

Code of Practice

Preparing and Reviewing Environmental Assessments in Ontario

Legislative Authority:

Environmental Assessment Act, RSO 1990, Chapter E.18

October 2009



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 Assessment and Approvals Branch to find out if there have been any revisions.

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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 Assessment and Approvals Branch at the address listed above.

Ce document est aussi disponible en français.

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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) of the *Environmental Assessment Act*.

Branch

Environmental Assessment and 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”).

Class Environmental Assessment Project

An undertaking that does not require any further approval under the *Environmental Assessment Act* if the planning process set out in the class environmental assessment document is followed and successfully completed. Any interested person may request the Minister or delegate to order that a class environmental assessment project be bumped up to an “individual” environmental assessment by making a Part II Order.

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.

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.

Deadlines Regulation

Refers to Ontario Regulation 616/98, which establishes the timing of reviews and decisions for terms of references and environmental assessments by the ministry.

Director*

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

Do Nothing Alternative

An alternative that is typically included in the evaluation of alternatives that identifies the implications of doing nothing to address the problem or opportunity that has been identified.

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

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

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.

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.

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 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.

Ministry Technical Reviewers

Ministry of the Environment staff, other than the Project Officer, who contribute to the review of the draft and final environmental assessment. They form part of the Government Review Team for the proposal.

Places of Public Record

Official locations where interested persons may review the environmental assessment.

Project Officer

The assigned staff person from the Environmental Assessment and 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 provides guidance on the environmental assessment process to proponents, government agencies and other interested persons.

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

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 record of every undertaking for which there is an application for approval under the *Environmental Assessment Act* which is maintained by the Environmental Assessment and Approvals Branch in accordance with section 30 of the *Environmental Assessment Act* for the purpose of creating a record that is available to any interested persons.

Terms of Reference

The approved 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. The environmental assessment must be prepared in accordance with the approved terms of reference.

Undertaking*

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

* 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.

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 of the Environment (Minister).

An approved terms of reference becomes the framework for the preparation and review of the environmental assessment. The proponent then completes the application by submitting an environmental assessment that has been prepared in accordance with the approved terms of reference. Neither an approved terms of reference nor an environmental assessment prepared in accordance with an approved terms of reference guarantees that the Minister will approve an application to proceed with a proposed undertaking.

The environmental assessment process 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 an undertaking can proceed in the public interest while ensuring that the environment is protected. However, it is the intent of the process that all persons interested in a particular proposal (proponent, public, government agency and others) work together as much as possible to address issues.

1.1 Purpose of This Code of Practice

This Code of Practice outlines the legislative requirements and the Ministry of the Environment's (ministry) expectations for the preparation and review of an environmental assessment. This Code of Practice focuses on the fulfilment of the requirements of the *Environmental Assessment Act*; however, the proponent should be aware of any requirements for obtaining other necessary approvals while preparing the environmental assessment.

This Code of Practice presents an overview of:

- The roles and responsibilities of interested persons in the environmental assessment preparation and review process;
- The mandatory elements of preparing an environmental assessment;
- The ministry's expectations of what proponents will provide in the environmental assessment;
- The steps involved in, and the timelines associated with, the submission and review of the environmental assessment. (See Appendix A for a timelines chart.)

Unless specified otherwise, this Code of Practice does not apply to undertakings that are subject to the provisions set out in a class environmental assessment. A separate Code of Practice has been prepared for class environmental assessments.

The contents of this Code of Practice should be considered in conjunction with any other relevant guidance materials available from the ministry and should be read in its entirety before proceeding. Where the text refers to a requirement of the *Environmental Assessment Act*, the relevant section from the legislation is usually referenced in brackets. While this Code references and discusses the legal framework of the *Environmental Assessment Act*, in case of any conflict or doubt, the wording of the *Environmental Assessment Act* and its regulations shall prevail.

2. Who Should Use This Code of Practice?

This section outlines the roles and responsibilities of the various participants involved in the preparation and review of an environmental assessment. It is important to note that the information outlined herein is not meant to be exhaustive and that other participants' roles and/or responsibilities may apply depending on the nature and complexity of a proposed undertaking.

The participants are:

- Proponents who are responsible for preparing the environmental assessment in accordance with the approved terms of reference and consulting with such persons as may be interested about their proposal;
- Government Review Team members who participate in the preparation and review of the environmental assessment;
- Interested persons who participate in the environmental assessment process by providing comments about the proposal and the environmental assessment;
- Aboriginal peoples and communities who participate in the environmental assessment process by providing comments about the proposal and the environmental assessment;
- The ministry's Environmental Assessment and Approvals Branch (Branch) staff who coordinate the review of the proponent's environmental assessment.

2.1 Proponents

Proponents who initiate undertakings that are subject to the *Environmental Assessment Act* are responsible for preparing the environmental assessment in accordance with the approved terms of reference. Proponents are required to:

- Consult with Branch staff to discuss preparation, consultation and submission requirements;
- Identify government ministries and agencies, municipalities, members of the public, Aboriginal communities, and other persons who may have an interest in their proposal;
- Engage in meaningful consultation with all interested persons to identify and respond to needs and concerns;
- Establish reasonable time frames for feedback and review during the consultation process;
- Ensure that issues and concerns are identified and considered early in the planning process before irreversible decisions are made;
- Document the results of the consultation process;

- Prepare an environmental assessment in consultation with the ministry, other government ministries and agencies, municipalities, and all interested persons, including Aboriginal peoples;
- Prepare and submit an environmental assessment in accordance with applicable ministry legislation and standards (for example, *Environmental Assessment Act* and its regulations, applicable Codes of Practice).

2.2 Government Review Team

Members of the Government Review Team, including ministry technical staff, should be involved from the outset during the preparation of the environmental assessment. They should assist proponents in identifying areas of concern within their mandate. Please refer to Appendix B for a list of the agencies that make up the Government Review Team. Members of the Government Review Team are responsible for:

For more information, please refer to *Role of the Government Review Team in Ontario's Environmental Assessment Process*.

- Providing information and guidance in a timely manner within their mandated areas of responsibility that the proponent should consider when preparing the environmental assessment (for example, legislative requirements, standards, potential evaluation criteria, policies such as the Provincial Policy Statement);
- Providing consistent advice in a timely manner throughout the course of the decision-making process, or providing relevant reasons if their position changes;
- Participating in the government review of the environmental assessment after it is submitted to the ministry by reviewing the document based on the agency's mandate, submitting comments to the ministry by the required deadline, and working with the proponent and the ministry to address any issues.

2.3 Interested Persons

The public and other interested persons are encouraged to participate in the preparation and review of the environmental assessment. Generally, their roles are:

- Identifying local issues and areas of concern and how they may be affected during the preparation of the environmental assessment;
- Suggesting modifications to the proposal or documentation that may address concerns;
- Providing comments within the comment periods once the environmental assessment is submitted to the ministry.

2.4 Aboriginal Peoples and Communities

Where Aboriginal peoples and communities participate in the environmental assessment process, they should:

- Identify for the proponent and the ministry an appropriate contact to maintain consistency throughout the planning process in a timely manner;
- Identify any issues and concerns that may affect the community;
- If applicable, outline their claims with clarity, focusing on the scope and nature of the Aboriginal rights asserted and on the nature of the infringements;
- Suggest modifications to the environmental assessment that may address their concern focusing on matters directly related to the proposal or the planning process;
- Respond to the government's attempts to address their concerns and suggestions, and to try to reach some mutually satisfactory solution during the ministry's review of the environmental assessment;
- Be mindful of prescribed deadlines once the environmental assessment is submitted to the ministry for review and decision.

In addition, the Crown has a duty to consult with and accommodate Aboriginal communities when it has knowledge, real or constructive, of the existence or potential existence of an Aboriginal or treaty right and contemplates conduct that might adversely affect it. Section 4.1 of this Code describes the steps that will help to set the framework to ensure that:

- The proponent complies with section 5.1 of the *Environmental Assessment Act*.
- The Crown's duty to consult, if it arises, is satisfied with respect to the proposed undertaking.
- The environmental assessment reflects the input of, and is responsive to, potentially affected Aboriginal communities.

2.5 Environmental Assessment and Approvals Branch Staff

The Branch is responsible for providing guidance about the environmental assessment process to assist proponents and interested persons in the preparation and review of the environmental assessment. Staff at the Branch also coordinate the review of the final environmental assessment to enable the Minister to make an informed decision about an undertaking. These roles fall to a Project Officer at the Branch. The Project Officer's other roles are to:

- Provide advice and guidance about the requirements of the *Environmental Assessment Act*, and other ministry legislation or procedures;

- Facilitate coordination with other review processes, such as the federal environmental assessment process, in order to minimize unnecessary duplication and inconsistency;
- Evaluate the draft and final environmental assessments to ensure that all legislative requirements and procedures established by the ministry are followed;
- Coordinate the ministry's technical review of the draft environmental assessment;
- Review the proponent's consultation with interested persons, including Aboriginal peoples and communities, that has occurred during the preparation of the environmental assessment;
- Coordinate the review of the environmental assessment when it is submitted to the ministry for a decision;
- Encourage and facilitate the resolution of outstanding issues during the process as necessary;
- Evaluate the final environmental assessment and the incoming comments and provide a recommendation to the Minister to enable the Minister to make an informed decision about the proposed undertaking;
- Ensure the proponent is in compliance with conditions of approval if approval for the undertaking is granted.

3. Considerations for Good Environmental Planning

3.1 Environmental Assessment Principles

There are a number of environmental assessment principles which are key to successful planning and approval under the *Environmental Assessment Act*. These principles form the foundation for the overall guidance of an environmental assessment process and provide direction when challenges present themselves. The proponent should incorporate these principles into its environmental planning process to increase the likelihood that the proposed undertaking will meet the requirements of the *Environmental Assessment Act*. The environmental assessment will be evaluated against these principles, amongst other things. The principles include:

- Consult with potentially affected and other interested persons;
- Consider a reasonable range of alternatives;
- Consider all aspects of the environment;
- Systematically evaluate net environmental effects;
- Provide clear, complete documentation.

3.1.1 Consult with Potentially Affected and Other Interested Persons

Make the planning process a cooperative venture with potentially affected and other interested persons. Early consultation with interested persons is essential.

Consultation with interested persons is a cornerstone of the environmental assessment process and is a legal requirement of the *Environmental Assessment Act*. The proponent should seek to involve all interested persons as early as possible in the planning process so that their concerns can be identified and considered before irreversible decisions and commitments are made on the chosen approach or specific proposals. Proponents should present sufficient and varied opportunities for consultation and interested persons should take advantage of the opportunities and become involved in the planning process. The results of the consultation must be documented at the end of the planning process. Consultation, when done well, can improve the outcome of the planning process. To achieve this, the planning process must be constructed, in part, around the involvement and contribution of potentially affected and other interested persons. The benefits of doing this include:

- Improving the understanding of environmental concerns before the preferred undertaking is selected and focusing the proponent's planning on matters of concern;

- Encouraging the identification and consideration of issues before the environmental assessment is formally submitted to reduce the time required during the formal decision-making process to resolve outstanding issues;
- Promoting mutually acceptable, environmentally sound solutions.

3.1.2 Consider a Reasonable Range of Alternatives

A reasonable range of alternatives must be considered.

During the environmental assessment process, proponents should consider a reasonable range of alternatives. This should include examining “alternatives to” the undertaking which are functionally different ways of approaching and dealing with the defined problem or opportunity, and “alternative methods” of carrying out the proposed undertaking which are different ways of doing the same activity. Depending on the problem or opportunity identified, there may be a limited number of appropriate alternatives to consider. If that is the case then there should be clear rationale for limiting the examination of alternatives. Proponents must also consider the “do nothing” alternative.

3.1.3 Consider All Aspects of the Environment

Identify and consider the potential effects of each alternative on all aspects of the environment.

The *Environmental Assessment Act* broadly defines environment to include the natural, social, economic, cultural and built environments. During the preparation of the environmental assessment, the proponent must consider not only the potential environmental effects on the natural environment, but also the social, economic, cultural and built environments and how they interrelate for every alternative being considered. The level of detail required will vary depending on the significance of the potential environmental effect and the stage in the environmental assessment process; that is, more detail will be needed once a preferred alternative has been selected.

3.1.4 Systematically Evaluate Net Environmental Effects

Effectively evaluate alternatives in light of their advantages and disadvantages developed through a net effects analysis.

Environmental assessment typically includes the evaluation of the alternatives given the advantages and disadvantages of each alternative. During the environmental assessment process, there are distinct points where alternatives are evaluated and the net environmental effects associated with any alternative; that is, the potential environmental effects after impact management measures have been applied, are clearly identified.

Decision-making should be phased, narrowing progressively to a preferred alternative. This results in a process where alternatives will be eliminated from consideration at different points in the planning process. Decisions on what type or combination of alternatives are preferred are generally made earlier in the planning process and more detailed decisions on how to implement the preferred alternative made later.

It must be recognized that the environmental assessment planning and decision-making process is dynamic. When preparing an environmental assessment, the proponent must be sensitive to changing conditions and new information and must provide flexibility in the environmental assessment to deal with changing circumstances. This approach, if carried out effectively, will result in the identification of a preferred alternative which has a rational justification for environmental approval.

3.1.5 Provide Clear, Complete Documentation

The proponent must ensure that the environmental assessment represents accurately the planning and decision-making process that was followed in a clear and understandable way and must communicate that clearly in the environmental assessment document.

The environmental assessment document which is submitted to the ministry for approval should explain clearly the environmental planning and decision-making process followed to reach the conclusion of the preferred alternative and its potential impacts after impact management measures have been determined. Any interested person reading the environmental assessment document should be able to easily follow the process used by the proponent in determining the undertaking including the rationale for making certain choices. Clarity, simplicity, completeness and precision are objectives for which to strive when preparing the environmental assessment document.

Information about how these features can be incorporated in the environmental assessment planning process and the preparation of the environmental assessment document is provided in Section 4 in this Code of Practice.

3.2 Project Management Principles

In addition to the environmental assessment principles outlined above, there are a number of project management principles that can, when followed, assist a proponent in navigating the environmental assessment process successfully for a specific undertaking. These project management principles, when followed by the proponent should result in better submissions to the ministry and timelier decisions. These project management principles include:

- Timeliness
- Clarity and Consistency

- Openness and Transparency
- Coordination of Approvals
- Best Available Information
- Appropriate Level of Detail
- Minimize Potential Harm and Enhance Benefits to the Environment

3.2.1 Timeliness

The proponent should commence its environmental assessment as early in the planning process as possible. This will allow sufficient time to assess the undertaking implications so that the proposed undertaking can be modified as required. It will also allow for any potential coordination with other approvals where possible.

Timeliness is also important from the perspective of consultation. The proponent should involve interested persons early in the environmental assessment planning process in order to identify and consider issues or concerns.

Expectations for a timely process also apply to interested persons. Members of the public participating in the environmental assessment process should make their submissions about proposed undertakings in a timely manner and by the prescribed deadlines so that there is sufficient time for the proponent to evaluate the submission and incorporate it in its decision-making process.

The ministry should also be timely in its decision-making, following prescribed deadlines while taking time to thoroughly evaluate applications for environmental assessments.

3.2.2 Clarity and Consistency

The environmental assessment process should be clear and consistent. The *Environmental Assessment Act* should be applied consistently to similar undertakings and the ministry's expectations of all participants in the process should be articulated clearly. Proponents and interested persons should be able to expect generally how the environmental assessment process will be carried out in similar circumstances in a manner that is rational and transparent.

3.2.3 Openness and Transparency

The environmental assessment process should be open and transparent. This will enable all interested persons to follow the process through its various stages of planning and decision-making until a preferred undertaking is selected. Anyone should be able to trace the results of the environmental assessment planning process using the evaluation approaches set out therein.

Means of achieving transparency can include, but are not limited to:

- Using appropriate, well-established and easily understood evaluation methods;
- Making the process clear, rational and logical;
- Sharing complete information with all interested persons to support conclusions and recommendations at each phase in the process;
- Documenting the process in easy to understand language with explanations of the rationale for making certain choices.

3.2.4 Coordination of Approvals

Often *Environmental Assessment Act* approval is one of many approvals required by a proponent before its undertaking can be implemented. As early as possible in the planning process, proponents should determine whether approvals under other provincial legislation (for example, *Environmental Protection Act*, *Public Lands Act*, *Lakes and Rivers Improvement Act*, *Conservation Authorities Act*) or federal legislation (for example, *Canadian Environmental Assessment Act*, *Canadian Fisheries Act*) are required.

Where an environmental assessment is required by another jurisdiction, to the extent possible, these multiple environmental assessment approvals should be coordinated where appropriate. At minimum, the environmental assessment should identify the other approvals required and address how they will be coordinated where possible. The ministry recognizes the benefits of coordination, but also understands that there are times when differences in approval requirements may make it impossible to coordinate environmental assessment approvals.

3.2.5 Best Available Information

The proponent should provide sufficient information about the potential environmental effects (both positive and negative) of a proposed undertaking in order to demonstrate that the proposed undertaking should proceed. Proponents should prepare technical studies using the best available data; carefully select their assessment and evaluation methods to analyze their proposal; and use sound scientific, engineering and planning practices in the preparation of the environmental assessment. Consultation with the public may assist the proponent in selecting appropriate analytical tools or information to be included in the planning process.

Proponents should be aware that while available and published data can be used in the earlier steps in the environmental assessment planning process, it is expected that there will be a transition to original field work, surveys, etc. for analysis and evaluation in the later stages of the environmental assessment planning process. The level of detail will increase as the process proceeds.

3.2.6 Appropriate Level of Detail

Each environmental assessment is unique. As a result, the level of detail of required information will vary by undertaking or stage in the planning process. The appropriate level of detail depends on a number of factors such as the number of approvals required; the nature and complexity of the proposed undertaking; the potential for environmental effects; and the level of public interest. The level of detail presented in an environmental assessment should be sufficient to fulfil the requirements of the *Environmental Assessment Act* and to assure interested persons that the proposed undertaking is technically feasible and achieves environmental protection.

3.2.7 Minimize Potential Harm and Enhance Benefits to the Environment

The environmental assessment planning process consists of a systematic evaluation of the potential environmental effects of alternatives, and weighing the advantages and disadvantages of proceeding with the proposed undertaking. In doing so, the proponent should attempt to prevent, avoid or minimize adverse environmental effects through the application of impact management measures. At the same time, proponents should consider societal benefits of the undertaking to the environment in their evaluation process.

Proponents should make every effort to avoid or minimize potential adverse environmental effects through the application of impact management measures; however, it may not be possible to manage all of them. There will be times when some individuals may be affected by an undertaking that would benefit society as a whole and this will have to be considered during the environmental assessment planning process.

4. Environmental Assessment Process

The first step in the application for approval to proceed with an undertaking is receiving approval from the Minister for a terms of reference. The approved terms of reference sets out the proponent's work plan for addressing the legislated requirements of the *Environmental Assessment Act* when preparing the environmental assessment.

For more information about the terms of reference process, please refer to ministry's Code of Practice entitled, *Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario*.

Once the proponent receives approval of the terms of reference, it can start preparing the environmental assessment. The environmental assessment must be prepared in accordance with the approved terms of reference (subsection 6.1(1) of the *Environmental Assessment Act*). As the contents of each terms of reference differ, the environmental assessment that is subsequently prepared will also differ for each proposal.

An environmental assessment prepared in accordance with subsection 6.1(3), will be different than one prepared using the generic requirements laid out in subsection 6.1(2). In these instances, as allowed by the legislation, the proponent has set out in detail what its environmental assessment will contain. The information contained therein will be information other than that required by subsection 6.1(2).

Regardless of under which section of the *Environmental Assessment Act* the environmental assessment is prepared, the important point is that the environmental assessment must be prepared in accordance with the approved terms of reference.

On average, proponents take from 12 to 24 months to prepare the environmental assessment. This timeline is dependent on the scale and complexity of the proposal, the availability of information and the level of public interest.

4.1 Initiating the Environmental Assessment Process

To inform interested persons that the proponent is moving on from the terms of reference stage to the environmental assessment stage, the proponent must prepare a Notice of Commencement of Environmental Assessment (Appendix C contains an example template). The Notice will provide information to interested persons about the next steps in the planning process, what is being proposed and how to become involved. The proponent shall make the Notice available in a public forum, such as a newspaper and on the website that is maintained for

the proposal. An electronic copy of the Notice should be sent to the Project Officer.

It is the responsibility of the proponent to consult with interested persons during the preparation of the environmental assessment. The approved terms of reference described a plan for consulting with interested persons ("consultation plan"). The proponent should review that consultation plan at the start of the planning process. Modifications to the consultation plan may be possible if the approved terms of reference allowed for it, otherwise the consultation plan must be implemented as described. More opportunities for consultation over and above what was outlined in the approved terms of reference can also be provided. This determination can be made as the proponent proceeds through the environmental assessment process having regard for the level of interest in the proposal. Please refer to the ministry's Code of Practice entitled, *Consultation in Ontario's Environmental Assessment Process* for further guidance.

At a minimum, and in accordance with the consultation plan, those consulted are those who expressed an interest at the terms of reference stage of being involved at the environmental assessment stage. The Project Officer will give the proponent an updated Government Review Team list to assist in identifying the proper government agency contacts, or additional contacts to be consulted. It is also important to consult any potential municipalities that may be affected by the proposal. It is often the case that council approval may be required for any comments that are provided by a municipality.

The proponent should consult the Canadian Environmental Assessment Agency early in the process to determine if the *Canadian Environmental Assessment Act* applies to its proposal. The Agency will tell the proponent what level of information is required to make that determination. Through the passage of the *Canada-Ontario Agreement on Environmental Assessment Cooperation*, Canada and Ontario have committed to work closely to coordinate their environmental assessment requirements. Please refer to the document entitled, *Federal/Provincial Environmental Assessment Coordination in Ontario: A Guide for Proponents and the Public* if there is the possibility that the federal environmental assessment legislation may apply. If an application under the *Canadian Environmental Assessment Act* is required, the process outlined within the cooperation agreement and coordination guide will be followed.

At the end of the planning process, the proponent is responsible for documenting its consultation activities and the results of them. This documentation will form part of the environmental assessment when it is submitted to the ministry for a decision.

4.1.1 Consultation with Aboriginal Peoples and Communities

Consultation with potentially affected Aboriginal peoples and communities is also required. At the terms of reference stage, the proponent was required to

prepare a list of Aboriginal communities that may potentially be affected by or are interested in the proposed study. The organizations listed on the environmental assessment page of the ministry's website¹, such as the Ministry of Aboriginal Affairs and Indian and Northern Affairs Canada, likely were consulted to identify which Aboriginal communities should be contacted about the proposal.

Consultation with Aboriginal peoples and communities at the environmental assessment stage is intended to allow the proponent to identify and consider potential concerns and issues, and to provide those communities with an opportunity to receive information about and have meaningful input into the development of the environmental assessment. Potentially affected Aboriginal peoples and communities are strongly encouraged to participate during the preparation of the environmental assessment.

Some environmental assessment undertakings have the potential to adversely affect existing and asserted Aboriginal or treaty rights and thereby trigger the Crown's duty to consult under section 35 of the *Constitution Act, 1982*. In such situations, the Crown must determine the level and extent of consultation required and how the consultation should be undertaken. The Crown should assess:

- How the proposed undertaking may affect the existing and asserted rights of Aboriginal peoples and communities;
- The nature and strength of these rights;
- How concerns may be addressed and accommodated.

This assessment may involve consulting with the affected Aboriginal community and the proponent.

Crown Proponents

If the proponent of the proposed undertaking is clearly the Crown (for example, Ministry of Natural Resources, Ministry of Transportation), then the consultation efforts should be led by the Crown proponent. Where there is a potential adverse effect on an Aboriginal or treaty right, as early in the planning process as possible, the Crown proponent should advise the Director of the Environmental Assessment and Approvals Branch of the consultation undertaken with Aboriginal communities. The Director and Crown proponent will discuss what next steps are required.

¹ The environmental assessment page of the ministry's website can be found at www.ene.gov.on.ca/envision/ea/index.htm.

Non-Crown Proponents

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 of the Environmental Assessment and Approvals Branch. The Director will determine what next steps are required.

Proponents can assist the ministry by providing it with correspondence from Indian and Northern Affairs Canada and the Ministry of Aboriginal Affairs, the list of the Aboriginal communities that have been consulted and details of what has transpired to date between the proponent and the Aboriginal community(ies). The ministry will determine whether additional Aboriginal communities should be consulted by the Crown. The Director may request that the proponent seek and provide further particulars of the assertion where appropriate.

All Proponents

When the duty to consult has been engaged, all proponents should realize that:

- The nature, scope, and content of the duty to consult and accommodate varies with the circumstances.
- Meaningful consultation requires the Crown to listen with an open mind to what the Aboriginal communities have to say.
- There may be a requirement to make changes to a proposal based on information obtained through consultations.
- Accommodation requires a process of balancing interests.
- Responsiveness is a key element of both consultation and accommodation.

4.2 Planning Process

After the Notice of Commencement is issued, proponents will conduct studies and consult interested persons as they attempt to find a solution to the problem or opportunity that prompted the planning process. At the end of the process, the preparation and submission of an environmental assessment will be required.

Environmental assessments will differ based on the approved terms of reference and the nature of the proposed undertaking.

As each proposed undertaking is unique, the study requirements and the level of detail expected in the environmental assessment will vary depending on the requirements of the approved terms of reference, and the nature and complexity of the issues associated with the proposed undertaking.

The proponent should consult with the Project Officer as needed (for example, to discuss consultation requirements or the evaluation of alternatives) while proceeding through the planning process. In the end, the planning process will be documented in an environmental assessment. It is the proponent's responsibility to submit an environmental assessment prepared in accordance with the approved terms of reference and with enough detail so that the Minister can make an informed decision about a proposed undertaking.

The rest of this subsection outlines some general elements that make up most environmental assessment planning processes. The elements refer to the generic elements outlined in section 6.1(2) of the *Environmental Assessment Act*. Those proponents who stated in their approved terms of reference that they were proceeding under section 6.1(3) of the *Environmental Assessment Act* should make adjustments as required by the approved terms of reference. The elements that form the generic planning process are:

- Statement of Purpose
- Description of and Rationale for Alternatives
- Description of the Environment
- Assessment and Evaluation
- Identification of the Undertaking

4.2.1 Statement of Purpose

At the beginning of the planning process, the proponent must revisit the problem or opportunity that prompted the planning process. A preliminary description of this purpose statement appeared in the approved terms of reference. As required, in the environmental assessment proponents will build on the purpose statement that was outlined in the approved terms of reference. In getting to the final purpose statement, a proponent may draw on a previous study or event that may have prompted the proponent to proceed with the proposed undertaking. At the end of the planning process, the proponent will provide a detailed definition of the purpose of the undertaking.

4.2.2 Description of and Rationale for Alternatives

The *Environmental Assessment Act* refers to two types of alternatives: alternatives to the undertaking, and alternative methods of carrying out an undertaking. Unless a specific type of alternative is being referred to, any general references to alternatives in this Code of Practice include both alternatives to and alternative methods. In the approved terms of reference, the proponent outlined whether both types of alternatives were to be considered at the environmental assessment stage.

Cases may arise where proponents have previously considered alternatives during a separate planning or decision-making process. If the previous planning

process had similar provisions to those of the *Environmental Assessment Act* then the proponent may have sought and received approval at the terms of reference stage to limit the discussion of previously examined alternatives.

These provisions may include things such as:

- An examination of alternatives;
- Regard for the environment and environmental effects;
- Public consultation with interested persons such as the public and municipalities;
- Ability for the public to inspect the planning document in its entirety;
- Approval by a recognized decision-making body in a transparent manner such as municipal council resolution or provincial government policy decision².

Relevant information previously considered under provincial transportation network plans, transportation or infrastructure Master Plans, Growth Plans under the *Places to Grow Act, 2005*, Official Plans and business plans could also have been used.

There are also times when proposed undertakings result from a provincial government priority initiative. Provincial government priority initiatives include announcements in throne speeches, budget announcements or initiatives in provincial plans. In these cases it may be difficult to examine the usual range of alternatives as the actual undertaking has been defined by the initiative. If this is the case, the project documentation should outline the rationale for not examining alternatives and the extent to which any previous planning supports the provincial government priority initiative.

If a proponent chooses to rely on previous planning work to limit the discussion of alternatives, then the rationale for doing so must be evaluated for its appropriateness, relevance and accuracy as it relates to provincial plans, policies and interests (for example, Provincial Policy Statement, Growth Plans under the *Places to Grow Act, 2005*).

While the option to rely on previous planning work to limit the discussion of alternatives to is available to proponents, it is not mandatory. Proponents may still choose to examine a broader range of alternatives to, if it is more appropriate to do so in the particular circumstances.

At the terms of reference stage, the proponent was encouraged to build flexibility into the document to account for any changes that may arise during the preparation of the environmental assessment. It is therefore possible that flexibility in the approved terms of reference will allow a proponent to add to or

² Approval for a provincial government policy decision could be from an Assistant Deputy Minister, a Deputy Minister or a Minister.

adjust the alternatives that were identified in the approved terms of reference. The need to adjust alternatives may come about because of consultation with interested persons or the receipt of new information. If there is any doubt about whether additions or adjustments can be made, the proponent should discuss the issue with the Project Officer assigned to the file.

In choosing any further alternatives, the proponent should, at a minimum, consider the following:

- Do they provide a viable solution to the problem or opportunity to be addressed?
- Are they proven technologies?
- Are they technically feasible?
- Are they consistent with other relevant planning objectives, policies and decisions (for example, Official Plan, Provincial Policy Statement, Growth Plans under the *Places to Grow Act, 2005*)?
- Are they consistent with provincial government priority initiatives (for example, waste diversion, energy efficiency, source water protection, reducing greenhouse gas emissions)?
- Could they affect any sensitive environmental features (for example, provincially significant wetlands, prime agricultural area, endangered species habitat, floodplains, archaeological resources, built heritage)?
- Are they practical, financially realistic and economically viable?
- Are they within the ability of the proponent to implement?
- Can they be implemented within the defined study area?
- Are they appropriate to the proponent doing the study?
- Are they able to meet the purpose of the *Environmental Assessment Act*?

In defining alternatives, the do nothing alternative should always be considered. The do nothing alternative represents what is expected to happen if none of the alternatives being considered are carried out. It is a benchmark against which the consequences of the alternatives can be measured in order to determine, amongst other things, the extent to which other alternatives address the problem or opportunity. The do nothing alternative can also highlight the advantages of proceeding with a particular undertaking.

If both types of alternatives are being considered at the environmental assessment stage, it is not expected that they are identified at the same time. First, the "alternatives to" would be identified. After a systematic evaluation of the alternatives to, one or more may be chosen to be carried forward into the alternatives methods analysis. At that time, the alternative methods would be identified.

In the environmental assessment, the proponent will describe the alternatives (both types, if required) that were considered and the rationale for choosing

those alternatives, in accordance with provisions outlined in the approved terms of reference.

4.2.3 Description of the Environment

The *Environmental Assessment Act* requires a description of the environment that may be affected or reasonably expected to be affected, directly or indirectly, by the alternatives and the undertaking.

In the approved terms of reference, a study area was defined. If the study area defined in the approved terms of reference was preliminary, the proponent will finalize its boundaries before describing the environment.

The proponent will conduct studies/research to provide a final description of the environment within the study area, building upon the description given in the approved terms of reference. The description in the environmental assessment will be more detailed than that provided in the approved terms of reference. The detailed description of the environment must address all components of the environment (natural, social, economic, cultural, built) as it is defined in the *Environmental Assessment Act*. There may be instances where different components of the environment may overlap. The study area for each alternative, or for each component of the environment, may vary depending on the alternatives and the geographic extent of the potential environmental effects. It is important to clearly describe how and why the boundaries of the overall study area and the study area for each alternative and/or effect were chosen. A clear map of the study area(s), suitable for reproduction, is required for the environmental assessment. More than one map may be provided to give readers a good understanding of the different components of the study area.

The environmental assessment is also to include a list and explanation of the tools (for example, studies, tests, surveys, mapping) used to provide the description of the environment.

4.2.4 Assessment and Evaluation

In order to determine the undertaking for which approval will be sought, the proponent must carry out a systematic evaluation of the alternatives. The table below generally outlines the steps in an evaluation process. In this situation, both types of alternatives are examined. The example given is for illustrative purposes only and proponents are expected to develop a process that is suited to their particular study.

Simplified Generic Assessment and Evaluation Process

1. Identify alternatives to.
2. Collect data (criteria/indicators/data sources).
3. Evaluate alternatives to (potential effects, impact management, net effects, advantages/disadvantages).
4. Identify preferred alternative to (one or more could be selected).
5. Identify alternative methods for the preferred alternative to.
6. Collect data (criteria/indicators/data sources).
7. Evaluate alternative methods (potential effects, impact management, net effects, advantages/disadvantages).
8. Identify preferred alternative method (one or more could be selected).
9. Describe the proposed undertaking.

In the environmental assessment, the proponent must outline the process it used to arrive at the undertaking.

Criteria, Indicators and Methodology

The proponent may have developed criteria to assess the effects of the alternatives and the undertaking on the environment at the terms of reference stage. Alternately, the manner in which criteria were to be developed during the environmental assessment stage may have been outlined in the approved terms of reference.

The environmental assessment must present the final list of criteria. The criteria should be linked to each component of the environment (such as criteria for the natural, social, economic and cultural environments) as a description of the effects of each of the alternatives and the undertaking on the environment is required. The environments may overlap depending on the criteria being used. As required, each criterion will then be followed by indicators that will identify how the potential environmental effects will be measured for each criterion. There is no minimum number of criteria or indicators, as that is dependent on the scale of the proposal and the environment potentially affected.

The criteria developed for the evaluation of alternatives to may be more general than the criteria developed for alternative methods. The criteria tend to get more specific as a proponent moves from the alternatives to evaluation to the alternative methods evaluation. Also, the level of detail at which alternatives are evaluated will normally increase as the proponent proceeds through the planning process. As more information is acquired about the potential environmental effects and the areas of concern to interested persons, it may result in criteria that are more detailed or produce changes in criteria.

Examples of Criteria, Indicators and Data Sources			
Environment	Criterion	Indicator	Potential Data Sources
Natural	Effect on surface water quality	Number of watercourses in study area	Ministries of the Environment and Natural Resources; local Conservation Authority
Social	Effect on local residences	Number of residences displaced	Property owners; ratepayer groups
Economic	Effect on local businesses	Number of businesses disrupted and/or displaced	Business and property owners; municipal agencies; ratepayer groups
Cultural	Effect on built heritage resources and cultural landscapes	Potential presence of cultural heritage resources in or adjacent to the study area	Municipal registers of properties of cultural heritage value; heritage non-governmental organizations; municipal heritage committees
Built	Effect on sensitive land uses	Number of sensitive land uses within the study area	Review of Official Plans, zoning by-laws and other local plans; municipal/regional officials

Assuming that the proponent had built flexibility into its approved terms of reference, it may be possible to make changes to the criteria or indicators from that in the approved terms of reference. If flexibility was built into the process, in the environmental assessment the proponent will provide justification for any change to the criteria or indicators outlined in the approved terms of reference. The reasons for selecting the criteria and indicators should be clearly explained. This will help all interested persons understand the judgments that were made and allow them to participate more effectively in the process. An outline of the data sources for the criteria and indicators is also required in the environmental assessment. The table above gives examples of potential criteria, indicators and data sources for the different environments.

After identifying criteria and indicators, a method of evaluating the alternatives is required. The approved terms of reference may have identified the evaluation method(s) that is to be used at the environmental assessment stage. Alternatively, the proponent may have elected to determine the evaluation method at the environmental assessment stage in consultation with interested persons.

The *Environmental Assessment Act* does not require a specific method or methods for assessing the potential environmental effects, impact management measures, net effects, and advantages/disadvantages of the alternatives and the

undertaking on the environment. It is possible that a different evaluation method may be used for the evaluation of alternatives to than for alternative methods.

The evaluation method(s) chosen must be able to produce an assessment that is clear, logical and traceable. A clear, logical and traceable assessment is one in which anyone with the same information could reach the same conclusion without any additional assumptions. The method(s) selected should clearly identify the relative differences and key impacts to make the trade-offs involved in selecting the undertaking clear.

The environmental assessment must clearly describe the chosen evaluation methods(s).

Description of Environmental Effects

Once environmental criteria and methods for predicting environmental effects are established, a proponent collects information about the effects to the environment of the alternatives. In evaluating the alternatives and the undertaking, their potential effects on the environment must be identified and described. The proponent will determine all potential positive and negative, and direct and indirect effects of each alternative and the undertaking on the environment and identify these in the environmental assessment. The identification of positive and negative, and direct and indirect environmental effects is necessary to provide a balanced picture of the potential environmental effects.

Where the environmental effects are uncertain, proponents should explain why and fully explain the factors that cause the problem and how it has been addressed in the evaluation. For example, a proponent may not be able to precisely predict an effect because a new process or technology is being proposed. In this case, the proponent should discuss why the effect may vary, identify the expected range of effects, and the level of certainty of these predictions.

The proponent should concentrate on information that is likely to be of key significance keeping in mind that sufficient information to allow the net environmental effects to be described is required. Where it has been determined that one or more components of the environment will not be affected, this conclusion as well as the way in which it was reached, must be documented.

Impact Management

Ultimately, proponents should aim to minimize, prevent or avoid negative environmental effects. A proponent should also aim to enhance any positive environmental effects associated with the alternatives and the undertaking. The steps taken to do these will be discussed in the environmental assessment.

The *Environmental Assessment Act* requires a proponent to describe the actions or potential actions that may be necessary to “prevent, change, mitigate or remedy” the effects or the potential effects to the environment of the alternatives and the undertaking (subsection 6.1(2)(c)(iii) of the *Environmental Assessment Act*). These impact management measures are mainly required for effects which are negative or anticipated to have a negative effect either directly or indirectly on the environment. The impact management measures that will be used to reduce the negative environmental effects must be provided in the environmental assessment. These measures may be either physical (for example, replacing trees which may have to be removed) or non-physical (entering into an agreement with an affected person). The effects remaining after the application of impact management measures are considered the net effects. These net effects must be described in the environmental assessment.

While it is easy to focus on the negative effects of a proposal, proponents should not forget that effects can also be positive. Attempts should also be made to enhance positive effects, not just minimize negative ones. Prevention and avoidance of environmental effects should also be considered.

Impact management measures can be determined in a variety of ways depending on the stage in the planning process and the significance of the expected environmental effect. For example, in the early stage of the planning process or where the effect is common for all the alternatives, general types of impact management measures can be considered. In later stages of the planning process, the measures to be employed should be more specific.

Where measures are either unnecessary because of the nature of the effect or are not reasonably available, the proponent must discuss how and why this was determined. Where a variety of impact management measures are available, the relative merits of each should be considered through consideration of their cost and effectiveness including any environmental effects to which they may themselves give rise.

Advantages and Disadvantages

The environmental assessment should describe the process for evaluating alternatives and then choosing a preferred alternative, which will become the undertaking for which approval is sought. The evaluation process is a trade-off process in which the advantages and disadvantages to the environment of the alternative courses of action are weighed in terms of their effects, both positive and negative, on the environment. This follows from the determination of net effects.

The *Environmental Assessment Act* does not differentiate between the importance of the different environments (that is, natural, social, economic, cultural, built). It is expected that the effects to one environment may be greater than the effects to another. There may be a need to weight the importance of the different environments. To ensure traceability, this must be

done before any evaluation takes place and in consultation with any interested persons.

One alternative is rarely preferred to all others in every respect. Relative advantages in one area may be offset by relative disadvantages in another. A consistent basis for trade-offs is therefore important so that a solid case is made for the selection of the preferred alternative. Generally speaking, the alternative that has the preferred balance of advantages and disadvantages then becomes the undertaking. The proponent will have to determine and clearly articulate the rationale for choosing the preferred alternative, taking into account the relative advantages and disadvantages.

4.2.5 Identification of the Undertaking

The undertaking is the preferred alternative selected by the proponent, after a systematic evaluation and in consultation with interested persons, as the solution to the problem or opportunity that was earlier determined.

The proponent must thoroughly describe and provide the rationale for the undertaking for which approval will be sought. The preliminary rationale for the undertaking should have been provided in the approved terms of reference but with the selection of the preferred undertaking in the environmental assessment, a more detailed rationale for the preferred undertaking should be provided.

Where the rationale for the undertaking has already been determined through other planning processes outside of the environmental assessment process, or is the result of a provincial government priority initiative, and is provided for in the terms of reference, it is sufficient to briefly indicate this in the environmental assessment. Examples of processes or initiatives include, but are not limited to, Growth Plans under the *Places to Grow Act, 2005*, provincial transportation network plans, transportation or infrastructure Master Plans, provincial government priority initiatives, or Official Plans which have been approved under the *Planning Act*, for which there was public consultation. A brief description of the process or initiative from which the undertaking arises should be provided including information about any associated consultation and any approvals.

If the proposed undertaking is the result of previous planning processes or provincial government priority initiatives, then proponents, during the environmental assessment, can rely on the previous planning process or provincial government priority initiative for the rationale for the proposed undertaking without having to justify their choices again.

The description of the undertaking is more detailed than the description of the alternatives. It is appropriate that the proponent have some flexibility in how it proceeds with the undertaking, especially considering that further technical approvals may be required. However, limits on the flexibility must be included in the description of the undertaking. The description must cover the entire life

cycle (for example, establishment, construction, operation, retirement) of the undertaking. The environmental assessment must provide sufficient information so that the Minister can have a clear understanding about the undertaking about which he or she will be asked to make a decision.

In accordance with Regulation 334 - General, made under the *Environmental Assessment Act*, where the environmental assessment is for an undertaking with a fixed location, at least two unbound well marked and legible maps (215 x 280 millimetres or 8.5 x 11 inches in size) showing the location of the undertaking and the area to be affected by it is required.

After receiving approval to proceed with an undertaking, there may be times when a proponent would like to modify the undertaking. This could occur because the environmental setting has changed since the undertaking was approved or there is a new technology of which a proponent would like to take advantage. In accordance with the *Environmental Assessment Act*, a change to an undertaking after it is approved is considered a new undertaking including an amendment procedure in the environmental assessment may allow a proponent to make minor modifications to the approved undertaking without having to fulfil the requirements of the *Environmental Assessment Act* all over again. Before developing an amendment procedure, the proponent should discuss its merits and requirements with the Project Officer.

While the input from interested persons is to be considered in the determination of the undertaking, it is up to the proponent to decide for what it will seek approval. To that end, it is important that the rationale for the undertaking be clearly articulated in the environmental assessment. The proponent must remember that if approval for the undertaking is given, it must be implemented as described in the environmental assessment.

4.3 Documentation Requirements

The planning process that has just been completed must be documented in its entirety in the environmental assessment.

The environmental assessment must be clearly written. Use of jargon should be limited. The document needs to contain sufficient information to ensure that the expert and the lay reader can understand the planning process that was followed. The environmental assessment may consist of several volumes, with the first being the main document which lays out the results of the planning process, followed by technical appendices. If a multiple volume document is prepared, the main document should be sufficiently detailed so that it can stand on its own and provide a complete picture of the planning process and its conclusions. For file retention purposes, it is the ministry's preference that the environmental assessment be printed double-sided on paper that is 215 x 280 millimetres (8.5 x 11 inches) in size and bound securely.

In addition to documenting the planning process, the environmental assessment should also include the following elements:

- Executive Summary
- List of Studies and Reports
- Terms of Reference Requirements
- Identification of the Proponent
- Commitments and Monitoring
- Other Approvals
- Consultation Summary
- Appendices

4.3.1 Executive Summary

In accordance with Regulation 334, all environmental assessments must contain a brief summary of the main points of the document. It should be consistent with the way in which the environmental assessment is organized. Section headings that appear in the main document should appear in the executive summary followed by a summary of that section and the conclusions reached.

4.3.2 List of Studies and Reports

In accordance with Regulation 334, the environmental assessment must contain:

- A list of studies and reports which are under the control of the proponent and which were done in connection with the undertaking or matters related to the undertaking.
- A list of studies and reports done in connection with the undertaking or matters related to the undertaking of which the proponent is aware and that are not under the control of the proponent.

4.3.3 Terms of Reference Requirements

All proponents are required to present in the environmental assessment a tabular summary of the requirements of the approved terms of reference and where in the environmental assessment they are discussed. As the environmental assessment must be prepared in accordance with the approved terms of reference, this table will highlight succinctly how that has been done.

4.3.4 Identification of the Proponent

All environmental assessments are to include a clear statement identifying the proponent. If there is more than one proponent, the relationship between them and how they have worked together, including their responsibilities, throughout the environmental assessment process should be explained. How they will work

together if *Environmental Assessment Act* approval is given should also be explained. If approval to proceed with the undertaking is given, it will be the proponent who is legally responsible for carrying out the undertaking as approved.

4.3.5 Commitments and Monitoring

As part of a compliance strategy, the environmental assessment is required to include a monitoring framework that will be carried out if the undertaking is approved by the Minister. Monitoring can be used to verify the expected environmental effects of the undertaking and to determine if any additional impact management measures, or adjustments to any measures, are required.

The monitoring framework should consider all phases of the proposed undertaking (for example, planning, detailed design, tendering, construction, operation, closure, decommissioning). This framework must include compliance monitoring, and where appropriate, effects monitoring.

Compliance monitoring is an assessment of whether an undertaking has been constructed, implemented and/or operated in accordance with the commitments made in the environmental assessment and the conditions of the *Environmental Assessment Act* approval.

The environmental assessment must provide a plan that sets out how and when all commitments, including impact management measures, made in the document and any conditions of approval will be fulfilled and how the proponent will report to the ministry about compliance. This information should be summarized in a single table, with columns for a brief description of all commitments, where in the document the commitment is mentioned and when each commitment will be fulfilled. The information regarding conditions of approval cannot be included as a decision has not yet been made. If approval is granted and conditions imposed, a similar approach to documenting those conditions would be taken as with documenting commitments.

Effects monitoring consists of activities carried out by the proponent after approval to determine the environmental effects of the undertaking. Whether this would be required is determined on a case-by-case basis.

Proponents shall retain either on-site or in another location specified in the environmental assessment, the results of the compliance self assessment, including the detailed monitoring data. The proponent shall make the documentation available to the ministry upon request in a timely manner when required by the ministry during an on-site inspection, audit, response to a pollution incident report, or when information concerning compliance is requested by the ministry.

4.3.6 Other Approvals

The environmental assessment should include an outline of what other approvals will be required for the undertaking, and for what component of the undertaking.

If approval is required under several pieces of legislation administered by the ministry, proponents are encouraged to submit documentation that would, as much as possible, fulfil the requirements of all the applicable legislation (for example, a joint *Environmental Assessment Act*, *Environmental Protection Act* and *Ontario Water Resources Act* submission for large landfill applications). Proponents should discuss with the Project Officer the benefits of doing this, such as the potential reduction in time needed to acquire any other approval. Proponents should be aware that approval under the *Environmental Assessment Act* comes first and that approval under one piece of legislation does not guarantee approval under another.

Proponents should consult other applicable government agencies to explore what opportunities may exist to coordinate documentation requirements for other required approvals.

4.3.7 Consultation Summary

Consultation with interested persons is a key component of the environmental assessment process. A plan for consulting with interested persons during the preparation of the environmental assessment was included in the approved terms of reference. The proponent was required to carry out that consultation plan, subject to any necessary refinements, while preparing the environmental assessment, and report its results in the environmental assessment.

The consultation summary will:

- Describe the consultation activities that took place (methods, schedule of events, notification that was given about the activity and materials used);
- Identify all persons consulted during the preparation of the environmental assessment (personal names not required) and how they were notified;
- Describe how interested Aboriginal communities were identified and how they were consulted;
- Clearly and accurately summarize the comments and concerns raised during the consultation activities and during the preparation of the environmental assessment;
- Describe the proponent's response to comments and how concerns were considered in the preparation of the environmental assessment;
- Describe any outstanding concerns;
- Include minutes from any meetings held with interested persons;
- Include copies of written comments received from interested persons.

The proponent must provide a comprehensive description of the consultation activities that took place during the preparation of the environmental assessment. A narrative description of the different activities, rather than just a listing of them, is required.

The summary of any comments received and the proponent's responses should be presented in a table. As appropriate, included in the table should be an indication of where in the environmental assessment the concern is addressed. The proponent can decide in what order the information is presented, however, for comments from the general public, arranging the comments by type (for example, put all air quality comments together) would be appropriate. For the Government Review Team and Aboriginal communities, the comments should be organized by agency and community rather than by issue.

If appropriate, the environmental assessment may also include a plan for ongoing consultation during construction, operation and/or decommissioning/closure, should approval to proceed with the undertaking be given.

4.3.8 Appendices

A copy of the approved terms of reference should appear in an appendix. In the appendix, the proponent can also place detailed technical studies, such as a social impact assessment or groundwater study. The appendices are meant to support the information provided in the environmental assessment. As such, in the environmental assessment it is important to refer the reader to the corresponding studies in the appendix for further justification to support the claims in the environmental assessment.

4.4 Draft Environmental Assessment

There is no legal requirement in the *Environmental Assessment Act* to prepare and allow review of a draft environmental assessment, but the ministry strongly encourages a proponent to do so. If in the approved terms of reference a commitment was made to provide a draft environmental assessment for review, then the proponent is legally required to do so. The rest of this section only applies if the proponent has decided to produce a draft document for review.

If a draft is prepared, the Project Officer will lead the ministry's review of the draft environmental assessment. The

Though strongly encouraged, producing a draft environmental assessment is not a legislative requirement. The proponent, taking into consideration the nature, scale and potential interest in the proposal, should determine if a draft document will be prepared and how much time is given to inspect the draft document if one is prepared.

proponent will be responsible for consulting the Government Review Team, Aboriginal peoples and communities, local municipalities, the general public and other interested persons.

The proponent is responsible for identifying and resolving (or attempting to resolve) any issues raised before the final environmental assessment is submitted. As required, the proponent will revise the draft environmental assessment to address any issues that were raised during its review before submitting the final document to the ministry. The consultation summary component of the final document will reflect the results of the review of the draft environmental assessment.

Review of Draft Environmental Assessment by Ministry Staff

Once a copy of the draft environmental assessment is received, the Project Officer will quickly review it to ensure that it is complete and meets the requirements outlined in the approved terms of reference and this Code of Practice before requesting sufficient copies for distribution to the ministry's technical review team. The Project Officer may suggest changes or request that additional work be done before the draft environmental assessment is sent for review by the ministry technical reviewers. The Project Officer will let the proponent know how much time is required for the ministry to conduct a proper review of the draft environmental assessment. Once the ministry technical reviewers complete their review, they will send their comments to the Project Officer who will then pass them on to the proponent.

Non-ministry Review of Draft Environmental Assessment

The proponent is responsible for consulting non-ministry persons about the draft environmental assessment. This includes the Government Review Team, Aboriginal communities, local municipalities, the general public and other interested persons.

Government reviewers are not obligated to review a draft environmental assessment and will not necessarily respond to an unexpected request to review it by a particular deadline. Proponents should contact (phone, e-mail) each prospective reviewer to discuss the conditions under which a review can be conducted before sending them the draft environmental assessment for review. The proponent should discuss with the reviewer the reasons for requesting a review, what information is needed to do a proper review, and the amount of time that will be needed for the review. As required, a copy of the draft environmental assessment and any other relevant materials should be sent to each interested member of the Government Review Team for their review.

The proponent will send the draft environmental assessment and any other relevant materials to any interested Aboriginal community for its information and comment. Contact should be made with each interested community before the draft document is sent. A process similar to that used for the Government

Review Team should be followed, unless discussions with a particular community have determined otherwise.

The proponent will also make sufficient copies of the draft environmental assessment available in publicly accessible locations to allow local municipalities, the general public and other interested persons the opportunity to comment on the document which will then provide the proponent with an early opportunity to respond to any concerns. A copy of the draft environmental assessment and accompanying materials is also to be placed on the project website maintained by the proponent.

It is important that notice of the availability of the draft environmental assessment be given in an accessible forum (for example, newspaper notice, website, direct mail). A minimum of five weeks should be provided for inspection of the draft document. For large-scale undertakings or ones where there is great interest, it is the ministry's expectation that the proponent provide more than five weeks for inspection of the draft environmental assessment. The nature, scale and potential interest in the proposal should be considered in the proponent's determination about the length of the review period.

All comments about the draft environmental assessment are to be sent directly to the proponent with a copy sent to the Project Officer for information only. Comments sent only to the Project Officer or anyone else in the ministry will be forwarded to the proponent for its consideration.

5. Submission of the Environmental Assessment

5.1 Preparing for Submission

Once the proponent determines that the environmental assessment is suitable for submission to the Minister of the Environment for a decision, it should discuss submission requirements with the Project Officer.

The proponent must notify the Project Officer at least three weeks before it intends to formally submit its environmental assessment so that a firm submission date and start date of the formal review period can be established. The Project Officer will ask the proponent to prepare an Environmental Assessment Summary Form and a Notice of Submission. Please see Appendix C for a copy of the Summary Form, and a suggested template for the Notice of Submission. The Summary Form is also found electronically on the environmental assessment page of the ministry's website³.

Preparing for Submission

1. Discuss with Project Officer potential submission dates.
2. Complete Environmental Assessment Summary Form.
3. Prepare Notice of Submission.
4. Arrange for publication of Notice of Submission in local newspaper or other suitable forum.
5. Review and if required, update the Government Review Team list.
6. Prepare required number of copies of the environmental assessment.

The final Environmental Assessment Summary Form must be submitted to the Project Officer (hard and electronic copies) at least two weeks before the start of the review period of the environmental assessment. The Environmental Assessment Summary Form provides information about the proponent and its proposed undertaking. The Project Officer uses the information from this form to create a posting that is placed on the environmental assessment page of the ministry's website.

Section 6.3 of the *Environmental Assessment Act* requires that the proponent give notice about the submission of the environmental assessment to the public and the clerk of each municipality in which the proposed undertaking is to be carried out. In accordance with the Deadlines Regulation (Ontario Regulation 616/98), the notice must be issued no later than two weeks following the submission of the environmental assessment to the ministry. To meet these requirements, the Project Officer will ask the proponent to prepare a Notice of Submission for his or her review at least two weeks prior to the formal submission date of the environmental assessment. The Notice of Submission shall include a brief description of the undertaking, a location map, places where

³ The environmental assessment page of the ministry's website can be found at www.ene.gov.on.ca/envision/ea/index.htm.

the environmental assessment can be viewed, and by when and to whom comments about the environmental assessment can be made. Generally, the environmental assessment is available for viewing at the Branch, the local ministry office, municipal offices, public libraries and on the proponent's project website. The comment period for the environmental assessment is seven weeks and comments are to be made directly to the Project Officer.

5.2 Submission of the Environmental Assessment

The proponent shall ensure that a sufficient number of copies of the environmental assessment, in hard copy, is received by the Project Officer at least one week before the start of the formal review period. An electronic version (on compact disc) of the environmental assessment should also be submitted. A cover letter addressed to the Director of the Environmental Assessment and Approvals Branch (attention Project Officer) stating that the environmental assessment is being formally submitted must be sent with the environmental assessment.

The proponent must ensure that the members of the Government Review Team and the public viewing locations as outlined in the Notice of Submission receive the environmental assessment before the start of the formal review period. A copy of the Notice of Submission should be placed with the environmental assessment at the public viewing locations so it will be clear when, where and to whom comments are to be sent.

Where possible, the Notice of Submission will be posted in a local newspaper in the study area. If there has been significant public interest in the proposal, the proponent may be directed by the Project Officer to post the Notice in a newspaper more than once, or to directly notify all persons who have expressed an interest in the process thus far. If the study area is large, then postings in multiple newspapers may be necessary. Where it is not possible to post the Notice in a newspaper, the proponent should discuss with the Project Officer alternate posting arrangements. The clerk of each municipality in which the proposed undertaking is to be carried out must receive a copy of the Notice. The proponent will also post the Notice and the environmental assessment on the

Proponent's Submission Tasks

At least one week prior to start of formal review period:

≈ Ensure environmental assessment and cover letter arrives at ministry.

Just before start of formal review period:

≈ Ensure Government Review Team and public viewing locations receive copies of the environmental assessment;

≈ Ensure municipal clerk receives copy of Notice of Submission.

Start of formal review period:

≈ Ensure Notice of Submission posted in local newspaper(s) and on project website;

≈ Ensure environmental assessment is on project website and can be accessed.

website it has been maintaining for the proposal. As these are minimum requirements, the proponent can provide the Notice in other ways as well (for example, posters placed in a central location, direct mail, media advertisements).

6. Evaluation of the Environmental Assessment

There are several phases in the evaluation of the environmental assessment that take place between the submission of the document and the decision about the application. The phases are discussed in the sections below.

There are regulated timelines associated with the evaluation of the environmental assessment. These are outlined in the Deadlines Regulation (Ontario Regulation 616/98). The timelines are not concurrent but for ease of understanding, it is generally accepted that it takes approximately 30 weeks to go through the process if there are no delays (see Appendix A for a timelines chart).

Phases in the Evaluation Process

Phase 1: Inspection of environmental assessment (7 weeks)

Phase 2: Preparation of ministry Review (5 weeks)

Phase 3: Issue Notice of Completion (no timeline)

Phase 4: Inspection of ministry Review (5 weeks)

Phase 5: Final ministry evaluation period (13 weeks)

6.1 Phase 1: Inspection of the Environmental Assessment (First Inspection Period)

All interested persons have seven weeks in which to inspect and make comments about the environmental assessment.

Comments about any aspect of the environmental assessment can be made. This is the opportunity for interested persons to provide comments about components of the environmental assessment about which they agree or do not agree. Comments must be specific and relate to a component(s) of the proposed environmental assessment, such as the range of alternatives or the results of the evaluation and be within the ability of the proponent to address. Any potential solutions to the issues raised should also be outlined.

All comments should be sent directly to the Project Officer identified in the Notice of Submission. Comments must be in writing and can be sent by mail or fax. Contact information (clearly state name and address) must be included on the submission so that its receipt can be acknowledged. If the public engages in a write-in campaign or organizes a petition, or there are a large number of submissions, individual acknowledgements from the ministry may not be sent. In the case of a write-in campaign or petition, if there is an organizing body clearly identified, then an acknowledgement may be sent to that body.

Each member of the Government Review Team, including ministry staff, will conduct its own review of the environmental assessment from the perspective of its own mandate. Any comments should be sent directly to the Project Officer.

The Project Officer will examine whether the consultation during the preparation of the environmental assessment appropriately identified and dealt with all interested persons, including Aboriginal peoples and communities. Where it is not clear this has been done adequately, the Project Officer will advise what additional steps may be required by either the proponent or the Crown.

The *Environmental Assessment Act* (subsection 6.4(2)) states that comments must be submitted by the end of the seven-week period if the person wishes the comments to be considered during the preparation of the ministry Review (see Section 6.2 of this Code for information about the ministry Review). The deadline for comments was set out in the Notice of Submission.

As they are received, the Project Officer will review all the comments about the environmental assessment and then forward them to the proponent for a response. The Project Officer will forward comments from the ministry technical reviewers to the proponent as one set of ministry comments.

The proponent is responsible for responding to all the comments. However, no response is expected for comments that are outside the scope of the undertaking/proposal. Proponents should seek clarification from the Government Review Team if unclear comments/concerns are raised. To seek clarification on any ministry comments, the proponent is to deal directly with the Project Officer rather than the individual ministry reviewer.

The proponent will provide the Project Officer with a summary of the comments received and its responses to those comments in a table. Comments from the general public should be arranged by type (for example, put all water quality comments together). For the Government Review Team and Aboriginal communities, the comments should be organized by agency and community rather than by issue type. The responses should be sufficiently detailed to completely respond to the comment. The Project Officer will review the responses to the comments, sometimes in discussion with the commenter, to determine the adequacy of the response. Where the Project Officer, either on his or her own, or in conjunction with a commenter, has determined that the response to a comment is inadequate, he/she will ask the proponent to review and revise their response.

6.2 Phase 2: Preparation of Ministry Review

The ministry is required to prepare a ministry Review of the environmental assessment taking into account any comments received from the public during the inspection period for the environmental assessment (section 7 of the *Environmental Assessment Act*). Comments from the Government Review Team and Aboriginal communities are also taken into account during the preparation of the ministry Review. The ministry has five weeks to complete the ministry Review.

The ministry Review is a document written by the Project Officer that:

- Assists in determining whether there is sufficient information to enable a decision to be made about the application;
- Assesses whether the required components of the *Environmental Assessment Act*, including the approved terms of reference, have been met;
- Provides an overview of the technical merits of the environmental assessment and the undertaking;
- Evaluates how well the proponent has consulted with interested persons, and the clarity and completeness of the documentation of such consultations;
- Notes any outstanding concerns with the environmental assessment or proposed undertaking.

The ministry Review is not the ministry's decision-making mechanism. It is one of several things the Minister must consider when making a decision about whether to give approval to proceed with the proposed undertaking. That decision will be made by the Minister, subject to the approval of the Lieutenant Governor in Council, at the end of the final ministry evaluation period.

6.2.1 Amendment or Withdrawal of the Environmental Assessment before Ministry Review Deadline

Subsection 6.2(2) of the *Environmental Assessment Act* states that a proponent can amend or withdraw its environmental assessment at any time prior to the deadline for completion of the ministry Review. The purpose of an amendment or withdrawal is to address issues that may have arisen with the environmental assessment during the first inspection period and which are too numerous or complex to resolve within the regulated timelines.

When faced with the decision about whether to amend or withdraw its environmental assessment, the proponent will need to use professional judgment. The proponent must notify the Project Officer in writing about its intentions.

Where significant changes to the environmental assessment result from it being amended, the ministry will allow additional time for the amended document to be reviewed by interested persons. How much time is given will be determined on a case-by-case basis.

If the environmental assessment is withdrawn, and the proponent still wishes to proceed with its application, the proponent will need to prepare a new environmental assessment. The new document must be prepared in accordance with the approved terms of reference, and the proponent will need to provide consultation opportunities for the new document before it is submitted to the ministry for a decision. The formal review process will begin anew with the submission of a new environmental assessment.

6.2.2 Extension of Deadline for Completion of the Ministry Review

The Director of the Environmental Assessment and Approvals Branch has the authority to extend the deadline for completing the ministry Review if he or she feels that there is a compelling reason to do so (subsection 7(3) of the *Environmental Assessment Act*). The *Environmental Assessment Act* defines a compelling reason as one which is unusual, unexpected or urgent. The Director shall notify such persons as he or she considers appropriate if the deadline is extended.

The Director has given extensions in certain circumstances where there were many unresolved technical concerns or the level of public interest was higher than expected. The extension gives the proponent more time to resolve as many issues as possible before the publication of the ministry Review.

6.2.3 Deficiencies with the Environmental Assessment

The Project Officer will inspect the environmental assessment to determine whether it is deficient in relation to the approved terms of reference and the purpose of the *Environmental Assessment Act*. For example, the Project Officer will check to see that the environmental assessment been prepared in accordance with the approved terms of reference as required. Any interested person who has inspected the environmental assessment may also point out potential deficiencies.

Where any deficiencies have been found, the Director may give the proponent a statement describing the deficiencies and shall do so at least 14 days before the deadline for completing the ministry Review (subsection 7(4) of the *Environmental Assessment Act*). If the deadline for the ministry Review has been extended then the deadline for issuing a deficiency statement is also extended.

The proponent has seven days from the date of receipt of the deficiency statement to remedy the deficiencies in the environmental assessment. If the Director is not satisfied that the deficiencies have been remedied within the seven-day period, the Minister may reject the environmental assessment. In the case of a rejection, the Director will notify the proponent, the clerk of the local municipality and the public before the deadline for the completion of the ministry Review. These requirements are outlined in subsections 7(5) to 7(7) of the *Environmental Assessment Act*.

Where many deficiencies have been noted that may require more than seven days to remedy, the proponent should consider withdrawing the environmental assessment rather than run the risk of it being rejected by the Minister.

If a proponent intends to submit a new environmental assessment for which a deficiency statement had been issued and the environmental assessment was

withdrawn, it should work with the ministry and other applicable persons, to address the items in the deficiency statement. When the new environmental assessment is submitted to the ministry, it should include an indication of how each deficiency was remedied.

If the environmental assessment is rejected, the process would start anew at the terms of reference stage if the proponent wished again to seek approval for its proposed undertaking.

6.3 Phase 3: Issue Notice of Completion

To signal that the Project Officer has completed the ministry Review, the Project Officer will prepare a Notice of Completion. The Director of the Environmental Assessment and Approvals Branch will sign this Notice by the deadline for the completion of the ministry Review. Once the Director signs the Notice, the Project Officer will arrange for French translation if required, printing and distribution of the ministry Review. There are no timelines associated with these administrative steps, but they could take from one to three weeks.

Once the ministry Review is ready for distribution, it and the Notice of Completion will be given directly to the proponent, the clerk of the local municipality, Government Review Team members, the local member of provincial parliament, and interested Aboriginal communities. The public will be notified through a posting in a newspaper with circulation in the area of the proposed undertaking (usually the same newspaper(s) where the proponent placed the Notice of Submission). The newspaper notice will let all interested persons know where they can inspect the ministry Review (same public record locations where the environmental assessment is available) and to whom, and by when any comments are to be submitted (section 7.1 of the *Environmental Assessment Act*). The Notice of Completion and the ministry Review will also be posted on the environmental assessment page of the ministry's website.

6.4 Phase 4: Inspection of Ministry Review (Second Inspection Period)

This second inspection period is triggered by the issuance of the Notice of Completion and lasts for five weeks. During this period, all interested persons may inspect the ministry Review and make comments about it, the environmental assessment and the proposed undertaking. The comments must be in writing. If the person wishes the Minister to consider the comments when making a decision about the application, the comments must be submitted before the end of the five-week inspection period (subsection 7.2(2) of the *Environmental Assessment Act*).

The Project Officer will make a written request to the Government Review Team and any interested Aboriginal communities to submit any final comments about the proponent's application during this inspection period.

Any comments received during the five-week inspection period will be forwarded to the proponent for a response after the Project Officer reviews them.

6.4.1 Hearing Requests

There may be circumstances when, despite everyone's best efforts, some issues cannot be resolved between the proponent and the interested person(s) who raised the issue. In those cases, the interested person(s) may think it is appropriate to request a hearing. A decision to request a hearing should not be made lightly. It should be considered a last resort after all other avenues to resolve the issues have been exhausted.

During the five-week inspection period following the issuance of the Notice of Completion, any interested person may request that the Minister refer all or part of the proponent's application to the Environmental Review Tribunal for a hearing and decision. Any requests for a hearing must be in writing and be submitted before the end of the five-week inspection period (subsections 7.2(3) and 7.2(4) of the *Environmental Assessment Act*). For greater clarity, reasons for requesting a hearing should be included in the request. Though not common, the proponent may also request that its application, or part thereof, be referred to the Tribunal. Any hearing requests received prior to the issuance of the Notice of Completion will be considered premature by the ministry. The requester will instead be encouraged to work further with the proponent to address issues. Please refer to Section 6.5.4 of this Code for information about what the Minister considers when determining whether to make a referral to the Tribunal.

6.4.2 Amendment or Withdrawal of the Environmental Assessment after Completion of the Ministry Review

A proponent may amend or withdraw the environmental assessment after the completion of the ministry Review but only under such conditions that the Minister may by order impose. The Minister also has the option of amending or revoking any conditions imposed (subsections 6.2(3) and 6.2(4) of the *Environmental Assessment Act*).

Should the proponent wish to amend or withdraw its environmental assessment, it should make a written request to the Minister who will determine under what conditions the environmental assessment may be amended or withdrawn. Proposed amendments could accompany the request to amend the environmental assessment. In pursuing this course of action, the proponent should have strong reasons for doing so. It may be done because there have been significant concerns raised which require fundamental changes to the

documentation or the proponent has changed its mind about its proposal or does not want to run the risk that its application will not be approved.

The *Environmental Assessment Act* allows the proponent to make the request for amendment or withdrawal any time after the deadline for the completion of the ministry Review and before the deadline for the Minister's decision about the undertaking. In accordance with the Deadlines Regulation, that time period spans 13 weeks. Despite that, proponents are encouraged not to wait until the last minute to make a request to amend or withdraw the environmental assessment.

Once the Minister makes a determination about the proponent's request to amend or withdraw its environmental assessment, he/she will notify the proponent and such other persons as may be interested.

6.5 Phase 5: Final Ministry Evaluation Period

Following the end of the ministry Review inspection period, the Project Officer will conduct the final evaluation of the application and prepare a recommendation for the Minister to assist him or her in making a decision.

Thirteen weeks is provided for the ministry evaluation and Minister's decision. The Minister is required by the Deadlines Regulation to make a decision or make a referral to the Tribunal by the end of the 13 weeks. Exceptions to meeting this deadline exist where an application has been referred to mediation or a hearing. Further, while a decision deadline is given, subsection 10(4) of the *Environmental Assessment Act* states that the Minister's decision is not invalid solely on the basis that it was not made by the applicable deadline.

6.5.1 Ministry Evaluation

The Project Officer will review any comments that are received about the ministry Review, the environmental assessment or the proposed undertaking to determine if any new concerns have been raised or if there are any outstanding concerns. Ideally, at this stage in the process no new concerns have been raised. The aim at this point then is to determine if there are any outstanding concerns, and if so, if any mechanisms (for example, *Environmental Assessment Act* conditions of approval, further approvals) exist to address them. The Project Officer will make this determination, subject to the Minister's approval. This may include the drafting of conditions of approval in consultation with interested persons and/or the proponent.

In general, when evaluating the application for the Minister, the Project Officer will consider, at a minimum, the following:

- Did the proponent meet the legislative requirements of the *Environmental Assessment Act*?

- Was the environmental assessment prepared in accordance with the approved terms of reference? Is it consistent with the purpose of the *Environmental Assessment Act*?
- Did the proponent meet the expectations set out in the ministry's Codes of Practice and relevant guidelines?
- Does the environmental assessment contain sufficient information about the consultation that took place during its preparation?
- Is the environmental assessment written in plain language that is clear and concise?
- Does the environmental assessment provide sufficient information and detail to allow the Minister to make an informed decision?
- Have comments received during the review of the environmental assessment been adequately considered by the proponent?

Using this information, the Project Officer will prepare a recommendation for the Minister. The recommendation to the Minister will reflect all the matters the Minister must consider in making a decision (see Section 6.5.3 below for more information about this).

6.5.2 Referral to Mediation

Before making a decision about an application, the Minister may refer outstanding issues to mediation (section 8 of the *Environmental Assessment Act*). This is known as Referred Mediation. Please refer to the ministry's Code of Practice entitled, *Using Mediation in Ontario's Environmental Assessment Process* for more information about the mediation process. If a referral to mediation is made, this will be reflected on the environmental assessment page of the ministry's website.

6.5.3 Minister's Decision

Once the Minister receives the ministry's recommendation about the application and if applicable, the mediator's report, he or she is in a position to make a decision. The Minister may give approval to proceed with the undertaking, with or without conditions, or refuse to give approval to proceed with the undertaking. The ministry's recommendation is just one matter that the Minister takes into consideration when making a decision. In accordance with subsection 9(2) of the *Environmental Assessment Act*, the Minister must consider the following matters when deciding an application:

The Minister's decision options are:

- ≈ Approve the undertaking;
- ≈ Approve the undertaking with conditions; or
- ≈ Refuse to approve the undertaking.

- The purpose of the *Environmental Assessment Act*.

- The approved terms of reference for the environmental assessment.
- The ministry Review of the environmental assessment.
- The comments submitted during the two inspection periods.
- The mediator's report, if any, given to the Minister.
- Such other matters as the Minister considers relevant to the application.

These different matters are briefly described below.

Purpose of the *Environmental Assessment Act*

The purpose of the *Environmental Assessment Act* is the betterment of the people of Ontario by providing for the protection, conservation and wise management of the environment. Undertakings approved under the *Environmental Assessment Act* should be in keeping with its purpose.

Approved Terms of Reference

The terms of reference serves as a framework and work plan for how the environmental assessment was prepared. The environmental assessment must be prepared in accordance with the approved terms of reference.

Ministry Review

The conclusions in the ministry Review will be taken into consideration by the Minister. The ministry Review summarizes how the proponent met the requirements of the *Environmental Assessment Act* and notes any outstanding concerns with the environmental assessment and the undertaking.

Incoming Comments

In accordance with the *Environmental Assessment Act*, written comments about the undertaking, the environmental assessment and the ministry Review received by any person by the prescribed deadline will be taken into consideration in the Minister's decision. The proponent's response to any concerns and the significance of any outstanding concerns will also be taken into account in the Minister's decision.

Mediator's Report

If a matter related to the application is referred to mediation, a mediator's report is required to be prepared at the end of the process. The Minister will consider that report when making his or her decision about the application.

Other Matters

The Minister may consider any other matter he or she considers relevant to the application when making a decision about it.

6.5.4 Referral to the Environmental Review Tribunal

Any person may request that the Minister refer all or part of the proponent's application to the Tribunal for a hearing and a decision. This request must be made during the five-week review period following the issuance of the Notice of Completion of ministry Review (subsections 7.2(3) and 7.2(4) of the *Environmental Assessment Act*). Persons who are considering submission of a hearing request should think very carefully about making a request and should only do so after all other avenues to resolve the issues have been exhausted.

When a hearing request is made, the Minister is required to refer the application or part of it, to a hearing unless, in his or her absolute discretion, he or she feels that the request is frivolous or vexatious, a hearing is unnecessary or a hearing may cause undue delay in determining the application (subsection 9.3(2) of the *Environmental Assessment Act*). In determining whether a request for a hearing is frivolous or vexatious, unnecessary or may cause undue delay in determining the application, the Minister may consider the following things:

- Is the request an attempt to litigate issues that have already been decided outside of the environmental assessment process?
- Does the request have merit and substance in relation to outstanding issues?
- Is the request bringing up issues that have already been dealt with in the environmental assessment (unless there is a material change in law or circumstances)?
- Is the request being pursued to delay the implementation of the undertaking?
- Does the request identify an issue that the Minister would like explored further before a decision is made?
- Will the hearing be a wise use of the Tribunal's, interested person's and proponent's resources?

Further, there are a number of other things that the Minister may consider when determining whether to refer matters to the Tribunal for a hearing. These may include:

- Did the proponent consult adequately with interested persons throughout the environmental assessment and was this consultation properly documented? Were there sufficient opportunities for participation?
- Did the requester participate in the planning process when opportunities to do so were made available?
- Have all other avenues to resolve the issue such as Self-directed Mediation been exhausted?
- Are the issues raised substantive in nature and clearly defined?
- Are there other significant outstanding issues identified in the ministry Review?

- Would the public interest be served if the issue was sent to the Tribunal for a hearing?
- Would public health and safety be advanced by a matter being referred to the Tribunal for a hearing?
- Is there any funding that has been approved for the undertaking with time limits?
- Is there any urgency to the timing of the approval of the undertaking?
- Is this issue an issue to which the *Environmental Assessment Act* applies or is there other legislation and/or other processes for dealing with the issue?
- Has the issue already been considered in the context of other legislation and processes such as the *Planning Act*?
- Is the Tribunal the appropriate forum to resolve the issues?
- Does the Tribunal have the jurisdiction to deal with the issue?

The Minister may also on his or her own, without a request having been received, decide that a hearing is necessary. In making a referral to the Tribunal, the Minister may give direction to the Tribunal or impose conditions on the referral (such as a deadline to reach a decision), or amend the referral. If only a part of the application is referred to the Tribunal, the Minister shall inform the Tribunal about the decisions that have been made on matters that were not referred to it. Notice of the referral to the Tribunal, and any decisions made on matters not referred, will be given to the proponent and each person that submitted comments during the second inspection period.

The Tribunal is permitted to make the same decision as the Minister and if relevant, will consider the same matters as the Minister must consider in making the decision. In making its decision, the Tribunal must consider the decisions the Minister proposes to make on any matters not referred to the Tribunal.

Once the Tribunal makes a decision, the Minister may choose to review that decision and with the approval of the Lieutenant Governor in Council, make an order varying the decision or substituting his or her own decision for the Tribunal's decision. The Minister may also issue a notice to the Tribunal requesting that it hold a new hearing and reconsider its decision.

If the entire application was referred to the Tribunal, the Minister has at least 28 days after receiving a copy of the Tribunal's decision to conduct a review and issue an order or a notice. If only a matter related to the application was referred to the Tribunal, the Minister can conduct the review and issue an order or a notice at any time prior to making a decision on the application. Once the review period has expired and no order has been made, or notice issued, the Tribunal's decision is effective. These requirements are all outlined in sections 11.2 and 11.3 of the *Environmental Assessment Act*.

6.5.5 Referral to other Tribunal or Entity

Section 11 of the *Environmental Assessment Act* gives the Minister the ability to refer a matter related to an application to a tribunal other than the Environmental Review Tribunal if he or she considers it appropriate. The decision of this other tribunal or entity is deemed to be a decision of the Minister. Notice of this referral will be given to the proponent and each person that submitted comments during the second inspection period.

6.5.6 Deferral of a Part of a Decision

The Minister or the Tribunal may defer making a decision on a matter related to an application (section 11.1 of the *Environmental Assessment Act*). Deferral may be considered appropriate where the matter is being considered in another forum or for scientific, technical or other reasons. Notice of the deferral, and written reasons for it, must be given to the proponent and each person that submitted a comment during the second inspection period by the deadline for the decision on the application.

7. After the Minister's Decision

7.1 Lieutenant Governor in Council Approval

Most of the decisions made by the Minister about a proponent's application require the approval of the Lieutenant Governor in Council, or such ministers of the Crown that the Lieutenant Governor in Council may designate. This includes:

- The Minister making a decision about the application without referring it to a hearing;
- Varying the decision of the Tribunal;
- Substituting his or her decision for the Tribunal's;
- Giving notice to the Tribunal to hold another hearing.

There are no timelines associated with this step in the decision-making process. The Deadlines Regulation only considers the time up until the Minister makes a decision on the application (no mediation or hearing).

7.2 Decision Notification

After the final decision about the application (by the Minister, the Tribunal or the Lieutenant Governor in Council) is made, the Minister will notify the proponent of the decision. A Notice of Approval or a Notice of Refusal will be issued. Written reasons for the decision and any conditions will be provided in the Notice.

In most instances, those persons who submitted comments during the second inspection period will also be notified of the decision by the Minister. When a large number of submissions are received, the ministry may determine that it is not practical to notify each person individually and will provide some form of community notification, such as a newspaper posting.

The Project Officer will provide notification of the Minister's decision to applicable Aboriginal communities and those members of the Government Review Team who provided comments.

In addition, notice of the decision will be posted on the environmental assessment page of the ministry's website.

8. Post Environmental Assessment Act Decision

8.1 Approval to Proceed with the Undertaking Given

If approval to proceed with the undertaking is given, subject to any conditions imposed, the proponent can proceed to acquire any other required approvals and implement the undertaking. In certain cases, further approval from the ministry under the *Environmental Protection Act* or the *Ontario Water Resources Act* may be required.

Receiving *Environmental Assessment Act* approval does not mean that the proponent must implement its undertaking; it just means that if the proponent chooses to proceed with the undertaking it must do so in accordance with the approval. Failure to implement the undertaking as approved is a contravention of the *Environmental Assessment Act*.

8.2 Approval to Proceed with the Undertaking Not Given

If approval to proceed with the undertaking is not given, the proponent can choose to either abandon its proposal, or modify it and start the process over again. The process must start from the very beginning with the preparation of a new terms of reference.

9. Other Matters

9.1 Reconsideration of Decision

The Minister or the Tribunal may reconsider an approval given by the Minister or the Tribunal to proceed with the undertaking if there is a change in circumstances or new information is available and the Minister or the Tribunal considers it appropriate to do so (section 11.4 of the *Environmental Assessment Act*). A decision to amend or revoke an approval can only be made in accordance with such rules and subject to such restrictions as may be prescribed.

9.2 Change to an Undertaking

If a proponent wishes to make changes to an undertaking after it has received approval to proceed, the proposed change will be considered a new undertaking for the purposes of the *Environmental Assessment Act* (section 12 of the *Environmental Assessment Act*), unless such change has been accounted for in the environmental assessment or through a condition of approval. This change may require the preparation of a new terms of reference.

9.3 Replacement of Environmental Assessment

A proponent may submit a second environmental assessment to replace an environmental assessment that was withdrawn by the proponent or considered deficient by the Director and subsequently rejected by the Minister. This second environmental assessment must be prepared in accordance with the approved terms of reference (section 12.1 of the *Environmental Assessment Act*).

9.4 Activities (Not) Permitted Before Approval

Certain activities are permitted, and others not, before a proponent receives approval to proceed with an undertaking (section 12.2 of the *Environmental Assessment Act*).

Before receiving approval under the *Environmental Assessment Act*, a proponent is permitted to:

- Take any action in connection with the undertaking that may be necessary to comply with the *Environmental Assessment Act*;
- Acquire property or rights in property in connection with the undertaking;
- Prepare a feasibility study and engage in research in connection with the undertaking;
- Establish a reserve fund or another financing mechanism in connection with the undertaking.

Any approvals required to proceed with the above activities can be issued before approval under the *Environmental Assessment Act* is granted. A loan, grant, subsidy or guarantee from the Crown or an agency of the Crown may also be given or approved for those specific activities listed above.

In all other cases, no other authorizations (such as *Environmental Protection Act* approval) associated with the undertaking can be issued until approval under the *Environmental Assessment Act* is given. Also, except as specified above, no loan, grant, subsidy or guarantee from the Crown or an agency of the Crown may be given or approved until approval under the *Environmental Assessment Act* is given.

9.5 Public Record

According to section 30 of the *Environmental Assessment Act*, the Director must maintain a record for each proposed undertaking for which an application for approval under the *Environmental Assessment Act* is submitted. The record is maintained at the Branch and is usually available within 24 hours of it being requested by any person. Depending on the size of the file, or when the decision was made, more than 24 hours may be required.

The public record file must contain the proposed and the approved terms of reference and environmental assessment, all notices given, the Minister's decision, and such other documents as the Minister or Director considers appropriate. As a matter of practice, the Branch also includes all information submitted by the proponent during the preparation and review of the terms of reference and environmental assessment and all comments received by other interested persons during the preparation and review of both documents. Post-approval documents such as annual compliance reports are also included.

This Code of Practice is intended to provide proponents and other interested persons with an understanding of how to prepare an environmental assessment and how it is reviewed by the ministry. Specific questions about an environmental assessment for a particular undertaking should be referred to the Project Officer assigned to the proposed undertaking.

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 Assessment and Approvals Branch
2 St. Clair Avenue West, Floor 12A
Toronto, Ontario M4V 1L5 Canada

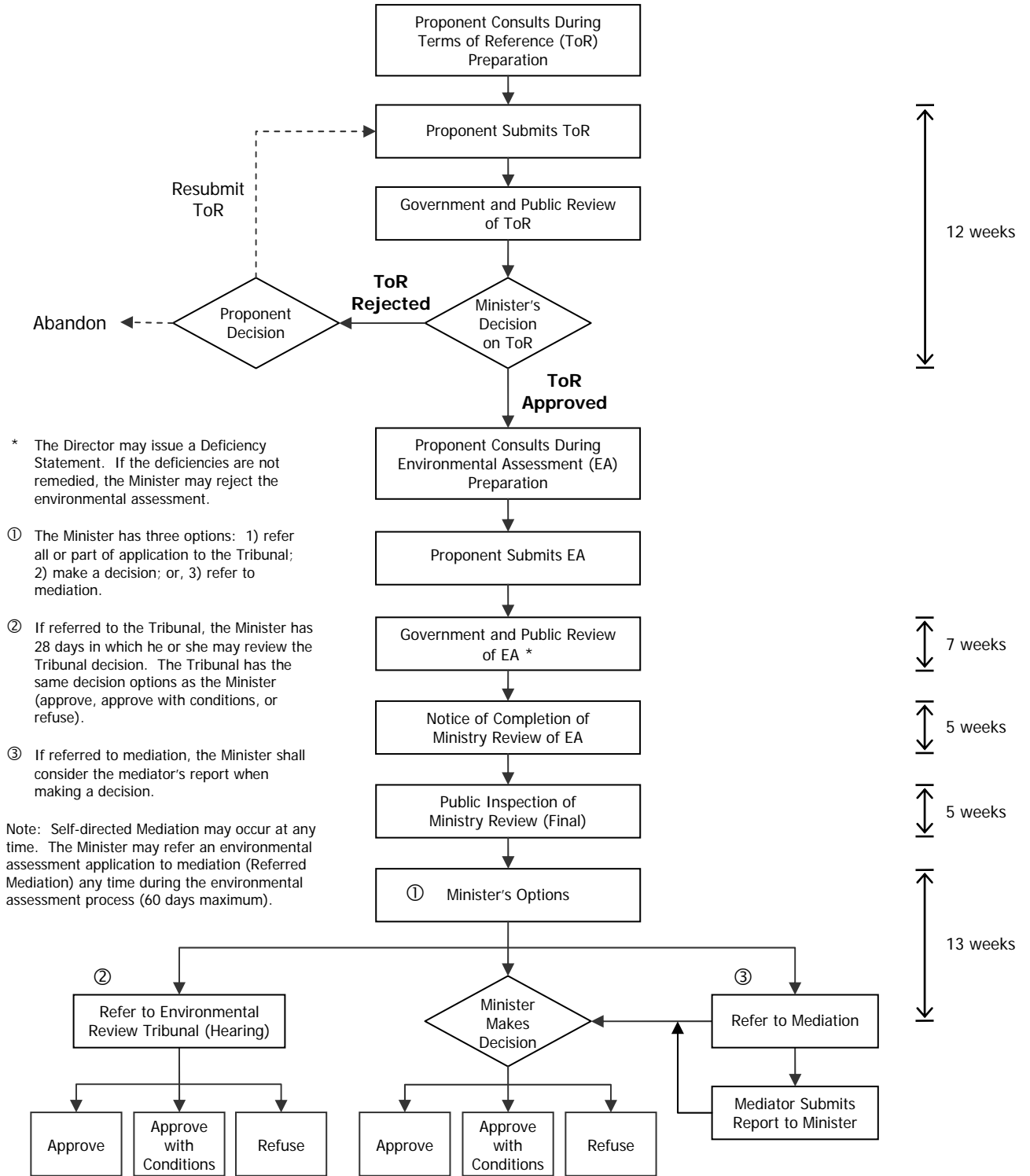
Telephone: 416-314-8001
Toll Free: 1-800-461-6290
Fax: 416-314-8452
E-mail: eaabgen.moe@ontario.ca
Website: www.ene.gov.on.ca/envision/ea/index.htm

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

- Terms of Reference (*Code of Practice: Preparing and Reviewing Terms of Reference for Environmental Assessments in Ontario*).
- Consultation (*Code of Practice: Consultation in Ontario's Environmental Assessment Process*).
- Mediation (*Code of Practice: Using Mediation in Ontario's Environmental Assessment Process*).
- Class environmental assessments (*Code of Practice: Preparing, Reviewing and Using Class Environmental Assessments in Ontario*).
- Coordinating federal and provincial environmental assessment requirements (*Federal/Provincial Environmental Assessment Coordination in Ontario: A Guide for Proponents and the Public*).
- Electricity projects (*Guide to Environmental Assessment Requirements for Electricity Projects*).
- Waste management projects (*Guide to Environmental Assessment Requirements for Waste Management Projects*).

Appendix A Environmental Assessment Process Timelines

Prescribed Deadlines
(Ontario Regulation 616/98)



Appendix B Government Agencies and Their Areas of Interest

This information is a subset of the Government Review Team list that is provided to proponents at the start of their planning process. This is for information only, and the particular agency or ministry must be contacted to determine if they have a mandated interest in the proposal.

AGENCY/MINISTRY	TYPE OF PROJECT/ POTENTIAL AREAS OF INTEREST
FEDERAL AGENCIES	
Canadian Environmental Assessment Agency	Undertakings that: <ul style="list-style-type: none"> • will require federal approvals, financing; • are on or abutting federal lands; • will require federal funding.
Canadian Transportation Agency	Undertakings with the potential to affect railway lines or property.
Indian and Northern Affairs Canada	Undertakings with the potential to affect: <ul style="list-style-type: none"> • Aboriginal communities; • traditional territories, and reserves; • lands/waters surrounding reserves.
Environment Canada	Undertakings with the potential to: <ul style="list-style-type: none"> • result in the deposit of deleterious substances into fisheries water; • affect migratory birds; • affect federal wetlands; • affect natural wildlife areas and national parks; • cause transboundary effects on air or water quality; • endanger or threaten species at risk.
Fisheries and Oceans Canada	Undertakings in or near water that have the potential to: <ul style="list-style-type: none"> • harmfully alter disrupt or destroy fish or fish habitat; • impact passage of fish around migration barriers; • impact provision of sufficient water flows; • result in the destruction of fish by means other than fishing (blasting); • impact aquatic species at risk.
Health Canada	Undertakings with human health implications.
Transport Canada	Undertakings that: <ul style="list-style-type: none"> • are located in the vicinity of a federal airport and may attract birds; • may cause electrical interference to navigational aids; • may affect a navigable waterway.

AGENCY/MINISTRY	TYPE OF PROJECT/ POTENTIAL AREAS OF INTEREST
PROVINCIAL AGENCIES & MINISTRIES	
GO Transit	Undertakings with the potential to affect GO Transit service or property.
Ontario Realty Corporation	Undertakings whose associated lands are adjacent or proximate to lands owned by the Ministry of Energy and Infrastructure.
Niagara Escarpment Commission	Undertakings in or with the potential to affect the Niagara Escarpment Planning Area.
Ministry of Aboriginal Affairs	For identification of Aboriginal communities potentially affected by an undertaking. Also for undertakings with the potential to affect Crown land and resource usage.
Ministry of Agriculture, Food and Rural Affairs	Undertakings with the potential to affect: <ul style="list-style-type: none"> • prime agricultural areas (areas of classes 1–3 agricultural soils); • specialty crop areas; • agricultural uses, agriculture-related uses and secondary uses on farms.
Ministry of Culture	Undertakings that may affect properties having recognized or potential cultural heritage value or interest, which may include: <ul style="list-style-type: none"> • built heritage resources; • cultural heritage landscapes; • areas of archaeological potential; • undertakings whose associated lands are adjacent or proximate to lands owned by the Royal Botanical Gardens, the McMichael Canadian Collection, or owned or protected by the Ontario Heritage Trust.
Ministry of Tourism	Undertakings with the potential to affect sport/recreational areas or tourist facilities.
Ministry of Education (consult local school board) Ministry of Training, Colleges and Universities (consult local institution)	Undertakings with the potential to affect school/institution, building property, or staff and students.
Ministry of Community Safety and Correctional Services	Undertakings with the potential to have a direct physical impact on a Correctional Services correctional centre, jail or a detention centre.
Ontario Provincial Police	Undertakings with the potential to have a direct physical impact on an Ontario Provincial Police correctional centre, jail or detention centre.
Ministry of Economic Development and Trade	Undertakings which involve investments in large-scale manufacturing facilities or co-generation projects.

AGENCY/MINISTRY	TYPE OF PROJECT/ POTENTIAL AREAS OF INTEREST
Ministry of Energy and Infrastructure	Undertakings with energy implications, including renewable energy such as small hydro or wind. Undertakings within an area covered by the Growth Plan for the Greater Golden Horseshoe or the <i>Places to Grow Act, 2005</i> .
Ministry of Health and Long-Term Care (Local Medical Officers of Health)	Undertakings with potential health impacts such as groundwater contamination and air quality impacts.
Ministry of Municipal Affairs and Housing	Undertakings that: <ul style="list-style-type: none"> • relate to municipal services; • involve a municipal proponent; • may have an effect on the Oak Ridges Moraine Conservation Plan Area.
Ministry of Natural Resources	Undertakings that may have a potential effect on: <ul style="list-style-type: none"> • permanent and intermittent watercourses or water bodies; • rare, vulnerable, threatened, endangered or otherwise significant species; • Areas on Natural and Scientific Interest or an Environmentally Significant Area; • mineral aggregate resources; • Crown land/resources; • provincially significant wetlands.
Ministry of Northern Development, Mines and Forestry	Undertakings that may potentially affect: <ul style="list-style-type: none"> • geological and mineral resources; • economic development in northern Ontario; • tourism in northern Ontario.
Ministry of Transportation	Undertakings within: <ul style="list-style-type: none"> • any study area for a transportation corridor or route planning project; • 800 metres of any existing/designated provincial highway or other provincial transportation facility; • adjacent to Ministry of Transportation property (i.e. patrol yards, carpool lots, etc.).
OTHER	
Ontario Power Generation	Undertakings that could potentially directly affect an Ontario Power Generation generating site.
Hydro One Networks Inc.	Undertakings that could potentially directly have an impact on Hydro One facilities or plants (includes transmission/distribution lines or transformer/distribution stations).

AGENCY/MINISTRY	TYPE OF PROJECT/ POTENTIAL AREAS OF INTEREST
Local Conservation Authority	Undertakings with the potential to affect: <ul style="list-style-type: none"> • area in and adjacent to watercourses (including valley lands), wetlands, shorelines of inland lakes and the Great Lakes-St. Lawrence System and other hazard lands; • fish and fish habitat; • drinking water sources; • sensitive natural features; • hydrology and storm water.

Note: Municipalities and Aboriginal peoples, while not formally on the Government Review Team, are consulted about an environmental assessment application if it is located in their municipality or community or if it may affect their municipality or community as required by the *Environmental Assessment Act*.

Appendix C Environmental Assessment Forms and Notices

(1) Notice of Commencement of Environmental Assessment Template

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 and other interested persons will be informed when and where the environmental assessment can be reviewed.

Consultation

Members of the public, agencies 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>

Under the *Freedom of Information and Protection of Privacy Act* and the *Environmental Assessment Act*, unless otherwise stated in the submission, any personal information such as name, address, telephone number and property location included in a submission will become part of the public record files for this matter and will be released, if requested, to any person.

(2) Notice of Submission of Environmental Assessment Template

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 Assessment and Approvals Branch
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 Assessment and 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>

Under the *Freedom of Information and Protection of Privacy Act* and the *Environmental Assessment Act*, unless otherwise stated in the submission, any personal information such as name, address, telephone number and property location included in a submission will become part of the public record files for this matter and will be released, if requested, to any person.

<insert date this notice is published>

(3) Environmental Assessment Summary Form



Ministry of the Environment

Environmental Assessment Summary for the Environmental Assessment Site

General Information and Instructions

General:

Information requested by this form is collected under the authority of the *Environmental Assessment Act*. The project and summary information provided in this form will be posted on the environmental assessment page of the Ministry of the Environment's website.

This form requires French translation before it is posted on the website. The Ministry requires 5 to 10 business days for French translation services. Therefore, the completed form should be submitted (electronic copy and hard copy) to the Environmental Assessment and Approvals Branch at least two weeks prior to the posting date.

The proponent is responsible for ensuring that copies of the environmental assessment are delivered to the appropriate government reviewers, other interested persons and the places of public record on or before the posting date. The proponent must contact the Branch to determine an agreed upon **posting date** for the environmental assessment summary. The posting of the environmental assessment summary information also represents the commencement of the regulated timeline for the review and decision about the proposed undertaking.

Instructions:

1. This form must be accurately completed. Questions regarding the completion and submission of this form should be directed to the Project Officer at the Environmental Assessment and Approvals Branch. **AN INCOMPLETE FORM WILL BE RETURNED TO THE PROPONENT.**
2. Please ensure that you have included the proposed **distribution list**, the **study area map** and a copy of the proposed **environmental assessment** with this form.
3. Please send the completed form to:

Director, Environmental Assessment and Approvals Branch
Attention: Project Officer
Ministry of the Environment
2 St. Clair Avenue West, Floor 12A
Toronto ON M4V 1L5
4. This form should not exceed two pages.

Proponent Information

Proponent Name (*region, county, municipality or private sector company*)

Proponent Type

- Crown Corporation
 Federal Government
 Municipal Government
 Provincial Government
 Private Sector
 Other (*describe*)

Civic Address – Street Information (*includes street number, name, type and direction*)

Unit Identifier (*identifies type of unit, such as suite and number*)

Delivery Designator

- Rural Route
 Suburban Service
 Mobile Route
 General Delivery

Delivery Identifier (*a number identifying a Rural Route, Suburban Service or Mobile Route delivery mode*)

Municipality

Postal Station

Province/State

Country

Postal Code

Summary - should identify project type (*transportation, electricity, waste management*), purpose of study (*problem or opportunity*), undertaking, consultation, other approvals required, contact person, and where the documents may be reviewed. (*Further use of subheadings may be appropriate for the specific environmental assessment.*)

French Translation of Summary Form (translation of the environmental assessment is not required)

French translation requested to be done by Ministry of the Environment French translation to be done by proponent

Statement of Proponent

I, the undersigned hereby declare that, to the best of my knowledge, the information contained herein and the information submitted in support of this form is complete and accurate in every way.

Name (*please print*)

Title

Signature

Date (*yyyy/mm/dd*)