

**RULES FOR RECONSIDERATION
(Part 13)**

Pursuant to section 135 of the *Lands Act*, the director makes these Rules for Reconsideration.

1. DEFINITIONS AND INTERPRETATION

Headings

- 1.1. The headings preceding each section of these Rules are included for convenience only and do not form part of the Rules.

Terms in the Act

- 1.2. A word or term defined in the Act or regulations has the same meaning when used in these Rules.

Computation of time

- 1.3. In these Rules, if the time for doing an act falls or expires on a Saturday, Sunday or holiday, the act may be done on the day next following that is not a Saturday, Sunday or holiday.

Definitions

- 1.4. In these Rules,

“person directly affected” means a person whose legal rights are directly impacted or upon whom legal obligations have been imposed

2. RIGHT TO RECONSIDERATION

Person directly affected

- 2.1. Only a person directly affected by a decision of the director may request that the director reconsider the decision.

Person with sufficient interest

- 2.2. Notwithstanding section 2.1, if the director is satisfied that a person has a sufficient interest in a decision, the director may permit the person to request a reconsideration of a decision.

Director may reconsider

- 2.3. The director may only reconsider a decision if the director is satisfied that the decision is based on:
- (a) an abuse of the director’s discretion; or

(b) a breach of the director's duty to be fair.

3. REQUEST FOR RECONSIDERATION

Full particulars

- 3.1. A request for reconsideration must contain full particulars of the request, including
- (a) a detailed explanation of the basis for the request; and
 - (b) all information and documents in support of the request.

Department to review

- 3.2. If a person submits a request for reconsideration, the department must, within five (5) business days of receipt of the request, review the request to ensure that the requirements in section 168 (a) and (b) of the Act have been met.
- 3.3. If the department determines that the request does not meet the requirements in section 168 (a) and (b) of the Act, the department must notify the person, in writing, and identify the deficiencies in the request.
- 3.4. If the department determines that the request meets the requirements in section 168 (a) and (b) of the Act, the department must, within two (2) business days of the determination, submit the request to the director.

Notification

- 3.5. The director must notify a person who has a sufficient interest in a decision of a request for reconsideration of that decision and must specify the date by which the person may submit comments to the director.

Submission of comments

- 3.6. A person who has received notice under section 3.5, may submit comments, in writing, to the director setting out,
- (a) the person's name, address including postal code, email address and telephone number;
 - (b) a clear and detailed description of the person's issues and concerns related to the request; and
 - (c) a copy of supporting documents or information.

Failure to submit comments

- 3.7. If a person fails to submit comments by the date specified by the director under section 3.5, the director may make a decision in the absence of the person's comments.

Director may request information or particulars

- 3.8.** The director may but is never required to request further information or particulars from the person who made a request and the director must specify a date by which the information or particulars must be submitted.
- 3.9.** A person must provide the information or particulars requested by the director in section 3.8 by the date specified by the director.
- 3.10.** The director may seek information from persons other than the person making the request.

Extension of time

- 3.11.** On or before the date specified by the director in section 3.8, a person may ask, in writing, for an extension of time to submit the information or particulars.
- 3.12.** The request for an extension of time to submit information or particulars must contain a clear rationale for the request and a proposed date for the submission of the information or particulars.
- 3.13.** Within five (5) business days of receipt of the request for an extension of time under section 3.11, the director must notify the person, in writing,
- (a) of the new date for submission; or
 - (b) of the denial of the request for a new date.

4. DECISION OF DIRECTOR

- 4.1.** Subject to subsection 3.13(a), if a person fails to provide the information or particulars requested under section 3.8 or 3.10, the director may make a decision without the information or particulars.

Timeline

- 4.2.** If the director reconsiders a decision, the director must issue a new decision within forty-five (45) calendar days of the later of the following dates:
- (a) the date the director received a request for reconsideration;
 - (b) the date the director received the information or particulars requested under sections 3.8 or 3.10; or
 - (c) if an extension was granted under paragraph 3.13(a), the date the director received the information or particulars in accordance with the new date for submission.

Extension of timeline

- 4.3.** The director may extend the timeline for issuing a new decision under section 4.2, if the director is satisfied that the extension is necessary to achieve a fair and efficient decision.

Notification

- 4.4. If the director extends the timeline under section 4.3, the director must
- (a) immediately notify the person who made the request for reconsideration and any person who submitted comments under section 3.6 of the extension; and
 - (b) fix the time by which a decision must be issued.

Multiple extensions prohibited

- 4.5. The director may only extend the timeline under section 4.3 once.

Reasons for decision

- 4.6. The director must give reasons, in writing, for a decision made under section 4.2.

No request for reconsideration

- 4.7. A person may not make a request for reconsideration of a decision made by the director under section 4.2.

APPROVED:



Greg Thompson, Director
Heritage, Lands & Resources



Date

VERSION HISTORY

DATE	REVISIONS