

Code of Practice

---

# Consultation in Ontario's Environmental Assessment Process

Legislative Authority:

Environmental Assessment Act, RSO 1990, chapter E.18

January 2014

This Code of Practice was developed in consultation with government agencies and other interested persons including academics, environmental assessment practitioners, environmental groups, industry associations, professional associations and proponents. We appreciate the contributions that these individuals and groups have made to finalize this document and look forward to continued input to maintain it as an effective tool for use during the environmental assessment process.

Readers should check the Ministry of the Environment's website or call the Environmental Approvals Access and Service Integration Branch to find out if there have been any revisions.

Ministry of the Environment  
Environmental Approvals Access and Service Integration Branch  
2 St. Clair Avenue West, Floor 12A  
Toronto, Ontario M4V 1L5 Canada

Telephone: 416-314-8001  
Toll Free: 1-800-461-6290  
Fax: 416-314-8452  
E-mail: [EAASIBGen@ontario.ca](mailto:EAASIBGen@ontario.ca)  
Website: [www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)

This Code of Practice is published as a living document that will be reviewed and revised as necessary. Any comments, suggestions for revision or clarification are welcomed and should be sent to the Director of the Environmental Approvals Access and Service Integration Branch at the address listed above.

Under section 31(1)(e), the Minister of the Environment may gather, publish and disseminate information with respect to the environment or environmental assessments for the purposes of administering and enforcing the *Environmental Assessment Act* and regulations made thereunder. Therefore, the Ministry of the Environment expects that this Code of Practice will be considered by proponents.

© Queen's Printer for Ontario, 2014  
Ce document est aussi disponible en français.

PIBS 6259e01

Revision 0 June 2007  
Revision 1 January 2014

# Table of Contents

<b>Glossary .....</b>	<b>iii</b>
<b>1. Introduction.....</b>	<b>1</b>
1.1 Purpose of This Code of Practice.....	1
1.2 Who Should Use This Code of Practice .....	3
1.3 What Is Consultation .....	4
1.4 How the Ministry Uses Information Gathered from Consultation .....	6
<b>2. Consultation and the Environmental Assessment Process .....</b>	<b>8</b>
2.1 Proponent Obligations.....	8
2.2 Ministry Obligations.....	9
2.2.1 Reviews (Terms of References or Environmental Assessments) .....	9
2.2.2 After the Publication of the Ministry Review (Environmental Assessments) ....	10
2.2.3 Public Record .....	11
2.2.4 If an Environmental Assessment Is Referred to a Hearing .....	12
<b>3. Consultation Requirements.....</b>	<b>14</b>
3.1 Individual Environmental Assessments .....	14
3.1.1 Notification Requirements.....	18
3.1.2 Identifying Aboriginal Communities .....	21
3.1.3 Reporting and Documenting the Consultation Process to the Ministry .....	23
3.1.4 Steps to Take by the Public if They Have Concerns .....	24
3.2 Streamlined Environmental Assessments (Class Environmental Assessment, Electricity, Waste Management and Transit Projects) .....	25
<b>4. Developing a Consultation Plan.....</b>	<b>39</b>
4.1 Recommended Strategies to Develop a Consultation Plan .....	41
4.1.1 Develop Principles .....	41
4.1.2 Elements of a Successful Consultation Plan.....	43
4.1.3 Refusing to Participate .....	53
4.2 Completing the Consultation Process .....	54
4.3 Ongoing Efforts to Consult.....	54
<b>5. Roles and Responsibilities.....</b>	<b>56</b>
5.1 Proponents.....	56
5.2 Government Review Team .....	57
5.3 Ministry of the Environment.....	58
5.4 Interested Persons .....	62
Appendix A Environmental Assessment in Ontario .....	65
Appendix B Notification Templates .....	68
Appendix C Key Government Agencies.....	72
Appendix D Regional/District/Area Offices of the Ministry of the Environment .....	74

**List of Figures**

Figure 1: Determining Consultation Requirements Based on Project Complexity and Environmental Sensitivity ..... 16

Figure 2: Minimum Consultation Requirements..... 17

Figure 3: Consultation Methods ..... 47

Figure A1: Environmental Assessment Process ..... 65

Figure A2: Generic Streamlined Planning Process ..... 66

Figure A3: Components of Ontario’s Environmental Assessment Program ..... 67

# Glossary

The definitions in this glossary are intended to assist the reader in understanding the terms used in this Code of Practice. To understand these terms completely, the Ministry of the Environment recommends that both the definitions in here and in the legislation be consulted. In all cases, the wording contained in the *Environmental Assessment Act* shall prevail.

## **Aboriginal peoples**

The *Constitution Act, 1982* specifies that Aboriginal peoples include Indian, Inuit and Métis peoples of Canada.

## **alternative methods**

Alternative methods of carrying out the proposed undertaking are different ways of doing the same activity.

Alternative methods could include consideration of one or more of the following: alternative technologies; alternative methods of applying specific technologies; alternative sites for a proposed undertaking; alternative design methods; and, alternative methods of operating any facilities associated with a proposed undertaking.

## **alternatives**

Both alternative methods and alternatives to a proposed undertaking.

## **alternatives to**

Alternatives to the proposed undertaking are functionally different ways of approaching and dealing with a problem or opportunity.

## **application**

An application for approval to proceed with an undertaking under subsection 5(1) or 13(1) of the *Environmental Assessment Act*.

## **Branch**

Environmental Approvals Branch, Ministry of the Environment.

### **class environmental assessment**

A document that sets out a standardized planning process for those classes or groups of activities for which the applicant is responsible. It is also known as a “parent” document in some class environmental assessments. A class environmental assessment is approved under the *Environmental Assessment Act* and applies to projects that are carried out routinely and have predictable environmental effects that can be readily managed.

Projects defined within a class environmental assessment require no further environmental approval under section 5 of the *Environmental Assessment Act*, conditional upon being planned according to the procedures set out in the document and not being subject to a Part II Order. All class environmental assessments have a mechanism where the Minister may order that an “individual” environmental assessment be carried out for a particular project, if warranted (Part II Order or “bump-up”).

### **commitment**

Represents a guarantee from a proponent about a certain course of action, that is, “I will do this, at this time, in this way.” Proponents acknowledge these guarantees by documenting obligations and responsibilities, which they agree to follow, in environmental assessment documentation (terms of reference and environmental assessment). Once the Minister and Cabinet approve an application, the commitments within the document are often made legally binding as a condition of approval.

Commitments are also found in environmental reports for class environmental assessment projects, electricity projects, waste management projects, and transit projects. Although not approved by the Minister and Cabinet, they represent guarantees from a proponent about certain course of action.

### **conditions**

Conditions of *Environmental Assessment Act* approval are legally binding and may be used as a compliance tool. Conditions can determine the way in which detail design, implementation and operation or closure of an undertaking will proceed. Conditions of *Environmental Assessment Act* approval will depend on the details of the undertaking and the

environmental assessment and may be used to address Government Review Team and public and community concerns.

### **Consolidated Hearings Act**

A hearing under the *Consolidated Hearings Act* allows a decision to be made under more than one statute, including the *Environmental Assessment Act*, *Environmental Protection Act*, *Planning Act*, and others through joint hearings.

### **consultation**

A two-way communication process to involve interested persons in the planning, implementation and monitoring of a proposed undertaking. Consultation is intended to:

- Identify concerns;
- Identify relevant information;
- Identify relevant guidelines, policies and standards;
- Facilitate the development of a list of all required approvals, licences or permits;
- Provide guidance to the proponent about the preparation of the terms of reference and environmental assessment;
- Ensure that relevant information is shared about the proposed undertaking;
- Encourage the submission of requests for further information and analysis early in the environmental assessment process;
- Enable the ministry to make a fair and balanced decision.

### **Director<sup>\*</sup>**

Director of the Environmental Assessment and Approvals Branch, Ministry of the Environment.

In October 2011, the Environmental Assessment and Approvals Branch underwent a functional reorganization, which resulted in the creation of two branches: Environmental Approvals Branch and Environmental Approvals Access and Service Integration Branch. For the purposes of

---

<sup>\*</sup> An asterisk (\*) beside a defined term indicates that the term is defined in the *Environmental Assessment Act*.

this Code of Practice, the definition of “Director” also refers to the functional position Director, Environmental Approvals Branch.

### **elevation request**

During the mandatory review period for reports prepared under the Environmental Screening Process or during the public inspection of forest management plans under Declaration Order MNR-71, members of the public, government agencies or Aboriginal communities with significant outstanding environmental concerns may make a written request to the Director to elevate a project to a more rigorous level of assessment, including an “individual” environmental assessment.

### **environment\***

The *Environmental Assessment Act* defines environment to mean:

- (a) Air, land or water;
- (b) Plant and animal life, including human life;
- (c) The social, economic and cultural conditions that influence the life of humans or a community;
- (d) Any building, structure, machine or other device or thing made by humans;
- (e) Any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities; or,
- (f) Any part or combination of the foregoing and the interrelationships between any two or more of them.

### **environmental assessment**

Environmental assessment is a study, which assesses the potential environmental effects (positive or negative) of a proposal. Key components of an environmental assessment include consultation with government agencies and the public; consideration and evaluation of alternatives; and, the management of potential environmental effects. Conducting an environmental assessment promotes good environmental planning before decisions are made about proceeding with a proposal. This is also referred to as an “individual” environmental assessment.



### **Environmental Assessment Act**

The *Environmental Assessment Act* (and amendments and regulations thereto) is a provincial statute that sets out a planning and decision-making process to evaluate the potential environmental effects of a proposed undertaking. Proponents wishing to proceed with an undertaking must document their planning and decision-making process and submit the results from their environmental assessment to the Minister for approval.

### **environmental effect**

The effect that a proposed undertaking or its alternatives has or could potentially have on the environment, either positive or negative, direct or indirect, short- or long-term.

### **Environmental Review Tribunal**

An administrative body that has the authority under the *Environmental Assessment Act* to conduct hearings when they are required by the Minister of the Environment.

The Environmental Review Tribunal is an independent and impartial tribunal established by provincial legislation. The Tribunal functions as a quasi-judicial body, subject to the rules of natural justice and the requirements of the *Statutory Powers Procedure Act*. The Tribunal's primary role is adjudicating applications and appeals under various environmental and planning statutes.

### **Environmental Screening Process**

An Environmental Screening Process is a streamlined, proponent-led, self-assessment process. Proponents of electricity projects designated under section 4 of Ontario Regulation 116/01 (Electricity Projects Regulation) must successfully complete the process described in Part B of the *Guide to Environmental Assessment Requirements for Electricity Projects*.

Proponents of waste management projects designated under Part III of Ontario Regulation 101/07 (Waste Management Projects Regulation) must successfully complete the process described in Part B of the *Guide to Environmental Assessment Requirements for Waste Management Projects*.

As part of the process, proponents must also consult with the public and agencies and prepare documentation.

**expert federal authority**

A federal authority that has specialist or expert information or knowledge with respect to a project that can be provided to a responsible authority, review panel, or another jurisdiction during an environmental assessment, including expertise on the implementation of mitigation measures and any follow-up program.

**federal authority**

A federal authority is defined under the *Canadian Environmental Assessment Act, 2012* to mean:

- (a) A Minister of the Crown in right of Canada;
- (b) An agency or other body of the federal government ultimately accountable to Parliament through a federal Minister of the Crown;
- (c) Any department or departmental corporation set out in Schedule I or II of the *Financial Administration Act*, or,
- (d) Any other body that is set out in Schedule 1 of the *Canadian Environmental Assessment Act, 2012*.

**Government Review Team**

Staff from government ministries and agencies (federal; provincial, including local Conservation Authorities; and, municipal, including local Boards of Health) who contribute to the review of environmental assessment documentation (terms of reference and environmental assessment) by providing comments from their mandated areas of responsibility.

**impact management measures**

Measures which can lessen potential negative environmental effects or enhance positive environmental effects. These measures could include mitigation, compensation, or community enhancement.

**interested persons**

Individuals or organizations with an interest in a particular undertaking. Persons with an interest in a particular undertaking often include neighbours and individuals, environmental groups or clubs, naturalist

organizations, agricultural organizations, sports or recreational groups, organizations from the local community, municipal heritage committees, ratepayers associations, cottage associations, Aboriginal peoples and communities, Francophones and businesses.

Interested persons are not required to demonstrate that they will personally be affected by a particular undertaking. Interested persons are often called stakeholders.

### **Joint Board**

An administrative body that has the authority under the *Consolidated Hearings Act* to conduct joint hearings under more than one statute, including the *Environmental Assessment Act*, *Environmental Protection Act*, *Planning Act*, and others.

### **mediation**

A dispute resolution process in which a neutral third party (mediator) who is acceptable to all parties assists disputants in reaching a mutually acceptable agreement. The mediator has no authority to impose a settlement and participation in the process is voluntary.

### **Minister\***

Minister of the Environment.

### **ministry\***

Ministry of the Environment.

### **Part II Order**

Formerly known as a “bump-up,” a Part II Order is an order issued by the Minister that makes a class environmental assessment project an undertaking that is subject to Part II of the *Environmental Assessment Act*.

### **Project Officer**

The assigned staff person from the Environmental Approvals Branch who manages and coordinates the review of the components of an *Environmental Assessment Act* application (that is, a terms of reference or an environmental assessment) for approval. The Project Officer also

---

\* An asterisk (\*) beside a defined term indicates that the term is defined in the *Environmental Assessment Act*.

provides guidance on the environmental assessment process to proponents, government agencies and other interested persons.

**proponent\***

A person, agency, group or organization that carries out or proposes to carry out an undertaking or is the owner or person having charge, management or control of an undertaking.

**public record file**

A public record file will be maintained by the Environmental Approvals Branch for every undertaking for which there is an application for approval under Part II and Part II.1 as well as orders under section 16 and the preparation of Declaration Orders under section 3.2 and Harmonization Orders under section 3.1 of the *Environmental Assessment Act* in accordance with the requirement to maintain a record under section 30 of that act.

In addition, the Environmental Approvals Branch will maintain a public record file for elevation requests under the streamlined environmental assessment process for electricity projects and waste management projects, objections for transit projects and requests for an individual environmental assessment pursuant to Declaration Orders. The purpose of the public record file is to promote transparency and consultation. Public record files are only kept for class environmental assessment undertakings where a Part II Order has been requested.

**Record of Consultation**

A document submitted with the proposed terms of reference that describes the consultation carried out during the preparation of the terms of reference and the results of that consultation.

**responsible authority**

In accordance with the *Canadian Environmental Assessment Act, 2012* and in relation to a designated project, a federal authority that is required to ensure that a federal environmental assessment of a designated project is conducted.

**terms of reference**

A document prepared by the proponent and submitted to the Ministry of the Environment for approval. The terms of reference sets out the framework for the planning and decision-making process to be followed by the proponent during the preparation of an environmental assessment. In other words, it is the proponent's work plan for what is going to be studied. If approved, the environmental assessment must be prepared according to the terms of reference.

**transit project**

A transit project is defined as an undertaking consisting of:

- (a) An enterprise or activity that is the planning, designing, establishing, constructing, operating, changing or retiring of a facility or service that, aside from any incidental use for walking, bicycling or other means of transporting people by human power, is used exclusively for the transportation of passengers by bus or rail, or anything that is ancillary to a facility or service that is used to support or facilitate the transportation of passengers by bus or rail; or,
- (b) A proposal, plan or program in respect of an enterprise or activity described in clause (a) above.

**transit project assessment process**

The transit project assessment process is defined in sections 6 through 17 in Ontario Regulation 231/08. It consists of various steps and requirements. It is a focused impact assessment process that includes consultation, an assessment of potential positive and negative impacts, an assessment of measures to mitigate negative impacts, and documentation such as the preparation of an Environmental Project Report.

**undertaking<sup>\*</sup>**

An enterprise, activity or a proposal, plan, or program that a proponent initiates or proposes to initiate.

---

<sup>\*</sup> An asterisk (\*) beside a defined term indicates that the term is defined in the *Environmental Assessment Act*.

# 1. Introduction

Environmental assessment is a planning and decision-making process used to promote environmentally responsible decision-making. In Ontario, this process is defined and finds its authority in the *Environmental Assessment Act*. The purpose of the *Environmental Assessment Act* is to provide for the protection, conservation and wise management of Ontario's environment. To achieve this purpose, the *Environmental Assessment Act* promotes responsible environmental decision-making and ensures that interested persons have an opportunity to comment on undertakings that may affect them. In the *Environmental Assessment Act*, environment is broadly defined to include the natural, social, economic, cultural and built environments.

One element of responsible environmental decision-making is ensuring that those with a potential interest in a proposal – such as a new highway, a transmission corridor or a landfill site – are provided with opportunities to contribute to decision-making and to influence decisions where possible. Public consultation protects the public interest and helps ensure that concerns are identified early and addressed where possible.

## 1.1 Purpose of This Code of Practice

This Code of Practice outlines the Ministry of the Environment's (ministry) expectations regarding appropriate consultation. Proponents can use this Code of Practice as a resource tool to develop and implement a consultation plan.

Consultation is essential for any *Environmental Assessment Act* related decision. Proponents must consult during the preparation of terms of references and environmental assessments.

This Code of Practice focuses on consultation and its role as part of the environmental assessment process. This Code of Practice replaces the *Guideline on Pre-submission Consultation in the Environmental Assessment Process* (1987).

This Code of Practice will also be helpful to proponents and persons involved with projects following a streamlined process (class

environmental assessment process or an Environmental Screening Process or the transit project assessment process).

A class environmental assessment is an environmental assessment that is subject to the requirements set out in Part II.1 of the *Environmental Assessment Act*. The development of a class environmental assessment must meet the requirements of the *Environmental Assessment Act* and follow the review and approval process for environmental assessments. The proponent for the class environmental assessment must prepare a terms of reference and environmental assessment (that is, the class environmental assessment) and submit to the ministry.

A class environmental assessment sets out a planning process for a defined class or group of projects or activities for which the proponent is responsible. The approved class environmental assessment applies to projects that are carried out routinely and have predictable environmental effects that can be readily managed. A proponent who receives approval for a class of projects or activities does not need to obtain separate approval under the *Environmental Assessment Act* for each specific project or activity, provided the class planning process is adhered to for the specific project and not being elevated to a higher level of study.

An Environmental Screening Process and the transit project assessment process is a prescribed planning process for a certain class of activities, for example, electricity projects, waste management projects or transit projects, as set out in regulations under the *Environmental Assessment Act*. Similar to a class environmental assessment planning process, an Environmental Screening Process and the transit project assessment process is a streamlined, proponent-driven, self-assessment process. Proponents relying on the screening exemption must successfully complete the Environmental Screening Process as described in the accompanying guideline in order to fulfil *Environmental Assessment Act* requirements.

This Code contains useful consultation principles, considerations for designing a consultation plan and ministry expectations about consultation that proponents may wish to apply in the planning and development of a class environmental assessment project or a project that follows an Environmental Screening Process as described in the Electricity Projects Regulation, Ontario Regulation 116/01, the Waste Management Projects

Regulation, Ontario Regulation 101/07, or the transit project assessment process as described in Ontario Regulation 231/08.

Class environmental assessments, the *Guide to Environmental Assessment Requirements for Electricity Projects* (Electricity Guide), *Guide to Environmental Assessment Requirements for Waste Management Projects* (Waste Guide) and the *Guide to Ontario's Transit Project Assessment Process*<sup>1</sup> give specific requirements and guidance to proponents on developing consultation plans when conducting a project covered under a class environmental assessment or an Environmental Screening Process or the transit project assessment process.

Section 3.2, Streamlined Environmental Assessments (Class Environmental Assessment, Electricity, Waste Management and Transit Projects), lists current class environmental assessments in Ontario and highlights the specific consultation requirements for each document.

The contents of this Code of Practice should be considered in conjunction with any other relevant guidance materials available from the ministry or the Environmental Approvals Access and Service Integration Branch as they become available.

## 1.2 Who Should Use This Code of Practice

This Code of Practice is intended to assist and give direction to:

- Proponents who are responsible for designing and developing a consultation plan;
- Government ministries and agencies participating in the decision-making process for an environmental assessment or class environmental assessment, including the preparation of a terms of reference, or a streamlined environmental assessment;

---

<sup>1</sup> The Electricity Guide, Waste Guide and Transit Guide can be accessed from the environmental assessment page of the ministry's website ([www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)) or can be obtained from the Environmental Approvals Access and Service Integration Branch by calling 1-800-461-6290 or 416-314-8001.



- The public and other interested persons, including Aboriginal peoples and communities, who wish to participate in the environmental assessment and decision making-process;
- Members of the Environmental Review Tribunal or a Joint Board as allowed under the *Consolidated Hearings Act* in their assessment of a proponent's decision-making process;
- Branch staff when providing information and guidance to proponents and interested persons about public consultation matters.

Any reference to the term "interested person" should be read to include directly affected persons, Aboriginal peoples and communities.

### 1.3 What Is Consultation

In the environmental assessment process, consultation is a two-way communication process that involves affected and interested persons in the planning, implementation and monitoring of an undertaking.

The purpose of consultation is:

- To provide information to the public;
- To identify persons and Aboriginal peoples and communities who may be affected by or have an interest in the undertaking;
- To ensure that government agencies and ministries are notified and consulted early in the environmental assessment process;
- To identify concerns that might arise from the undertaking;
- To create an opportunity to develop proponent commitments in response to local input;
- To focus on and address real public concerns rather than regulatory procedures and administration;

#### What Is the Difference Between Consultation and Notification?

**Consultation** - two-way exchange of information between proponents and persons who may be affected by a proposed undertaking e.g. arranging site visits, one-on-one meetings, workshops, telephone calls.

**Notification** - providing written information about a proposed activity e.g. placing ads in local newspapers, sending an information letter to interested and potentially affected persons. Notification may lead to consultation if a person identifies a concern or interest that might be affected by the proponent's proposal.

- To provide appropriate information to the ministry to enable a fair and balanced decision;
- To expedite decision-making.

Using a consultation process to consider the views of all interested persons into project decision-making is a key principle in environmental assessment. Some characteristics of a strong consultation plan are:

- Goals and objectives are jointly developed by the community and the proponent.
- There is a clear process for identifying interested persons.
- The consultation plan is tailored to the local context.
- There is government involvement.
- Concerns raised by the public are incorporated into the documentation.
- Where appropriate, there is Aboriginal communities involvement.

Involving interested persons may occur in several ways:

- **Information gathering.** Involves a systematic identification and analysis of existing natural, social, cultural and economic conditions from interested and directly affected persons.
- **Information dissemination.** Refers to distributing information about a project to the public and interested persons. Requires no engagement and is strictly a notification tool. Interested persons cannot genuinely be consulted or participate if they are not fully informed about the objectives of a project.
- **Consultation.** Where decision-makers listen to the views of other interested persons in order to improve project design before implementation, or to make necessary changes during implementation. Used to identify or learn about concerns interested persons may have with the proposed

#### Examples of Meaningful Consultation

Create opportunities for participants to provide input to the:

- ≈ Information base used to conduct the analysis of alternatives.
- ≈ Selection of criteria for the evaluation of alternatives.
- ≈ Visual design of a project.
- ≈ Identification of potential effects of a proposed undertaking.
- ≈ Identification of appropriate impact management measures.

undertaking.

- **Participation.** An extension of consultation where directly affected persons become joint partners in the design and implementation of projects. They participate in helping proponents “make” choices. Ground rules and simple agreements specifying concerns may be made between the proponent and directly affected persons, which will require joint planning and necessitate public input.
- **Negotiation.** A voluntary process where the proponent and interested persons participate as co-equals. Establish agreement and identify and accommodate mutual interests derived from the project.

The above is a consultation model, which a proponent can use to help determine and focus the various objectives/purposes of consulting and to develop appropriate consultation activities to carry out during the planning and development of an undertaking. Environmental assessment is an iterative process and so is consultation.

## 1.4 How the Ministry Uses Information Gathered from Consultation

The ministry uses the information gathered from consultation processes carried out both by the proponent and the ministry itself, to evaluate and assess the proponent’s application for approval under the *Environmental Assessment Act*. The proponent’s documentation of its consultation process is a key evaluative component in determining the adequacy of the planning process followed by the proponent. The ministry’s assessment may include, but is not limited to the following factors:

- Did the proponent provide for interested persons to participate in a reasonable and meaningful way?
- Will the proponent’s consultation plan for the environmental assessment, as presented in the terms of reference, adequately address concerns during the preparation of the environmental assessment?
- Was the input received through the consultation taken into account by the

### Inadequate Consultation

Inadequate consultation may result in the ministry asking proponents to “return to the drawing board” after their initial submission (be it a terms of reference or an environmental assessment).

overall study process? Did the proponent attempt to address comments and concerns?

- Was a mix of consultation methods used?
- Does the consultation plan provide for identification of participant interests, concerns and matters of potential dispute?
- Were efforts to identify interested persons continually made and were opportunities provided for them to be involved?
- Are explanations provided where the proponent decided not to respond to concerns raised in the manner proposed by the participant?
- How are concerns and conflicts addressed? Were efforts made to manage the risks and uncertainties posed by the undertaking?
- Is the documentation of the consultation process clear and concise? Does it report on the results of consultation? Does it include commitments made and agreements reached?
- Did the proponent provide adequate notification (that is, were the requirements in this Code followed)?
- Do terms of reference or environmental assessment submissions received by the ministry identify any deficiency in the proponent's consultations?
- Are the outstanding concerns clearly documented?
- Did the proponent identify and consult with potentially affected Aboriginal peoples?
- Did the Crown have a duty to consult with potentially affected Aboriginal peoples on the proposed undertaking?
- Was the Crown's duty to consult fulfilled?

Consultation is a legislated requirement. The ministry expects the summary of the consultation in terms of reference (known as the Record of Consultation) and environmental assessment submissions to show how information provided by interested persons has been incorporated into the proposal and how the input received has influenced decision-making. Decisions not to respond to or not to address input should be explained.

## 2. Consultation and the Environmental Assessment Process

Consultation with the public, government agencies and ministries, municipalities, and other interested persons is mandatory. For more general information about Ontario's environmental assessment process please refer to Appendix A, which:

- Illustrates the process for the review and approval of environmental assessments, showing when the public may comment on an undertaking and at which stages these comments may be considered by the Minister of the Environment (Minister) as part of the ministry's decision-making process.
- Illustrates the generic process for the review and approval of class environmental assessment, electricity, waste management and transit projects (that must follow the Environmental Screening Process or the transit project assessment process).
- Illustrates the different components of Ontario's environmental assessment program.

### 2.1 Proponent Obligations

A key feature of Ontario's *Environmental Assessment Act* is the requirement for environmental assessments to be prepared and carried out according to an approved terms of reference.

Section 5.1 of the *Environmental Assessment Act* states,

“When preparing proposed terms of reference and an environmental assessment, the proponent shall consult with such persons as may be interested.”

The first step in the application for approval to proceed with an undertaking under the *Environmental Assessment Act* is the submission and approval of a terms of reference by the Minister. A terms of reference sets out the proponent's work plan for addressing the legislated requirements of the *Environmental Assessment Act*.

The intent of the terms of reference is to save the proponent time and money by allowing the proponent to produce an environmental assessment that is more direct and easier to review by all interested persons.

Once the terms of reference is approved by the Minister, it becomes the framework for the preparation of the environmental assessment. The proponent then completes the application by submitting an environmental assessment that has been prepared according to the approved terms of reference.

When preparing the terms of reference<sup>2</sup>, the proponent is required to consult with government reviewers and interested persons, including Aboriginal communities.

When preparing the environmental assessment<sup>3</sup>, the proponent must follow the consultation plan for the environmental assessment as described in the approved terms of reference.

Consulting with government agencies and interested persons during the preparation of the terms of reference and environmental assessment allows:

- Concerns related to the proposed undertaking to be identified.
- Information and level of detail requirements to be identified.
- The proponent's analyses on potential environmental effects and evaluation of alternatives and selection of the preferred alternative to be reviewed, verified and/or commented on.

## 2.2 Ministry Obligations

### 2.2.1 Reviews (Terms of References or Environmental Assessments)

When a proponent submits a terms of reference or an environmental assessment to the ministry for approval, the ministry is required to give government agencies, the public and Aboriginal communities an opportunity to review and comment on the relevant documentation. In this way, the ministry ensures that the public has an opportunity to comment on a proposed undertaking. The ministry must consider all comments received before making a decision.

Upon receipt of the terms of reference or environmental assessment, the Branch coordinates a ministry Review of the submission by soliciting input from government agencies (Government Review Team). The proponent's notification

---

<sup>2</sup> Also see the ministry's Code of Practice entitled, *Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario*. This document can be accessed from the environmental assessment page of the ministry's website ([www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)) or can be obtained from the Environmental Approvals Access and Service Integration Branch by calling 1-800-461-6290 or 416-314-8001.

<sup>3</sup> Also see the ministry's Code of Practice entitled, *Preparing and Reviewing Environmental Assessments in Ontario*. This document can be accessed from the environmental assessment page of the ministry's website ([www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)) or can be obtained from the Environmental Approvals Access and Service Integration Branch by calling 1-800-461-6290 or 416-314-8001.

to government agencies and the public includes information about where the documentation (the terms of reference or the environmental assessment) is available for public inspection and how comments and/or concerns should be submitted to the ministry. In addition, information about a proponent's submission to the ministry for review and approval is posted on the ministry's environmental assessment projects page of the ministry's website

([www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)

). Conducting a concurrent government and public review allows the Branch to identify and address concerns early in the ministry's review and decision-making process.

For a terms of reference submission, some concerns may be addressed through the proponent's proposed consultation process, although there will be further opportunities during the preparation and submission of the environmental assessment for further consultation e.g. town hall meetings, open houses, mediation, appropriate conditions of approval, or a hearing for the public to deal with outstanding concerns.

### **2.2.2 After the Publication of the Ministry Review (Environmental Assessments)**

After the ministry has completed consultations with the public, Aboriginal communities and government agencies, the ministry documents and publishes the results of its consultations. The ministry issues a Notice of Completion of the ministry Review to inform the public that the ministry's review has been completed. This notice is usually placed in local newspapers, although it may be provided in other ways e.g. direct mail out, community posters. This notice also provides the public with a final opportunity to comment to the ministry on the proposed undertaking, the environmental assessment and the ministry Review. At this time, the ministry will also review hearing requests submitted. The Minister considers all comments before making a decision.

#### **Submitting a Terms of Reference**

Proponents must submit both:

- ≈ A Record of Consultation that describes the consultation carried out during the development of the terms of reference; and,
- ≈ A consultation plan that describes how input will be sought during the planning and development of the environmental assessment.

### 2.2.3 Public Record

The Director must maintain a record of each proposed undertaking for which an application for *Environmental Assessment Act* approval is submitted and make it available to anyone who wishes to view it. In order to meet this requirement and to comply with Ontario's *Freedom of Information and Protection of Privacy Act*, proponents and the public should note that:

- All documents submitted by a proponent form part of the Branch's public record.
- All general information about an application is open for public review, except for documents that would not be available through the *Freedom of Information and Protection of Privacy Act*.
- All records, including personal information related to an application, unless requested otherwise by the submitter, will be maintained for the purpose of creating a record that is available to the general public.
- If there are special circumstances where an individual submitter wishes their submission to be kept confidential, the individual so requesting must clearly mark the confidential portions, and explain the basis for the request to the Director.
- However, under the *Freedom of Information and Protection of Privacy Act*, all information collected or held in the custody and control of the ministry may still be required to be disclosed if the ministry is so ordered by the Information and Privacy Commissioner or a court.

#### *Freedom of Information and Protection of Privacy Act Exemptions\**

All records held by the ministry are subject to the public right to access, except where one or more of the following mandatory or discretionary exemptions apply.

- ≈ Draft by-laws, records of closed meetings
- ≈ Cabinet records
- ≈ Advice to government
- ≈ Law enforcement
- ≈ Relations with other governments
- ≈ Defence of Canada
- ≈ Third party information
- ≈ Economic and other interests
- ≈ Solicitor-client privilege
- ≈ Danger to safety or health
- ≈ Personal privacy
- ≈ Published information
- ≈ Limitations on access to one's own personal information

\* For more information, please see the Information Access and Privacy website at [www.ontario.ca/infoaccessandprivacy](http://www.ontario.ca/infoaccessandprivacy).



### 2.2.4 If an Environmental Assessment Is Referred to a Hearing

The Minister has the right to refer either the whole environmental assessment or just certain matters related to the environmental assessment to the Environmental Review Tribunal for a hearing. The likelihood of the Minister referring a whole environmental assessment to the Environmental Review Tribunal is reduced if the proponent has provided adequate opportunities for the public to participate.

When a hearing is required, the Environmental Review Tribunal emphasizes the importance for parties to reach agreement on as many concerns as possible before a formal hearing. The Environmental Review Tribunal's *Rules of Practice and Practice Directions*<sup>4</sup> among parties states that in the case of a hearing being required, it will accept and formally adopt pre-hearing agreements on matters referred to the Environmental Review Tribunal if:

- They represent the combined interests of the proponent, those affected, regulatory authorities and other affected governments; and,
- The agreement is consistent with the purpose and provisions of all relevant legislation and is in the public interest.

The Environmental Review Tribunal requires documentation explaining the rationale for the agreements reached and may or may not request that additional evidence be provided orally. The Environmental Review Tribunal may decide that a formal hearing is not necessary and may approve the project if, following a public meeting, the following conditions are met:

- The parties are able to arrive at an agreement; and,
- The Environmental Review Tribunal is satisfied that the agreement represents the combined interests of parties affected by the agreement, regulatory authorities and other government agencies, and that the undertaking complies with applicable legislation and regulations.

#### Environmental Review Tribunal

The Environmental Review Tribunal is an independent and impartial tribunal established by provincial legislation.

The Tribunal functions as a quasi-judicial body, subject to the rules of natural justice and the requirements of the *Statutory Powers Procedure Act*.

The Tribunal's primary role is adjudicating applications and appeals under various environmental and planning statutes.

<sup>4</sup> Environment and Land Tribunals Ontario. July 9, 2010. Rules of Practice and Practice Directions of the Environmental Review Tribunal.

Alternative dispute resolution is a method of settling disputes outside a tribunal process and may be appropriate before the start of a hearing. Proponents are encouraged to consider techniques such as mediation, negotiation or conciliation<sup>5</sup>. The responsibility for making wise environmental choices is a shared one.

---

<sup>5</sup> Also see the ministry's Code of Practice entitled, *Using Mediation in Ontario's Environmental Assessment Process*. This document can be accessed from the environmental assessment page of the ministry's website ([www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)) or can be obtained from the Environmental Approvals Access and Service Integration Branch by calling 1-800-461-6290 or 416-314-8001.

## 3. Consultation Requirements

### 3.1 Individual Environmental Assessments

Deciding what level(s) of consultation is appropriate for a project or a particular phase within a project is critical.

Because proponents are required to consult with potentially interested persons before making an application for approval under the *Environmental Assessment Act*, the ministry has identified minimum requirements for proponents to follow, based on the complexity and environmental sensitivity of an undertaking.

Figure 1 helps proponents identify the level of consultation that will be needed to consult for a proposed undertaking.

Consultation requirements are generally “low” or minimal in the following situations:

- Where projects are straightforward. For example, locations of proposed alternatives do not conflict with the existing land use, the alternative technologies and mitigation proposed are standard and the potential environmental effects are well known and understood.
- The significance and range of potential environmental effects are beneficial, none or minimal. For example, a proposed transit project where an existing transportation corridor is used.
- The expected level of interest or controversy is none or minimal. For example, proposed alternatives have no perceived negative environmental effects directly on a community.

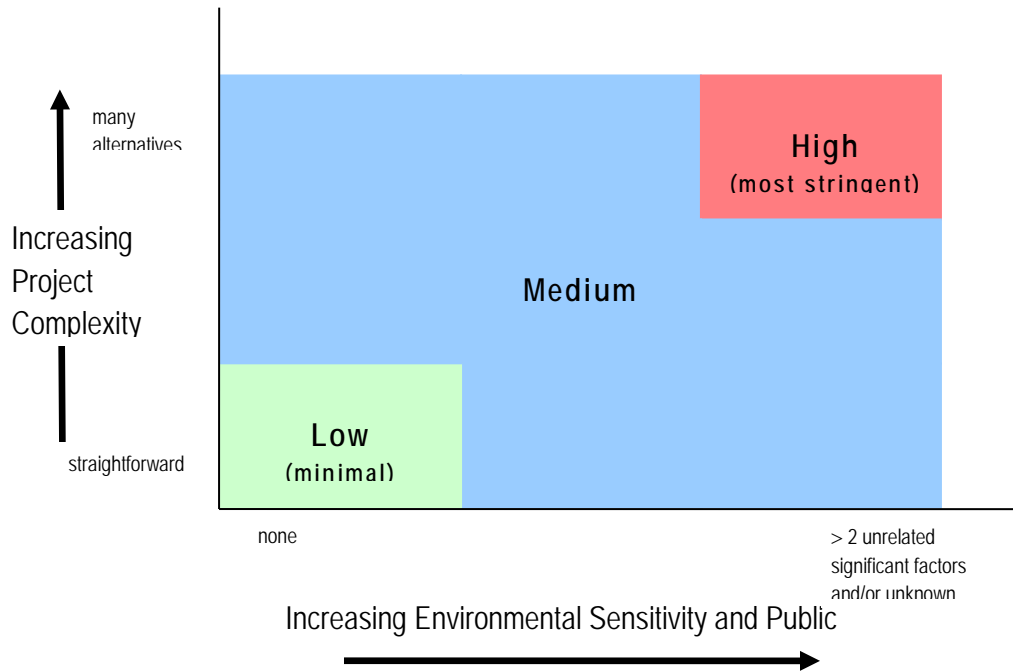
Before designing a consultation plan, sufficient information on the following should be obtained:

- ≈ Type of undertaking and size.
- ≈ Environmental setting of the undertaking.
- ≈ Number of people likely to be affected.
- ≈ Expected level of controversy.

Consultation requirements are generally “high” or more stringent in the following situations:

- Where projects are complex and/or there are many alternatives to be considered. For example, a water supply system that involves considering planning, temporary construction and operational alternatives for each component of the water supply system (source of water, treatment, distribution).
- The environmental setting of the proposal is sensitive to change with respect to more than two environmental factors (e.g. natural, cultural, archaeological). For example, proposed alternatives pass through areas provincially-designated as Environmentally Sensitive Areas and are close to known designated heritage conservation districts and a large number of registered archaeological sites.
- The number, significance and range of potential environmental effects are high and/or unknown. For example, alternative technologies being considered are new or controversial because the potential environmental effects of unplanned emissions or discharges to the environment are unknown or could possibly cause potential harm.
- The expected level of interest or controversy is high. For example, the economy of the area is tied to the proposed operation of the project; a community could be exposed directly to contaminants that would adversely affect human health and/or the environment; some alternatives are proposed close to residential areas and/or other sensitive land uses.

**Figure 1: Determining Consultation Requirements Based on Project Complexity and Environmental Sensitivity**

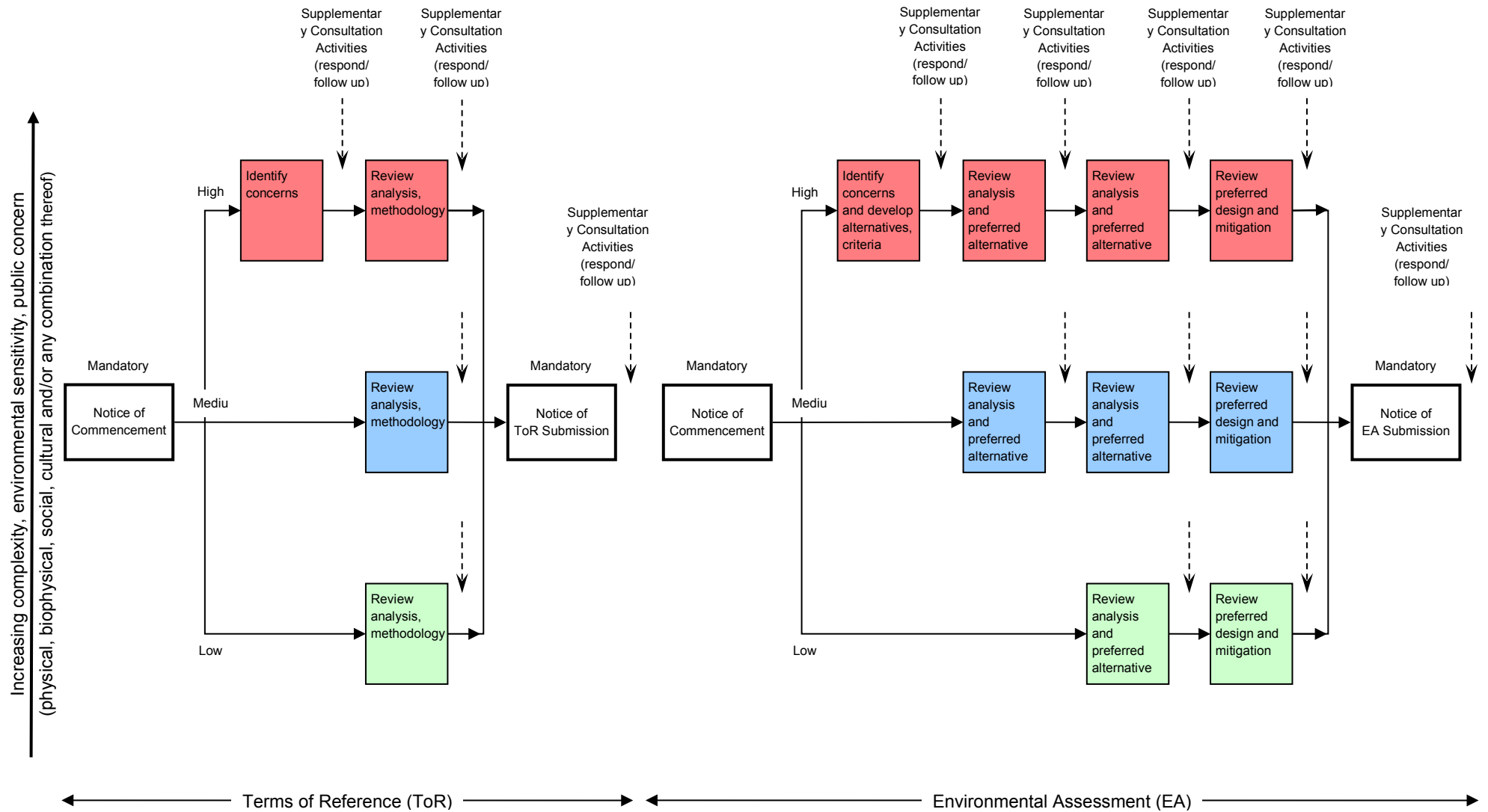


Based on the proponent's assessment of a proposed project's complexity and environmental sensitivity, the proponent can then determine what the ministry's consultation expectations and requirements are. Figure 2 shows proponents when interested persons should be consulted during the environmental assessment process. This figure shows the frequency and timing of contact or consultation event required in relation to the complexity and/or sensitivity of an undertaking.

At the proponent's discretion, the timing of other consultation efforts can be proactive (as part of initial information gathering activities or as appropriate to the planning and development of the undertaking) or supplementary (following up or responding to specific requests).

Each undertaking and the persons affected are unique. Beyond the mandatory notification contacts, appropriate consultation methods and techniques should be selected to fit the circumstances and proponent's objectives (e.g. information gathering, information dissemination, consultation). Section 4.1.2, Elements of a Successful Consultation Plan, identifies some tools that can be used to involve affected persons, government agencies and other interested persons in the environmental assessment process.

**Figure 2: Minimum Consultation Requirements**



### 3.1.1 Notification Requirements

Proponents must provide proper notification to interested persons at key milestones in the environmental assessment process. There are a range of interested persons to be notified and this can be done in a variety of ways.

When giving and distributing copies of a notice, proponents may provide a notice by letter, personal delivery or e-mail.

While the *Environmental Assessment Act* does not require the proponent to maintain a project-specific website, proponents are encouraged to establish a website for their undertaking if the proponent does not already have a general website.

#### *Mandatory Notifications*

The *Environmental Assessment Act* sets out requirements for mandatory notification during the terms of reference and environmental assessment process, which includes a notice of submission. In addition, the ministry is also requiring notices of commencement when the proponent begins the terms of reference and environmental assessment process.

For mandatory notifications to inform the public of a proposed undertaking, proponents must:

- Publish a notice in the local newspaper(s). Where not available, proponents should seek advice from the Branch on what would be considered equivalent to publishing in a local newspaper.
- Give notice to local and adjacent municipalities (including municipal councillors).
- Give notice to potentially affected Aboriginal community(ies).
- Give notice to all those who have expressed an interest in writing in the proposed undertaking.
- Maintain a project website where the public can access notices and project information.

For Notifications of Commencement (terms of reference or environmental assessment), minimum information that proponents must include are:

- Proponent name, contact person, address, phone number, fax number, e-mail address.

- A brief description of the purpose of the environmental assessment study (identify the opportunity or problem being examined).
- Statement identifying whether in the terms of reference stage or environmental assessment stage.
- A study area map.

For Notifications of Submission (terms of reference or environmental assessment), minimum information that proponents must include are:

- Proponent name, contact person, address, phone number, fax number, e-mail address.
- Ministry and Branch name, Branch contact person, phone number.
- Listing of public record locations and available times for the public to review the application (terms of reference or environmental assessment).
- A brief description of the purpose of the environmental assessment study (identify the opportunity or problem being examined). Where appropriate, also include a brief description of the proposed undertaking and how it relates to or is part of the existing development in the area.
- A map that identifies or locates the study area.
- Statements indicating that:
  - An application for approval under the *Environmental Assessment Act* has been made to the ministry.
  - A government and public review has been initiated and the length of the review period.
  - The date that comments are to be

To comply with *Freedom of Information and Protection of Privacy Act* requirements, notices must contain the following statement.

All personal information included in a submission – such as name, address, telephone number and property location – is collected, maintained and disclosed by the Ministry of the Environment for the purpose of transparency and consultation. The information is collected under the authority of the *Environmental Assessment Act* or is collected and maintained for the purpose of creating a record that is available to the general public as described in s.37 of the *Freedom of Information and Protection of Privacy Act*. Personal information you submit will become part of a public record that is available to the general public unless you request that your personal information remain confidential. For more information, please contact the Project Officer or the Ministry of the Environment's Freedom of Information and Privacy Coordinator at 416-327-1434.



- submitted to the Branch contact.
- Where concerns have not been adequately addressed, requests for mediation may be made.
  - All records held by the ministry are subject to the public right of access (complying with *Freedom of Information and Protection of Privacy Act* requirements).
  - A brief statement that indicates that any submission from interested persons, including Aboriginal communities and government agencies, including any personal information contained therein, will be maintained as part of a record available to the public.

### *Other Notifications*

#### a) Notification of Consultation Events

For notification of a consultation event where the public is consulted during the planning and development of the environmental assessment, proponents must:

- Give notice to all those who have expressed an interest in writing in the proposed undertaking.
- Give notice to local and adjacent municipalities (including municipal councillors).
- Maintain a project website where the public can access notices and project information.
- Make available for review relevant project information before the planned consultation event.
- Publish a notice two weeks before the planned event in the local newspaper(s). Where not available, proponents should seek advice from the Branch on what would be considered equivalent to publishing in a local newspaper.

Minimum information required in the notification to enable a member of the public to participate in the consultation event and to further understand the

#### **Examples of Mandatory Notices**

Appendix B contains templates of information that should be included in mandatory notifications to the public:

- ≈ Notice of Commencement (terms of reference & environmental assessment)
- ≈ Notice of Submission (terms of reference & environmental assessment)

implications of a proposed undertaking include:

- Proponent name, contact person, phone number, fax number and e-mail address.
- A brief description of the proposed undertaking and where possible, how it relates to or is part of the existing development in the area.
- Purpose/objective of the consultation event.
- Location(s) and time(s) of the consultation event.
- A map that identifies/locates consultation event and the study area, where possible.

Appendix B contains examples of information that should be included in notices to the public.

#### b) Notification to Potentially or Directly Affected Persons

Generally, when the preferred undertaking has been determined, it is important to notify and engage potentially affected or directly affected persons as planning progresses. This can be done through direct mailing, e-mail, or personal delivery to:

- Adjacent property owners/tenants.
- Property owners/tenants downstream of a facility.
- Property owners/tenants in a study area.

It should be noted that proponents must determine the appropriate persons who are to be notified, based on the particular nature of the undertaking and potential environmental effects.

#### Notifying Potentially Affected Persons

Direct mailings to potentially affected persons will generally occur in greater frequency and reflect the progress of the environmental assessment when further information is known i.e. from the preparation of the terms of reference to the development and refinement of the preferred undertaking.

### 3.1.2 Identifying Aboriginal Communities

Consultation with potentially affected Aboriginal communities is required. Proponents should prepare a list of Aboriginal communities that are potentially affected by or interested in an undertaking. In doing so, the proponent shall contact the organizations (Ministry of Aboriginal Affairs,

Aboriginal Affairs and Northern Development Canada) listed on the environmental assessment page of the ministry's website<sup>6</sup> to identify which Aboriginal communities should be contacted about the project.

The proponent should discuss with Aboriginal communities how to prevent or mitigate any potential adverse effects the project may have on Aboriginal interests. When consulting with Aboriginal communities, proponents are responsible for:

- Identifying Aboriginal interests potentially affected by a project.
- Determining how Aboriginal communities want to be consulted.
- Being prepared to provide an overview of the project and to discuss what the consultation plan should entail.
- Consulting directly with Aboriginal communities.
- Reporting on the concerns identified by Aboriginal communities through consultations and documenting consultation efforts so the Branch can assess their adequacy.
- Reporting on how potential adverse effects will be managed, mitigated and/or avoided.

Consulting with Aboriginal communities is intended to allow the proponent to identify, consider and respond to potential concerns and issues of Aboriginal communities and to provide those communities with an opportunity to receive information about and have meaningful input into the development of the terms of reference or an environmental assessment. In addition, it is the intent of such consultation to address situations where the Crown may have a duty to consult with Aboriginal communities.

It should be noted that whether or not the Crown has a constitutional duty to consult with an Aboriginal community, the community may be an interested person for the purposes of consultation during the preparation of a terms of reference or environmental assessment.

---

<sup>6</sup> The environmental assessment page of the ministry's website can be found at [www.ontario.ca/government/environment-assessments-consulting-aboriginal-communities](http://www.ontario.ca/government/environment-assessments-consulting-aboriginal-communities).

The Crown may have a duty to consult with Aboriginal communities in order to satisfy the Crown's responsibilities concerning potential adverse impacts of undertakings on asserted or established Aboriginal or treaty rights. In this event, the approach to consultation will vary depending on the specifics of each proposed undertaking.

Aboriginal rights stem from practices, customs or traditions that are integral to the distinctive culture of the Aboriginal community claiming the right. Treaty rights stem from the signing of treaties by Aboriginal peoples with the Crown. Aboriginal rights and treaty rights are protected by section 35 of the *Constitution Act, 1982*.

This Code is not intended to fully describe how any duty, if it is triggered, may be discharged. However, the Crown may delegate the procedural aspects of consultation to proponents and the Crown recognizes a corresponding responsibility of Aboriginal communities to participate in this process, make their concerns known and respond to efforts to address their concerns.

If the proponent of the proposed undertaking is not the Crown and an Aboriginal community has asserted that the Crown has a duty to consult based on the potential adverse effect on an Aboriginal or treaty right, then the proponent should notify the Director. The Director will determine what next steps are required.

### **3.1.3 Reporting and Documenting the Consultation Process to the Ministry**

Documenting the consultation carried out for a terms of reference or an environmental assessment provides participants with an opportunity to see how comments were considered in the proponent's decision-making process and provides the ministry with information before making a decision.

Proponents must complete their consultation process before submitting a terms of reference or an environmental assessment. If there are outstanding concerns, the proponent may still make an application for *Environmental Assessment Act* approval to the ministry. In these cases, the ministry may:

- Consider the appropriateness of further facilitation, including advocating the use of alternative dispute resolution methods; or,

- Continue to proceed with the formal review of the proponent's submission, including providing a recommendation for the Minister to consider when making a decision, based on the available information.

As part of terms of reference and environmental assessment submissions, proponents must provide documentation of the consultation process.

Documentation of the consultation process must include:

- A description of the consultation process completed (schedule of events, methods used to consult).
- The consultation that has taken place, with whom (list of persons and Aboriginal communities consulted) and the purpose.
- How consultation results were considered in the proponent's planning and decision-making process.
- The concerns that were raised and how the proponent responded.
- Agreements or commitments arrived at to address concerns.
- Outstanding concerns and conflicts and why they are still outstanding.
- Copy of all notification information provided, including how, when and where.
- Description of materials that were handed out or discussed at consultation events.
- Where applicable (when the proponent is a Crown agency), a description of the determination that Aboriginal consultation was or was not required.

#### **3.1.4 Steps to Take by the Public if They Have Concerns**

The ministry encourages proponents and the public to work together to deal with concerns before coming to the ministry. If the public has a concern about a proponent's proposed undertaking:

- The interested person(s) should attempt to resolve the concern(s) by first notifying the proponent and providing details of the concern(s), as well as any recommendations that may settle, answer or alleviate concern(s).
- If the proponent and interested person(s) cannot mutually resolve the identified concern(s), interested person(s) may express in writing to the Branch what their outstanding concerns are. Copies of

correspondence sent to the ministry, expressing outstanding concerns with a proponent's environmental assessment, should also be sent to the proponent.

Minimum information that the ministry will require in order to provide an appropriate response and/or determine appropriate course(s) of action include:

- Name, mailing address, organization or affiliation (where applicable), daytime phone number and e-mail address (where possible).
- Legal name and address of the proponent (individual or organization as appropriate), proponent contact name and phone number, proponent's agent/representative and phone number (where applicable).
- Description of the proponent's proposed undertaking.
- Location of the proponent's proposed undertaking.
- Explanation of the outstanding concern(s).
- Summary of how the interested person expressing the outstanding concern(s) has participated and been involved in the proponent's consultation process (meetings, phone calls, notifications, etc.).
- Information about any efforts to date to discuss or resolve concerns with the proponent.

Where necessary, the proponent may be asked to provide further information so that the ministry can determine the appropriate course(s) of action and/or provide an appropriate response.

Any correspondence and associated documentation the ministry receives in relation to an outstanding concern will form part of the public record for the proposed undertaking in question and will be considered during the ministry's decision-making process.

### **3.2 Streamlined Environmental Assessments (Class Environmental Assessment, Electricity, Waste Management and Transit Projects)**

This section summarizes the mandatory consultation requirements for projects subject to approved class environmental assessments and other streamlined planning processes. The consultation requirements described

in this Code of Practice may differ from the consultation requirements prescribed in approved class environmental assessments, the Electricity Guide, the Waste Guide and the Transit Guide<sup>7</sup>. The consultation requirements prescribed in these approved documents take precedence over this Code of Practice and proponents carrying out a consultation plan must adhere to the requirements described in those approved documents. However, the principles and recommended activities described in this Code of Practice may provide greater clarity and help proponents enhance the minimum consultation requirements in those documents where proponents have determined that it is appropriate to do so.

Figure A2, Generic Streamlined Planning Process, in Appendix A illustrates the generic process for the review and approval of class environmental assessment, electricity, waste management and transit projects that must follow a streamlined planning process. Public and agency consultation occurs throughout the planning process, according to the specific requirements described in each approved class environmental assessment, the Electricity Guide, the Waste Guide or the Transit Guide. This figure is in no way intended to accurately capture all of the specific requirements, provisions and processes of each approved provincial class environmental assessment, the Electricity Guide, the Waste Guide or the Transit Guide.

Most class environmental assessments, although not all, assign projects within the class to categories. The assignment of project categories recognizes that not all projects require the same level of assessment, depending on the potential for environmental effects and the potential for the management of these environmental effects.

Project categories are also referred to as project classes, groups or schedules, depending on the specific class environmental assessment. Proponents and the public should refer to the appropriate provincial class environmental assessment, the Electricity Guide, the Waste Guide or the Transit Guide for meeting current specific provincial environmental assessment requirements.

---

<sup>7</sup> The *Guide to Environmental Assessment Requirements for Electricity Projects*, the *Guide to Environmental Assessment Requirements for Waste Management Projects*, and the *Guide to Ontario's Transit Project Assessment Process* can be accessed from the environmental assessment page of the ministry's website ([www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)) or can be obtained from the Environmental Approvals Access and Service Integration Branch by calling 1-800-461-6290 or 416-314-8001.

For an updated list of current class environmental assessments in Ontario, please contact the Branch or refer to the ministry's website ([www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)).

Summary of Consultation Requirements	
Environmental Assessments (including terms of references)	<p>≈ Consultation required during the preparation of the terms of reference</p> <ul style="list-style-type: none"> <li>• Minimum three to four points of contact, depending on the complexity and environmental sensitivity</li> </ul> <p>≈ Opportunity to comment on submitted terms of reference before Minister makes decision</p> <p>≈ Consultation required during the preparation of the environmental assessment</p> <ul style="list-style-type: none"> <li>• Minimum four to six points of contact, depending on the complexity and environmental sensitivity</li> </ul> <p>≈ Opportunity to comment on submitted environmental assessment</p> <p>≈ Final opportunity for comments on the ministry Review of the environmental assessment before Minister makes decision</p>
Class Environmental Assessment Projects	≈ Refer to the appropriate approved class environmental assessment
Electricity Projects (Environmental Screening Process)	≈ Refer to the <i>Guide to Environmental Assessment Requirements for Electricity Projects</i>
Waste Management Projects (Environmental Screening Process)	≈ Refer to the <i>Guide to Environmental Assessment Requirements for Waste Management Projects</i>
Transit Projects (transit project assessment process)	≈ Refer to the Ontario Regulation 231/08 and to the <i>Guide: Ontario's Transit Project Assessment Process</i>

**Class Environmental Assessment for Ministry of Natural Resources  
Resource Stewardship and Facility Development Projects  
(Ministry of Natural Resources)**

**Category A**

Projects are approved to proceed (potential for negative environmental effects and/or public or agency concern is low)



- No consultation requirements
- Category B
- Projects are subject to planning process as described in the document (potential negative environmental effects and/or public or agency concern range from medium to low)
- Notice of Commencement
  - Notice of Completion
- Category C
- Projects require an Environmental Study Report and are subject to the planning process as described in the document (potential for negative environmental effects and/or public or agency concern range from medium to high)
- Notice of Commencement
  - Notice of Opportunity to inspect draft Environmental Study Report
  - Notice of Completion and opportunity to inspect final Environmental Study Report
- Category D
- Projects require an individual environmental assessment (potential for negative environmental effects and/or public or agency concern is high)
- Follow the consultation requirements described in this Code of Practice

*Class Environmental Assessment for Provincial Parks and Conservation Reserves (Ministry of Natural Resources)*

- Category A
- Projects are approved to proceed (potential for negative environmental effects and/or public or agency concern is low)
- No consultation requirements
- Category B
- Projects are subject to planning process as described in the document (potential negative environmental effects and/or public or agency concern range from medium to low)

- Notice of Commencement
- Notice of Completion

Category C

Projects require an Environmental Study Report and are subject to planning process as described in the document (potential for negative environmental effects and/or public or agency concern range from medium to high)

- Notice of Commencement
- Notice of Opportunity to inspect draft Environmental Study Report
- Notice of Completion and opportunity to inspect final Environmental Study Report

Category D

Projects require an individual environmental assessment (potential for negative environmental effects and/or public or agency concern is high)

- Follow the consultation requirements described in this Code of Practice

*Class Environmental Assessment for Minor Transmission Facilities (Hydro One)*

Class environmental assessment does not classify projects. Projects falling under the definition of the class are subject to the study process as described in the document.

Projects falling under the definition of the class are subject to the study process as described in the document

- Initial Notice or Notice of Project Commencement
- Notice of Completion and opportunity to review Environmental Study report

*Class Environmental Assessment for Provincial Transportation Facilities  
(Ministry of Transportation)*

Group A

Projects are subject to planning process as described in the document (new facilities<sup>8</sup>)

- Planning
  - Opportunity to comment on the need for the project, as identified by the proponent
  - Opportunity to review study design and comment during study preparation
  - Opportunity to comment on corridors and route alternatives
  - Opportunity to comment on evaluation and selection of preferred route alternative
- Preliminary/Detail Design
  - Opportunity to comment on preliminary/detail design alternatives
  - Notice of Completion/Submission and opportunity to review Transportation Environmental Study Report
  - Notice of Submission and opportunity to review Design and Construction Report

Group B

Projects are subject to planning process as described in the document (major improvements to existing facilities)

- Opportunity to comment on preliminary/detail design alternatives
- Notice of Completion and opportunity to review Transportation Environmental Study Report
- Notice of Submission and opportunity to review Design and Construction Report

---

<sup>8</sup> Note that new provincial freeways are classified as Group A projects and require an "individual" environmental assessment for planning studies.

Group C	<p>Projects are subject to planning process as described in the document (minor improvements to existing facilities)</p> <ul style="list-style-type: none"><li>• Consultation carried out on a project-specific basis</li></ul>
Group D	<p>Projects are approved to proceed (activities that involve operation, maintenance, administration and miscellaneous work for provincial transportation facilities)</p> <ul style="list-style-type: none"><li>• No consultation required</li></ul>
<p><u><i>Municipal Class Environmental Assessment (Municipal Engineers Association)</i></u></p>	
Schedule A	<p>Projects are approved to proceed (minimal adverse environmental effects and generally include normal or emergency operational and maintenance activities)</p> <ul style="list-style-type: none"><li>• No consultation or notification required</li></ul>
Schedule A <sup>+</sup>	<p>Projects are approved to proceed (minimal adverse environmental and generally includes improvements and minor expansions to existing facilities)</p> <ul style="list-style-type: none"><li>• Notification is required</li></ul>
Schedule B	<p>Projects must complete some phases of the planning process as described in the document (potential for some adverse environmental effects)</p> <ul style="list-style-type: none"><li>• Initial Notice and opportunity to comment on project, alternative solutions and the project classification</li><li>• Notice of Completion and opportunity to review screening analysis and project file</li></ul>

Schedule C	<p>Projects must complete all phases of the planning process as described in the document (potential for significant environmental effects)</p> <ul style="list-style-type: none"><li>• Initial Notice and opportunity to comment on project, alternative solutions and the project classification</li><li>• Opportunity to review identification and evaluation of alternative designs</li><li>• Notice of Completion and opportunity to review Environmental Study Report</li></ul>
------------	---

GO Transit Class Environmental Assessment (GO Transit)

Group A	<p>Projects are deemed approved</p> <ul style="list-style-type: none"><li>• No consultation required</li></ul>
Group B	<p>Projects require an Environmental Study Report and are subject to the planning process as described in the document</p> <ul style="list-style-type: none"><li>• Initial Notice before the development of concept alternatives</li><li>• Notice of Submission and opportunity to review Environmental Study Report</li></ul>
Group C	<p>Projects require an individual environmental assessment</p> <ul style="list-style-type: none"><li>• Follow the consultation requirements described in this Code of Practice</li></ul>

Class Environmental Assessment Process for the Ministry of Energy and Infrastructure for Realty Activities Other Than Electricity Projects (Ministry of Infrastructure)

Category A	<p>Projects are deemed approved (projects are minor in scale and have minimal or no adverse environmental effects)</p> <ul style="list-style-type: none"><li>• No consultation required</li></ul>
------------	---

- Category B
- Projects are subject to a screening process as described in the document (projects have potential for adverse environmental effects and effects are well understood, minor in nature and readily mitigated)
- Opportunity to comment on project and seven point site-specific analysis and proposed mitigation measures
  - Notice of Completion and opportunity to review Consultation and Documentation Report
- Category C
- Projects require an Environmental Study Report and must complete the full planning process as described in the document (projects have the potential for significant environmental effects)
- Project announcement
  - Opportunity to comment on identification and evaluation of alternatives to the undertaking
  - Opportunity to comment on the selection of preferred alternative to and the identification and evaluation of alternative methods
  - Notice of Completion and opportunity to review Environmental Study Report

*Remedial Flood and Erosion Control Projects (Conservation Ontario)*

Class environmental assessment does not classify projects. Projects falling under the definition of the class are subject to the planning process as described in the document.

- Project Plan
- Projects require the completion of a Project Plan and must follow the planning process as described in the document (potential environmental impacts can be avoided, mitigated or compensated)

	<ul style="list-style-type: none"><li>• Notice of Intent to carry out a remedial project</li><li>• Notice of Filing and opportunity to review Project Plan</li></ul>
Report	<p>Projects require an Environmental Study Report and must complete planning process as described in the document (uncertainty whether potential environmental impacts can be avoided, mitigated or compensated)</p> <ul style="list-style-type: none"><li>• Notice of Intent to carry out a remedial project</li><li>• Notice of Filing and opportunity to review Environmental Study Report</li></ul>
Individual	<p>Projects require an individual environmental assessment</p> <ul style="list-style-type: none"><li>• Follow the consultation requirements described in this Code of Practice</li></ul>

*Class Environmental Assessment for Waterpower Projects (Ontario Waterpower Association)*

Existing Infrastructure	<p>Projects must complete an Environmental Report and are subject to the planning process as described in the document.</p> <ul style="list-style-type: none"><li>• Notice of Commencement</li><li>• Notice of Completion to parties who have expressed an interest or participated</li><li>• Statement of Completion</li></ul>
Managed Waterways	<p>Projects must complete an Environmental Report and are subject to the planning process as described in the document.</p> <ul style="list-style-type: none"><li>• Notice of Commencement</li><li>• Notice of Completion</li><li>• Statement of Completion</li></ul>

- Unmanaged Waterways      Projects must complete an Environmental Report and are subject to the planning process as described in the document.
- Notice of Commencement
  - Notice of Inspection (to parties who have expressed an interest or participated)
  - Notice of Completion
  - Statement of Completion

*Class Environmental Assessment for Activities of the Ministry of Northern Development and Mines under the Mining Act*

- Category A                      Projects that have no net effect upon the environment or are emergency undertakings on Crown land
- No consultation required, however, notice of the project is provided to the government ministries and agencies as appropriate.

- Category B                      Projects must complete a Project Review Process and must complete planning process as described in the document (projects have low potential for environmental effects)
- Notice of Opportunity to Provide Input

- Category C                      Projects must complete a Project Review Process and must complete planning process as described in the document (projects have a moderate potential for environmental effects)
- Notice of Opportunity to Provide Input
  - Notice of Completion

- Category D                      Projects must complete a Project Review Process and must complete planning process as described in the document (projects have a significant potential for environmental effects)
- Notice of Commencement
  - Notice of Opportunity to Provide Input on the Draft Environmental Study Report



- Notice of Completion of the Final Environmental Study Report

*Guide to Environmental Assessment Requirements for Electricity Projects, Electricity Projects Regulation, Ontario Regulation 116/01*

Category A	Projects are not subject to the <i>Environmental Assessment Act</i> (projects expected to have minimal environmental effects) <ul style="list-style-type: none"><li>• No consultation required</li></ul>
Category B	Projects must complete an Environmental Screening Process as described in the Guide (projects have potential for environmental effects that can be mitigated) <ul style="list-style-type: none"><li>• Notice of Commencement</li><li>• Notice of Completion and opportunity to review Screening Report</li></ul>
Category C	Projects require an individual environmental assessment <ul style="list-style-type: none"><li>• Follow the consultation requirements described in this Code of Practice</li></ul>

*Guide to Environmental Assessment Requirements for Waste Management Projects, Waste Management Projects Regulation, Ontario Regulation 101/07*

First Process Stream	Projects require an individual environmental assessment <ul style="list-style-type: none"><li>• Follow the consultation requirements described in this Code of Practice</li></ul>
Second Process Stream	Projects must complete an Environmental Screening Process as described in the Guide (projects have potential for environmental effects that can be mitigated) <ul style="list-style-type: none"><li>• Notice of Commencement</li></ul>

- Opportunity to identify issues/or concerns and comment on problem or opportunity, project description, potential environmental effects
- Opportunity to comment on problem or opportunity, project description, potential environmental effects, impact management measures
- Notice of Completion and opportunity to review Screening Report

Third Process Stream      Projects are not subject to the *Environmental Assessment Act* (projects expected to have minimal environmental effects)

- No consultation required

*Guide to Ontario's Transit Project Assessment Process, Transit Projects and Metrolinx Undertakings Regulation, Ontario Regulation 231/08*

#### Transit Project Assessment Process

Projects must complete an Environmental Project Report and follow the process as described in the regulation.

- Notice of Commencement
- Notice of Completion of Environmental Project Report
- Statement of Completion
- Notice of Environmental Project Report Addendum (proponents wish to make changes to the transit project that is inconsistent with the Environmental Project Report and the proponent considers the change significant)
- Notice of Issue (proponent wishes to take a “time out” to suspend the 120-day period)
- Notice of Resumption (proponent wishes to resume the transit project assessment process following a “time out”)

- Notice of Termination (proponents wish to abandon the transit project assessment process)

## 4. Developing a Consultation Plan

A consultation plan is a framework for obtaining input from potentially interested and affected persons during the planning of an undertaking. A consultation plan is a flexible tool that should be adapted to accommodate newly emerging issues and information or the changing views of the public. One plan may not fit all persons; therefore, a consultation plan should allow proponents to engage the public, identify interested persons, government agencies and Aboriginal peoples and communities in different ways.

The Proponent's Consultation Plan	
Identify interested persons	Who will be directly and potentially adversely affected by the proposal
Notify and inform interested persons	Tell the story of the project and consultation opportunities in plain language
Listen and learn from each other about issues and concerns	Plan, design and hold meetings and other activities to engage interested persons
Work out problems	Use various techniques, including early enhanced negotiation and early alternative dispute resolution
Demonstrate consultation efforts	Track activities and prepare reports that show the actions that were taken throughout the planning and design process

As required in the *Environmental Assessment Act*, proponents must consult with potentially interested and affected persons before making a submission. A proponent's consultation plan must:

- Indicate how potentially interested and affected persons, including Aboriginal peoples and communities, will be identified, notified and consulted.
- Indicate how government agencies will be identified, notified and consulted.
- Identify the points in the environmental assessment process when interested persons will be consulted.
- Identify the methods that will be used to consult.

- Identify the decisions that interested persons can provide input to and what role they can play when the proponent makes choices.
- Acknowledge and attempt to address concerns raised during the environmental assessment process.

### *Consulting Francophone Communities*

The ministry is committed to consulting and communicating in French with Francophone individuals, organizations, municipalities and communities in or near the 25 bilingual areas ([www.ofa.gov.on.ca/en/flsa-mapdesig.html](http://www.ofa.gov.on.ca/en/flsa-mapdesig.html)) designated under *the French Language Services Act*.

While there is no statutory requirement for proponents to specifically engage the Francophone community, the ministry expects all members of the public to be adequately consulted and engaged during the environmental assessment process. The *Environmental Assessment Act* requires that a proponent consult with any person who is interested.

To ensure effective consultation in French, proponents should:

- Advertise in the local Francophone media (radio, TV, newspapers magazines) to inform the general public.
- Meet and talk informally with those likely to be involved or affected by the undertaking using their preferred language.
- Ask their advice about who else should be contacted and how best to notify them.
- Put a bilingual leaflet or brochure in every mailbox in the affected neighbourhood and post a bilingual notice on the site of the proposed project.
- Mail a bilingual notice or open letter to all interested groups and community organizations
- Send personal letters in French to those who require more targeted communication or who they want to contact personally using their preferred language or a bilingual format.

When public meetings are held, whether for information purposes or for consultation, in a designated area or in an area located near a designated area, proponents should ensure that French language services are available.

These services may be offered either by French-speaking individuals or by simultaneous interpreters. All documents, including presentation materials, should be available in both English and French.

Meetings can be held in a bilingual format or a separate meeting can be organized. Special meetings may be held in French if a high level of interest in the consultation is anticipated. The benefit of a separate meeting is that Francophone stakeholders may feel more at ease in sharing their opinions and providing input.

## 4.1 Recommended Strategies to Develop a Consultation Plan

The method to complete a consultation plan will vary by the project (refer to pages 16 and 17, Figure 1 and Figure 2). In addition to deciding what consultation activities are appropriate to implement (e.g. to gather information, to share information, to obtain input and advice), other things to consider when designing the consultation plan include:

- The complexity of the undertaking related to the project size and time span (refer to page 16, Figure 1).
- The proximity to a community(ies).
- Health, safety and environmental concerns associated with the proposed undertaking.
- Identifying Aboriginal communities, land claim areas, traditional land use areas, etc.
- Identifying if the undertaking is located in or near an area designated under the *French Language Services Act*.

### 4.1.1 Develop Principles

At the outset, proponents are encouraged to develop consultation principles to guide the consultative process (see examples in the following chart). While principles serve as a fundamental rule or code of conduct in the environmental assessment process, the elements discussed in this section are the essential qualities that make consultation effective and should be considered by proponents for a successful consultation process.

<b>Effective Consultation and the Environmental Assessment Process</b>		
<i>Principles</i>	<i>Elements</i>	<i>Indications</i>
Respect	Clear objectives	Interested persons and agencies participate
Clarity	Cost of the consultation	Input received has an impact on choices made
Accessibility	Identification of interested persons; government agencies and Aboriginal communities	Concerns were raised and, where possible, addressed
Mutual responsibility	Appropriate consultation methods	Documentation reflects process and results
Community values	Identification of concerns	Outstanding concerns are clearly stated
Flexible	Integration of consultation inputs	
Openness	Responding to Concerns	
	Participant support	
	Plain Language	
	Evaluation	
<b><i>Benefits</i></b>		
	First-hand information	
	Better informed environmentally-sound decisions	
	Compliance with permits, licences and regulatory requirements	

Both principles and elements should be articulated in the proponent's consultation plan. Articulating the benefits of consultation and participating reassures potential participants of the value of the process.

As a general principle, consultation should be accessible both in terms of availability to interested persons and in plain language. To be effective, consultation must be tailored to the unique needs of the project and community involved.

The ministry is committed to consulting and communicating in French with Francophone individuals, organizations, municipalities and communities in or near the 25 bilingual areas ([www.ofa.gov.on.ca/en/flsa-mapdesig.html](http://www.ofa.gov.on.ca/en/flsa-mapdesig.html)) designated under *the French Language Services Act*.

As a best practice, when an undertaking is in or near any of the 25 designated bilingual areas, proponents should ensure that French language services are provided throughout the environmental assessment process. This includes but is not limited to ensuring that all communication (e.g. oral, written or electronic) is provided in both English and French.

It may be that a proponent has a set of principles in place from the outset, perhaps as part of a corporate vision statement or strategic plan. Perhaps

these principles can be easily adapted to become part of the consultation plan. Proponents may find it helpful to include a set of consultation principles in their initial consultation activities and to specify the extent to which these principles can be modified.

#### 4.1.2 Elements of a Successful Consultation Plan

##### *Clear Objectives of Consultations*

At the outset, proponents should make a determination of the type and extent of feedback required from the public and government reviewers. The appropriate level of participation can be confirmed by asking potential participants how they would like to be involved in the environmental assessment process. Based on that feedback, proponents should establish the objectives of consultation for each stage of the environmental assessment process, in conjunction with the development of a consultation plan for the environmental assessment as part of a proposed terms of reference submission.

Clear, explicit objectives can:

- ≈ Ensure that proponents, participants and reviewers have a clear and defined role in the process.
- ≈ Assist the proponent in communicating what they intend to do and why.
- ≈ Help the consultation plan move forward in a clear direction.

As objectives of the consultation plan may change over time, the proponent should review them periodically to ensure they continue to be appropriate, and revise the program where appropriate.

These questions should be considered when developing consultation objectives and the consultation plan:

- How has the community historically responded to change?
- Is the proposal likely to be contentious?
- What level of interest from the public and agencies is anticipated?
- What specific information needs will they have?
- What information can be obtained from participants?
- How will information and ideas obtained through consultation be considered?



### *Cost of the Consultation*

The resources needed to consult, both in terms of the cost involved and the number of people to plan, design and carry out, depend on the nature of the proposal being addressed, the scope of decision-making required and the needs of the community. The allocation of resources to develop and fulfil the consultation plan is the proponent's responsibility. Whether in-house resources are used or outside consultants retained, the proponent's choice of a central contact person, to whom participants can direct their questions and comments, can influence the success of consultation efforts.

The benefits of allocating appropriate resources to consultation efforts are:

- ≈ Participants receive information in a timely fashion and are equipped to participate effectively.
- ≈ Concerns raised by participants are addressed and responded to efficiently.
- ≈ Potentially affected persons know exactly who to contact in case of questions, comments or concerns regarding an undertaking.

### *Identification of Interested Persons and Government Agencies*

One of the keys to the effective development of terms of reference and environmental assessments is the early identification of interested persons, Aboriginal communities and appropriate government reviewers.

Interested persons and Aboriginal communities bring critical local knowledge and can identify concerns or conflicts that could potentially arise. Proponents are encouraged to anticipate as broadly as possible who the interested persons may be because parties that are left out of early decisions may have concerns that are difficult to address later in the environmental assessment process.

Seeking input from a broad cross-section of the public about the development of a large-scale rapid transit service, the proponent used postage-paid postcards that were available at transit stations and in vehicle dispensers. There was a high return rate of the cards and the input received influenced station location and design.

The greater the potential impact of a project, the greater the efforts the proponent must take to identify interested persons. Once interested persons have been identified, developing a profile of the community will help identify the linguistic and cultural composition, geographic distribution and lifestyles of those to be consulted. These considerations often have a bearing on how the consultation should be designed and conducted, what materials are prepared, and how best to support the participation of interested persons. The persons with whom the proponent should consult can change during the course of an environmental assessment, and the onus rests with the proponent to facilitate and ease the entry of new participants at any point in the decision-making process.

Various federal, provincial and municipal government ministries and agencies have an interest in a proposed undertaking that may be subject to laws, regulations, policies and programs for which they have responsibility. Government agencies<sup>9</sup> should be notified of a proposed undertaking early in the proponent's planning process. Government agencies may offer valuable input and professional expertise and may identify opportunities to coordinate other federal and provincial

One proponent, proposing the development of a sewage treatment facility for a large metropolitan area, followed comments received during the consultation that additional alternatives be more fully explored, including conservation activities, and the possible expansion of existing facilities. As a result, the facility proposed was scaled down, and resulted in significant cost savings and fewer potentially negative effects

Benefits of early and ongoing identification of interested persons and government agencies include:

- ≈ Assisting the proponent in determining participants' interests and needs.
- ≈ Ensuring that the proponent derives the full benefit of community knowledge in arriving at certain choices.
- ≈ Enhancing the potential for garnering community support.
- ≈ Minimizing the possibility of persons coming in at the end of a process and objecting to the outcome of the process.
- ≈ Reducing the potential for hearing and/or mediation requests.

<sup>9</sup> Refer also to Appendix C, Key Government Agencies. The Environmental Approvals Branch maintains a Master Distribution List from which government agencies are identified. The identified agencies make up the Government Review Team for the undertaking. Proponents are encouraged to refer to this list when designing the agency portion of their consultation plan. An updated version of the Master Distribution List can be obtained by contacting the Branch at 1-800-461-6290 or 416-314-8001 or from the Project Officer assigned to the file.

requirements throughout the environmental assessment process that will assist a proponent in making its decisions.

### *Application of Federal Environmental Assessment Requirements*

Under the *Canadian Environmental Assessment Act, 2012* a federal environmental assessment is required for a proposed undertaking if:

- The proposed project is listed in the federal government's Regulation Designating Physical Activities; or
- The federal Minister of the Environment designates the proposed project, and
- The Canadian Environmental Assessment Agency determines and confirms that a federal environmental assessment must be conducted.

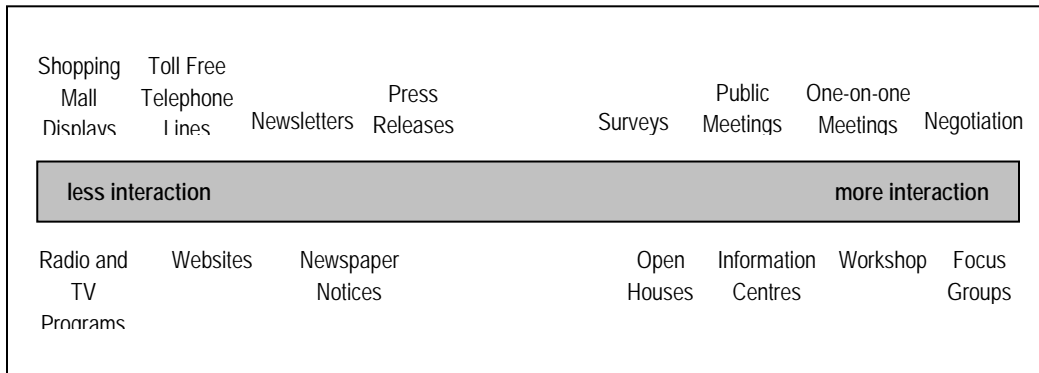
The federal and provincial governments have committed to work closely to coordinate their environmental assessment requirements<sup>10</sup>. If a federal assessment is required, proponents should consider ways to maximize the efficiencies with respect to the collection of data, the criteria for assessing the impacts of the project, consultation processes, addressing other requirements that meet the needs of both the federal and provincial processes. The proponent should notify the Canadian Environmental Assessment Agency to ensure that contacts with appropriate federal agencies are made early in the process to avoid conflicts or delays.

### *Appropriate Consultation Methods*

When selecting appropriate consultation methods, proponents should review the nature of the project, the objectives of the consultation plan and the needs of interested persons. Consultation is a two-way communication process, which can be achieved by using a mix of consultation methods, such as those shown in Figure 3.

---

<sup>10</sup> On November 1, 2004, Canada and Ontario signed an agreement on environmental assessment cooperation. The agreement maintains the current level of environmental standards and the legislative and decision-making responsibilities of both levels of government. Further information about the agreement and details about the federal environmental assessment requirements can be obtained from the website of the Canadian Environmental Assessment Agency ([www.ceaa-acee.gc.ca](http://www.ceaa-acee.gc.ca)).

**Figure 3: Consultation Methods**

Consultation is not a negotiation process nor is it just placing notices in newspapers, having a website or handing out flyers. These are tools to help inform and make the public aware of a proposal. A good consultation plan should engage the public and incorporate consultation methods that encourage two-way communication. Ultimately, the proponent's objectives and the complexity of the undertaking will determine which consultation methods will be used. Discussing with interested persons about the appropriate consultation methods will result in a unique and effective program.

Using an effective mix of consultation methods helps ensure:

- ≈ Persons with a potential interest are informed and consulted.
- ≈ Input received is of relevance to the project and therefore, of use to the process.
- ≈ Resources are used efficiently.

There will be circumstances where not all concerns can be addressed before proceeding with a project. Using the appropriate and various consultation methods and working with the community, government agencies, and other interested persons to achieve workable solutions will assist the ministry in its review of the proponent's application for *Environmental Assessment Act* approval.

#### *Identification of Issues*

At the outset of an environmental assessment process, proponents should seek advice and information from the local community, government agencies, Aboriginal communities and other

Proponents should consider provincial government priority initiatives such as waste diversion, energy efficiency, source water protection, reducing greenhouse gas emissions. etc.

interested persons about the existing features of the study area.

A consultation plan can be tailored and updated to reflect community interests and concerns by asking interested persons about what concerns they think they may have with the environmental assessment during the proponent's information gathering, analysis, evaluation and decision-making process.

A proponent's failure to recognize concerns early in the process can result in participants rejecting the credibility of the proponent's consultation plan and refusing to participate in consultation opportunities because community concerns are not being recognized.

Participants are encouraged to inform the proponent of concerns as they arise, so that options can be fully explored and workable solutions developed before the proponent makes certain choices and before moving forward to the next step in the planning process.

If participants do not raise concerns in a timely manner, the proponent may be restricted from fully exploring alternatives and developing appropriate measures to address them later in the decision-making process.

It is particularly important that participants submit comments to the ministry by the applicable deadline if interested persons wish the comments to be considered by the ministry during the preparation of the ministry Review or by the Minister before a decision is made about whether to approve or reject a terms of reference or environmental assessment, or to refer matters to mediation or a hearing.

One proponent, responding to suggestions from the public for an alternate transportation alignment than the one selected by the consultant, responded by completing a similar level of analysis for both and eventually choosing the alternative preferred by the public.

Similarly, another proponent incorporated the suggestion of its Public Liaison Committee that a rolling topography be built into the final design of the project. Both projects went forward unopposed.

"...it is critically important that the reasons for resistance and complaint by local communities be genuinely examined and addressed. Only in this way will these communities gain more trust in the process...without that trust, the process breaks down and ceases to operate effectively or efficiently..."

Eastview Road Landfill (Guelph)

Benefits to proponents identifying concerns early and continually are:

- Minimizing the possibility of having to revisit past choices.
- Increasing opportunities for proponents and interested persons to arrive at solutions before submission of the terms of reference or environmental assessment.
- Reducing the likelihood that participants will request the Minister to refer terms of reference or environmental assessment submissions to mediation or a hearing.

#### *Integrating the Input from Consultation with Technical Work*

Proponents should allow sufficient time to solicit, receive and integrate the results of consultation into the technical work as applicable. The methods selected for obtaining input and information, which may include comment sheets, interviews or other methods, must produce data in a format usable to those conducting the technical analysis.

Benefits of integrating the results of consultation into the technical work are it:

- Reassures participants that their input is valued and has influenced the analysis and choices made by the proponent.
- Ensures that relevant legislation and policies administered by government agencies are considered.
- Demonstrates to participants the value of the environmental assessment process.

To encourage public input, one private sector proponent established a Public Liaison Committee made up of representatives from the local and regional municipalities, the proponent, residents, a neighbourhood ratepayers group and an environmental non-governmental organization. Meetings were held as necessary, had a specific focus and the proponent committed to full disclosure of all relevant information to assist the Committee. Although the Committee was not empowered to make decisions, the proponent was responsive to Committee suggestions. All participants valued the opportunities for frank discussion and the exchange of ideas.

Participation in a committee does not necessarily mean every participant must agree with every decision the proponent may make. Even so, it can provide a useful forum for the candid exchange of views and ideas – proponents and interested persons may agree to disagree.

## *Responding to Concerns*

Consultation should identify measures to prevent or otherwise mitigate potential adverse environmental effects the project might have.

Proponents are urged to make every reasonable effort to respond to concerns and conflicts that occur during the planning process in order to avoid costly delays.

If a proponent makes no efforts to and consider and/or respond to concerns, this will create a perception that the proponent does not treat concerns seriously. Ultimately, the credibility of the proponent and the proponent's planning and analyses carried out will be damaged.

Some basic steps to consider in responding to/addressing concerns raised include:

- Meeting one-on-one with those individuals or persons with specific concerns.
- Initiating smaller working sessions for interested persons to attend to provide an opportunity for everyone to hear all sides.
- Establishing a citizen-led committee to provide a forum specifically to develop solutions.

If the proposed undertaking might benefit from involving a third party to provide some balance of power and neutrality to discussions, conflict resolution techniques are beneficial and can be used at any point in the environmental assessment process. For further information on conflict

### **Not Considering Concerns**

Failing to explain why concerns were or were not considered will affect the ministry's review and decision on the proposed undertaking. Consequences to the proponent include:

- ≈ Delay in receiving a decision on the application for *Environmental Assessment Act* approval.
- ≈ Additional costs to conduct further work to fulfil ministry information requirements. — Proponents may be required to conduct further analysis, studies and/or consultation activities.
- ≈ The ministry issuing a "Deficiency Statement." — If the Director considers an environmental assessment deficient in relation to the approved terms of reference and the purpose of the *Environmental Assessment Act*, a statement describing the deficiencies will be issued to the proponent at least 14 days before the deadline for completing the ministry Review.
- ≈ Receiving a decision to refuse the application.

resolution techniques, participants are encouraged to refer to the ministry's Code of Practice entitled, *Mediation in Ontario's Environmental Assessment Process*.

Not all concerns or conflicts that occur during the environmental assessment process can be addressed with certainty. If the project is approved, a proponent where appropriate, may be required to address outstanding concerns and remaining uncertainties through conditions of approval and/or commitments.

Examples of some terms that are used in conditions of approval and proponent commitments include monitoring, feedback, contingency plans and reports, liaison committee that meets periodically during construction, implementation and/or operation.

The ministry's process for reviewing an environmental assessment is not a consensus-building exercise. Participants do not have the power to veto an undertaking. They can provide information that will assist the Minister in deciding whether a project can proceed in the public interest, while ensuring that the environment is protected.

### *Participant Support*

It is in the best interest of the proponent to ensure that interested persons are able to participate meaningfully in the environmental assessment process. Proponents are encouraged to be innovative in identifying appropriate measures for effective participation in the environmental assessment process. Proponents may find that providing support to participants may make the difference between a consultation plan that works and one that does not. At the same time, participants should have realistic expectations of what levels of assistance a proponent can provide.

Providing participant support does not ensure a smooth, issue-free process.

Similarly, not providing participant support does not affect whether a proposed undertaking is approvable.

The extent and nature of participant support can be determined by:

- Identifying the particular needs of those participating.



- Being aware of the type of input sought from interested persons relative to the technical complexity of the environmental assessment.
- The availability of financial and human resources to the proponent.

Benefits of providing participant support are that it:

- Encourages the participation of interested persons.
- Attempts to ensure that no one is prevented from participating to the degree to which they would like.
- Promotes early identification of concerns.
- Acknowledges the volunteer efforts of participants.
- Enhances the credibility of both the environmental assessment process and the proponent.

#### *Plain Language and Documentation*

Any documentation prepared for review by the public should avoid technical jargon in order to facilitate understanding and promote useful and informed feedback. Proponents may also want to consider the need to translate relevant project information into other languages (depending on the cultural makeup of the community(ies)) to facilitate the participation of interested persons. Proponents will find that reporting on consultation efforts and producing regular, concise and key updates of an undertaking's progress is more effective than producing a single, comprehensive consultation report at the end of the environmental assessment process. Reporting on ongoing consultation efforts allows interested persons to see how comments and concerns are being responded to throughout the process.

#### *Proponent Evaluation of Consultation Efforts*

Measures that determine the effectiveness of the consultation plan should be in place at the outset of the consultation. These measures can range from public opinion surveys to a simple list of questions the proponent asks throughout the environmental assessment process, such as:

- Are the objectives as stated in the consultation plan being achieved?
- Is the program generating the desired/anticipated level of participation?

- Are there any barriers to interested persons participating in the process?

Evaluating the results of consultation efforts allows a proponent to identify when actions, such as the following, are required:

- Implementing alternative methods to enhance participation.
- Providing participant support, where appropriate, to facilitate review and comment by interested persons.
- Adjusting the study schedule to provide, where appropriate, more time for participant review and integration of input received.

#### 4.1.3 Refusing to Participate

There may be circumstances where interested persons indicate an interest in a proponent's undertaking and then, perhaps due to a proponent's perceived lack of attention to addressing concerns raised, may refuse to participate further in the environmental assessment process.

Where persons refuse to participate, the ministry recognizes that participation and involvement cannot be imposed or forced. Nevertheless, proponents must consult during the planning and development of an undertaking, specifically when preparing the terms of reference and when carrying out the environmental assessment. The ministry also has an obligation to consult with all persons who may have an interest in the proposed undertaking before making a decision.

In a proponent's application, information concerning the participation or lack of participation (with reasons) is considered in the ministry's review and decision-making process.

#### Refusing to Participate – What to Do?

In cases where interested persons raise objections to the proposed undertaking and protest by refusing to participate, the proponent should:

- ≈ Seek advice from the Branch on how to move forward.
- ≈ Continue efforts to consult and obtain information and input.
- ≈ Ensure that these consultation efforts are documented in the application for *Environmental Assessment Act* approval.
- ≈ Consider using a neutral third party to re-start and/or continue discussions.

Consequently, interested persons are encouraged to participate in the environmental assessment process by:

- Documenting concerns (refer to page 24, Section 3.1.4, Steps to Take by the Public if They Have Concerns); and,
- Meeting with the proponent to offer solutions and recommendations.

## 4.2 Completing the Consultation Process

A proponent's consultation process is complete when the proponent has:

- Notified and consulted interested persons, including Aboriginal peoples and those who may be potentially affected (those identified in the recommended minimum distance section – refer to page 18, Section 3.1.1, Notification Requirements).
- Documented concerns and actions to mitigate concerns through commitments and/or through ministry-imposed conditions of *Environmental Assessment Act* approval.

## 4.3 Ongoing Efforts to Consult

If the Minister, Environmental Review Tribunal or Joint Board approves the proposed undertaking, the proponent is required to ensure that any commitments, made as part of the environmental assessment documentation or conditions of approval, are fulfilled unless otherwise amended by the Minister, Environmental Review Tribunal or Joint Board.

Although the environmental assessment process for the planning and review of a proposed undertaking is complete at this point, consultation activities should continue to play an important role during the detailed design phase, seeking other regulatory approvals, construction, operation and/or decommissioning as part of the implementation of applicable conditions of approval or monitoring requirements.

Commitments or conditions requiring the proponent to conduct monitoring may also include a requirement to do further consultation. The level of consultation and/or involvement of

Throughout construction, a proponent set up information kiosks at job sites to provide information on work progress. The proponent also set up a toll free telephone number for the public to obtain any additional information or to report any new concerns.

interested persons after the environmental assessment and review process is completed vary. Generally, the more contentious the project, the greater the involvement of interested persons during further refinement, development and implementation phases of the undertaking.

## 5. Roles and Responsibilities

Environmental assessment involves many different players, each of whom has a different role. This section outlines some of the key roles and responsibilities of proponents, government reviewers, the ministry and interested persons, including Aboriginal communities.

### 5.1 Proponents

Proponents initiate projects subject to the *Environmental Assessment Act* and have the principal responsibility for designing and implementing consultation plans, as part of the overall environmental assessment process. Proponents are responsible for:

- Designing and implementing a consultation plan that provides opportunities for two-way communication.
- Identifying and consulting with:
  - interested persons, including Aboriginal communities, throughout the process, including those likely to be directly affected and any others that may be potentially affected;
  - those government agencies with a mandate or responsibility for particular aspects of the proposal.
- Initiating meaningful consultation with interested persons to identify information needs and concerns early in the planning process.
- Providing appropriate time for interested persons to review and comment on environmental assessment-related materials and documentation.
- Documenting how input received from participants was (or was not) taken into account.

#### To Expedite the Public Consultation Process

- ≈ Start planning the public consultation in advance of the start of your project.
- ≈ Hold public consultation sessions early in the process.
- ≈ Consider public consultation an ongoing process, rather than a “one shot deal.”
- ≈ Coordinate public consultation requirements of various agencies to avoid duplication.
- ≈ Obtain input and advice from staff at the Environmental Approvals Branch.

- Addressing and where possible, resolving concerns raised through the consultation process.
- Keeping participants informed of decisions made and how the proponent addressed identified concerns or reasons that concerns were not addressed.

## 5.2 Government Review Team

Government reviewers provide valuable support to a proponent by identifying compliance concerns and other areas of concern within their mandate. They are often very knowledgeable about local issues and may help in the identification of those local interested persons that the proponent should be consulting. Proponents are encouraged to involve relevant members of the Government Review Team<sup>11</sup> and other government agencies (federal, provincial, municipal) from the outset of their planning process (see also Appendix C).

When the proponent makes a submission to the ministry, of either the terms of reference or the environmental assessment, the submission is reviewed by the Government Review Team to determine if the proponent has adequately considered the legislation, regulations, policies and program areas within their respective mandates.

Members of the Government Review Team are responsible for:

- Providing information and guidance, within their mandated areas of responsibility, that the proponent should consider as part of the

### Ideas on How to Obtain Timely Agency Feedback

- ≈ Be realistic in your expectations of agency turnaround times for document review. Determine what you need from them and what length of review time they need.
- ≈ Consider circulating an executive summary of any documents, sending only the relevant information and detailed reports to only those who request them.
- ≈ Consider the best method for circulating information and obtaining feedback e.g. holding focused briefing sessions to reduce agency reading time.

<sup>11</sup> The Environmental Approvals Branch maintains a Master Distribution List from which government agencies are identified. The identified agencies make up the Government Review Team for the undertaking. Proponents are encouraged to refer to this list when designing the agency portion of their consultation plan. An updated version of the Master Distribution List can be obtained by contacting the Branch at 1-800-461-6290 or 416-314-8001 or from the Project Officer assigned to the file.

decision-making process (e.g. legislative requirements, policies, standards, studies, potential evaluation criteria).

- Providing consistent advice throughout the course of the planning and decision-making process, or providing relevant reasons if their position changes.
- Suggesting modifications to the proposal/documentation that may address concerns.
- Providing the proponent with timely input that facilitates good decision-making.
- Participating in the ministry's review of submissions made to the ministry for the proposed terms of reference and environmental assessment.
- Providing comments to the Branch within the specified or regulated timelines for the review of the proposed terms of reference and the environmental assessment documentation.
- Identifying and confirming environmental effects related to their mandate.

### 5.3 Ministry of the Environment

The ministry has two separate and distinct roles in the environmental assessment process:

- **Administrator:** Governs and regulates the *Environmental Assessment Act*, ensuring that proponents meet the requirements of this act.
- **Technical Reviewer:** Reviews environmental assessment documentation to ensure that proponents have adequately considered the ministry's mandate based on:
  - The *Environmental Protection Act*, *Ontario Water Resources Act*, *Safe Drinking Water Act*, *Clean Water Act* and *Pesticides Act*;
  - Regulations under those acts listed above;
  - Ministry technical procedures and guidelines;
  - Other relevant policy and program areas, including the government's Provincial Policy Statement issued under the *Planning Act*.

Within the ministry, responsibilities for carrying out these two separate functions are delegated to different organizational units.

*Environmental Approvals Branch – Administrator Role*

The principal responsibility of the Branch is to administer the *Environmental Assessment Act* and to provide guidance about its requirements to allow proponents and the Minister to make informed decisions.

Once the ministry receives a formal submission of a terms of reference or an environmental assessment, the Branch coordinates the ministry Review of the proponent's submission and advises and reports to the Minister about whether the proponent's submission:

- Fulfils the requirements set out in the *Environmental Assessment Act*.
- Meets expectations described in relevant ministry guidance materials (guidelines, procedures, codes of practice, etc.).

In addition to administering the *Environmental Assessment Act*, Project Officers in the Branch are responsible for:

- Providing information and guidance to proponents and interested persons about the requirements of the *Environmental Assessment Act*.
- Promoting responsible environmental assessment decision-making by providing procedural advice throughout the environmental assessment process.
- Facilitating coordination with other review processes as required, such as the federal environmental assessment process, in order to minimize unnecessary duplication and inconsistency.
- Coordinating the review of the terms of reference and environmental assessment by the Government Review Team, the public and interested persons, including Aboriginal communities.
- Where proponents are planning projects that follow the transit project assessment process the Branch administers environmental assessment process requirements.
- Encouraging and facilitating the resolution of outstanding concerns among participants during the process when necessary.
- Providing the Minister with a summary of all comments received.



- Evaluating submissions and providing a recommendation to enable the Minister to make an informed decision about a proposed undertaking.
- Providing “one-window access” service for other acts administered by the ministry, such as the coordination of approval/permitting/licensing processes for *Environmental Protection Act*, *Ontario Water Resources Act*, *Safe Drinking Water Act*, *Clean Water Act* and/or *Pesticides Act* requirements for the proposed undertaking.
- Maintaining the public record file for environmental assessments, class environmental assessments where a Part II Order has been requested; elevation requests under the streamlined environmental assessment process for electricity and waste management projects; objections for transit projects; and elevation requests for an individual environmental assessment pursuant to declaration orders.

The Branch will ensure that potentially affected Aboriginal communities are informed and invited to participate after the submission of a terms of reference or an environmental assessment. Where Aboriginal communities identify and confirm potential environmental effects of concern in writing to the ministry, the Branch will consult with Aboriginal communities. The Branch will also ensure that both the Minister and the proponent consider comments and concerns raised by Aboriginal communities.

#### *Other Ministry Regions – Administrator Role*

The ministry’s five regional offices (refer to Appendix D for locations and contact information) administer and deliver provincial-wide programs to protect air quality, protect surface and ground water quality and quantity, manage the disposal of wastes, ensure an adequate quality of drinking water and control the use of pesticides.

Where proponents are planning projects that follow one of the approved class environmental assessments or an Environmental Screening Process for electricity or waste management projects, regional environmental assessment coordinators administer environmental assessment requirements. Regional environmental assessment coordinators manage the ministry’s technical review, ensuring that concerns specific to the ministry’s mandate are provided to the proponent to be addressed, and provide guidance on the specific processes, provisions and requirements

of approved class environmental assessments and the Environmental Screening Process.

The regional environmental assessment coordinator may also assist the Branch in preparing comments for:

- The technical review of an environmental assessment, including the terms of reference (from the perspective of the ministry's mandate).
- The Branch's review of requests for Part II Orders (for class environmental assessment projects).
- The Branch's review of elevation requests (for electricity or waste management projects)
- The Branch's review of objections (for transit projects).

Specifically, the regional environmental assessment coordinator will consult with other ministry staff (see next section) and consolidate comments on technical issues such as air, noise, water, contaminated sites, ecosystem protection and other matters that fall within the ministry's mandate, jurisdiction or areas of interest, while taking into account any relevant ministry legislation e.g. *Environmental Protection Act*, *Ontario Water Resources Act*, *Safe Drinking Water Act*, *Clean Water Act*, *Pesticides Act*, policies or guidelines that proponents should consider for class environmental assessment, electricity, waste management and transit projects.

#### *Other Ministry Regions and Branches – Technical Reviewer Role*

Other appropriate regions and branches of the ministry, including regional and district offices (refer to Appendix D for locations and contact information) act as a commenting agency where the ministry has an interest in a proposed undertaking, and therefore, have the same responsibilities and form part of the Government Review Team.

Other ministry regions and branches that are responsible for participating in environmental assessments include:

- Regional offices (for technical concerns related to air, noise, water and ecosystem protection).
- District offices (for technical input relative to known local and regional environmental issues).

- Approvals Services Section of the Branch (for information about subsequent potential ministry approvals that may be required under the *Environmental Protection Act* and/or *Ontario Water Resources Act*).
- Other applicable policy branches and divisions of the ministry (for specialized scientific, technical and/or policy considerations relative to environmental standards and ministry priorities, municipal drinking water).

For an environmental assessment to be acceptable, the proponent must demonstrate that the scope of the ministry's mandate relative to the protection of human health and the environment has been considered and that issues of relevant technical concern are addressed to the ministry's satisfaction.

## 5.4 Interested Persons

Interested persons are encouraged to participate in the consultation opportunities provided throughout the environmental assessment process.

Persons with an interest in a particular undertaking often include neighbours and individuals, environmental groups or clubs, naturalist organizations, agricultural organizations, sports or recreational groups, organizations from the local community, municipal heritage committees, ratepayers associations, cottage associations, Aboriginal communities and businesses.

Generally, the role of interested persons includes activities such as:

- Indicating to the proponent their level of interest and identifying how they wish to participate.
- Participating in the consultation opportunities provided throughout the environmental assessment process.

### Tips for the Public

- ≈ Get comments in early.
- ≈ Talk to the proponent. — Ask for further information; give feedback. Be descriptive, clear and objective.
- ≈ Talk to the ministry. — Ask for further information and guidance about the environmental assessment process.
- ≈ Document your participation and your concerns. — Be as specific as possible and avoid being abstract. Check your information sources and base statements on facts.

- Sharing information about the community and local environment to assist the proponent in making decisions.
- Expressing opinions about the risks and merits of a proposed undertaking as early in the planning process as possible.
- Identifying concerns that may be posed by a proposed undertaking as they arise throughout the environmental assessment process.
- Suggesting modifications to a proposed undertaking that would address concerns.
- Working with the proponent, other interested persons and government agencies to arrive at mutually agreeable solutions that address concerns as they arise.
- Providing comments by the required deadline once a proponent has submitted a terms of reference or an environmental assessment to the ministry.

### *Aboriginal Communities*

Proponents should discuss their proposal with Aboriginal communities early in the process to determine whether their proposal may have an effect on them. In addition to the activities identified above, where an Aboriginal community participates in the planning of an environmental assessment, Aboriginal communities should:

Nothing in this Code of Practice is intended to alter or detract from any obligation the Crown may have under subsection 35(1) of the *Constitution Act, 1982*.

- Identify an appropriate contact to maintain consistency throughout the planning process.
- Identify any Aboriginal claims or interests potentially affected by the proposal during the development of the terms of reference and environmental assessment (e.g. traditional territory, Aboriginal or treaty rights).
- If an Aboriginal or treaty right has been asserted or potential impact identified, clearly outline the scope and nature of the asserted right(s) and the nature of the alleged infringement.

There are merits and benefits to Aboriginal communities and proponents to engage in consultation in the environmental assessment process.

This Code of Practice was designed to direct proponents and to provide other interested persons with an understanding of consultation and its place within the environmental assessment process.

Those interested in information about Ontario's environmental assessment process should consult the Ministry of the Environment's website or contact the ministry at the address below to obtain process, consultation and mediation guidance.

Ministry of the Environment  
Environmental Approvals Access and Service Integration Branch  
2 St. Clair Avenue West, Floor 12A  
Toronto, Ontario M4V 1L5 Canada

Telephone: 416-314-8001  
Toll Free: 1-800-461-6290  
Fax: 416-314-8452  
E-mail: EAASIBGen@ontario.ca  
Website: [www.ontario.ca/environmentalassessments](http://www.ontario.ca/environmentalassessments)

In addition, the ministry has guidance materials for the following key elements of the environmental assessment process:

- Class environmental assessments
- Climate effects (draft)
- Coordinating federal and provincial environmental assessment requirements
- Electricity projects
- Environmental assessments
- Glossary
- How to make a Part II Order request
- Making a hearing request
- Mediation
- Terms of reference
- Transit projects
- Waste management projects

### Appendix A Environmental Assessment in Ontario

Figure A1: Environmental Assessment Process

Prescribed Deadlines (Ontario Regulation 616/98)

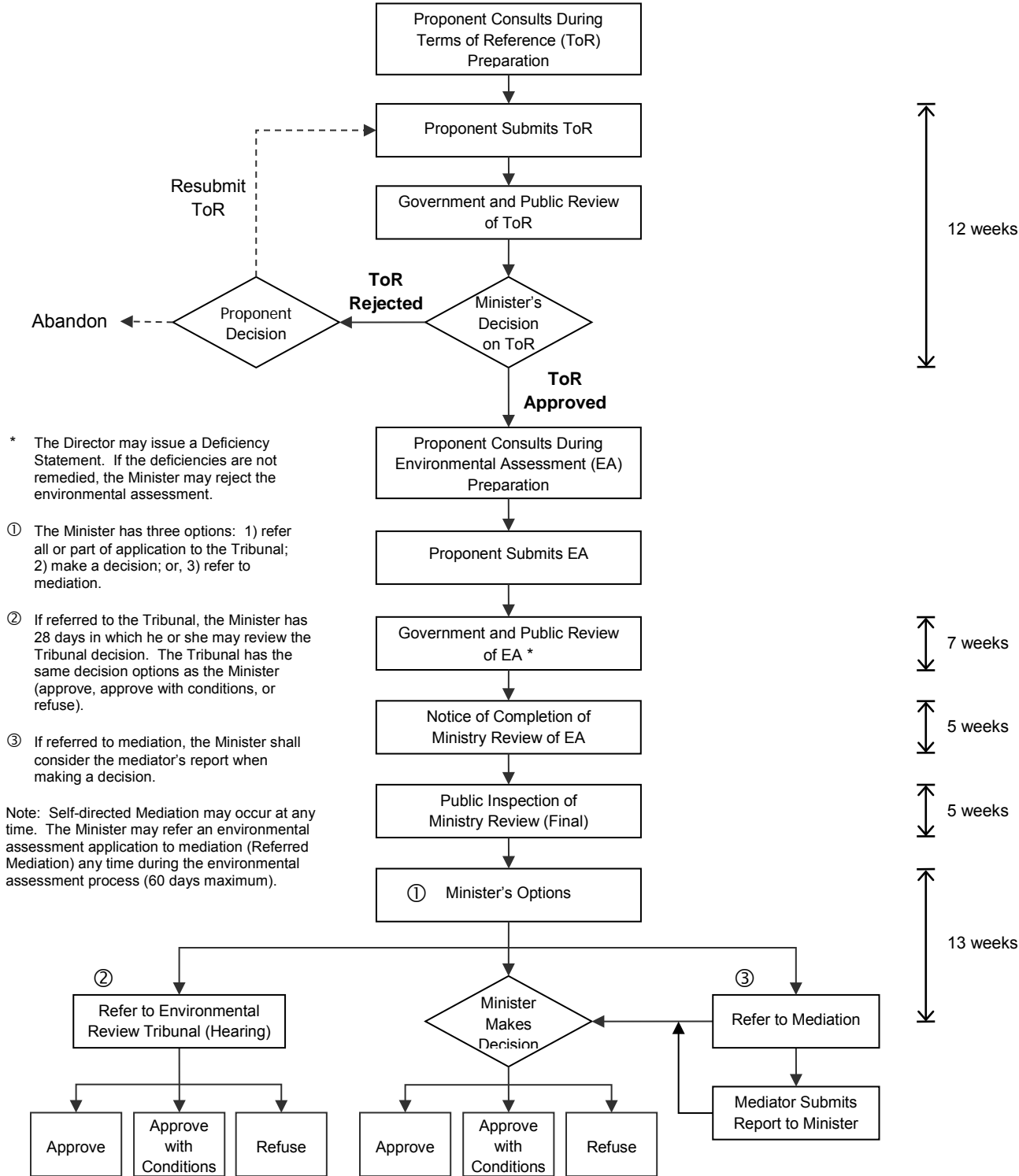
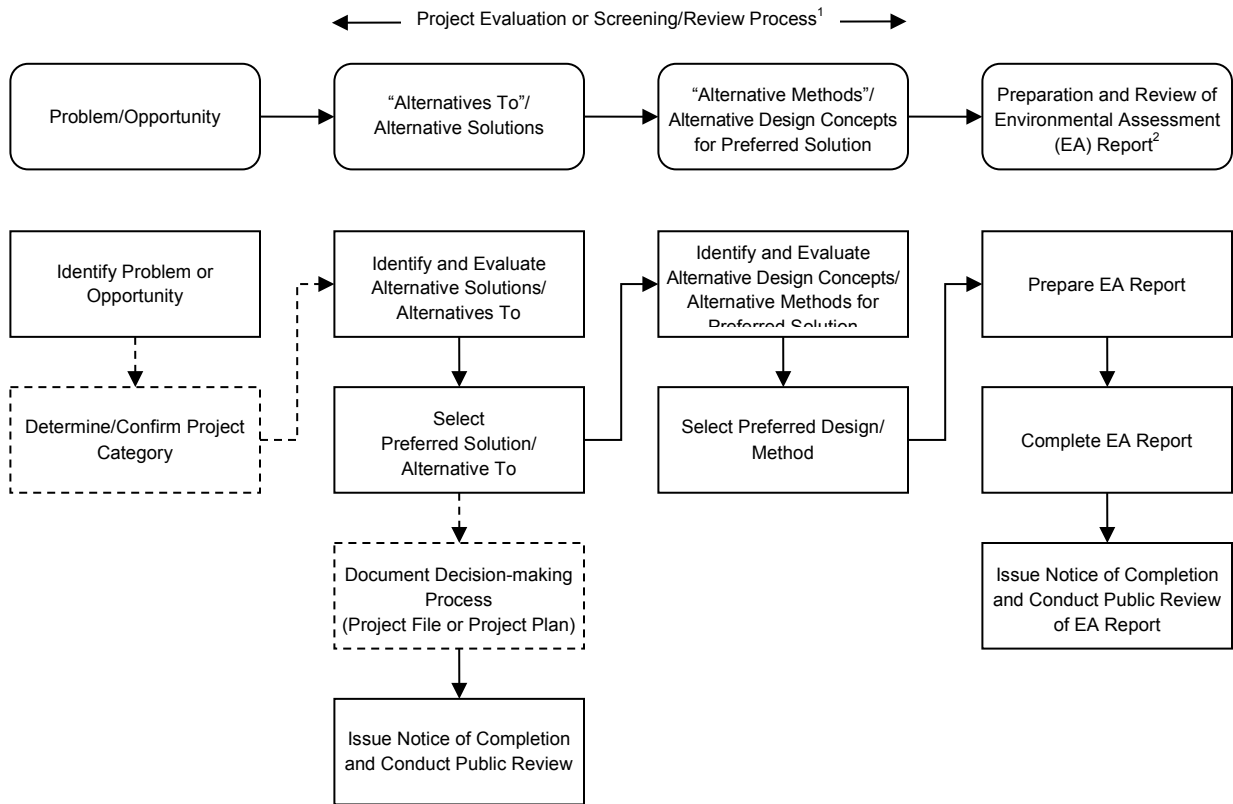


Figure A2: Generic Streamlined Planning Process



Public and agency consultation as per applicable class EA, *Guide to Environmental Assessment Requirements for Electricity Projects* or *Guide to Environmental Assessment Requirements for Waste Management Projects* or *Guide: Ontario's Transit Project Assessment Process*

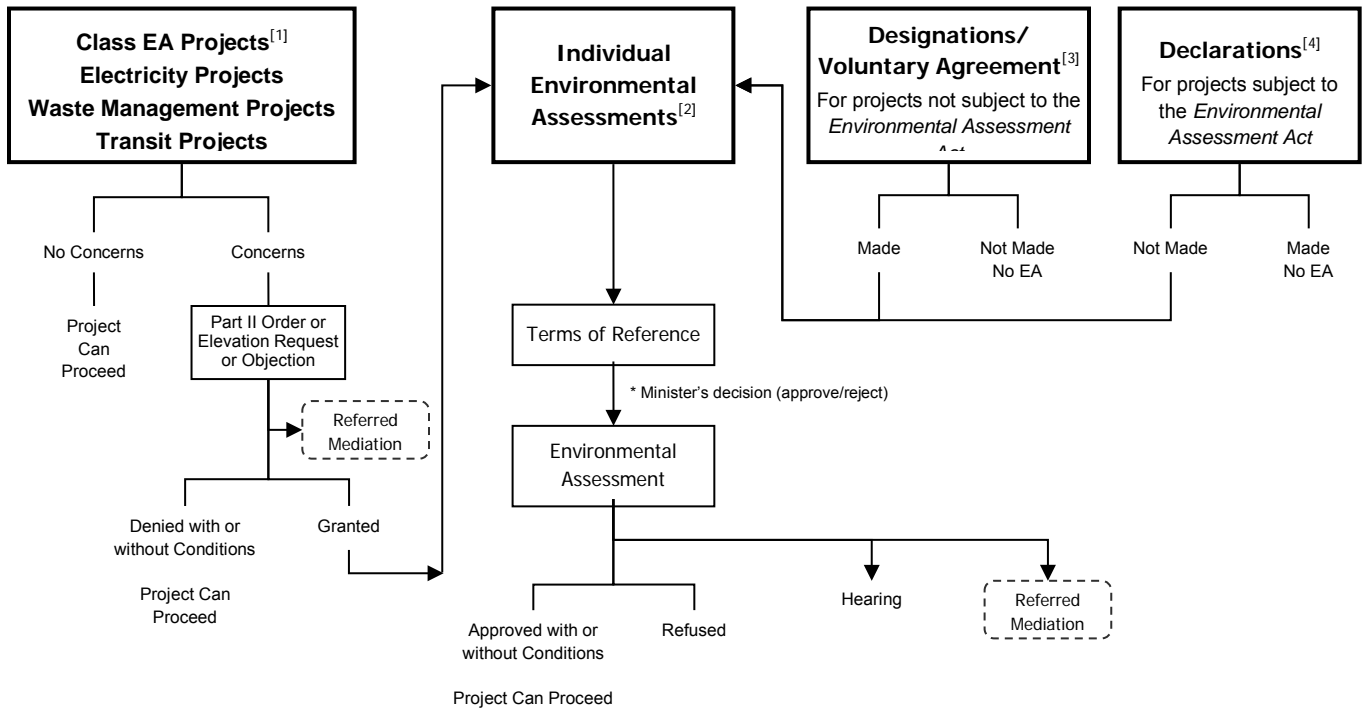
<sup>1</sup> Project evaluation or screening/review process may or may not include a requirement to consider alternatives. For example, under the Electricity Projects Regulation, the Environmental Screening Process for Category B projects does not require an assessment of alternatives.

<sup>2</sup> The term "Environmental Assessment Report" is used to include documents prepared according to the applicable class environmental assessment, the *Guide to Environmental Assessment Requirements for Electricity Projects* or the *Guide to Environmental Assessment Requirements for Waste Management Projects* or the *Guide: Ontario's Transit Project Assessment Process*. Other terms that are used to describe environmental assessment documentation include Environmental Study Reports (for class environmental assessment projects), Screening Reports or Environmental Review Reports (for electricity or waste management projects), Environmental Project Reports (for transit projects).

----- May occur at a different point in the process.

Note: This generic process does not illustrate provisions for Part II Order or elevation requests or objections or mandatory public and agency consultation.

Figure A3: Components of Ontario's Environmental Assessment Program



[1] Class environmental assessment projects are specific projects set out in an approved class environmental assessment.

Electricity projects are specific projects that follow the Environmental Screening Process, as set out in the *Guide to Environmental Assessment Requirements for Electricity Projects*.

Waste management projects are specific projects that follow the Environmental Screening Process, as set out in the *Guide to Environmental Assessment Requirements for Waste Management Projects*.

Transit projects are specific projects that follow the transit project assessment process, as set out in Ontario Regulation 231/08 and the *Guide: Ontario's Transit Project Assessment Process*.

[2] Includes class environmental assessments.

[3] The Lieutenant Governor in Council may designate, by regulation, an undertaking not otherwise subject to the *Environmental Assessment Act* as subject to the provisions of the act.

A proponent may volunteer, through an agreement with the Minister of the Environment, that its proposed undertaking be subject to the *Environmental Assessment Act*.

[4] Declarations are Orders made by the Minister of the Environment and approved by the Lieutenant Governor in Council, that exempt a proponent or undertaking from some or all provisions of the act.



## Appendix B Notification Templates

### Notice of Commencement (Terms of Reference)

#### Notice of Commencement of Terms of Reference <insert Name of Proposed Study, Name of Proponent>

The <name of proponent> has initiated a study under the *Environmental Assessment Act* to <preliminary purpose of study>.

#### The Process

This study will be carried out in accordance with the requirements of the *Environmental Assessment Act*. The first step in the process is the preparation of a terms of reference. The terms of reference will set out the proponent's framework and work plan for addressing the *Environmental Assessment Act* requirements when preparing the environmental assessment, including such things as the alternatives that will be considered and the public consultation activities that will be carried out. If approved by the Minister, the terms of reference will provide the framework and requirements for the preparation of the environmental assessment.

<proponent to insert any more information into the paragraph that it thinks is important>

#### Consultation

Members of the public, agencies, Aboriginal communities and other interested persons are encouraged to actively participate in the planning process by attending consultation opportunities or contacting staff directly with comments or questions. Consultation opportunities are planned throughout the planning process and will be advertised <how – for example, website, newspaper, direct mail out>.

<insert any more information the proponent thinks is important>

For further information on the proposed study please contact:

<insert proponent and/or consultant contact information>

<insert project website address>

All personal information included in a submission – such as name, address, telephone number and property location – is collected, maintained and disclosed by the Ministry of the Environment for the purpose of transparency and consultation. The information is collected under the authority of the *Environmental Assessment Act* or is collected and maintained for the purpose of creating a record that is available to the general public as described in s.37 of the *Freedom of Information and Protection of Privacy Act*. Personal information you submit will become part of a public record that is available to the general public unless you request that your personal information remain confidential. For more information, please contact the Ministry of the Environment's Freedom of Information and Privacy Coordinator at 416-327-1434.

<insert date this notice is published>

## Notice of Commencement (Environmental Assessment)

### Notice of Commencement of Environmental Assessment

<insert Name of Study, Name of Proponent>

The <name of proponent> is beginning an environmental assessment under the *Environmental Assessment Act* to <purpose of study>.

<provide additional pertinent information about the undertaking>

<insert study area map>

#### The Process

In <insert date terms of reference was approved>, the Minister of the Environment approved the terms of reference for the <name of undertaking>. A copy of the approved terms of reference is available at:

<provide website address where the terms of reference may be accessed>

<identify other locations where the approved terms of reference is available, for example, proponent office, libraries>

This study will be carried out according to the approved terms of reference and the requirements of the *Environmental Assessment Act*. Results from this study will be documented in an environmental assessment, which will be submitted to the ministry for a review. At that time, the public, Aboriginal communities and other interested persons will be informed when and where the environmental assessment can be reviewed.

#### Consultation

Members of the public, agencies, Aboriginal communities and other interested persons are encouraged to actively participate in the planning of this undertaking by attending consultation opportunities or contacting staff directly with information, comments or questions. Consultation opportunities are planned throughout the planning process <if known, indicate purpose, number, timing and nature of additional public contacts> and will be advertised <identify how – for example, on a project website, local newspapers, direct mail out>.

<provide additional relevant information for example, timing for an upcoming consultation event; seeking input, information, knowledge about the local community, environmental conditions; alternatives being investigated>

If you would like to be added to our project mailing list or have project-related questions, please contact:

<provide proponent and/or consultant contact information>

<provide project website address>

All personal information included in a submission – such as name, address, telephone number and property location – is collected, maintained and disclosed by the Ministry of the Environment for the purpose of transparency and consultation. The information is collected under the authority of the *Environmental Assessment Act* or is collected and maintained for the purpose of creating a record that is available to the general public as described in s.37 of the *Freedom of Information and Protection of Privacy Act*. Personal information you submit will become part of a public record that is available to the general public unless you request that your personal information remain confidential. For more information, please contact the Ministry of the Environment's Freedom of Information and Privacy Coordinator at 416-327-1434.

<insert date this notice is published>

## Notice of Submission (Terms of Reference)

### Notice of Submission of Terms of Reference <insert Name of Proposed Study, Name of Proponent>

As part of the planning process for the <name of undertaking/problem or opportunity>, a terms of reference was submitted to the Ministry of the Environment for review as required under the *Environmental Assessment Act*. If approved, the terms of reference will serve as a framework for the preparation and review of the environmental assessment for the proposed undertaking.

<briefly describe undertaking or purpose of study>

<insert study area map>

You may inspect the proposed terms of reference during normal business hours at the following locations:

1. Ministry of the Environment  
Environmental Approvals Access and Service Integration Branch  
2 St. Clair Avenue West, Floor 12A  
Toronto, Ontario M4V 1L5  
416-314-8001/1-800-461-6290  
Monday to Friday 8:30 a.m. – 5:00 p.m.
2. Ministry of the Environment regional and/or district office closest to study area
3. Proponent's office
4. Other public viewing locations (for example, municipal offices, libraries)
5. Website address where the terms of reference is posted

Your written comments about the terms of reference must be received before <insert last day in the thirty-day comment period>. All comments should be submitted to:

<name of Project Officer>, Project Officer  
Ministry of the Environment  
Environmental Approvals Branch  
2 St. Clair Avenue West, Floor 12A  
Toronto, Ontario M4V 1L5  
Tel: 416-314-<XXXX>/1-800-461-6290  
Fax: 416-314-8452

A copy of all comments will be forwarded to the proponent for its consideration.

For further information on the proposed study please contact:

<insert proponent and/or consultant contact information>

All personal information included in a submission – such as name, address, telephone number and property location – is collected, maintained and disclosed by the Ministry of the Environment for the purpose of transparency and consultation. The information is collected under the authority of the *Environmental Assessment Act* or is collected and maintained for the purpose of creating a record that is available to the general public as described in s.37 of the *Freedom of Information and Protection of Privacy Act*. Personal information you submit will become part of a public record that is available to the general public unless you request that your personal information remain confidential. For more information, please contact the Project Officer or the Ministry of the Environment's Freedom of Information and Privacy Coordinator at 416-327-1434.

<insert date this notice is published>

## Notice of Submission (Environmental Assessment)

### Notice of Submission of Environmental Assessment <insert Name of Study, Name of Proponent>

The <name of proponent> has completed the environmental assessment for the <name of study>. As required under section 6.2(1) of the *Environmental Assessment Act* and according to the terms of reference approved by the Minister of the Environment on <insert date terms of reference was approved>, the <name of proponent> has submitted its environmental assessment to the Ministry of the Environment for review and approval.

<briefly describe the undertaking, its purpose, and location>

<insert study area map>

As required under the *Environmental Assessment Act*, the environmental assessment will be available for public review and comment from <insert start date of review period> to <insert last day in the seven-week review period>.

You may review the environmental assessment during normal business hours at the following locations:

1. Ministry of the Environment  
Environmental Approvals Access and Service Integration Branch  
2 St. Clair Avenue West, Floor 12A  
Toronto, Ontario M4V 1L5  
416-314-8001/1-800-461-6290  
Monday to Friday 8:30 am – 5:00 pm
2. Ministry of the Environment regional and/or district office closest to study area
3. Proponent's office
4. Other public viewing locations (for example, municipal offices, libraries)
5. Website address where a copy of the environmental assessment can be accessed

Anyone wishing to provide comments on the environmental assessment must submit their comments in writing and/or by fax to the Ministry of the Environment by <insert last day in the seven-week review period>. All comments must be submitted to:

<name of Project Officer>, Project Officer  
Ministry of the Environment  
Environmental Approvals Branch  
2 St. Clair Avenue West, Floor 12A  
Toronto, Ontario M4V 1L5  
Tel: 416-314-XXXX/1-800-461-6290  
Fax: 416-314-8452

A copy of all comments will be forwarded to the proponent for its consideration.

If you have any questions or need further information about this project, please contact:

<insert proponent and/or consultant contact information>

All personal information included in a submission – such as name, address, telephone number and property location – is collected, maintained and disclosed by the Ministry of the Environment for the purpose of transparency and consultation. The information is collected under the authority of the *Environmental Assessment Act* or is collected and maintained for the purpose of creating a record that is available to the general public as described in s.37 of the *Freedom of Information and Protection of Privacy Act*. Personal information you submit will become part of a public record that is available to the general public unless you request that your personal information remain confidential. For more information, please contact the Project Officer or the Ministry of the Environment's Freedom of Information and Privacy Coordinator at 416-327-1434.

<insert date this notice is published>

## **Appendix C Key Government Agencies**

### Local

Single upper and lower tier municipalities (e.g. planning, public works, public health, emergency services departments)

Conservation authorities

Planning boards

School boards

Utilities (e.g. gas, telephone, cable)

Local Architectural Conservation Advisory Committees

### Provincial Ministries and Agencies

Ministry of Aboriginal Affairs

Ministry of Agriculture and Food

Ministry of Community and Social Services

Ministry of Community Safety and Correctional Services

Ministry of Energy

Ministry of the Environment

Ministry of Government Services

Ministry of Health and Long-Term Care

Ministry of Infrastructure

Ministry of Municipal Affairs and Housing

Ministry of Natural Resources

Ministry of Northern Development and Mines

Ministry of Tourism, Culture and Sport

Ministry of Transportation

Infrastructure Ontario

Niagara Escarpment Commission

Ontario Energy Board

GO Transit

### Federal Agencies

Aboriginal Affairs and Northern Development Canada

Canadian Environmental Assessment Agency

Canadian Transportation Agency

Environment Canada

Fisheries and Oceans Canada

Health Canada

Industry Canada  
National Energy Board  
Parks Canada  
Natural Resources Canada  
Public Works and Government Services Canada  
Transport Canada  
Any other potential federal agency requiring permits or approvals

## Appendix D Regional/District/Area Offices of the Ministry of the Environment

The regional/district/area offices are responsible for delivering programs to protect air quality, protect surface and ground water quality and quantity, manage the disposal of wastes, ensure an adequate quality of drinking water and control the use of pesticides.

Below are location and contact information for each region and associated district/area offices (see also [www.ontario.ca/environment](http://www.ontario.ca/environment)).

Contact the appropriate regional office to obtain information and assistance from regional environmental assessment coordinators about class environmental assessment projects and projects that follow an Environmental Screening Process (electricity and waste management projects).

### Central Region

Ministry of the Environment  
Central Region Office  
5775 Yonge St.  
8th Floor

North York ON M2M 4J1  
Toll free: 1-800-810-8048  
Tel: 416-326-6700  
Fax: 416-325-6345

Barrie District Office  
54 Cedar Pointe Dr., Unit 1203  
Barrie ON L4N 5R7  
Toll free: 1-800-890-8511  
Tel: 705-739-6441  
Fax: 705-739-6440

Halton-Peel District Office  
4145 North Service Road, Suite 300  
Burlington ON L7L 6A3  
Toll free: 1-800-335-5906  
Tel: 905-319-3847  
Fax: 905-319-9902

Toronto District Office  
5775 Yonge St., 8th Floor  
North York ON M2M 4J1  
Toll free: 1-800-810-8048  
Tel: 416-326-6700  
Fax: 416-325-6346

York-Durham District Office  
230 Westney Rd. S., 5th Floor  
Ajax ON L1S 7J5  
Toll free: 1-800-376-4547  
Tel: 905-427-5600  
Fax: 905-427-5602

Eastern Region

Ministry of the Environment  
Kingston Regional Office  
1259 Gardiners Road  
Box 22032  
Kingston ON K7M 8S5  
Toll free from area codes  
613/705/905: 1-800-267-  
0974  
Tel: 613-549-4000  
Fax: 613-548-6908

Belleville Area Office  
345 College St. E.  
Belleville ON K8N 5S7  
Toll free from area code 613: 1-800-860-2763  
Tel: 613-962-9208  
Fax: 613-962-6809

Cornwall Area Office  
113 Amelia St.  
Cornwall ON K6H 3P1  
Toll free from area code 613: 1-800-860-2760  
Tel: 613-933-7402  
Fax: 613-933-6402

Kingston District Office  
1259 Gardiners Road  
Box 22032  
Kingston ON K7M 8S5  
Toll free from area codes 613/705/905: 1-800-267-0974  
Tel: 613-549-4000  
Fax: 613-548-6920

Ottawa District Office  
2430 Don Reid Drive  
Ottawa ON K1H 1E1  
Toll free: 1-800-860-2195  
Tel: 613-521-3450  
Fax: 613-521-5437

Peterborough District Office  
300 Water Street, Robinson Place  
Peterborough ON K9J 8M5  
Toll free from area codes 613/705/905: 1-800-558-0595  
Tel: 705-755-4300  
Fax: 705-755-4321



Northern Region

Ministry of the Environment  
Thunder Bay Regional  
Office

435 James St. S.  
Suite 331, 3rd Floor  
Thunder Bay ON P7E 6S7  
Toll free from area codes  
705/807: 1-800-875-7772  
Tel: 807-475-1205  
Fax: 807-475-1754

Kenora Area Office  
808 Robertson St.  
P. O. Box 5150  
Kenora ON P9N 3X9  
Toll free from area code 807: 1-888-367-7622  
Tel: 807-468-2718  
Fax: 807-468-2735

North Bay Area Office  
191 Booth Road, Unit 16 & 17  
North Bay ON P1A 4K3  
Toll free: 1-800-609-5553  
Tel: 705-497-6865  
Fax: 705-497-6866

Sault Ste. Marie Area Office  
289 Bay Street, 3rd Floor  
Sault Ste. Marie ON P6A 1W7  
Tel: 705-942-6354  
Fax 705-942-6327

Sudbury District Office  
199 Larch St., Suite 1201  
Sudbury ON P3E 5P9  
Toll free from area codes 705/807: 1-800-890-8516  
Tel: 705-564-3237  
Fax: 705-564-4180

Thunder Bay District Office  
435 James St. S., Suite 331  
Thunder Bay ON P7E 6S7  
Toll free from area code 705/807: 1-800-875-7772  
Tel: 807-475-1315  
Fax: 807-475-1754

Timmins District Office  
Ontario Government Complex  
Hwy 101 East  
P.O. Bag 3080  
South Porcupine ON P0N 1H0  
Toll free from area codes 705/807: 1-800-380-6615  
Tel: 705-235-1500  
Fax: 705-235-1520

## Southwestern Region

Ministry of the Environment  
London Regional Office  
733 Exeter Road, 2nd Floor  
London ON N6E 1L3  
Toll free from area code  
519: 1-800-265-7672  
Tel: 519-873-5000  
Fax: 519-873-5020

London District Office  
733 Exeter Road  
London ON N6E 1L3  
Toll free from area code 519: 1-800-265-7672  
Tel: 519-873-5000  
Fax: 519-873-5020

Owen Sound District Office  
101 17th Street East, 3rd Floor  
Owen Sound ON N4K 0A5  
Toll free from area code 519: 1-800-265-3783  
Tel: 519-371-2901  
Fax: 519-371-2905

Sarnia District Office  
1094 London Rd.  
Sarnia ON N7S 1P1  
Toll free: 1-800-387-7784  
Tel: 519-336-4030  
Fax: 519-336-4280

Windsor Area Office  
4510 Rhodes Drive, Unit 620  
Windsor ON N8W 5K5  
Toll free: 1-800-387-8826  
Tel: 519-948-1464  
Fax: 519-948-2396

## West Central Region

Ministry of the Environment  
Hamilton Regional Office  
119 King St. W., 12th Floor  
Hamilton ON L8P 4Y7  
Toll free: 1-800-668-4557  
Tel: 905-521-7640  
Fax: 905-521-7820

Guelph District Office  
1 Stone Road W.  
Guelph ON N1G 4Y2  
Toll free: 1-800-265-8658  
Tel: 519-826-4255  
Fax: 519-826-4286

Hamilton District Office  
119 King St. W., 9th Floor  
Hamilton ON L8P 4Y7  
Toll free: 1-800-668-4557  
Tel: 905-521-7650  
Fax: 905-521-7806

Niagara District Office  
301 St. Paul St., 9th Floor  
St. Catharines ON L2R 3M8  
Toll free: 1-800-263-1035  
Tel: 905-704-3900  
Fax: 905-704-4015