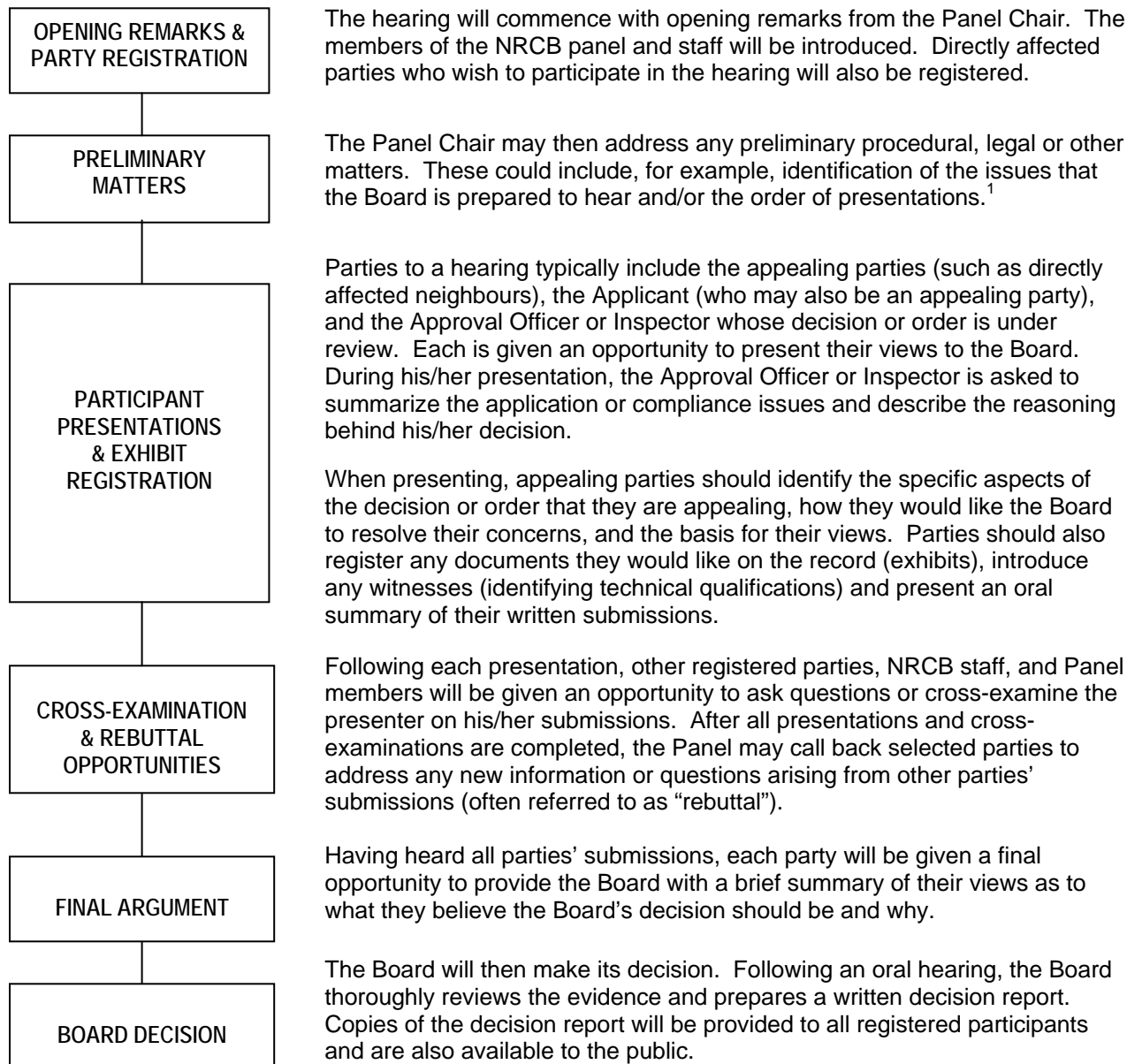


## **BOARD REVIEWS: ORAL HEARING FORMAT UNDER THE *AGRICULTURAL OPERATION PRACTICES ACT (AOPA)***

Upon granting a Board review of a decision issued by either an Approval Officer or an Inspector, the Board may hold an oral hearing to conduct its review. Oral hearings give parties an opportunity to provide the Board with their views on the appropriate disposition of an application or an order issued under *AOPA*. To ensure that an oral hearing is fair, open and effective, the NRCB follows the requirements set out in *AOPA* and the associated *Board Administration Procedures Regulation*.

### **Hearing Format**



<sup>1</sup> To achieve the most effective and efficient process, the Panel will determine the presentation sequence on a case-by-case basis; so the order in which parties present may vary. Parties with a preference for a particular presentation order are welcome to identify so in their written submissions. Though the order of presentations is typically announced by the Panel Chair at the outset of the hearing; if practical, participants will be notified at an earlier date.

## **Hearing Procedures**

Various hearing procedures are set out in the *Board Administration Procedures Regulation*.

1. Witnesses at oral hearings will be sworn in prior to making their submissions to the Board, unless the Board directs otherwise.
2. Witnesses providing technical evidence must first present their technical qualifications to the Board.
3. If documentary evidence is to be presented at a hearing, copies of this evidence must be filed with the Board and the applicant in advance of the hearing according to a timetable established by the Board. If not all of the information is available before the hearing starts, directly affected parties must submit what they have and describe what other information they intend to produce at the hearing.
4. At hearings, a witness must present all submissions. The witness should be someone who prepared the submission and should limit his/her evidence to the matters contained in the submission.
5. Witnesses at hearings may retain legal counsel to assist them.
6. Only parties who are directly affected may conduct cross-examination of witnesses. The Board, Board staff, and experts hired by the Board may also question witnesses.
7. All hearings are open to the public although the Board, upon the request of a witness, may conduct part of a hearing in private if information to be disclosed is found to be of a confidential nature.
8. Board staff or technical experts hired by the Board may present technical evidence at hearings and can be cross-examined by other parties.

## **The Board's Role**

Prior to holding a hearing the Board can determine what issues will be addressed during the hearing and who will be heard. In making a decision on evidence presented at the hearing the Board must:

- have regard for, but is not bound by, the municipal development plan;
- consider matters that would normally be considered if a development permit were being issued;
- consider how the proposed application would affect natural resources administered by ministries;
- consider any applicable written decision of the Environmental Appeal Board or the Director under the *Water Act* in regard to the application and may consider evidence considered by the EAB or by the Director in making their decisions; and,
- consider the effects on the environment, the economy and the community and the appropriate use of land.

The Board may also make or require the applicant to make or conduct additional investigations and/or provide additional studies and reports with respect to their application. Based on the evidence at the hearing, the Board can agree with or overturn the decision of an Approval Officer or Inspector. It may also add, delete or amend any conditions of a decision or order.

## **The Role of Directly Affected Parties**

Parties determined to be “directly affected” by a proposed application or by an enforcement order will be given reasonable time to review information relevant to the hearing and to furnish evidence and written submissions. In preparing submissions, the Board encourages parties to provide a clear statement of why a decision by an Approval Officer or an Inspector should be changed and the arguments supporting that statement. Submissions should also include any supporting technical or factual information. Since the Board will have read the submissions in advance of the hearing, parties are encouraged to provide brief oral summaries of their key points at the hearing.

During cross-examination of other parties, hearing participants are encouraged to focus their questions on evidence and arguments that may conflict with their own.

**Should parties have questions about their role in the hearing process or the process itself, they are encouraged to seek the assistance of Board Review Staff before or during the hearing.**