). It is important that Proponents provide sufficient information in order for staff to make this determination. The exemption will then be considered by the Board at a later date which will be specified in the review letter. If reviewers disagree with the staff's determination, it is important that reviewers submit their comments prior to the Board meeting date.

Transboundary Determination

Proponents need to identify whether the application is to take place, or is likely to have an impact, in more than one management area (e.g. the proposed development crosses the Tlichó and Sahtu management areas). (A map of the management areas is on the [Boards' website](#).)

Based on this information, staff makes an initial transboundary determination, which will be presented to the MVLWB for a final determination early in the process. If the application is deemed transboundary, it will be considered by the MVLWB, which will be composed of three or more members designated by the Chair including a member appointed to the regional panel where the activity or potential impact will occur. Once the transboundary determination is made, Board staff will continue with the process (as outlined below).

5.5 Board Staff Response to Application

The results of the staff review for completeness are provided to the applicant within ten days of receiving the application. If the application does not contain all necessary information, the applicant is notified and provided with a list of deficiencies.⁶ If the initial application contains all necessary information and conforms to the governing land use plan, the applicant is notified that the application has been deemed complete and has been assigned a file number.

Board staff also informs the Proponent of the processing time for applications for type A and type B land use permits, respectively:

- Type A land use permits: Within 42 days of receiving a complete application for a type A land use permit, the Board will either:

⁶ See paragraph 22(1)(a) and paragraph 23(a) of the MVLUR.

- (a) issue a land use permit with conditions;
 - (b) conduct a hearing under section 24 of the MVRMA or require that further studies or investigations be made;
 - (c) refer it to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) for environmental assessment; or
 - (d) refuse to issue the land use permit if a requirement set out in section 61 or 61.1 of the MVRMA has not been met⁷ or for any other reason as provided for in legislation.
- Type B land use permits: Within 15 days of receiving a complete application for a type B land use permit, the Board will:
 - (a) issue a land use permit with conditions;
 - (b) refer the application to MVEIRB for environmental assessment;
 - (c) notify the applicant that the Board needs more time to review the application. **In most cases, the Board invokes subparagraph 23(b)(iii) of the MVLUR in order to allow more time for reviewers to make comments;** or
 - (d) refuse to issue the land use permit if a requirement set out in section 61 or 61.1 of the MVRMA has not been met⁸ or as provided for by legislation.

Regardless of whether it is an application for a small or large operation, the Boards usually require the full 42 days to make a decision, as sufficient time is required for reviewers to submit comments on the land use permit application.

At this point a file will be established and placed on the public registry.

5.6 Application Circulated

Board staff uploads the application and supporting documents onto the Items for Review page of the Board's website and then prepares an application package that includes: the link to the application and supporting documents; an excel comment table; a draft land use permit (in some cases); and the distribution list. The package is distributed to the following organizations:

- Appropriate departments and agencies of the federal and territorial governments;
- Land owners;
- Affected communities, Aboriginal governments and organizations;
- Renewable Resource Boards;
- Departments and agencies with responsibilities for heritage resources; and

⁷ See subsection 22(2) of the MVLUR.

⁸ See paragraph 23(b) of the MVLUR.

- Other interested parties. (This may include companies, businesses, or individual members of the public, civic, or social organizations who have indicated an interest in a project.)

A copy of the Board's distribution list is available on request. The Board also notifies MVEIRB of receipt of the application.

The Board has to allow a reasonable period of time for reviewers to provide comments to the Board with respect to the application. Review periods may vary depending on the scope, scale, and location of a proposed project. It is important the reviewers provide clear, detailed comments and recommendations with supporting rationale.

5.7 Board Package Prepared

When the review is completed, comments are forwarded to the Proponent for a response. Board staff then prepares a Board package on the proposed project, based on the information provided in the application and during the comment period. The Board package includes: a copy of the application and supporting documents; a staff report; a draft preliminary screening (if it is not exempt from preliminary screening); a comment summary table that shows comments from reviewers, the Proponent, and staff; the draft land use permit; and the draft security estimate. (See section 6.4 for more information about security deposits.)

5.8 Board Decision

After reviewing the Board package, the Board can:

- (a) Issue a land use permit with conditions;
- (b) Conduct a hearing under section 24 of the MVRMA or require that further studies or investigations be made;
- (c) Refer it to MVEIRB for environmental assessment; or
- (d) Refuse to issue the land use permit if a requirement set out in section 61 or 61.1 of the MVRMA has not been met or as provided for by legislation.

These decisions are further explained below.

Decision (a)

If the application is approved, the Board issues the land use permit with conditions, including the amount of security that is to be posted.

Decision (b)

If the Board invokes paragraph 22(2)(b) or subparagraph 23(b)(iii) of the MVLUR for further studies or investigations, the timelines under subsection 22(2) or paragraph 23(b) do not begin until the hearing, further study, or investigations are completed. The Board specifies why this paragraph has been invoked and outlines timelines for these proceedings to be completed.

Decision (c)

If the Board decides to refer the application to MVEIRB, MVEIRB conducts an environmental assessment and possibly an environmental impact review of the proposal, which will then be forwarded to the Minister of AANDC and the responsible ministers for a decision. (See page 35, section 3.17 of MVEIRB's [Environmental Impact Assessment Guidelines March 2004](#) for more information about this phase.) After the environmental assessment or environmental impact review is complete, the time period provided for in subsection 22(2) or paragraph 23(b) starts. However, if MVEIRB determines that an environmental impact review of the proposal is not required because the development is not likely to have significant adverse impact on the environment or to be cause of significant public concern,⁹ the Boards can proceed with the regulatory process ten days after receiving the report from MVEIRB.¹⁰ The Boards may invoke paragraph 22(2)(b) of the MVLUR after an environmental assessment or environmental impact review to conduct a hearing or further investigations or studies.

For renewals, a preliminary screening is not required if the Board deems the development exempt from screening; therefore, a referral to environmental assessment is not an option for projects that are exempt from screening.

Decision (d)

If the application was rejected, the Proponent is notified of the decision.

In all cases, the Board's reasons for the decision are documented and placed on the public registry.

⁹ See paragraph 128(a) of the MVRMA.

¹⁰ See section 129 of the MVRMA.

The file in the public registry contains: a copy of the application and of all supporting documents; all records from any public hearing held in connection with the application; a copy of any land use permit issued in respect of the application; the reasons for the decision of the Board; and all correspondence and documents (including plans) submitted to the Board in respect of compliance with the conditions of any land use permit issued in respect of the application.

5.9 Post Issuance

Inspections

Inspections are conducted for land use operations authorized by type A or type B land use permits issued by the Boards. These are carried out by Inspectors from AANDC. Inspectors report to the Boards on compliance with legislation, regulations, and the terms and conditions of the land use permit.

Non compliance may result in a suspension or cancellation of the land use permit by the Board or a cessation order of the land use activity by the Inspector.¹¹

Plans and Reports

Conditions of a land use permit may require that plans and reports be submitted to the Board, either for approval by the Board or for informational purposes. Plans or reports that require approval by the Board undergo a review process. Reviewers' comments and Proponent responses are provided to the Board for its consideration. If the Board determines that the plan or report meets the land use permit requirements, the Board approves the plan or report. If the Board determines that the plan or report does not satisfy land use permit requirements or is not satisfied with the Proponent's response to reviewers' comments, the Board notifies the Proponent that the plan or report needs to be revised or that further information is required and indicates when the revised plan or report is to be submitted.

5.10 Final Clearance

Within sixty days of either the expiry of a land use permit or the end of operations, whichever comes first, Proponents must provide a final plan to the Board. The final plan is to include a description of the activities undertaken, maps at 1:50,000 and 1:250,000 scales, and calculations of the size of the area used in each part of the operation. This area data is used to determine if land use fees are still owing or need to be refunded. Clearances will not be considered until all land use fees are submitted.

¹¹ See sections 34, 35, and 36 of the MVLUR.

6.0 Other Types of Requests and Applications

After a land use permit is issued, the Permittee can apply for:

- Amendments to any of the conditions of a land use permit;
- An extension to the existing term of their land use permit (up to a maximum of two years) before the land use permit expires;
- Authorization to store items required for future land use operations after the permitted land use has been completed;
- Assignment of their land use permit to another party;
- A renewal land use permit; or
- A discontinuance of the land use permit.

6.1 Amendments

An amendment to a land use permit is any change to a **condition** of the land use permit. An amendment is **not** a change to the **scope** of a land use permit. If a desired change to an operation is **not** within the scope of the land use permit, the changed operation will require the Proponent to apply for a new land use permit.

To amend a condition of a land use permit, the Permittee must fill out a land use permit application for the amendment, and provide the following information which can be included in the cover letter with the application form:

1. The conditions that the Permittee wishes to have amended;
2. The nature of the proposed amendment; and
3. The reasons for the proposed amendment.¹²

An amendment request may require a preliminary screening, unless it is exempt from Part 5 of the MVRMA. Permittees must submit sufficient information in the application for reviewers to understand the impacts of the requested amendment and the proposed mitigation measures (see section 3.3 #6). While it may not be necessary to redo all original studies, applicants must include proof of engagement with communities relating to the proposed amendment, in accordance with the Boards' [Draft Engagement Policy](#) and [Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#).

¹² See subsection 26(2) of the MVLUR.

Applicants must include applicable land use fees for any additional lands used (see section 3.3, #18) and additional security may need to be posted if the amendment request is approved by the Board.

6.2 Extensions

A Permittee may request **one** extension to a land use permit for **up to two years**. If the request is for less than two years, the Permittee cannot then request a second extension for the remainder of the two years.

The request for an extension should be received **at least** 45 days prior to the expiry of the land use permit to allow time for the extension request to be processed. **The Board cannot grant an extension to a land use permit that has expired.**

To request an extension to a land use permit, the Permittee must submit a letter to the Board. The letter should clearly state:

1. The reason for the extension request;
2. The length of time the Permittee is requesting for the extension; and
3. Any other information which would support the extension request, including the status of the land use operation.

Permittees are required to contact affected communities about the extension request prior to submitting the request to the Board as per the Boards' [Draft Engagement Policy](#) and [Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#). Once an extension request is received by the Board, staff will notify reviewers that the Board will be making a decision on the request. A preliminary screening of extension requests is not required.

6.3 Storage Authorizations

Once a land use operation is complete, the Permittee must remove all structures, temporary buildings, machinery, equipment, materials, fuel drums, and other storage containers and any other items used in connection with the permitted operation. However, a Permittee may request authorization from the Board to store any of these items for up to one year following expiration of a land use permit.

The Permittee must complete the storage authorization form from the Board (click on Apply for a Permit/Licence on the Board's website or contact the Board to obtain a form) with enough information to adequately describe the items to be stored and the location where they will be

stored. The Permittee must also provide a letter from the landowner agreeing to allow storage of the specified items.

Permittees are also required to notify affected communities about the storage authorization request prior to submitting the request to the Board in accordance with the Boards' [Draft Engagement Policy](#) and [Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#). Once a storage application is received by the Board, staff may circulate it to reviewers for comments. No preliminary screening is required, but the process of reviewing and forwarding the request to the Board for a decision will take from 15 to 30 days if all required information is provided with the request.

Storage authorizations can be requested more than once but cannot be assigned.

6.4 Assignments

When the holder of an existing land use permit agrees to transfer the rights (e.g. lease) associated with the land use permit to a new party, the land use permit must be assigned to the new party. It is very important that the new Permittee (Assignee) understands that in accepting the assignment of the land use permit, they accept responsibility for:

- The performance of all of the terms and conditions of the land use permit;
- **All liabilities** incurred as a result of the Assignor's actions to date under the land use permit; and
- Payment to the Boards of all security required of the Assignor when the land use permit was granted.

If the land use permit is not assigned, the original Permittee must understand that they are still responsible for all liabilities under the land use permit.

To obtain an assignment of a land use permit, the Assignee must:

1. Complete the Application to Assign a Land use permit (click on Apply for a Permit/Licence on the Board's website or contact the Board to obtain an application) which includes a declaration by the Assignor and the signature of the Assignor and Assignee;
2. Pay the security required by the land use permit; and
3. Enclose a cheque for the assignment fee of \$50. made payable to the Receiver General for Canada.

The Assignee should also provide evidence that they can do business in the Northwest Territories.

Assignees are required to notify affected communities and may be required to have a face-to-face meeting with affected communities about the assignment prior to submitting the request to the Board as per the Boards' [Draft Engagement Policy](#) and [Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#).

The Board may approve the assignment with all of the original conditions or with amended conditions.

If the company is performing a simple name change, which is different than an assignment, a letter and the certificate of incorporation needs to be submitted.

6.5 Renewals

A renewal is a new application, which requires all information listed under section 4.1 of this document, for a development that has been permitted previously and that is exempt from Part 5 of the MVRMA. When applying for a renewal, Permittees should clearly state they are applying for a preliminary screening exemption and confirm that the project has not been modified (see Exemption List Regulations) or falls under section 157.1 of the MVRMA. If information has already been submitted for a previous permit, the applicant must reference the information, including the title, date, relevant section, and page numbers of the document, in the application form.

The difference between a renewal and an extension is that a renewal involves the issuance of a new land use permit (for a term of up to five years) for an operation that has already been permitted, whereas an extension is a simple extension (for up to a maximum of two years) of an existing land use permit. A renewal land use permit can have different conditions than the old land use permit, but the conditions remain the same for an extension, aside from a few administrative updates (e.g. changing INAC to AANDC).

Permittees are required to contact affected communities about the renewal application prior to submitting the application to the Board as per the Boards' [Draft Engagement Policy](#) and [Draft Engagement Guidelines for Applicants and Holders of Land Use Permits and Water Licences](#).

6.6 Discontinuances

A Permittee who wishes to discontinue the land use operation at any time prior to the expiration date in the land use permit can have the expiry date of the land use permit amended

to reflect this new completion date. The Permittee will give notice of the discontinuance in writing to the Board at least 10 days prior to the proposed date. The Board will then amend the expiration date of the land use permit accordingly and will forward a copy of the amended land use permit to the Permittee and to the inspector.

7.0 General Information About Land Use Permits

7.1 Land Use Permitting in the Mackenzie Valley

- If an activity is to occur within a local government boundary, there are fewer thresholds or triggers for a land use permit;¹³ and
- A type C land use permit may be required by a Tlicho law for a use of Tlicho lands if a type A or type B land use permit is not required.

7.2 Preliminary Screenings

- Projects are subject to a preliminary screening to determine if they might have significant adverse environmental impacts or be a source of public concern, unless specifically exempted because it is on the Exemption List Regulations, or it is exempt for national security or emergency purposes, or because of section 157.1 of the MVRMA.
- If a Board decides not to refer an application to environmental assessment, it can be still referred to environmental assessment by MVEIRB or by other parties.¹⁴ For more information about preliminary screenings, please refer to MVEIRB's [Environmental Impact Assessment Guidelines](#).

7.3 Land Use Fees

- Land use fees are payable to the Receiver General for Canada on lands, under the administration of the Crown, used to complete the land use operations including existing lines, cleared areas, campsites, access routes, drill sites, etc. Fees for the first two hectares are included in the application fee; for each additional hectare or portion of a hectare the land use fee is \$50. per hectare.¹⁵ Land use fees are reconciled after the final plan has been submitted and verified, prior to final clearance.¹⁶ If fees are outstanding, the Board will not close the file and the Permittee maintains liability of the site.

¹³ See paragraphs 4(b) and 5(b) of the MVLUR.

¹⁴ See subsections 126(2), (3), and (4).

¹⁵ See section 41 and Schedule 1 of the MVLUR.

¹⁶ See section 31 of the MVLUR.

7.4 Security

- The Boards may require security to be posted by the applicant in accordance with the MVLUR.¹⁷
- The Boards use an excel spreadsheet to calculate security for simple land use operations (e.g. quarries, mineral exploration drilling). Proponents can obtain a copy of the spreadsheet by contacting the appropriate Board.
- For more complex land use operations, such as bulk sampling, that also require a water licence, a RECLAIM estimate will be generated. Proponents can contact AANDC for more information about the RECLAIM model. A draft security estimate for all mining, oil and gas, and power activities must be submitted with the land use permit application. Proponents may use RECLAIM or another financial security estimate method approved by the Board.
- The amount of security is calculated based on the estimated cost for a third party to access and remediate any disturbances related to the land use permit.
- A Permittee cannot begin a land use operation until security (if required by the Board) is posted with the Minister.

¹⁷ See section 32 of the MVLUR.

Appendix A – Land Use Permit Application Form

GLWB: [Application Form](#)

MVLWB: [Application Form](#)

(Then click on Application Form under Land Use Permit Applications)

SLWB: [Application Form](#)

WLWB: [Application Form](#)

(Then click on Land Use Permit Application Form)

Appendix B – Contact Information for Land Owners

Tlicho Lands

Please contact the Tlicho Government – Lands Protection Department for more information on obtaining access rights to Tlicho lands.

Tlicho Lands Protection Department

Tlicho Government

Box 412

Behchokö NT X0E 1X0

Phone: (867) 392-6381

Fax: (867) 392-6406

Sahtu

Tulita District:

Tulita Dist. Land Corp.

PO Box 108

Tulita, NT X0E 0K0

Phone: (867) 588-4984

Fax: (867) 588-3997

K'asho Gotine District:

K'asho Gotine Dist. Land Corp.

PO Box 18

Fort Good Hope, NT X0E 0H0

Phone: (867) 598-2519

Fax: (867) 598-2437

Deline District

Deline Land Corp.

General Delivery

Deline, NT X0E 0G0

Phone: (867) 589-8100

Fax: (867) 589-8101

Gwich'in Private Lands

Please contact the Gwich'in Tribal Council – Lands Administration & Resources Management for more information on obtaining access rights to Gwich'in lands.

Gwich'in Tribal Council

Land Administration & Resource Management

P.O. Box 1509

Inuvik, NT X0E 1X0

Phone: (867) 777-7900

Fax: (867) 777-7919

<http://www.gwichin.nt.ca/>

Crown Lands

Please contact Aboriginal Affairs and Northern Development Canada – Lands Administration for more information on obtaining access rights to Crown lands.

Land Administration Office

Aboriginal Affairs and Northern Development Canada

P.O. Box 1500

5th Floor, Bellanca Building

Yellowknife, NT X1A 2R3

Phone: (867) 669-2671

Fax: (867) 669-2713

Commissioner's Lands

Inuvik Region (Aklavik, Fort McPherson, Ulukhaktok, Inuvik, Paulatuk, Sachs Harbour, Tsiigehtchic, and Tuktoyaktuk)

Senior Lands Officer

Phone: (867) 777-7123

Sahtu Region (Deline, Fort Good Hope, Tulita, Norman Wells, and Colville Lake)

Senior Lands Officer

Phone: (867) 587-7102

Dehcho Region (Fort Liard, Fort Providence, Fort Simpson, Jean Marie River, Kakisa, Nahanni Butte, Trout Lake, and Wrigley)

Senior Lands Officer

Phone: (867) 695-7221

North Slave Region (Dettah, N'dilo, Gameti, Lutselk'e, Behchokö, Wekweeti, Whati, and Yellowknife)

Senior Lands Officer

Phone: (867) 920-8079

South Slave Region (Fort Resolution, Fort Smith, Hay River, Hay River Reserve, and Enterprise)

Senior Lands Officer

Phone: (867) 872-6529

Appendix C – Template for Environmental and Resource Impacts and Mitigation Measures Information

Type of Impact:	Describe impacts to:	List proposed mitigation measures and monitoring programs for each impact:
Environmental	<ul style="list-style-type: none"> • Groundwater and surface water – include changes to flow, quantity and quality; • Land, including geologic structure change, soil contamination, compaction/settling/ erosion, alteration of the permafrost regime and riparian zone loss; • Vegetation, including species composition and abundance, non-native species introduction, or accumulation of toxins/heavy metals; and • Fauna (wildlife, fish, fowl) including population, abundance and diversity, breeding patterns, health, habitat, behaviour, wildlife corridors, buffer zones. 	
Socio-economic and cultural:	<ul style="list-style-type: none"> • Health, employment, recreational, infrastructure, and archaeological impacts, both positive and negative, for the surrounding areas and communities (Table 6 on page 25 and Appendix F on page 93 of the Mackenzie Valley Environmental Impact Review Board’s Socio-Economic Impact Assessment Guidelines (Mackenzie Valley Review Board - Reference)) 	

	Library) provide sample worksheets for identifying potential socio-economic impacts and mitigation measures.)	
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