In Collaboration with the Territorial Planning Unit

TREATY #3 LAND MANAGER'S TOOLKIT

Presented by Grand Council Treaty #3

APRIL 2022

Zhaagimaa Waabo

narratives

BOOZHOO!

We welcome you to the **Land Manager's Toolkit**. This Toolkit can be used in combination with a workshop or on your own.

This Toolkit was commissioned by Grand Council Treaty #3 and created in partnership with Grand Council's Territorial Planning Unit and Narratives Inc. The Land Manager's Toolkit was created to increase capacity and resources in Treaty #3 so communities can be equipped to understand and meaningfully participate in impact assessment and environmental assessment processes at the federal and provincial levels, according to principles contained within Manito Aki Inakonigaawin and Treaty #3 Nibi Declaration, with guidance from Anishinaabe Law.

The purpose of the Toolkit is to assist with informed decision making on proposed projects undergoing impact assessments or environmental assessments, but we hope it will be used by anyone looking to increase their understanding of lands management as a whole. We also offer this workbook as an example of how Anishinaabe principles, teachings, and practices can inform decision making and community planning.

Chi-Miigwetch to the many Elders, Women, Men and Youth of Treaty #3 who shared with us their thoughts, feelings, concerns, questions, and teachings to help build this Toolkit.

If you have any questions about the Toolkit, the Territorial Planning Unit can be reached at **tpu@treaty3.ca.**

GRAND COUNCIL TREATY #3
THE GOVERNMENT OF THE ANISHINAABE NATION IN TREATY #3

Zhaagimaa Waabo

narratives

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Section 01

Introduction

- How to use this Toolkit
- Situational Flowchart
- Abbreviations
- Glossary

1.0 Introduction

Treaty #3 is a 55,000 square mile territory, spanning across Northwestern Ontario and into Manitoba. Treaty #3 is made up of 28 Anishinaabe communities with an approximate population of 25,000. The Territorial Planning Unit (Zhaagimaa Waabo) ("TPU"), guided by Manito Aki Inakonigaawin (MAI or The Great Earth Law) and the Nibi Declaration, recognizes the significance of Treaty #3's connection to the lands and waters, and works with Treaty #3 leadership to protect the lands, water and resources within the Territory.

> *Across the expansive region of Treaty #3 are lands managers, [whose] job was given to them by the Creator to care for and protect aki (Earth). Lands managers across the Nation have the shared responsibility of being stewards for the environment and ensuring that if development occurs, it does so in a way that is respectful of traditional Anishinaabe laws, customs, and protocols.*

The purpose of this Lands Manager's Toolkit (the "Toolkit") is to serve as a resource for Treaty #3 lands managers to ensure that their Anishinaabe communities are well-positioned to understand and meaningfully participate in Impact Assessment and Environmental Assessment processes.

The TPU acknowledges all the participants who engaged in discussions to build this Toolkit. Miigwetch for sharing your thoughts, ideas, suggestions, and wisdom with us.

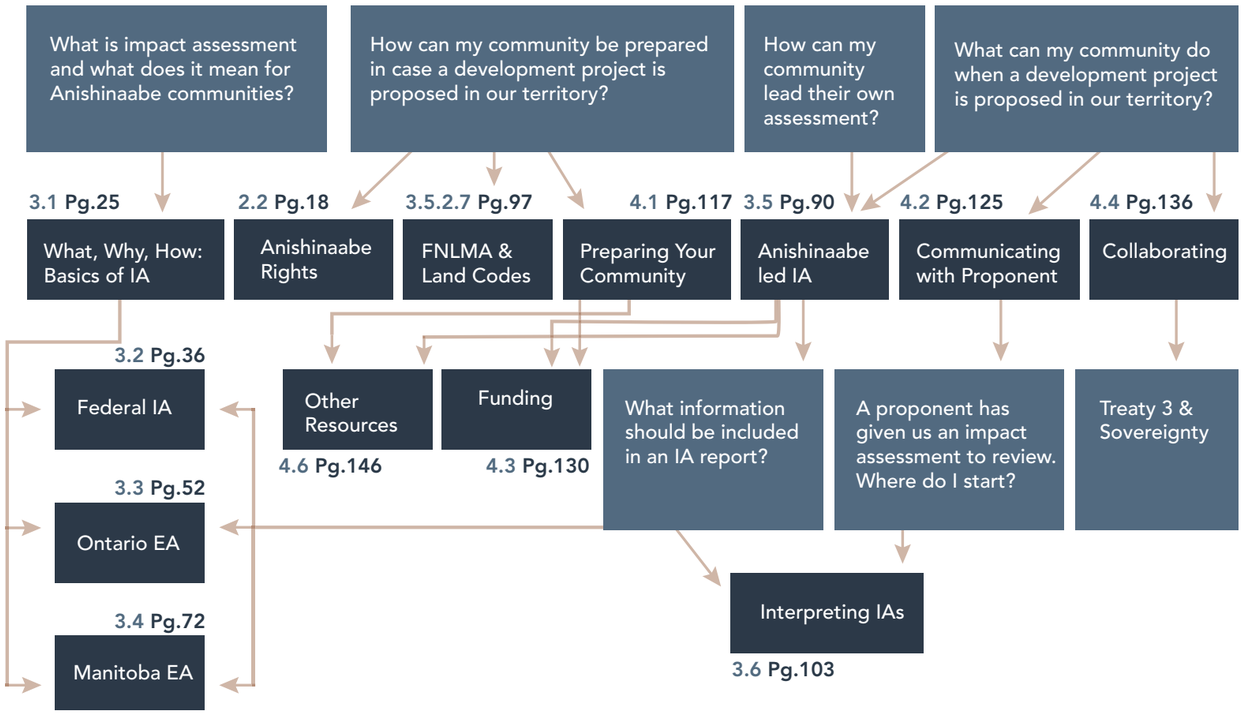
1.1 How to Use this Toolkit

The Toolkit is intended to serve as a starting point to help lands managers and anyone involved in community land management better understand the relationship between current environmental legislation, the obligations of the Crown and proponents, and the rights of Indigenous communities to effectively engage on issues occurring within Treaty #3 territory. Lands managers can consult this toolkit when participating in an impact assessment or environmental assessment process in Ontario, Manitoba, or at the federal level. Lands managers should also consult this toolkit when they are looking to lead their own impact assessment or are looking for resources.

If you are currently involved in an impact assessment or environmental assessment process in any capacity and are looking for guidance on next steps, please see **Section 1.2 Situational Flowchart** to put you in the right direction. Throughout the Toolkit, you will find Tips and Insight boxes – relevant tips, common questions, and useful things to know throughout the text.

1.2 Situational Flowchart

This Situational Flowchart is designed to help you navigate the Toolkit based on your interests and needs. Whether your community wants to learn the basics about impact assessment and environmental assessment processes or is looking for information on ways to be prepared, how to lead their own assessment, or what to do after being approached by an industry proponent, the following flowchart will help direct you to the section(s) best suited to your situation.



1.3 Abbreviations

The following abbreviations will be utilized throughout the toolkit. Use this sheet to reference abbreviations found throughout the toolkit.

CCSM – Continuing Consolidation of the Statues of Manitoba
CEC – Clean Environment Commission
DFO – Department of Fisheries and Oceans
EA – Environmental Assessment
EIS – Environmental Impact Statement
EAB – Environmental Approvals Branch
EAP – Environment Act Proposal
ERO – Environmental Registry of Ontario
FNLMA – First Nations Lands Management Act
FNLRS – First Nation Land Registry System
FPIC – Free, Prior, and Informed Consent
IA – Impact Assessment
IAA – Impact Assessment Act
IAAC – Impact Assessment Agency of Canada
IBA – Impact Benefit Agreement
MAI - Manito Aki Inakonigaawin
MECP – Ministry of Environment, Conservation, and Parks
MNDM – Ministry of Northern Development and Mines
MNRF – Ministry of Natural Resources and Forestry
MOU – Memorandum of Understanding
MTO – Ministry of Transportation Ontario
NALMA - National Aboriginal Lands Manger Association
NOMA - Northwestern Ontario Municipal Association
POGG – Peace, Order, and Good Governance
RA – Responsible Authority
RSO – Revised Statues of Ontario
SC – Statues of Canada
SCC – Supreme Court of Canada
TEK – Traditional Ecological Knowledge
TOR – Terms of Reference
UNDRIP – United Nations Declaration on the Rights of Indigenous People
VEC – Valued Ecosystem Components

1.4 Glossary

The glossary provides definitions of technical terms either found throughout the toolkit or relevant to the toolkit. When a new technical word is mentioned, it is emboldened and can be further defined in this glossary.

A

Adverse Effects: Negative, harmful, or unwanted effects.

Assessment: A dedicated study of a particular area or project.

Asserted Rights: Indigenous or Treaty Rights that have been declared or acted on by an Indigenous community but have not been legally proven in court or included expressly in a treaty.

B

Baseline Condition: The current conditions of a particular area, project, or species.

Biophysical environment: The biological (living) and physical (non-living) environment in which an organism lives. Ex. Plants, rocks, and water.

Band Council Resolution: An authorization or decision made by a majority of band councillors.

Bell C-68: An act to amend the Fisheries Act and other Acts in Consequence.

Bill C-69: An act to enact the impact Assessment Act and the Canadian Energy Regulator Act, to amned the Navigation Protection Act and to make consequential amendments to other Acts.

C

Clean Environment Commission: A forum at which the public can participate in an environmental assessment and in decision-making, and in offering advice to the government in Manitoba.

Closure: Closure of a mine occurs after operation is completed and includes shutdown of facilities and mine reclamation.

Conditional Consent: Consent given by rights holders, such as an Anishinaabe community, under certain conditions that must be fulfilled by the Crown or proponents.

Consent: "Collective decision made by the rights holders and reached through the customary decision-making processes of the communities."

Conservation: "The act of protecting Earth's natural resources for current and future generations." Conservation may focus on a particular species, ecosystem, or region (ex. ocean, boreal forest).

Consultation: Provide information or seek information from a person or group of people.

Crown: Representing the Queen of England and her representative, the Governor General of Canada, it generally means the Federal Government of Canada. The Crown may be used to refer to provincial or territorial governments as well.

Crown Land: Public lands owned by the monarchy, in Canada. This is represented by the federal and provincial governments. Crown lands can be rented or sold to private groups if deemed beneficial by the minister in charge of that land.

Cumulative Effect: "Cumulative effects are changes to the environment that are caused by the combined impact of past, present, and future activities."

D

Decommissioning: The closure of a facility or piece of infrastructure from active use.

Dispute Resolution: Ways of resolving a problem or issue, including negotiation, mediator (negotiation facilitated by a third party), arbitration (decisions by a panel of experts) and going to court.

Duty to Accommodate: "If a First Nation's Indigenous or Treaty rights will be harmed by a government decision (to permit a development, for example), there must be accommodation measures of some kind to prevent, mitigate, or off-set the harm." Duty to accommodate is part of the overall Duty to Consult.

Duty to Consult: "The requires federal, provincial, and territorial governments to consult First Nations when they contemplate taking action that may adversely affect their established or asserted Indigenous or Treaty rights.

E

Ecosystem: A particular geographical area with certain characteristic species that rely on each other, each organism being interconnected to the other and the environment around them. Ecosystems are sometimes grouped into large ecozones or ecoregions.

Engagement: Actively interacting with others (including presentations, interactive activities, brainstorming sessions etc.) with the purposes of generating feedback or providing input on a particular project.

F

The Framework Agreement on First Nation Land Management:
This is a government-to-government agreement signed by the original 13 First Nations who created it and the Minister of Indian Affairs and Northern Development on February 12, 1996.

I

Inherent Rights: The rights bestowed on the Anishinaabe by the Creator. These rights have been in place since time immemorial and form the basis of Traditional Knowledge and Anishinaabe culture.

J

Joint venture: An arrangement between two parties, such as an Anishinaabe nation and a construction company, that bring together their resources to accomplish the same task.

Jurisdiction: Having the power or authority to make legal decisions, judgements, or actions.

L

Land Claim: An Anishinaabe community's legal claim to land that was never surrendered to the government. A land claim seeks to address the wrongs made against the Anishinaabe by the federal or provincial governments regarding their lands and rights.

Land Code: A land code replaces the sections of the Indian Act that relate to management. This gives the community the full responsibility and authority to take care of and manage their lands.

Land Governance Community Profile Form: A profile of the community that supports land code development.

Land use planning: The process of regulating land for use by a central entity, such as an Anishinaabe Nation, for positive environmental and social outcomes.

Lands Management: The management and administration of a Nation's lands, resources, and environment.

M

Manito Aki Inakonigaawin: The Great Earth Law of the Anishinaabe.

Memorandum of Understanding: A document between two or more parties that outlines an agreement which the parties have made. MOUs usually included the mutually expected expectations of all involved parties.

Mitigation: Actions that minimizes or eliminate the severity and seriousness of impacts of a project.

Monitoring: Ensuring compliance of a proponents and their project with laws, regulations, and agreements. This includes the active monitoring of construction areas to ensure the land is protected.

P

Proponent: The person, organization, or company who is proposing a project.

Project Site: The area directly around a project.

Project Area: An area around the project site (typically 5km).

Project Region: An area around the project site (typically 10km).

R

Reclamation: Returning the site of a project back to its original state.

Resource Sharing Agreement: An agreement to share the resources or benefits of a project.

Scoping: Determining which components of the project that will be included in the impact assessment.

S

Screening: The process of determining if an impact assessment is required for a particular project

Socio-economic Environment: The economic, cultural, and social aspects of a community that may be impacted by a project.

Stakeholder: A person with an interest or concern for a project in some form.

Statement of Rights: A document outlining your rights as Anishinaabe.

Stewardship: The responsible use and protection of the natural environment.

Sustainability: The responsibility to conserve natural resources and protect the Earth's ecosystems.

Spatial Boundaries: Geographic boundaries of the impact assessment.

T

Temporal Boundaries: The timeframe associated with the project, including construction, operation, and decommissioning.

Technical Expert: An individual(s) with expertise in a given area.

Traditional Ecological Knowledge/Anishinaabe Aki Kakendamowin: The Traditional Sacred Knowledge on the lands, waters, soils, and skies, held by the Anishinaabe

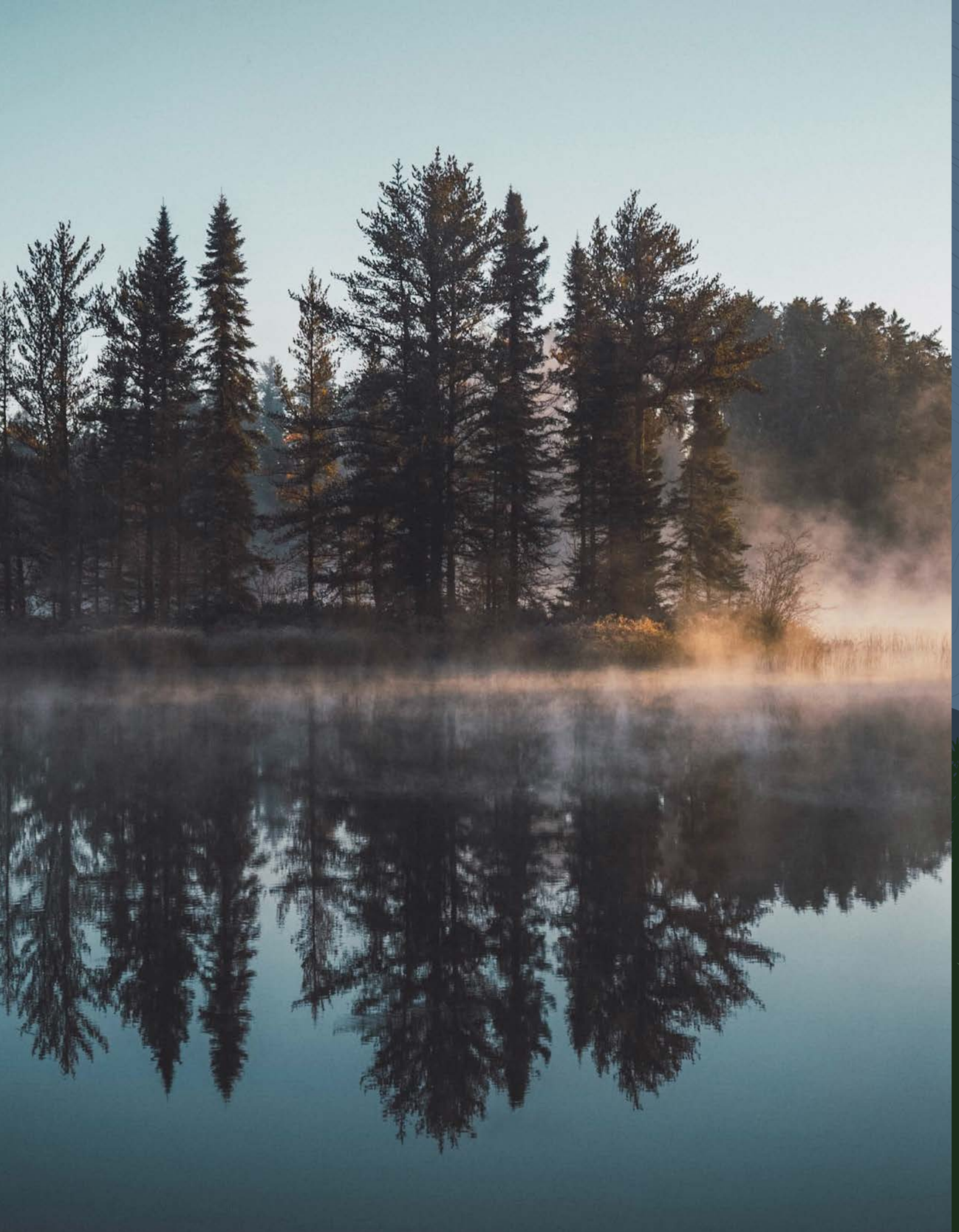
Treaty Rights: Rights promised to the Indigenous peoples of Turtle Island by the Crown.

U

United Nations Declaration on the Rights of Indigenous People: An international agreement to protect the individual and collective rights of Indigenous peoples.

V

Valued component: Components of the natural and human environment that are considered by the Indigenous groups, proponents, public, scientists and other technical specialists, and government agencies involved in the assessment process to have scientific, ecological, economic, social, cultural, archaeological, historical, or other importance.



Section 02

Background

- Treaty #3 and Anishinaabe Sovereignty
- Teachings, Traditions, Values
- Anishinaabe Inakonigaawin
- Nibi Declaration
- Anishinaabe Rights

2.0 Background

2.1 Treaty #3 and Anishinaabe Sovereignty

Sovereignty refers to the ability of a people to govern themselves within a territory, determine their own way of life, and to live that life free from interference. Anishinaabe sovereignty in the territory that would come to be known as Treaty #3 begins at Time Immemorial. Unlike European or Settler ideas of sovereignty that typically think of it as a possession that grants absolute rights to rule over territory, traditional Anishinaabe sovereignty revolves around an active relationship with the territory. This active relationship refers to the planting of the Anishinaabe by the Creator in their territory, and their responsibilities to the lands, soils, waters, and skies. To speak of Anishinaabe sovereignty is to speak of the stewardship of Aki – a process of depending upon and providing for the natural world. The practices of hunting, trapping, fishing, harvesting, and gathering, among many others, are expressions of Anishinaabe sovereignty because they are the enactment of this relationship.

The Anishinaabe enforced their sovereignty as Europeans arrived, traded, and eventually sought to settle within their territory. The British Royal Proclamation of 1763 established areas of the continent that had not been claimed or settled by Britain as Indigenous Hunting Grounds where no Settler could interfere with its Indigenous inhabitants. Although still important today in the modern interpretation of "Aboriginal Title" and Indigenous sovereignty, the Proclamation made the Crown the sovereign over these lands. This unilateral declaration was made without Anishinaabe knowledge, participation, or consent.

Later, in the mid-1800s, the Crown grew increasingly concerned about the territory that would become Treaty #3. The Anishinaabe were seen as exercising control over a vast area between Fort William (present-day Thunder Bay) and Fort Garry (Winnipeg). They began sending diplomats to meet with the Anishinaabe. Initially they sought simply to maintain good relations. Later, they came to procure a right-of-way and right of passage. Then, they sought the surrender of all Anishinaabe lands for colonial settlement. The Anishinaabe, by contrast, were clear from the outset: they were considering a Nation-to-Nation treaty with the Crown. Their sovereignty was not something that could be negotiated or bartered away.

Treaty #3 was signed on October 3rd, 1873. In the wake of the Treaty, assimilatory, marginalizing, and institutionalizing policies of oppression were imposed on the Anishinaabe Nation in Treaty #3. These policies eroded Anishinaabe sovereignty by physical removal from their territory, exclusion from economic affairs or traditional sustenance, prohibition of cultural expression and interruption of intergenerational knowledge, and the destruction of resources through colonial development. The deterioration of Anishinaabe sovereignty occurred not because it was "lost" or "surrendered" in negotiation but because Anishinaabe were prevented from exercising their relations and stewardship responsibilities with the land, soil, water, and sky.

Today, the Crown recognizes a modern interpretation of Anishinaabe sovereign rights in Sections 25 and 35 of the Charter of Rights and Freedoms. These rights are usually divided into two categories:

- **Inherent Rights:** Although technically referring to the rights granted to Indigenous peoples through the Royal Proclamation of 1763, they are usually invoked to refer to the rights possessed by Indigenous peoples since time immemorial.
- **Treaty Rights:** These refer to the rights conferred by treaties.

These rights, and the duties they confer on Canadian society to respect them, are described in greater detail in **Section 2.2 on page 24.**

Although this modern conception of Anishinaabe sovereignty is not exactly the same as the traditional one, it does bring sovereignty as a process back to the forefront. Lands managers are a key part of this process, responsible for navigating the rules, legislation, and policies to protect the environment and help their communities so that they may realize their Inherent and Treaty Rights. Some of these specific responsibilities include:

- Educating communities, particularly youth, on how to respect and care for the land, soil, water, and sky,
- Reconnecting youth with the land and traditional sustenance activities,
- Protecting and monitoring the land,
- Being cautious of human actions and the spaces they occupy,
- Taking only what is needed,
- Sharing knowledge, and
- Knowing one's history.

2.1.1 Teachings, Traditions, Values

Anishinaabe teachings, traditions, and values are important for lands management to ensure that if land is developed, it is also protected. Everything, living or non-living, is interconnected with each other and with the Anishinaabe. It is this interconnectedness that builds a deep respect for the lands, waters, skies, and soils.

The Seven Grandfather Teachings, acting as guiding principles for generations of Anishinaabe, are an important component of lands management. Following these sacred teachings ensures that projects come together while respecting all living things of creation. The teachings are:

2.1.2 Anishinaabe Inakonigaawin

There are many traditional and sacred laws that have been guiding the Anishinaabe since time immemorial. These Anishinaabe Inakonigaawin are unwritten and passed on orally and through ceremony.

2.1.2.1 Manito Aki Inakonigaawin

History of Manito Aki Inakonigaawin

At the beginning of time, Saagima Manito gave the Anishinaabe duties and responsibilities to protect, care for and respect the land. These duties were to last forever, in spirit, in breath and in all of life, for all of eternity. The spirit and intent of Manito Aki Inakonigaawin signifies the duty to respect and protect lands that may be affected from over-usage, degradation and un-ethical processes. Saagima Manito explained the Great Earth Law as a manner of thought, a way of feeling and a way of living. As a teaching, the law is difficult to translate to English, as it is engraved into Anishinaabe ways of life.

Manito Aki Inakonigaawin is a manner of thought, a way of feeling, and a way of living.

Manito Aki Inakonigaawin was officially written and ratified by Elders of the Nation of Treaty #3 in 1997. On April 22 and 23, and July 31, 1997, an Elders gathering was held in Kay-Nah-Chi-Wah-Nung at Manito Ochi-waan. The Elders brought the written law through ceremony, where the spirits approved this law and respectfully petitioned the National Assembly to adopt it as a temporal law of the Nation. In the spring of 1997, a traditional validation process was held through a shake-tent ceremony. Elders and Knowledge Keepers worked extensively with the traditional shaker to decide the exact question to ask during the ceremony. This would allow for a clear understanding and the greatest certainty when asking the spirits for guidance in regard to writing the law.

Following this, a four-day ceremony on Powwow Island commenced. Four lodges were built in the four directions for the written law to go through to be seen by the spirits. The document (mazina'igan) started in the east, and the lodge keeper asked the spirit to scan the document. It then went to the south, west, and north lodges to continue on the process. In the evening of the 4th day, the document completed its journey through the sweat lodges. It was then brought to the shake tent and was given a message from the spirit, confirming the document and stating it was okay to give it back. This completed the document's journey through ceremony. The Elders of Treaty #3 ratified the document, then it was taken to the Fall Assembly the following morning. The pipe, tobacco, and drum were the traditional tools of governance used in the ceremony.

In October 1997, Manito Aki Inakonigaawin as a written law was then brought forth to the National Assembly on October 3rd, 1997, where it was accepted and proclaimed and each community within Treaty #3 was asked to give consideration to it according to their own traditional practices. Each community was then tasked with developing Band Council Resolutions (BCR) to ascend to the law and also developing their own consultation protocol. The process of writing Manito Aki

Inakonigaawin on paper was significant for the Nation as it was an opportunity to have a written record of the law.

Although it is now written in English, the authoritative version of Manito Aki Inakonigaawin lives in ceremony. No human decision is greater than spirit, therefore ceremony is an integral process to following Manito Aki Inakonigaawin.

Jurisdiction of Manito Aki Inakonigaawin

The Anishinaabe Nation in Treaty #3 has pre-existing jurisdiction that continues to be exercised by the Nation, Grand Council Treaty #3, and communities. Treaty #3 established a shared sovereignty over some matters between the British and the Anishinaabe, therefore it is an important effort to reconcile the pre-existing sovereignty of the Anishinaabe with the asserted sovereignty of the Queen and her divisional governments.

The Nation in Treaty #3 exercises pre-existing jurisdiction as proper stewards of the land. Since time immemorial, Creator entrusted the Anishinaabe to care for lands and resources on Turtle Island. The Anishinaabe maintain a spiritual connection to the land and Mother Earth. The 28 communities in Treaty #3 support and guide Grand Council's efforts to facilitate collective engagement respecting the land and waters, as guided by the principles set out by Manito Aki Inakonigaawin.

The Significance of Manito Aki Inakonigaawin

Manito Aki Inakonigaawin has been an inherent law to Anishinaabe in Treaty #3 territory since time immemorial. The law governs relationships with the land and its inhabitants throughout daily life. This includes:

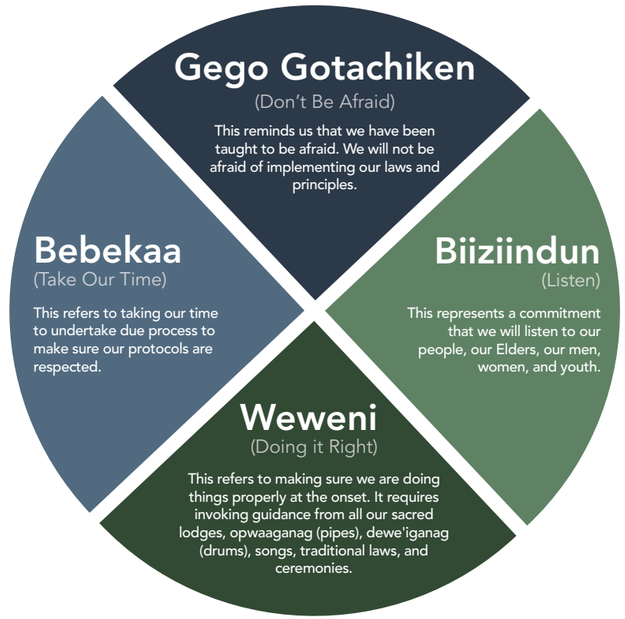
- Respecting the lands and waters
- Giving offerings to spirits and Creator when you benefit from Mother Earth's gifts such as hunting, fishing or transportation
- Knowing your rights as a Treaty #3 member and
- Understanding the responsibility as a steward of the land

Since the law was formally written in 1997, it has helped uphold traditional land rights and create a Nation-based law making process in the territory.

Manito Aki Inakonigaawin is written within and throughout nature- its spirit is within all living things on earth - from you, to the animals, to the trees, and to the air that we breathe. It is the natural law that governs the natural cycles of life. Manito Aki Inakonigaawin has its own spirit, as it itself is also living.

The law is eco-centric, which means the law considers and acknowledges that it's not only human beings that live on this land, but ALL things on Earth possess spirit and life. Manito Aki Inakonigaawin is based not only on rights - but also on the responsibilities we have as a collective to care for Mother Earth.

The law is guided by communities in Treaty #3 territory and supports the collective rights of the Nation as a whole, while affirming jurisdiction of Anishinaabe laws. Manito Aki Inakonigaawin helps to provide a law-making process and is centered on the inherent relationship to Mother Earth. The principles of the Manito Aki Inakonigaawin are also guiding forces for the Anishinaabe:



Although the law was given to Anishinaabe people at the beginning of time - it's important to understand that the responsibility to protect and respect Mother Earth doesn't solely depend on Anishinaabe people - the law represents the collective duty of us all to protect Mother Earth.

Manito Aki Inakonigaawin and Consultation and Engagement

Manito Aki Inakonigaawin states that there is the right to meaningful engagements and respect for Inherent and Treaty Rights. It is therefore considered to be unlawful to proceed with developments within Treaty #3 without the proper consent of the Anishinaabe Nation in Treaty #3. Any Crown or proponent development/activity that occurs, which may affect natural resources must abide by these rights and roles of the duty to engage with the Nation in Treaty #3. The obligation lies on all associated parties who wish to develop or manage resources within Treaty #3 Territory to abide by MAI. As such, MAI is considered a foundational process of mutual respect.

2.1.2.2 Nibi Declaration

The Nibi Declaration was developed by the Grand Council Treaty #3 Women's Council. The Nibi Declaration is a way for Treaty #3 to explain the Anishinaabe relationship with nibi (water). The Declaration reflects the sacred teachings of nibi held by Treaty #3 Gitiizii m'inaanik (Knowledge Keepers) to be shared with communities and those outside of the Treaty #3 Nation. It speaks to the sacred relationship and responsibilities that the Anishinaabe have with water, water beings, and the lakes and rivers around them.

> *This Nibi Declaration is about respect, love, and our sacred relationship with nibi and the life that it brings. It is based on Gitiizii m'inaanik teachings about nibi, aki/ lands, other elements (including air and wind) and all of creation. This knowledge will be preserved and shared through the Declaration with our youth and future generations. Anishinaabe-Ikwewag have a sacred responsibility to nibi and should be included in all decision-making around nibi. This Declaration will guide us in our relationship with nibi so we can take action individually, in our communities and as a Nation to help ensure healthy, living nibi for all of creation.*

Communities can use the Declaration to ensure that any future policy decision, or any potential development project that impacts water, will respect the collective understanding of Treaty #3 Anishinaabe nibi inaakonigewin.

2.2 Anishinaabe Rights

The Anishinaabe in Treaty #3 have Inherent Rights as a Nation. Anishinaabe Inherent Rights were present and withstanding long before settlers arrived on Turtle Island. These rights are recognized and affirmed through Canada's Constitution.

2.2.1 Inherent Anishinaabe Rights as a Nation

Inherent Rights are the rights that were given to the Anishinaabe by the Creator when they were first placed on Turtle Island. These rights are integral to the Traditional Knowledge, oral traditions, and culture that have been with the Anishinaabe since time immemorial. These Inherent Rights vary between Nations but commonly include the right to self-governance, the rights to the land and resources, rights to sustenance activities, and rights to practice a Nation's own culture and customs. As the Manito Aki Inakonigaawin states, the Anishinaabe Nation in Treaty #3 maintains rights to all lands and water in the territory throughout Northwestern Ontario and Southeastern Manitoba.

2.2.2 Anishinaabe Rights within Canada's Constitution

Canada's Constitution is a combination of written and unwritten laws. The "unwritten" parts of the Constitution are based on precedent, custom, and convention. Canada's written constitution is made up of various codified acts and treaties, but the most significant of these include the Constitution Act, 1867, and the Constitution Act, 1982, which set out the basic principles of democratic government in Canada and outline the relationship between the federal and provincial governments. A key part of the Constitution is the Charter of Rights and Freedoms, which provides a number of rights and limits on rights for Canadian citizens. There are several sections in the Constitution Act, 1982 that are specific to Indigenous peoples.

Section 35 of the Constitution Act, 1982, explicitly recognizes and affirms the existing Aboriginal and Treaty Rights of the Aboriginal peoples of Canada (note: Canada previously used the word "Aboriginal" when referring to First Nations, Inuit, and Metis peoples; today, the word "Indigenous" is used when discussing these three groups together). Anishinaabe Inherent Rights to self-govern are also guaranteed under Section 35. Section 25 of the Constitution Act, 1982, further protects the Aboriginal and Treaty Rights that are recognized in Section 35 and ensures that no other provision of the Charter can take away or supersede those rights.

The Crown has a Duty to Consult under Section 35 of the Constitution Act, 1982.There were several court decisions by the Supreme Court of Canada (SCC) that clarified this Duty to Consult with any Indigenous Nation across Canada who may be impacted by a project occurring in their territory – be it from a private proponent or from Crown activity itself. If a Nation has asserted its rights, or if the Crown anticipates that the Nation's rights could be impacted, the Crown's Duty to Consult is triggered.

If the rights of a Nation are going to be infringed upon (for example, a project has received approval), the Crown must demonstrate that it has obtained the consent of the Nation and reasonably accommodated the Nation's interests and substantially addressed any concerns raised.

The Crown's responsibilities in its Duty to Consult arise from the principle of the "honour of the Crown": the Crown is to act honourably and in good faith in its relationships with Aboriginal peoples.

The Ontario, Manitoba, and federal government all have the Duty to Consult. For many Anishinaabe communities, the Crown has often fallen short on its Duty to Consult meaningfully. There are many ways that Anishinaabe communities can work to ensure that during

Crown consultations, the Crown is conducting meaningful engagement that meets the community's standards.

2.2.2.1 UNDRIP

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was officially adopted by the United Nations General Assembly on September 13th, 2007. The concept for the UNDRIP was first developed in the 1980's by the Working Group on Indigenous Peoples in response to the systematic oppression, dispossession of lands, and institutionalized racism Indigenous peoples around the world have been subjected to. Canada initially voted against the Declaration, but later signed on in 2016, committing to its full and effective implementation through introducing Bill C-15 to align Canadian laws with the UNDRIP.

The UNDRIP contains 46 articles which outline an international framework that "constitutes the minimum standards for the survival, dignity and well-being of the Indigenous Peoples of the world." The UNDRIP recognizes and affirms the right to self determination, self-governance, and the right to lands, territories, and resources historically and traditional occupied by Indigenous Peoples.

The implementation of the UNDRIP globally and in Canada is a step towards reconciliation through recognizing the Inherent Rights of Indigenous peoples. In the Truth and Reconciliation Calls to Action, it states that fully implementing UNDRIP into Canadian law can be used as a framework for reconciliation.
In impact assessment, following the principles of UNDRIP is crucial to ensure that the process is done right. One of these principles is FPIC: Free, Prior, and Informed Consent. FPIC was developed by the UNDRIP, and is described as follows:

- Free: The consent has been given voluntarily, without and intimidation by the proponent, or government.
- Prior: Consent is sought well enough in advance to conduct meaningful engagement.
- Informed: The communities are well informed by the proponent and information is shared transparently.
- Consent: The decision is made through a process that is customary to your community.

As we will learn in **Section 3 Impact Assessment on page 31**, the decision on whether a project receives approval is made by either the federal or provincial government. This is the case even when Anishinaabe communities have identified significant risks their community and their territory will face if a project goes through. Even after a government has completed their Duty to Consult and these risks have been identified by a Nation, the government can still decide to go through with a project.

This colonial process of allowing the government to have final say does not follow the principles of FPIC. To combat this, Anishinaabe communities can exercise their Inherent Rights and develop their own impact assessment processes based on their own traditional laws. More on leading your own assessment can be found in **Section 3.5.2 How to Lead Your Own Assessments on page 98.**

Free • The consent has been given voluntarily, without any intimidation or manipulation by the proponent or government.

Prior • Consent is sought well enough in advance to conduct meaningful engagement.

Informed • The communities are well informed by the proponent and information is shared transparently.

Consent • The decision is made through a process that is customary to your community.

Section 03

Impact Assessment

- What, Why, How: The Basics of Impact Assessment
- Federal Impact Assessment
- Impact Assessment in Ontario
- Impact Assessment in Manitoba
- Anishinaabe-Led Impact Assessment
- Interpreting Impact Assessments

Overview

What, Why, How: The Basics of Impact Assessment

In this section you will learn about the federal impact assessment process in Canada, including:

- What impact assessment is
- How impacts are defined
- Why impact assessments are conducted
- The benefits and limitations of impact assessment
- Why impact assessment matters to Anishinaabe communities
- The roles and responsibilities of governments, **proponents**, and Anishinaabe communities in impact **assessments**
- What is included in an impact assessment
- How impact assessment presents opportunities for Treaty 3 governance

3.0 Impact Assessment

In any impact assessment, there are two main phases of the process: pre-application and post-approval. Pre-application includes all of the work that goes into receiving approval for a project, such as technical studies, engagement with communities and the public, and gathering traditional and scientific knowledge. Post-approval includes all of the work that comes after receiving approval, such as construction, operation, monitoring, and decommissioning.

3.1 What, Why, How: The Basics of Impact Assessment

What is an Impact Assessment?

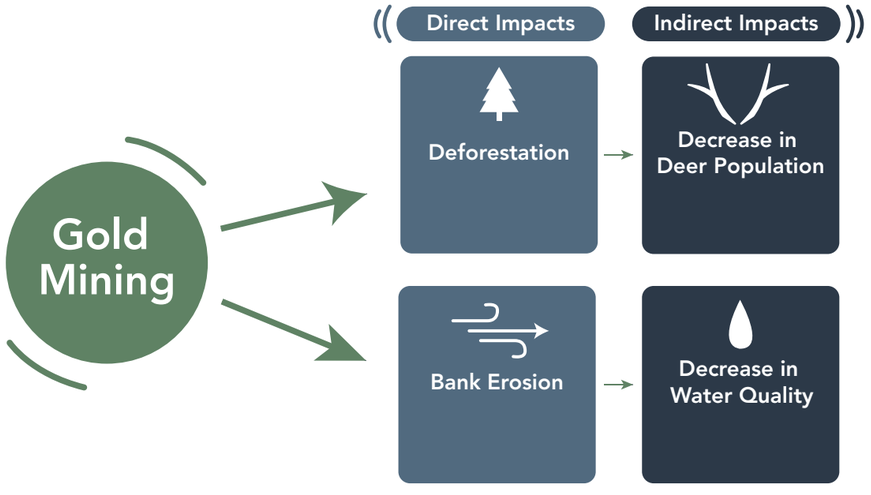
Impact Assessment ("IA") is a planning and decision-making tool used to assess the positive and negative environmental, economic, cultural, and social effects of proposed projects, as well as the impacts to the Anishinaabe rights and wellbeing.

In some jurisdictions, impact assessments are also referred to as environmental assessments. Environmental assessments typically only look at the impacts a project may have on the biological environment, incorporating some information on economics and health. An impact assessment will analyze impacts beyond this scope.

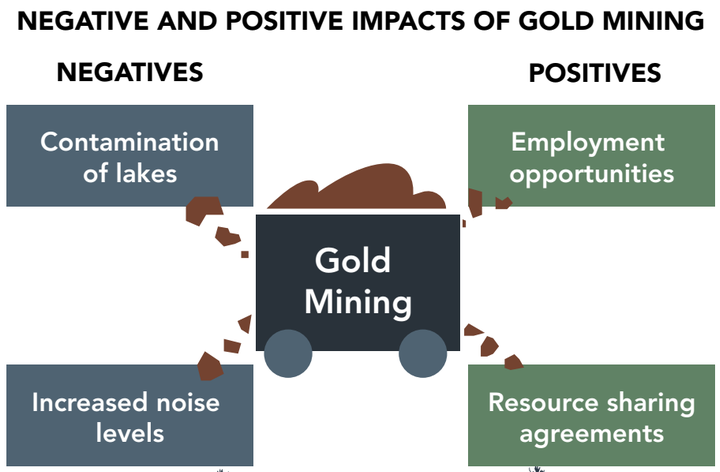
What are Impacts?

An impact is an outcome of an action. Impacts are usually classified into two types: direct and indirect.

An direct impact is a direct result of a project activity. Direct impacts usually happen at the same time as an activity. An indirect impact is a result of a direct impact, but they occur later and could be more removed from the project location. Both indirect and direct impacts are usually foreseeable.



Impacts can be positive, negative, or both. A positive impact could be the creation of employment opportunities through a proposed project. A negative impact could be the contamination of waterways.



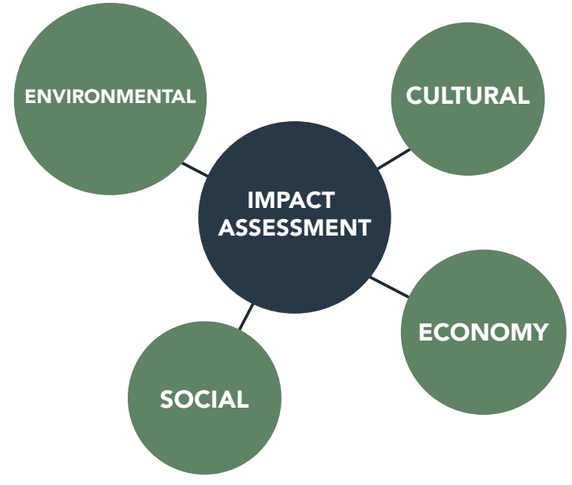
Why and how are impacts calculated?

Impacts are calculated to determine how a project will alter the environment that it is proposed in. Impacts are calculated by assessing how the proposed project will alter the **baseline** conditions of the environment and to what degree. Impacts are usually assessed on the following components:

Environmental
- Lands
- Soils
- Waters
- Skies

Social
- Health
- Employment
- Population

Cultural
- Sacred sites
- Language
- Treaty and inherent rights
- Traditional Knowledge
- Land use (hunting, trapping, fishing)
- Access



Economy
- Employment
- Income
- Economic growth

Why are they conducted?

Impact assessments are conducted to understand possible benefits and consequences of a plan so it can be carried out in the best way possible that either eliminates or mitigates possible impacts.

What are the benefits?

When done right, impact assessment has many benefits: creating economic opportunities, promoting environmental sustainability, building Anishinaabe capacity, building partnerships, providing transparency, and ensuring community participation in decision-making.

What are the limitations?

Although impact assessment is a good planning tool, it has some limitations to its effectiveness. This includes the potential for not meaningfully incorporating Traditional Knowledge throughout the contents of the report and instead including any knowledge as an addition to the report, a lack of follow up with affected communities and on impacted lands, not being able to predict impacts with 100% certainty, and uncertainty surrounding the effectiveness of mitigation measures. Even with its limitations, impact assessment is a vital tool to making sure projects get done the right way.

What are the roles and their responsibilities?

Different entities play different roles in impact assessments. The role of the government, whether it is federal or provincial, will be to approve or deny projects. The industries are typically the proponents who are proposing a project. The role of Anishinaabe communities usually involves engaging in consultations with industries on proposed projects. However, Anishinaabe communities can also be proponents, leading their own impact assessments and projects. Each of these groups, the government, industries, and Anishinaabe communities, are all interconnected on projects in Treaty #3.

Government: The governments, whether they are federal or provincial, are the decision makers on projects. They will either grant or deny a license for a development. The governments are also responsible for conducting "crown consultations" with Indigenous communities when needed.

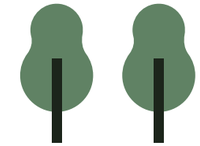
Proponents: The proponent is the individual or organization proposing the project. They are responsible for preparing the project proposal, conducting the impact assessment, applying for licenses and permits, and conducting public and Indigenous engagements. In some cases, a government or Anishinaabe community can also be a proponent.

Anishinaabe Communities: An Anishinaabe community's role in an impact assessment is multifaceted. When a community is not the proponent of a project, their role involves advocating on behalf of their Nation, staying aware of resource development activity in their territory, and ensuring that when a proponent engages them, they are participating fully in the process. When a community is the proponent of their own project, they have the same roles and responsibilities as a proponent, but also making sure that those duties are conducted in a way that respects traditional protocol.

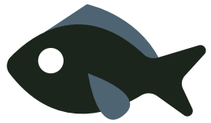
What is included?

Many different elements are included in an impact assessment. Each impact assessment is different in terms of how much information it includes. At a minimum, these include:

1. **Description of the project**

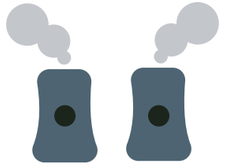


2. **Description of the environment**



3. **Traditional knowledge**

(depending on what is required by the legislation, the proponent may choose to include lots of traditional knowledge or only a small amount. An Anishinaabe-led assessment or an assessment co-led by a proponent and Anishinaabe nation may include a lot more)



4. **Potential impacts of the project**

5. **Explanation on how impacts will be mitigated.**

What does it tell us?

Impact assessment tells us the risks that proposed projects pose to the environment and Anishinaabe communities, if there are alternatives to the project, what the potential impacts are and how significant they will be, what the mitigation measures will be, and how follow up will occur on the project.

Why are they important for Anishinaabe communities?

Impact assessments are important for Anishinaabe communities in many ways, including:

- Identifying and voicing how the proposed project will impact Anishinaabe communities and their lands, soils, waters, skies, and culture,
- Having the opportunity to voice concerns about a proposed project,
- Having the opportunity to have a say in how a project should operate,
- Negotiating for impact benefit agreements,
- Being able to ask proponents questions about projects directly, and
- Providing guidance to proponents on the best way that a project can move forward.

Manito Aki Inakonigaawin Authorization and Impact Assessment

Any development in the Treaty # 3 Territory such as, but not limited to, forestry, mining, hydro, highways and pipeline systems that operate in the Treaty # 3 Territory require the consent, agreement and participation of the Anishinaabe Nation in Treaty # 3.

In accordance with Manito Aki Inakonigaawin process, proponents in Treaty #3 are required to contact Grand Council Treaty #3 to seek specific Treaty #3 authorizations, which will provide clear authority to conduct their business ventures and create legal certainty to legitimize these developments in Treaty # 3 Territory. These processes do not infringe on the rights of individual communities, and it is recognized they have their own authorization and engagement protocols.

Authorization for projects is given by the Executive Council under the Manito Aki Inakonigaawin. A proponent who is granted the consent of the Nation in accordance with MAI and who in good faith abides by conditions of authorization is thereby authorized by the Nation, to the extent of its jurisdiction and interest, to proceed with the development with effects on the environment in Treaty #3 territory and on the exercise of rights of the Anishinaabe, to the extent disclosed. If the proponent does not receive authorization under the MAI, they cannot move forward with their project.

What is Anishinaabe-led impact assessment?

Anishinaabe-led impact assessment follows similar process to western impact assessment, however it is entirely developed, led, and implemented by an Anishinaabe community (or groups of communities), rather than, or in addition to, an outside proponent. Anishinaabe-led impact assessment has many benefits, including giving Anishinaabe communities the opportunity to make sure that the process is conducted fully in a way that respects the communities' culture, traditions, and knowledge. See **Section 3.5 Anishinaabe-led Impact Assessment on page 96** for more information.

What are the opportunities for Treaty #3 governance?

Within impact assessment in each jurisdiction, there are several opportunities for the governance of Treaty #3 to be more than meaningfully involved in the process beyond what is required in terms of consultation. This includes:

- **Engagement:** A step beyond consultation, engagement is a more broad and ongoing process of sharing information and seeking feedback, with the purpose of involving the Anishinaabe in the decision-making process. To be meaningful, engagement should be guided by the principles of Manito Aki Inakonigaawin and tailored to the protocols of each community.

- **Participation:** An extension of consultation where directly affected persons become joint partners in the design and implementation of projects. They participate in helping proponents "make" choices. Ground rules and simple agreements specifying concerns may be made between the proponent and directly affected persons, which will require joint planning and necessitate public input.

- **Negotiation:** A voluntary process where the proponent and interested persons participate as co-equals. They will establish agreement and identify and accommodate mutual interests derived from the project.

- **Partnership.** Anishinaabe communities have the option to partner with proponents, governments, and other communities on projects and impact assessment work. This can take the Anishinaabe community's involvement beyond what is legally required on the proponent's part and can put the community on an even playing field with the proponent.

Additionally, there are lots of opportunities for leadership and their lands managers to work on impact assessments. These include:

- Staying alert and informed on resources in your territory and where industries may express interest,
- Demanding proponents to fully engage with Anishinaabe communities,
- Conducting Anishinaabe led impact assessments for projects proposed in Anishinaabe territory,
- Ensuring that community engagement is conducted adequately before a proponent file for a license,
- Notifying governments and proponents when Anishinaabe communities have not been engaged properly and that more work Is required,
- Requesting CEC hearings for proposed projects in Manitoba that communities want to reject or when not enough information about the project was given,
- Appealing licensing decisions the community does not agree with,
- Staying actively involved in the follow-up of a project after a license has been granted.
- Requesting mediation

Consultation:

Where decision-makers listen to the views of other interested persons in order to improve the project design before implementation, or to make necessary changes during implementation. Used to identify or learn about concerns interested persons may have with the proposed undertaking. While the Crown has the Duty to Consult under Section 35 of the Constitution Act, 1982, there are no specific requirements in place to make sure consultation is meaningful. For this reason, consultation often fails to provide opportunities for Treaty #3 governance to be truly involved in the process.

It is important to remember that Anishinaabe communities have many options and are not limited to what the proponent or government may say they can do. Exercising your Inherent Rights as Anishinaabe can help you go above and beyond while working through the colonial processes. You can learn more about other ways to be involved in projects in **Section 3.5 Anishinaabe-led Impact Assessment on** page 96 and **Section 4.0 Tools for Lands Managers on** page 123 **.**

Recap

What, Why, How: The Basics of Impact Assessment

Key takeaways from this section include:

The goal of impact assessment is to identify possible benefits and consequences of a plan so it can be carried out in the best way possible.

Impact assessment is a tool to help plan and make decisions about proposed projects by understanding potential impacts to the environment, economy, human health, society, and Anishinaabe rights and wellbeing.

Impact assessments allow Anishinaabe communities to participate in project planning and decision-making, learn about projects in their territory, voice concerns, share knowledge, and negotiate for opportunities.

Impact assessments estimate how proposed projects will alter the existing baseline conditions of the environment.

Impacts can be positive or negative and direct or indirect.

Impact assessments provide opportunities for Treaty #3 to exercise governance through consultation, participation, negotiation, and partnership.

Governments, proponents, and Anishinaabe communities all have different roles in impact assessment and should work together early on in the process.

Overview

Federal Impact Assessment

In this section you will learn about the federal impact assessment process in Canada, including:

The steps and timelines set out by the Impact Assessment Act

Federal policies and guidelines

Additional federal legislation that is relevant to impact **assessment** and land management

Opportunities for Anishinaabe involvement at each step

3.2 Federal Impact Assessment

This section will give an overview of the impact assessment ("IA") process in Canada. Here, you will learn about the steps involved in an IA, how the Anishinaabe can be involved at each step, legislation that might be applicable to projects you're working on, and Canada's policies and guidelines regarding Anishinaabe engagement and protecting Traditional Knowledge in IA.

3.2.1 The Process

For any major projects proposed on federal lands, the IA process is outlined in the Impact Assessment Act, S.C. 2019, c. 28, s. 1. The Impact Assessment Agency of Canada ("IAAC" or "the Agency") is responsible for leading federal IAs under the Impact Assessment Act. Their job is to manage the process and collect all information needed to understand the potential impacts of proposed projects. Federal IAs may either be conducted by the Agency, by a Review Panel, or can be substituted to a provincial or Indigenous jurisdiction.

Projects that qualify for an IA under the Impact Assessment Act are known as designated projects and are described by the Physical Activities Regulations ("Project List"). Non-designated projects that are not included in the Project List are assessed by federal authorities prior to decision-making but do not qualify for an IA under the Impact Assessment Act.

How do I know if a project needs a Federal impact assessment?

A federal IA under the Impact Assessment Act is needed for any projects that are:

- Described in the Project List,
- Designated by the Minister of Environment and Climate Change, or
- Proposed on federal lands and outside of Canada.

Where can I access the Impact Assessment Act?

The Impact Assessment Act can be accessed at:

https://laws-lois.justice.gc.ca/eng/>Consolidated Acts>Impact Assessment Act

What's on the designated projects list?

The Project List focuses federal IAs on major projects that are most likely to have **adverse effects** on federal lands. Projects within the following groups may be considered designated projects under the Project List:

- Renewable energy
- Oil and gas
- Linear and
- Transportation-related
- Marine and freshwater
- Mining
- Nuclear
- Hazardous waste
- Federal lands and protected areas
- Prodcution Capacity Threshold

In Canada, there are five overall steps that go into the IA process. Anishinaabe communities should understand the activities and roles of the government, proponent, and community at each phase to meaningfully participate in the entire IA process.

Federal IA Timeframes

Planning Phase	**180 Days.**
Impact Statement Phase	**Time determined by proponent, up to 3 years unless extension requested.**
Impact Assessment Phase	**Up to 300 days for Agency-led assessments.** **Up to 600 days for review panels.**
Decision-making Phase	**30 days for minister's decision.** **90 days if decision is referred to Governor in Council (Cabinet).**

Anishinaabe Participation and Engagement

Pg. 40
Impact Statement
(3 years)

Pg. 40
Impact Assessment led by Agency
(300 days)

Pg. 42
Decision Making by Minister
(30 days)

Anishinaabe Guardians

Pg. 40
Planning
(180 days)

Impact Assessment led by Substituted Jurisdiction
Pg. 41

Post Decision
Pg. 38

Pg. 42
Decision Making by Cabinet
(90 days)

Impact Assessment led by Review panel
(600 days) Pg. 41

Public hearing

Summary of issues

Indigenous engagement & partnership plan

Tailored impact statement guidelines

Anishinaabe participation and engagement should continue throughout all phases.

1. Planning

The first step in a federal IA is the planning phase, which has a timeframe of 180 days from the submission of the initial project description by the proponent. During the planning phase, the Agency determines whether regulations are met and conducts engagement with the public and Indigenous peoples to provide information and identify concerns. This engagement should begin early and be ongoing throughout the entire IA process. It is an opportunity for Anishinaabe communities to learn about the IA process, identify potential impacts on Aboriginal and treaty rights, provide input and comments, raise concerns, discuss further opportunities for participation, identify Traditional Knowledge or studies that may inform decision-making, and provide comments on the initial project description. Any concerns that are raised during this engagement are summarized by the Agency in a Summary of Issues document that is given to the proponent. After reviewing this, the proponent provides a response and develops a detailed project description, and the Agency determines whether an IA is required. This decision must take into consideration the possible adverse impacts the project may have on Aboriginal and Treaty Rights. This leads to the development of an Indigenous Engagement and an example of a Partnership Plan, which is developed collaboratively with any Indigenous communities that may be impacted by the project.

Community-specific plans or protocols can be developed to ensure participation and consultation occur according to the needs of the community. Anishinaabe communities are also consulted on the Tailored Impact Statement Guidelines, which outline all information and studies the Agency determines necessary to conduct the IA. The guidelines include how community knowledge should be considered and protected in the impact statement, as well as potential impacts from the project and valued components or studies to be undertaken – with or by Anishinaabe communities or organizations. All final documents are posted to the project's Registry with a notice of the commencement of the IA.

2. Impact Statement

The second step in a federal IA is the Impact Statement process, which is where the proponent outlines and evaluates the impacts of a project according to clear requirements and the Tailored Impact Statement Guidelines.

The maximum timeline for this phase is 3 years, during which time the proponent gathers information through scientific studies and engagement with Anishinaabe communities to create an Impact Statement that combines Indigenous knowledge and Western Science. The Agency will follow provisions and regulations in the Act to respect the confidential nature of certain types of community knowledge. The Agency then works with Indigenous groups, federal authorities, the public, and other jurisdictions to determine whether the Impact Statement meets the information requirements set out in the Tailored Impact Statement Guidelines.

3. Impact Assessment

During the IA phase, the Agency or a Review Panel or a substituted jurisdiction prepares an IA that considers potential positive and negative environmental, health, social, and economic impacts of the proposed project.

Impact Assessment Led by the Agency

If the IA is being completed by the Agency, the phase follows a 300-day timeline. Engagement continues as outlined in the Indigenous Engagement and Partnership Plan and should include dialogue on possible mitigation or accommodation measures to address potential impacts. Possible impacts on Aboriginal Treaty Rights are also assessed and consulted on during this phase. The Agency then engages Anishinaabe communities on the draft report once it is ready. In addition to this, Anishinaabe communities may choose to develop their own assessments during this phase (see Section 3.5 Anishinaabe-led Impact Assessment). Where an Anishinaabe-led assessment is occurring in parallel or in cooperation with the IA, the Agency will consider the results of that assessment in the development of its IA report. Further opportunities for collaboration in this phase may include co-drafting sections of the IA report and co-developing mitigation and/or accommodation measures.

Impact Assessment Led by Review Panel

If the Minister's decision is for a Review Panel to conduct the IA, the phase follows a 600-day timeline. During this time, the Agency continues leading Crown Consultations and engages Anishinaabe communities on draft Terms of Reference for the Panel. Once appointed, the Review Panel will review the Impact Statement and hold a public hearing, where Anishinaabe communities are invited to provide information.

This input may be provided in written, oral, or other formats, depending on the preference of the community and the direction of the Review Panel. Anishinaabe communities can choose to pursue alternative or additional approaches during this phase.

For example, communities may collaborate with the Agency to develop and apply their own methodology for assessing potential impacts on Aboriginal and Treaty Rights. Once the Review Panel prepares its report containing conclusions and recommendations from the public hearing, the report is submitted to the Minister of Environment and Climate Change. The Agency consults Anishinaabe communities on the report, including whether the panel has accurately explained the potential impacts on Aboriginal and Treaty Rights and any outstanding issues that may still require further mitigation or accommodation. The Agency then develops a Crown Consultation and Accommodation Report that documents the outcomes of the consultation process and is developed collaboratively with Anishinaabe communities. This collaboration could include co-drafting sections of the report, collaborating on methodology for the assessment of rights, and sharing the report for review.

Substituted Impact Assessment

If the Minister's decision is to substitute the IA to a provincial or Indigenous jurisdiction in the Planning Phase, then the assessment is carried out by that jurisdiction instead of by the Agency or a Review Panel. This can happen when the jurisdiction submits a request for substitution to the Minister. This option provides an opportunity for Treaty #3 governance by allowing Anishinaabe jurisdictions to be responsible for leading the IA. While a substituted IA must meet the same requirements as any other federal IA, an Anishinaabe jurisdiction could choose to go above and beyond by developing an assessment and process rooted in the principles of Manito Aki Inakonigaawin.

4. Decision-Making

During the decision-making phase, the IA report and Crown consultation outcomes inform the Minister or Governor in Council (Cabinet) to decide on whether a project is in the public interest. If the decision is made by the Minister, the time period is 30 days, and if it is deferred to the Governor in Council (Cabinet) for consideration, the time frame is 90 days. The public interest determination is based on factors including the project's contribution to sustainability, the significance of direct and incidental adverse effects, associated mitigation measures, impacts on Indigenous peoples and rights, and contributions to Canada's climate change commitments. Decision statements explain the reasoning behind the decision to provide transparency and accountability.

5. Post Decision

If the outcome of decision-making is for the project to move forward, the IA process enters the post decision phase. Here, the Agency is active in ensuring there is compliance with Decision Statements as the project proceeds. Follow-up and monitoring programs are an essential part of this phase and are a great way for Anishinaabe communities to remain actively involved into the life of the project. For example, Anishinaabe communities may seek to establish or use existing Anishinaabe Guardians Programs to take on any environmental monitoring work themselves. See **Section 3.5.2.4 Anishinaabe Guardians Programs on page 100** for more information.

Opportunities for meaningful Anishinaabe involvement

There are various ways that the Anishinaabe can be leaders in the federal IA process. Communities may choose to collaborate with the Agency to lead parts of the assessment, operate in partnership with the Agency, undertake their own Anishinaabe-led **assessments**, or substitute an Anishinaabe jurisdiction's process for the federal assessment process.

What impact assessment process applies to projects on reserve land?

For projects on federal lands, such as reserve lands, that are less complex or lower-risk, they are still subject to any applicable federal laws and permissions. Communities that want to construct their own projects in their community, such as a water treatment plant, school, or band office, must have their project reviewed by Indigenous and Northern Affairs Canada (INAC). INAC will determine whether the project will cause significant environmental effects and requires an IA.

What should be included in an Indigenous Engagement and Partnership Plan?

The Indigenous Engagement and Partnership Plan is developed collaboratively with Indigenous communities to determine how and when communities will participate in the IA.

At a minimum, the following information must be included:

- A list of Indigenous groups that may be impacted by the project;
- How Indigenous groups have said they want to be consulted;
- When the Indigenous groups will have an opportunity to participate, including which groups may collaborate or partner with the Agency on aspects of the assessment; and
- Consultation protocols to be followed for each community, where applicable.

The plan may also include details such as:

- Cultural practices to be followed;
- Expectations for time allotted for review, dialogue and collaboration;
- Language or format of information shared;
- How Indigenous governments will be kept informed;
- Technical working committees to be formed;
- Specific studies that an Indigenous group may lead or participate in.

Case Study

Webequie Supply Road Project

Webequie First Nation is proposing the construction and operation of a 107-km all-season road that would connect the Webequie Airport to the McFaulds Lake area in northern Ontario. As a remote community with no year-round access to the existing all-season road network, Webequie First Nation has had a limited ability to participate in economic opportunities. However, their location provides future opportunities to benefit from the planning, development, and operation of any mineral exploration activities in the Ring of Fire area.

The purposes of the project are:

1. To facilitate the movement of materials, supplies and people;
2. To provide employment and other economic development opportunities to community members; and
3. To provide experience and training opportunities for youth.

This project serves as a unique example of a federal IA led by the Agency because it is also an Anishinaabe-led IA, with the First Nation as the proponent, and a provincial EA, with both levels of government coordinating to follow a single assessment process. The document that results will address both the provincial Terms of Reference requirements in Ontario and the federal Tailored Impact Assessment Guidelines.

For more information about this project or to see current updates, visit www.supplyroad.ca

3.2.2 Additional Federal Legislation

The Impact Assessment Act, 2019 is the main piece of legislation that establishes the IA process on federal lands, designates which projects require an IA, and outlines the steps and timelines involved. However, there are various other pieces of federal legislation that are also relevant to impact assessment, land management, and the environment in Canada.

3.2.2.1 Canadian Environmental Assessment Act (CEAA)

The Canadian Environmental Assessment Act, S.C. 2012, c. 19, s. 52 (CEAA 2012) was replaced by the Impact Assessment Act on August 28, 2019. One of the primary practical differences between the two pieces of legislation is that CEAA 2012 was focused on assessing environmental impacts and had a reduced emphasis on early planning and engagement with Indigenous communities. If a project commenced the environmental assessment process before the Impact Assessment Act came into effect, the assessment will continue under the regulations of CEAA 2012.

CANADIAN ENVIROMENTAL ASSESSMENT ACT, 2012	IMPACT ASSESSMENT ACT, 2019
No early planning and engagement phase.	A new mandatory early planning and engagement phase. This means early dialogue with the Anishinaabe to identify and discuss issues early, leading to better project design.
Three responsible authorities conduct environmental assessments.	A single government Agency to lead assessments and coordinate Crown consultations, with the Anishinaabe.
Availability, accessibility, and integration of science and knowledge varies. Anishinaabe knowledge is not consistently considered.	• Decisions on projects are guided by science, evidence, and Anishinaabe knowledge. • An open science and data platform, and plain-language summaries of the facts that support assessments. • Mandatory consideration and protection of Anishinaabe knowledge alongside other sources of evidence in impact assessments. • Federal and independent reviews of science.
Legislated timelines.	Legislated but flexible timelines maintained for impact assessments and extended to the planning phase.
Environmental assessments focus only on minimizing adverse environmental effects.	• A move from environmental assessment to impact assessment based on the principle of sustainability. • Broaden the scope of assessments to include positive and negative environment, economic, social and health impacts, as well as to require gender-based analysis. • An assessment of the impacts of a project on the Anishinaabeg and their rights is also required.
Anishinaabe participation in reviews driven by Duty to Consult.	Early and inclusive engagement and participation at every stage, with the aim of securing consent through processes based on recognition of Anishinaabe rights and interests from the start. Anishinaabe governments have greater opportunities to exercise powers and duties under the Act.

Fisheries Act

The purpose of the Fisheries Act, R.S.C. 1985, c. F-14 is to provide a framework for the proper management and control of fisheries and the conservation and protection of fish and fish habitat, including by preventing pollution. The Fisheries Act was amended in 2019 to add new protections for fish habitat, development of an online fisheries registry of projects near water, and improved relations with Indigenous Nations. This legislation may be engaged for any project that threatens fish or fish habitat.

The Canadian Navigable Waters Act

The Canadian Navigable Waters Act, R.S.C. 1985, c. N-22 exists to protect navigation in Canadian navigable waters. It provides guidelines for constructing, placing, altering, rebuilding, removing, or decommissioning any work in, on, over, under, through or across any navigable water. The Act also has provisions that make it possible for Anishinaabe communities to partner with Canada in the administration of protections and safeguards.

Canadian Environmental Protection Act (CEPA)

The primary purpose of the Canadian Environmental Protection Act, S.C. 1999, c. 33 (CEPA) is to protect the environment and human health and contribute to sustainable development through pollution prevention. It provides the legislative basis for a range of activities related to assessing and managing the risks from chemicals, polymers, and living organisms, programs concerning air and water pollution, hazardous waste, ocean disposal, and greenhouse gas emissions, and any environmental emergencies. Amendments to this Act were put forward in 2021 to provide a focus on recognizing the right to a healthy environment.

Species at Risk Act (SARA)

The Species at Risk Act, S.C. 2002, c. 29 (SARA) exists to prevent wildlife species in Canada from disappearing, to provide for the recovery of wildlife species that are extirpated (no longer exist in the wild in Canada), endangered, or threatened because of human activity, and to manage species of special concern to prevent them from becoming endangered or threatened. The SARA designates species at risk and how they are listed, the measures to protect species at risk, and establishes a public registry. This legislation may be engaged for any project that threatens species of special concern or their habitats.

3.2.3 Federal Policies and Guidelines

3.2.3.1 Indigenous Knowledge Policy Framework

Policies and guidelines are put in places to help proponents and communities with the federal IA process. The Government of Canada is currently developing an Indigenous Knowledge Policy Framework to provide an overarching, principles-based approach for the consideration and protection of confidential Indigenous knowledge provided in proposed project reviews and regulatory decisions under **Bills C-68 and C-69.**

Bill C-68

An Act to amend the Fisheries Act and other Acts in consequence.

Bill C-69

An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

The framework is being developed under the administration of Environment and Climate Change Canada in partnership with Indigenous peoples. It is being developed to promote a common understanding between Indigenous peoples and federal organizations involved in project reviews and regulatory decisions, while recognizing different approaches to Indigenous knowledge. It will provide predictability, consistency, and transparency with the goal of protecting any confidential Indigenous knowledge provided.

Recap

Federal Impact Assessment

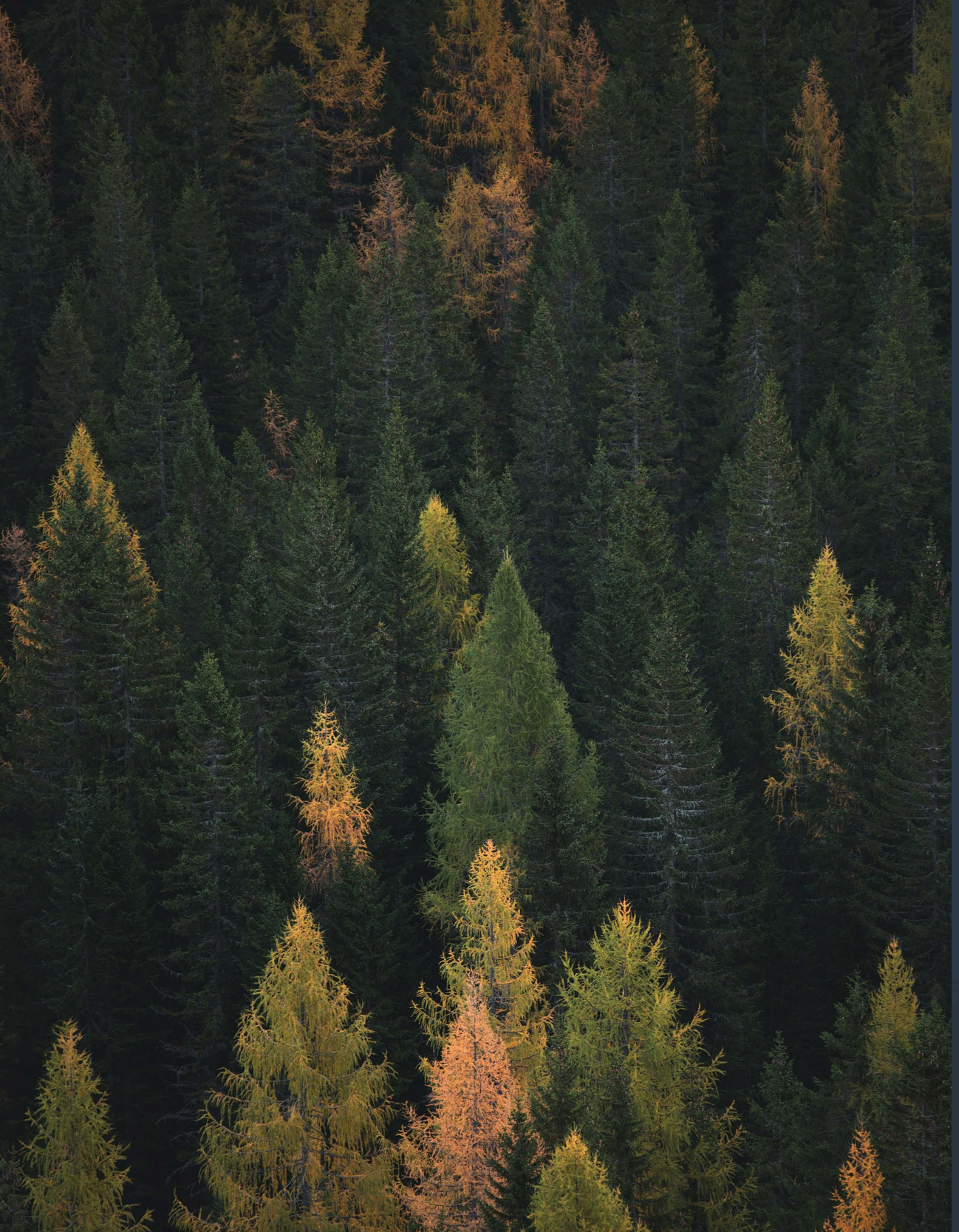
Key takeaways from this section include:

Anishinaabe communities should be familiar with the steps and timelines set out by the Impact Assessment Act to understand the obligations of the Crown, the proponent, and the community throughout each phase of the process.

The Impact Assessment Act is a new piece of legislation designed to increase opportunities for meaningful engagement. Under this Act, there is flexibility for the Anishinaabeg to decide how they would like to participate in federal impact assessments.

Anishinaabe communities should be aware of other federal laws such as the Canadian Environmental Assessment Act, First Nations Land Management Act, Indian Act, Species at Risk Act, Fisheries Act, Canadian Energy Regulator Act, Canadian Navigable Waters Act, and Canadian Environmental Protection Act, as these may be relevant to certain projects proposed in your territory.

Proponents rely on federal policies and guidelines such as the Indigenous Knowledge Policy Framework for guidance on how to engage communities and consider Traditional Knowledge.



Overview

Environmental Assessment in Ontario

In this section you will learn about the EA process in Ontario, including:

- The phases and activities set out by the *Environmental Assessment Act*
- Environmental assessments by regulation
- Class environmental assessments
- Anishinaabe engagement in Ontario's environmental assessment process
- Environmental assessment reforms

3.3 Environmental Assessment in Ontario

This section will give an overview of the Environmental Assessment ("EA") process in Ontario. Here, you will learn about the steps involved in an Ontario EA, legislation that might be applicable to projects you're working on, the policies and guidelines Ontario has regarding Anishinaabe engagement and knowledge in EAs, and what roles the Anishinaabe have in Ontario EAs.

In Ontario, the government uses the term "environmental assessment" in their legislation and guidelines. When referring to their processes, we will be using the term EA.

Where can I access the Environmental Assessment Act?

The Environmental Assessment Act can be accessed at:

Ontario.ca > Law and safety > Laws > Environmental Assessment Act

3.3.1 The Process

In Ontario, the EA process is described in the Environmental Assessment Act, R.S.O. 1990, c. E.18 ("the Environment Act"). The Ministry of Environment, Conservation, and Parks ("MECP") assesses and grants licenses for all EAs in Ontario. Currently, projects are subject to an EA based on "who" is doing the work, rather than what the project is.

THE ENVIRONMENTAL ASSESSMENT ACT, 1990

The Environmental Assessment Act is the biggest piece of environmental assessment legislation in Ontario. The EAA has been used to establish various environmental planning procedures, consultation obligations, and documentation requirements (i.e the individual EA and Class EA) which are intended to be commensurate with the environmental significance of the undertaking being Projects that require an EA must go through the steps outlined in the Act and report to the MECP. "The purpose of this Act is the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment." – Environmental Assessment Act, 1990

The key powers and actions of the Environmental Assessment Act include:
· Establishing the Class Environmental Assessment Process
· Outlines the EA process for individual EAs
· Outlines what must be included in an individual EA
The Environmental Assessment Act also has a more holistic definition of "environment", including the biophysical, socio-economic, and cultural components in its definition.

Ontario splits their EAs up into two processes:

1. Individual environmental **assessments**
2. Streamlined environmental **assessments**

The individual EA is used for projects proposed by non-governmental organizations ("NGOs"), private companies, and individuals. These assessments are submitted to the Minister of Environment, Conservation, and Parks for review. Only a small number of projects undergo the individual EA. The majority of projects in Ontario undergo a streamlined EA.

Streamlined EAs are for projects that may be routinely undertaken and have predictable impacts and associated mitigation measures. Streamlined EAs are conducted by public sector proponents. The proponents of these projects follow a set self-assessment and decision-making process.

There are four types of streamlined EAs:

- Class Environmental Assessments
- Electricity Projects Regulation
- Waste Management Projects Regulation
- Transit Projects Regulation

The majority of projects in Ontario are Class EAs. Class EAs are set planning processes for various types of projects. Ontario currently has 11 Class EAs, including for forest management, provincial parks, transportation, and some mining activities. More information on Class EAs is provided in **Section 3.3.1.2 on** page 68.

How do I know...

...if a project in Ontario requires a federal or provincial environmental/impact assessment?

To determine if a project in Ontario requires a federal IA, the proposed project must be:

- Listed on the Designated Projects List, or
- Be on federal lands or outside of Canada.

If the project does not meet either of these requirements, the project does not require a federal IA. The project may require a provincial EA instead. For provincial EAs in Ontario, the project must either:

- Be listed as a streamlined EA (either a Class EA or an EA by regulation – each of which are outlined in this section),
- Be listed under the Environmental Assessment Act regulations as a project that requires an EA, or
- Be designated to complete an individual EA by the Ministry of Environment, Conservation, and Parks or by the Minister.

Contacting the MECP is the best way to determine if the project requires a provincial EA. If the project does not meet the requirements of the federal IA or provincial EA, the project does not need an EA or IA to proceed.

The proponents must notify the Ministry if their project could affect a Treaty right. The Crown will decide if they need to become directly involved in the engagement process.

Contacting Ministry of Enviroment, Conservation, and Parks

Determine if an impact assessment is required

Impacts and mitigation

Project description

Baseline data

Pg. 56

Scoping

(No timeline)

Pg. 58

Preparation of the Environmental Assessment

(No timeline)

Pg. 60

License Decision

(13 weeks)

Anishinaabe Participation and Engagement

Pg. 61

Post Decision

(No Timeline)

Pg. 57

Terms of Reference

(no timeline for preparation)

Environmental Assessment Review

(17 weeks)

Pg. 59

Work plan for conducting the environmental assessment

Submitted to and reviewed by Ministry (12 weeks)

Public and government review

Ministry Review

Request for hearing

Public inspection of Ministry review

Reporting

Monitoring

Follow-up

Anishinaabe participation and engagement should continue throughout all phases.

Who needs to conduct an EA?

As opposed to Manitoba and Canada, Ontario does not currently have a "designated projects list" that tells you which projects require an EA if they're not a Class EA. In general, the Environmental Assessment Act applies to "undertakings" proposed by public sector proponents. These include municipalities, provincial ministries, or public bodies, for example. A private sector proponent would only have to complete an EA if they have been ordered to do so by a regulation or order under the Environment Act. Contacting the Ministry of Environment, Conservation, and Parks and discussing your project can help you determine if your project needs an Individual EA.

Before starting the process of acquiring approvals for their project, proponents, whether they are industry or an Anishinaabe community, are encouraged to meet with the Ministry of Environment and Climate Change to discuss the proposed project and get guidance on what approvals the project needs, including if it needs to conduct an EA. Some private sector proponents undergo the environmental assessment process voluntarily to aid in relationship building with Anishinaabe communities and the public.

3.3.1.1 Individual Environmental Assessments

Individual EAs are prepared for large-scale, complex projects with the potential for significant environmental effects. They are the highest levels of assessment, being more rigorous and complex in nature. The proponents for these projects are from the private sector and are not proposed by any governmental body in the province. Private sector proponents (for example, mining companies), only will complete an EA if they have been ordered to do so under a regulation or under the Environmental Assessment Act. Otherwise, the proponent does not have to undergo the EA process for their project. This means that controversial projects, such as mines, can proceed without undergoing the rigorous individual EA process, assuming they have received all other approvals. The Minister can also use a declaration order to either exempt a project or set out requirements that the proponent must meet. Although individual EAs account for a small amount of EAs in Ontario, they receive the majority of attention by media, stakeholders, and Indigenous communities.

In individual EAs, there are two phases, the terms of reference and the environmental assessment. These phases are broken down into six overall steps to receive approval for a project:

1. Scoping

The proponent will contact the Ministry of Environment, Conservation, and Parks to discuss their project and determine if an individual EA is needed. If it is, the proponent will determine the scope of their study, including defining the project area, identifying alternatives, and what baseline environment information is needed. There is no timeline for the proponent to complete the scoping phase. For projects in Treaty #3, the proponent has a responsibility to consult and seek the consent of the Anishinaabe Nation in a timely manner under Manito Aki Inakonigaawin. This process would ideally begin in the scoping phase when a proponent is first looking into where their project will be and what Nations are in the vicinity. Under the MAI, proponents should be initiating consultations with communities long before they have developed any engineering or construction plans. When the proponent follows MAI, it allows for earlier engagement with Anishinaabe Nations.

2. Terms of Reference

The proponent will prepare a Terms of Reference ("TOR")document before beginning the EA. This document will outline how the proponent will address all of the legal requirements under the Environmental Assessment Act. There is no timeline for the proponent to prepare the TOR. This document is a work plan for how the proponent will prepare their EA. The TOR development process is a great opportunity for Anishinaabe Nations to learn about a proposed project before it even begins the EA process. This is the time when an Anishinaabe community can learn about the project and how the proponent will approach conducting the assessment. Under the MAI, the proponent must ensure that a development is designed, constructed, operated, and decommissioned with respect for the environment in Treaty #3 territory and for rights of the Anishinaabe. Through the proponent's consultations, the Nations can ensure that the proponent is including information on how the project will respect Treaty #3 rights and the environment. This period also offers a chance for communities to negotiate for their involvement in the EA process that follows.

What happens if a project isn't undergoing an individual EA but a community feels that it should?

If there is a project that concerns you that isn't required by a regulation or the Environmental Assessment Act to undergo an EA, there are several steps you can take to ensure that the proponent does their due diligence in assessing the impact of their project, including:

- Contacting the proponent directly to discuss the project and the reasoning behind not undergoing an induvial EA voluntarily,
- Requesting that the proponent voluntarily undergo an individual EA, noting that your consent for the project cannot be given without one, or
- Contacting the Ministry of Environment, Conservation, and Parks to express your concern for the project and its lack of environmental oversight. The Ministry may make a recommendation to the Minister to set out requirements the proponent must meet.

Before starting the process of acquiring approvals for their project, proponents, whether they are industry or an Anishinaabe community, are encouraged to meet with the Ministry of Environment, Conservation, and Parks to discuss the proposed project and get guidance on what approvals the project needs, including if it needs to conduct an EA.

Once the TOR have been developed, it is submitted to the Ministry. When it is submitted, it is reviewed by the Ministry, Indigenous communities, the public, and other governmental bodies and departments. This review period is 30 days. The Ministry will then approve or deny the TOR. The Ministry has 12 weeks from the date the TOR was submitted to decide if they will approve or deny the TOR. If the TOR is denied, the proponent must resubmit their TOR with revisions suggested by the Ministry. If the TOR is approved, the proponent can move forward with preparing an EA with the terms provided by the Minister. Rarely is a TOR rejected by the Minister. The decision the Minister makes on the TOR is also final.

Anishinaabe Engagement in Individual EAs

A key component of developing the TOR is consultation. The proponent must develop a plan for how they will consult interested parties, including Indigenous Nations. The proponent will identify the key milestones in developing the TOR and consult with interested parties at those times. Once the project moves to the stage of preparing their EA, they must also consult with Anishinaabe communities, as they outlined in their TOR. The proponent must submit documents to the Ministry to prove this.

3. Preparation of the Environmental Assessment

After receiving approval of their TOR, the proponent will prepare their environmental assessment. There is no timeline for a proponent to prepare and submit their EA report. The proponent can take as long as they need to gather all the baseline data they require. Similar to other jurisdictions, the proponent will identify alternatives for their project, baseline environment information, impact assessment and mitigation measures, and a record of their consultations. The EA will include detailed information on what the project is, what the current baseline environment is, and how that baseline environment and other factors like economics, health, and social aspects will be impacted by the proposed project. These include, but are not limited to, impacts on:

- Wildlife,
- Fisheries,
- Surface and groundwater,
- Heritage resources,
- Socioeconomic implications resulting from environmental impacts, and
- The type and quantity of pollutants to be released.

Along with their environmental assessment document, the proponent will also submit any documents, studies, tests, reports, and research they carried out for the project, as well as submit any additional materials that they are required to as stated in their TOR.

For Anishinaabe communities, the EA preparation period is especially important. Communities will again be able to voice their thoughts about a project, ask questions, and negotiate for heavier Anishinaabe involvement. Proponents are required to connect with Anishinaabe communities as the duty to consult states. Under MAI, proponents must ensure that a development is designed, constructed, operated, and decommissioned with respect for the environment in Treaty #3 territory and for rights of the Anishinaabe. The EA report will outline each of these phases of the project in detail. Leadership may also be able to negotiate for various benefits and opportunities through mechanisms like an Impact Benefit Agreement or a Terms Sheet.

Can I request mediation or a hearing?

At any time during the EA process, the proponent or any other interested persons can ask for mediation. A mediator can help find a solution to issues or concerns related to a project so that the assessment process can continue. Mediation may either be self-directed or referred. After referred mediation, the mediator will write a report to help the Minister make a decision on the project.

4. Review

Upon completing their environmental assessment, the proponent will submit their EA documents to the Ministry for review. This review is broken up into three reviewing groups over a period of 17 weeks:

- Public & Government Review (7 weeks)
- Ministry Review (5 weeks)
- Public Inspection of Ministry Review (5 weeks)

Over a period of seven weeks, the Indigenous communities, public, government experts, and other interested parties can review the environmental assessment documents and provide comments on the project. The proponent is able to make revisions to their EA during this period. As is stated in the MAI, the proponent must ensure their project respects the environment and Anishinaabe rights in Treaty #3. When reviewing the EA report, it is important for Anishinaabe Nations to review the report in detail to determine whether the proponent has addressed the Nations concerns adequately.

If not, the Nation can refuse to grant authorization for the project under the MAI or request that the proponent revises their report. You can learn about interpreting EA reports in Section 3.6 Interpreting Impact Assessments.

Following the public & government review, the Ministry will take five weeks to conduct their review, called the "Ministry Review". The Ministry will review all comments submitted by the Indigenous communities, public, and government experts, as well as what the proponent said in response. The Ministry will also review how the proponent is in compliance with the terms laid out in their TOR. How the proponent is in compliance with and met the requirements of the Environmental Assessment Act will also be reviewed. The Ministry will publish a "Ministry Review" document of their review.

The EA documents are then handed back over to the Indigenous communities, public, and government experts, who will review the Ministry Review documents. They will have the opportunity to provide comment on how the Ministry responded to the proponent's EA. During this time, if there are any outstanding issues that have not been resolved, a request can be made to the MECP to hold a hearing to resolve these issues. When requesting a hearing, the requestor can offer suggestions for how the issue may be resolved.

5. Minister Issues their Decision

The Minister has 13 weeks to issue a decision on whether to approve the proposed project. The Minster will review all additional comments received on the Ministry Review document before making this decision. The Minster can refer the project for a hearing, approve the project, approve the project with conditions, or refuse to issue a license.

Under MAI, the Executive Council of the affected Nations will issue the authorization for development. A proponent who is granted the consent of the Nation in accordance with MAI and in good faith abides by conditions of authorization is thereby authorized by the Nation, to the extent of its jurisdiction and interest, to proceed with the development with effects on the environment in Treaty #3 territory and on the exercise of rights of the Anishinaabe, to the extent disclosed. If the proponent does not receive authorization under MAI, they cannot move forward with their project. Communities can also choose to grant or withhold consent to a development that directly affects their community.

What happens if a proponent doesn't respect MAI?

If a proponent fails to respect MAI or has received authorization for their project under MAI and breaches those conditions, they have committed a moral offense against the Nation of Treaty #3. The Nation can issue a complaint against the proponent.

A community may also withhold their individual consent for a project if the communities' own customs and protocols have not been respected.

6. Post Decision

Once the proponent has received their approval from the Minister, they can proceed with obtaining other necessary approvals that may be required for their project. Construction can also begin, with the proponent reporting on their compliance with the conditions of their project approval.

Following the approval of the project by the Minister and through the MAI, the affected Anishinaabe Nations must continue to be involved on the project throughout it's lifespan.

Wataynikaneyap Transmission Project

An example of an individual environmental assessment is the Wataynikaneyap Transmission Project. This project is a roughly 300 km long 230kV transmission line from Dinorwic to Pickle Lake in Northwestern Ontario.

The transmission line will connect 17 remote Indigenous communities to the provincial electrical grid, shifting them away from relying on diesel-powered generation. Ontario Regulation 116/00 made under the Environmental Assessment Act requires transmission line projects which are greater than 115kV and less than 500kV and greater than, or equal to, 50 km in length to undergo an Individual EA. The project received approval of their TOR in February 2015.

THE FAR NORTH ACT, 2010

The Far North Act creates guidelines that support community-based land use planning in Ontario's "Far North". This includes the northern tip of Treaty 3 territory. The purpose of this act is to protect Ontario's north in partnership with Indigenous nations while encouraging economic development. Planning is supposed to be conducted with the nations of the far north in a manner consistent with Treaty Rights.

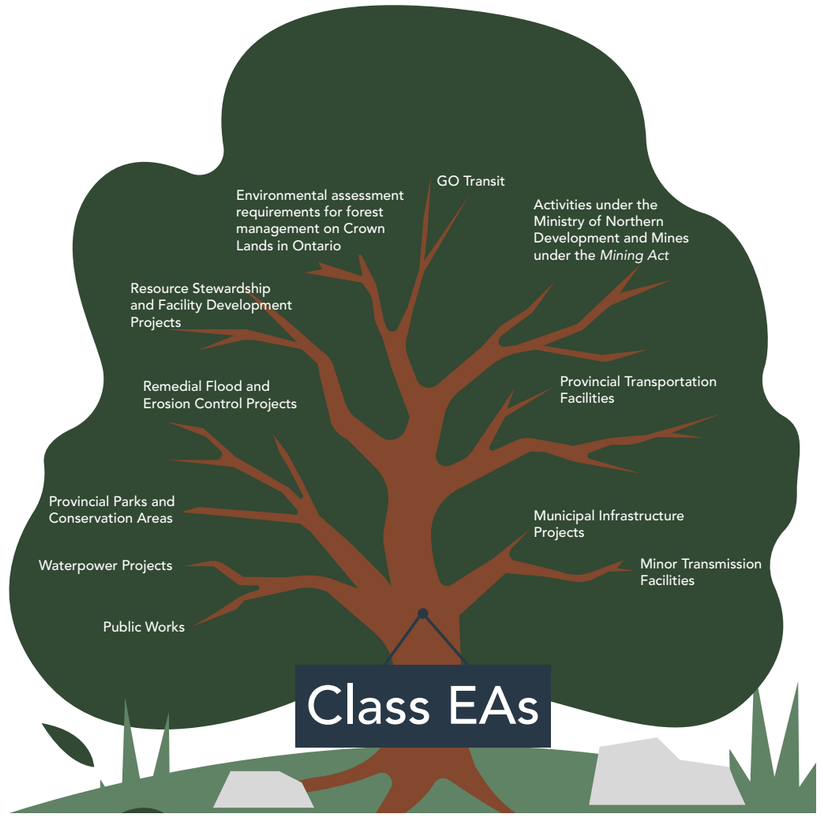
In 2020, the Ministry of Natural Resources and Forestry proposed amendments to the Act. Some of the changes that may impact Anishinaabe communities include:

- The removal of any provisions that are currently hindering economic development in the far north. This includes removing complete protections for the land and instead only giving protections to areas with certain with "cultural value and ecological significance".
- Removing the "Development if no community land use plan" section. Currently, an area of land in the far north that doesn't have a community-based land use plan is subject to Minister's.
approval before a development. The proposed amendments would remove these extra permissions entirely.
- Streamline the legislation to support economic growth in the region, namely expediting mining developments.

3.3.1.2 Class Environmental Assessments

Class Environmental Assessments make up most environmental assessments in Ontario. The Class EA process was introduced in 1997 to streamline projects for approvals. It groups together similar projects that are either untaken regularly, have predictable impacts to the environment, and determined mitigation measures. The Ministry has determined that these "predictable" projects do not warrant the rigorous planning and review process that induvial individual EAs receive. Class EAs are only conducted by public sector proponents.

There are 11 categories of Class EA's:



The following table gives examples of the types of projects under each Class, and who the proponent is for each:

	Proponent	Example Projects
Activities under the Ministry of Northern Development and Mines under the Mining Act	Ministry of Northern Development and Mines	• Conversion of existing land tenure • Mine hazard rehabilitation activities at abandoned mine sites
Waterpower Projects	Ontario Waterpower Association	• Dams • Pipelines
Municipal Infrastructure Projects	Municipal Engineers Association	• Water mains • Sewers • Road widening
Minor Transmission Facilities	Hydro One Networks Incorporated	• Transmission lines • Telecommunication towers
Provincial Parks and Conservation Areas	Ministry of Natural Resources and Forestry	• Establishing a new provincial park
Provincial Transportation Facilities	Ministry of Transportation	• New highways • Interchange improvements
Public Works	Ministry of Infrastructure and Ontario Realty Corporation	• Public works
Remedial Flood and Erosion Control Projects	Conservation Ontario	• Replacing bridges/culverts • Water diversion
GO Transit	GO Transit	• Bus terminals • Rail route extensions
Resource Stewardship and Development Projects	Ministry of Natural Resources and Forestry	• Access roads • Fisheries habitat management
Environmental assessment requirements for forest management on Crown Lands in Ontario	Ministry of Natural Resources and Forestry	• Forest management activities

Each Class EA has their own planning and process document that needs to be followed. The document outlines which projects must follow the process and categorizes them based on their potential for environmental effects (e.g., low, medium, or high).

The Class EA planning processes all include the following:

- Consultation requirements,
- Assessing environmental impacts,
- Assessing project alternatives, and
- Required documents that are needed for approval.

Before submitting their Class EA, the proponent of the Class EA must prepare and submit a Terms of Refence document to the Minister of Environment, Conservation, and Parks for approval. This document will outline how they plan to complete their Class EA.

The level of assessment required for Class EA projects corresponds with their category; the greater the potential for environmental risk, the higher the level of assessment. Each Class EA process document will define the level of assessment needed for each type of project. These streamlined/Class EA systems are not foolproof and can create problems with the public and Anishinaabe communities who feel they were not adequately engaged.

Can a Class EA become an Individual EA?

Yes! As Class EAs are less rigorous than individual EAs, they can generate concern from the public and Anishinaabe Nations. Anyone that has an outstanding concern about a project currently going through a Class EA process, particularly a project that may impact Treaty Rights, you can make a Section16(6) Order (formerly called a "bump-up" or "Part II Order") request to the Minister to request the project undergo an individual EA. This would require the proponent to meet further conditions beyond the Class EA, including further studies, more monitoring, or more consultations.

Anishinaabe Engagement in Class EAs

Consultation is required and expected at different levels for different Class EA projects. Typically, the larger the project, the more consultation you could expect.

In Class EAs it is expected that during consultations, interested parties would have an opportunity to provide input on:

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

Case Study

Proponent and Anishinaabe Led Class EA for the TransCanada Highway Twinning Project

The Highway 17 Twinning project, proposed by the Ministry of Transportation Ontario ("MTO"), is a proposed project to twin Highway 17 from the Manitoba border to Kenora. The project first began in 2009, where it quickly died down because of the lack of consultation efforts by MTO. In 2018, the project picked up again, this time through a partnership with MTO and the Niiwin Wendaanimok Partnership ("NWP"). The NWP consists of the Nations of Shoal Lake 40, Washagamis Bay, Wauzhushk Onigum, and Niisaachewan. The NWP and MTO worked together to lead the Class EA for the project, with the NWP submitting their own "Harmonized Impact Assessment" alongside MTO's Class EA document. This partnership and joint EA process was the first of its kind in Canada and created a benchmark for how future EAs should be conducted – with the full involvement of Indigenous communities.

The project covers the western territory of Treaty #3. The project is a "Group B" Project under the Class Environmental Assessment for Provincial Transportation Facilities. For the project, MTO had to follow the planning process laid out in the Group B section of the Class Environmental Assessment for Provincial Transportation Facilities document.

Transportation Class EAs have four groups, from largest to smallest in scope: Group A, Group B, Group C, and Group D. Group B projects generally include improvements to existing highways, major realignments, and interchanges. For Group B projects, consultations can begin in the Planning Phase (Phase 1), but usually actually begin in the Preliminary Design Phase (Phase 2).

3.3.1.3 Environmental Assessment by Regulation

Ontario has three streamlined EA processes by regulation. These are for:

- Electricity projects,
- Waste management projects, and
- Transit projects.

Examples of these projects are identified in the table below.

PROJECT TYPE	REGULATION	EXAMPLES
Electricity Projects	**Regulation 116/01** ("Electricity Projects Regulation")	• Some hydroelectric facilities • Some natural gas facilities • Some wind turbines
Waste Management Projects	**Regulation 101/07** ("Waste Management Projects Regulation")	• Landfill • Waste disposal site
Transit Projects	**Regulation 231/08** ("Transit Projects Regulation")	• Subway Systems • Subway Stations • Parking lots

Each of these project types have their own EA requirements set out in their own regulation under the Environmental Assessment Act. Projects in each of these areas also have a guideline document that identifies what the proponent needs to include in their EA. As with other EAs in Ontario, there are requirements for public and Anishinaabe engagement.

Electricity projects are split into three categories:

Category A, Category B, and Category C.

Category A projects are minor and have no EA requirements. **Category B** projects have potential environmental impacts that can be mitigated and require an EA in accordance to the Electricity Projects Regulation. **Category C** projects are major projects that have known significant environmental effects and require an individual EA.

3.3.1.4 Anishinaabe Engagement

Throughout the individual and streamlined EA processes in Ontario, Anishinaabe communities will be engaged by the proponent, Crown, or both at various stages.

There are two ways that consultations occur:

1. Through the EA process under the Environment Assessment Act, or
2. Section 35 consultation under the Constitution

The proponent will conduct the engagement requirements under the Act. The Crown will conduct engagements for individuals EAs as well as Class EAs.

3.3.1.5 Environmental Assessment Reforms

Ontario has begun the process of reforming their environmental assessment process to be more in line with other jurisdictions and to modernize their process. Bill 197, the Covid-19 Economic Recovery Act, 2020 was introduced on July 8th, 2020. It contained amendments to 20 different laws, including the Environmental Assessment Act. The bill was fast-tracked and enacted on July 21, 2020. There are a few key amendments to the Environmental Assessment Act. These are currently undergoing review and consultations on how they will be implemented. The proposed changes include:

- Developing a "Projects List" that would require all proposed projects on that list to undergo an EA,
- Eliminating the Class EA for a "Streamlined EA" that will replace all Class EA documents and replace them with a single streamlined approach, and
- Limitations who can request a "bump up" for a project to undergo an individual EA.

What does the EA Reform mean for Anishinaabe Communities?

There are several areas where the EA reforms may impact Anishinaabe communities.

1. The new "streamlined" approach will remove the Class EA system, removing the required environmental assessment that was needed for all public projects listed under a Class EA and the public and Anishinaabe consultation that came with them. This government now has the authority to decide if an EA is needed and if the project can proceed without an EA at all. This removes lots of opportunities that Anishinaabe communities have to comment on and learn about proposed projects and challenges the inherent Anishinaabe responsibility to protect the lands of Treaty #3.

2. The current Environmental Assessment Act allows anyone to request a "bump-up" for a Class EA to an individual EA. The new EA removes the ability for anyone to request this and only allows for Indigenous communities to request a bump-up if they have concerns about the impacts to their Treaty Rights. The application process is will be lengthier and more complex, and the applicant must clearly demonstrate how the project will impact their Anishinaabe rights. The time period for the Minister to review a bump-up request is also shortened.

Mining and Ontario Environmental Assessment

Mining is one current area in Ontario's environmental assessment process that is controversial. Ontario does not automatically require the application of the Environmental Assessment Act to mining projects. Elements of a new mining project may be subject to different sections of the Act, but a new mining project does not require a complete evaluation. There is no "final decision" for a mine on whether it will be approved. This is a position that is unique to Ontario.

Some mine projects trigger a federal impact assessment, in which they will undergo a rigorous assessment and review process. Additionally, to aid relationship with Anishinaabe communities and the public, some mining companies will submit themselves to the EA process. This can also be from a strategic standpoint, as it may reduce consultation requirements during more detailed technical permitting phases down the line.

Recap

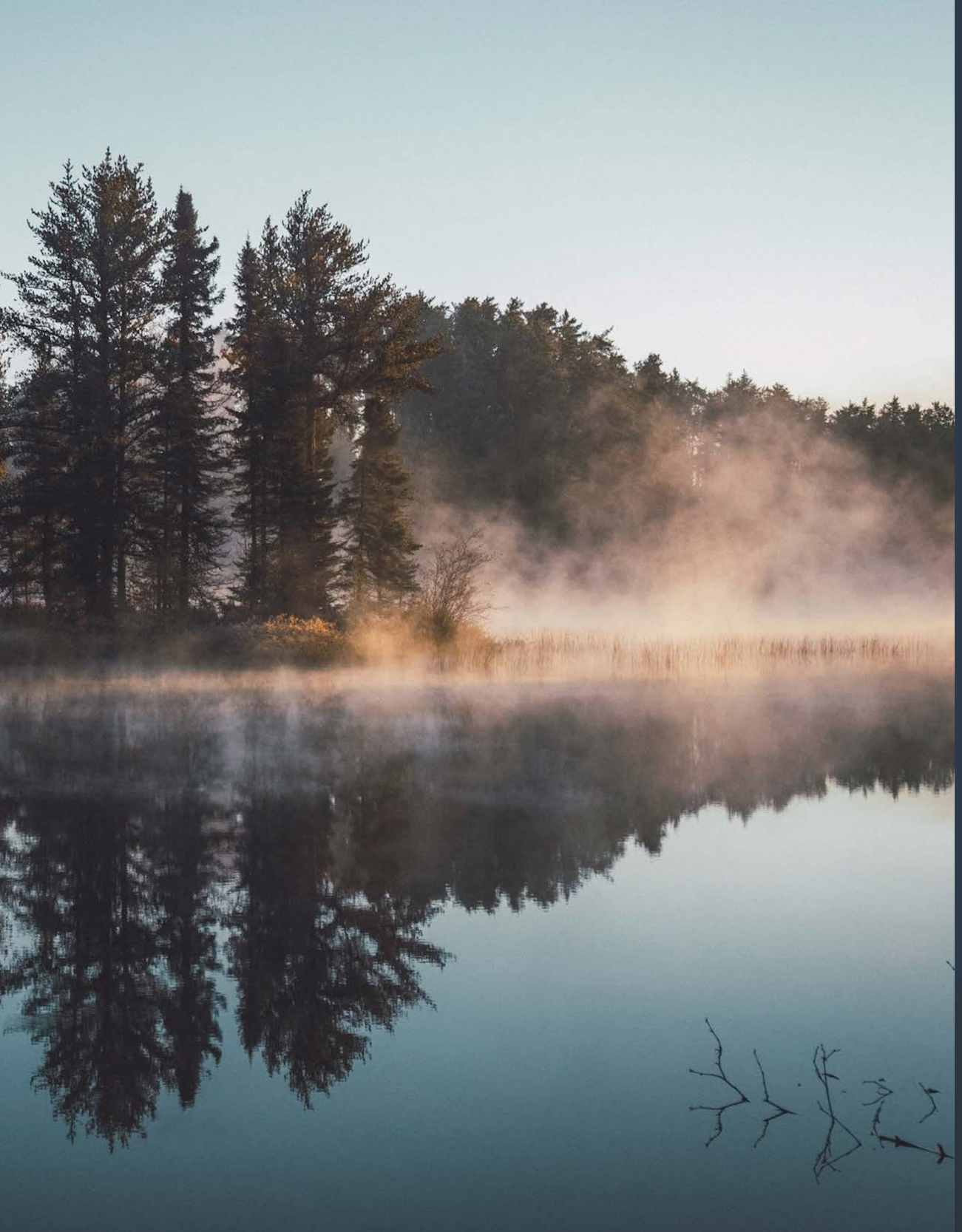
Environmental Assessment in Ontario

Key takeaways from this section include:

Anishinaabe communities should be familiar with the phases and activities set out by the Environmental Assessment Act to understand the obligations of the Crown, the proponent, and the community throughout each stage of the process.

Ontario is in the process of reforming the current environmental assessment process. Anishinaabe communities should follow these changes to understand how provincial environmental assessments might look different in the future.

Ontario follows a "Class EA" system that groups projects into categories.



Overview

Environmental Assessment in Manitoba

In this section you will learn about the enviromental assessment process in Manitoba, including:

The phases and activities set out by the *Environment Act*

Classes of Development

Anishinaabe engagement in Manitoba's environmental assessment process

Environmental assessment reforms

3.4 Environmental Assessment in Manitoba

This section will give an overview of the EA process in Manitoba. Here, you will learn about the steps involved in a Manitoba Environmental Assessment ("EA"), legislation that might be applicable to projects you're working on, the policies and guidelines Manitoba has regarding Anishinaabe engagement and knowledge in EAs, and what roles the Anishinaabe have in Manitoba EAs.

In Manitoba, the government uses the term "environmental assessment" in their legislation and guidelines. When referring to their processes, we will be using the term EA.

3.4.1 The Process

In Manitoba, the EA process is described in the Environment Act, C.C.S.M. c. E125, 1987. Any proponent, whether it is an Anishinaabe community or entity, an industry, or an individual, must submit an application for a license for projects that require them in Manitoba. Most major projects in the province require an environmental license to proceed with a project. When a proponent wants to apply for an environmental license, they will submit an **environmental act proposal ("EAP")** to the **Environmental Approvals Branch ("EAB")**. The Approvals Branch is situated under the **Ministry of Environmental, Climate, and Parks**, who review all environment act proposals and assess whether the project should receive a license.

The environmental license will outline what the proponent can and cannot do regarding their project, give reporting requirements, and note additional measures that need to be taken to protect the environment. Projects usually require various other authorizations and permissions from the provincial and federal government in addition to this environmental license.

Where can I access the Environment Act?

The Environment Act can be accessed at:

Manitoba.ca > Government> Manitoba Laws > Continuing Consolidation of the Statues of Manitoba > Environment Act

Within the Manitoba, Ontario, and federal IA and EA legislation, there are no provisions that give Anishinaabe Nations, or any Indigenous Nation, a specific role in an IA or EA.

THE ENVIRONMENT ACT, 1987

Most projects of major significance require a license under the Environment Act to move forward. These projects usually require other permits, licenses, permissions, and authorizations as well.

The key powers and actions of the Environment Act include:
· Establishing the environmental licensing process and grants licenses for developments,
· Creates the Clean Environment Commission,
· Maintains a proponent funded participant funding program for public hearings,
· Sets the process for enforcement of licensees and environmental pollution standards.

How do I know if a project in Manitoba requires a federal or provincial environmental/impact assessment?

To determine if a project in Manitoba requires a federal IA, the proposed project must be:

- Listed on the Designated Projects List, or
- Be on federal lands or outside of Canada.

If the project does not meet either of these requirements, the project does not require a federal IA. The project may require a provincial EA instead. For provincial EAs in Manitoba, the project must:

- Be listed as on the Classes of Development Regulation under The Environment Act.

If the project does not meet the requirements of the federal IA or provincial EA, the project does not need an EA or IA to proceed.

Crown consultations occur during the review and license decision phases

Determining the focus of the assessment

Reviewing the Classes of Development Regulation

Pg. 76

Scoping

(No timeline)

Pg. 77

Preparing the Environmental Assessment

(No timeline)

Baseline data

Impacts and mitigation

Project description

Public Registry

Clean Enviroment Commission Hearing

Technical Advisory Committee Review

Crown Consultation

Pg. 80

Environmental Assessment Review

(180 Days)

Anishinaabe Participation and Engagement

Follow-up

Monitoring

Pg. 83

Post-Decision

(No timeline)

Crown Consultation

License Decision

(30 Days) Pg. 82

Anishinaabe participation and engagement should continue throughout all phases.

In Manitoba, there are five overall steps that go into the environmental assessment process:

1. Scoping

The proponent will determine the scope of their study, including defining the project area, identifying alternatives, and what baseline environment information is needed. For projects in Treaty #3, the proponent has a responsibility to consult and seek the consent of the Anishinaabe Nation in a timely manner under Manito Aki Inakonigaawin.

Similar to projects in Ontario, this process would ideally begin in the scoping phase when a proponent is first looking into where their project will be and what Nations are in the vicinity. Under MAI, proponents should be initiating consultations with communities long before they have developed any engineering or construction plans. When the proponent follows MAI, it allows for earlier engagement with Anishinaabe Nations.

This is the phase where it is determined if an EA, and therefore a license, is needed for the project. In Manitoba, the scoping phase involves reviewing the Classes of Development Regulation 164/88, 1988 under the Environment Act. This regulation defines which projects require a license in Manitoba.

Depending on the project, each application for a license will undergo a different level of scrutiny. This level of scrutiny depends on which classification or "class" they fall under. These are called "Classes of Development". There are three levels of classes: Class 1, Class 2, and Class 3. The higher the class, the more scrutiny the project will face. The Classes of Development Regulation defines what projects are in each class. The majority of projects in Manitoba are Class 1 and Class 2. Less than 1% of projects are Class 3.

What happens when a project is not listed under the Classes of Development?

It is important to note that not all projects in Manitoba require a license under the Environment Act. If the project meets the criteria of a "Class Development", then it will require a license. If it does not meet this criterion, the project can move forward without, assuming all over required permissions have been granted. The Minister responsible for administering the Environment Act (as of 2021, this would be the Minister of Environment, Climate, and Parks) carries the authority to decide if a project requires an environmental license, even if the project is not defined in any of the classes.

2. Preparing the Environmental Assessment

Preparing the EA is one of the biggest steps in the EA process. You can learn more about what goes into preparing an EAP in Section 3.6 Interpreting Impact Assessments. The proposal will include detailed information on what the project is, what the current baseline environment is, and how that baseline environment and other factors like economics, health, culture, and social aspects will be impacted by the proposed project.

These include, but are not limited to, impacts on:

- Wildlife,
- Fisheries,
- Surface and groundwater,
- Heritage resources,
- Socioeconomic implications resulting from environmental impacts, and
- The type and quantity of pollutants to be released.

Within the EAP, it must also be identified how the impacts will be mitigated. It is a common practice for a proponent to hire a consultant to develop the Environmental Act proposal for their projects, as many technical studies go into preparing this report. A major component of preparing the EA is engaging with Indigenous communities and the public. This is where the public and Indigenous communities will have chances to ask questions, get information, and talk with the proponent.

In Manitoba, the obligation of proponents to engage with Indigenous communities is limited, but proponents are encouraged to engage with communities early on. Proponents are required to connect with Anishinaabe communities as the duty to consult states. Under MAI, proponents must ensure that a development is designed, constructed, operated and decommissioned with respect for the environment in Treaty #3 territory and for rights of the Anishinaabe. The EA report will outline each of these phases of the project in detail. If a proponent is conducting their business with respect to MAI, Anishinaabe communities will have heard from the proponent before formal consultations begin.

How do I find out what information should be in an impact assessment report in Manitoba?

This regulation is important for Anishinaabe communities who may be developing their own projects. This regulation will act as a guide for lands managers when they are putting together an application for an environmental license.

In Manitoba, the Licensing Procedures Regulation 163/88, 1988 details what information a proponent has to include in their Environmental Act proposal. This includes:

- A description of the proposed project,
- A description of the current environment,
- A description of the potential impacts of the project on the environment, and
- A description of the proposed management practices to prevent or mitigate the impacts.

What projects are in each Class?

The Classes of Development Regulation defines the types of developments in Manitoba the require a license under the Environment Act. The types of developments are broken up into three classes:

Class 1

A Class 1 Development includes projects with effects that are primarily focused on the discharge of pollutants. Examples include:

· Fish hatcheries
· Asphalt plants
· Grain elevators

The Director of the Environmental Approvals Branch grants licenses for Class 1 Developments.

Class 2

A Class 2 Development includes projects that discharge pollutants and cause impacts in other areas, and for projects that are more complicated. Examples include:

· Pulp and paper mills
· Electrical generating facilities with a generating capacity greater than 10 megawatts but less or equal to 100 megawatts
· Mines (other than pits and quarries), refineries, and smelters

The Director of the Environmental Approvals Branch grants licenses for Class 2 Developments. If the project is complex or controversial, the Minister for Conservation and Climate Change may grant the license.

Class 3

A Class 3 Development includes projects of a great magnitude and generate many environmental issues. Examples include:

· Hydroelectric developments
· Largescale transmission lines
· Largescale mines

The Minister for Conservation and Climate Change grants licenses for Class 3 Developments.

As is sometimes the case, Anishinaabe communities may not hear from proponents about proposed projects until the proponent is ready to start their formal engagement process. It is imperative that lands managers be aware of resources in their territory and where they could expect industry interest in those resources to ensure that proponents will not bypass communities before expressing interest in developing a project.

If a community becomes aware of industry activity in their territory, the community can demand that the proponent inform and involve the community in their activities. You can learn more about staying engaged and informed in **Section 4.0 Tools for Lands Managers on page 123** .

Preparing the EA is an important area where Anishinaabe communities and their lands managers can be heavily involved. As preparing the EA requires lots of studies and knowledge gathering about the lands, waters, skies, and soils, Anishinaabe communities can collect Traditional Knowledge from their own communities to include in the EA, potentially forming partnerships with proponents. Anishinaabe communities can also commission their own EA for projects that proponents have proposed. Communities who are the proponents for their own projects can also do all of the work necessary to prepare this EA or could even hire their own consultants to do this work. You can learn more about this in **Section 3.5 Anishinaabe-led Impact Assessment on page 96.**

It is a common practice for a proponent to hire a consultant to conduct their EA. This is an opportunity for Anishinaabe communities to become involved and request to be hired on the project to conduct Traditional Knowledge work and to engage with their community.

3. Proposal Review

When then proponent has finished preparing their EAP, they will submit it to the Director of the Environmental Approvals Branch ("EAB") for review

The Approvals Branch will review this documentation prior to making a decision about granting a license. The EAB will review this documentation to determine if they have enough information to make a decision about the project. If they do not have enough information, the Approvals Branch will ask the proponent to provide additional information where it's needed.

Anishinaabe communities should ensure that the proponent provides them with the information on when they will be filing an application. If the community feels that the proponent hasn't engaged the community adequately, they can request that the proponent postpone filing their application until this has been achieved.

If the EAP is complete, or when more information is provided by the proponent, the EAP will be shared with the **Technical Advisory Committee** ("TAC") and then with the public to review. The TAC is comprised of provincial and federal specialists who can provide their technical expertise on projects and their impacts. The TAC review takes 60 days.

During this review, the Approvals Branch will contact any community who may be impacted to ensure that the proponent engaged with them.

In Manitoba, all applications for an environmental license are posted on the Public Registry after the TAC review. This is where the public and Anishinaabe communities can view all documents pertaining to a project and can provide comments on projects that may impact them. You can learn more about the Manitoba Public Registry in **Section 4.5.1 Public Registries on page 147**. Anishinaabe communities and the public will have 30 days to provide comments.

The 30-day timeframe is short and may not allow for a meaningful review of the report. As is stated in MAI, the proponent must ensure their project respects the environment and Anishinaabe rights in Treaty #3. If the proponent is acting in good faith under MAI, the Nation should have all information on from the EA report prior to the proponent submission.

When reviewing the EA report, it is important for Anishinaabe Nations to review the report in detail to determine whether the proponent has addressed the Nations concerns adequately. If not, the Nation can refuse to grant authorization for the project under MAI or request that the proponent revises their report. You can learn about interpreting EA reports in **Section 3.6 Interpreting Impact Assessments page 109**.

Following the completion of the review period, the TAC will draft a report of recommendations for the Director of the EAB (or the Minister) to review. This takes 90 days.

What happens if there is significant opposition to a project?

During the public review period, if a lot of concerns are raised about a project, the Director of the Approvals Branch may recommend that the Minister request the Clean Environment Commission ("CEC") to hold a public hearing about the proposed project. The CEC hearings are usually held in a community that may be most impacted by a project. During these hearing, the proponent will make a presentation about the project and field questions from the public. The CEC will then make recommendations to the Minister on if a license should be granted and what the terms should be. The Minister does not have to adopt these recommendations.

How often are Clean Environment Commission hearings held?

Clean Environment Commission ("CEC") hearings are not held often and typically only occur with large scale and controversial projects that are Class 2 or Class 3. Examples of these include:

- The Manitoba-Minnesota Transmission Project
- The Keeyask Generation Project

The minister ultimately decides if the project should a have a CEC hearing, even when there is significant public support to do so.

Ideally, Anishinaabe communities that may be impacted from a project will have had enough opportunity to voice their concerns and ask questions. However, if a community feels they were not adequately engaged, they can request a CEC hearing during the public comment period. Anishinaabe communities can request that a CEC hearing be held for any project that may impact them.

4. Licensing Decision

Once the Technical Advisory Committee has compiled its report, the Director of the Approvals Branch will review all materials regarding the proposed project before deciding on whether to grant a license. If a Clean Environment Commissions hearing was held, the Minister will also consider the recommendations that came from that hearing. At this point, a license will either be granted or denied. This review and decision-making period can take up to 30 days.

Under the MAI, the Executive Council of the affected Nations will issue the authorization for development. A proponent who is granted the consent of the Nation in accordance with MAI and in good faith abides by conditions of authorization is thereby authorized by the Nation, to the extent of its jurisdiction and interest, to proceed with the development with effects on the environment in Treaty #3 territory and on the exercise of rights of the Anishinaabe, to the extent disclosed. If the proponent does not receive authorization under MAI, they cannot move forward with their project. Communities can also choose to grant or withhold consent to a development that directly affects their community.

As mentioned above, the Director of the Approvals Branch will issue licenses for Class 1 and most Class 2 Developments. The Minister for Environment, Climate, and Parks will issue licenses for some Class 2 and all Class 3 Developments

5. Post Decision

After a license has been granted (or not granted) appeals can be filed on the license decision. A proponent can file an appeal if their license has been denied. The proponent has 30 days to do this. Individuals or communities can file an appeal against the decision to grant a license if they will be affected by this decision, for instance if the proponent is not respecting MAI.

The Environment Act license will outline the terms and conditions of the development that the proponent must follow. Once the license has been granted, the construction, operation, and decommissioning phases of the project can begin. Follow-up work will be required to ensure the proponent is in compliance with their license. The follow-up and compliance monitoring actions may provide employment opportunities for communities and are also a way for communities to ensure their lands are being taken care of and protected during the life of a project.

What can my community do if we do not agree with a licensing decision?

Oftentimes, even when there is significant opposition to a project, the project will still receive approval. In this case, an affected individual or community can file an appeal to have the license be re-reviewed or revoked. If your community wishes to appeal a project, it is important to clearly identify your reasons for the appeal, including how your Treaty Rights are impacted.

Following the approval of the project by the Minister and through MAI, the affected Anishinaabe Nations must continue to be involved on the project throughout it's lifespan.

3.4.2 Anishinaabe Engagement

A major component of preparing the EA is engaging with Indigenous communities and the public. This is where Anishinaabe communities and the public will have chances to ask questions, get information, and talk with the proponent. Unfortunately, Anishinaabe communities aren't the ones who make the first decisions on who is consulted. The proponents and the Manitoba government will review the project and determine which communities are to be engaged. Communities are only engaged if the project may impact a Treaty Right. For Anishinaabe communities, this process can be frustrating.

Throughout the EA process in Manitoba, the identified Anishinaabe communities will be engaged by the proponent, Crown, or both at various stages. There are two ways that consultations occur:

1. Through the EA process under The Environment Act, or

2. Section 35 consultation under the Constitution

Consultation through both of these avenues overlap, with the proponent conducting the consultations necessary under The Environment Act and the Crown conducting the section 35 consultations. Information from both of these consultations is reviewed by the EAB.

When should my community expect consultations to begin?

Proponents are encouraged to engage with communities early on to ensure that meaningful discussions can be held. Communities can expect to hear from proponents when they begin preparing their EA. Communities can expect to hear from the government for Crown consultations once their EA report has been submitted to the EAB for review.

Mining in Manitoba

In Manitoba, mining has been a major activity in the past and present. Within the Treaty #3 territory in Manitoba, recent mining operations have included tantalum, lithium, pollucite, and peat. Most mine operations in the province require either a Class 2 or Class 3 license.

Mining is also governed under The Mines and Minerals Act, 1991. The Act governs the disposition of mineral rights (permits, claims and leases), exploration, development, and production of the province's non-fuel mineral resources and the rehabilitation of mines and quarries.

The key powers and actions of the Mines and Minerals Act include:

- Establishes the Mining Board,
- Manages the system for assessing and issuing permits for exploration and different types of mines.
- Issues environmental standards for mining, and remediation and closure plans.

This Act is important for Anishinaabe communities who may be located near an existing mine, located near the proposed location of one, or have mining claims staked in their territory.

3.4.3 Manitoba Policies and Guidelines

In Manitoba, there are numerous policies and guidelines in places to help proponents and communities with the EA process.

Industry proponents will often have their own internal departments that conduct consultations with Anishinaabe communities. Under short time timelines and strict budgets, these consultations are often limited, and communities may not feel like this engagement was meaningful. The Government of Manitoba has recently development an "Interim Provincial Policy for Crown Consultations with First Nations, Métis Communities and Other Aboriginal Communities" to assist proponents with conducting more meaningful engagements.

What happens if a project in Manitoba impacts a community in Ontario?

As the Treaty #3 territory spans across Manitoba and Ontario, there is the potential for a project in one province to impact the lands in another, especially if the project is close to the provincial border. This was the case with the **Shoal Lake No. 40 First Nation Freedom Road Project**, which underwent a provincial EA in Manitoba in 2016. The reserve boundary for Shoal Lake No. 40 lies within Manitoba and Ontario. The Freedom Road Project was entirely in Manitoba, but close enough to the border that it could warrant concern for impacts felt across the border from neighbouring communities. Because of the proximity to the border, eight Anishinaabe communities in Treaty #3 in Ontario and Manitoba were engaged about the project to gather their feedback.

The Project Region (the 10km radius around the Project Site) crossed over into Ontario, however no impacts were noted to be felt this far. Even if some impacts were felt within this region in Ontario, the project was only required to complete an EA in Manitoba. If the Project Site (the area immediately around where the project will be located) cross the border into Ontario, or if the new road was built on Shoal Lake No. 40's reserve land, a federal impact assessment would have been required.

The Interim Provincial Policy for Crown Consultations with First Nations, Métis Communities and Other Aboriginal Communities

This policy is intended to provide a framework for Crown consultation processes with Indigenous communities in Manitoba. The purpose of this policy is:

- To ensure the Government of Manitoba informs itself and gains a proper understanding of the interests of First Nations, Métis communities, and other Aboriginal communities, with respect to a proposed government decision or action,
- To seek ways to address and/or accommodate those interests where appropriate through a process of consultation while continuing to work towards the best interests of the citizens of Manitoba,
- To advance the process of reconciliation between the Crown and First Nations, Métis communities, and other Aboriginal communities.

It is important for Anishinaabe communities to be aware of policies and guideline documents like this so you can expect how the proponent or government will go about conducting their consultations. Reviewing documents like this will also help you identify gaps in the process early on so that you are able to communicate to proponents your expectations for consultations.

Some of the principles the framework lists for consultations are:

- The consultation process should be designed and developed with participation from the Indigenous Nation to ensure the process is mutually acceptable,
- Consultation should take place within the community if this is desired by the community and is practical,
- An appropriate timetable for consultation should be devised in order to ensure that the process is both effective and cost efficient,
- Adequate resources should be directed to the process in order to ensure meaningful consultations,
- The Government of Manitoba should share all relevant information before or during consultation and should ensure that any documentation that is shared is in a manageable and understandable format,

Recap

Environmental Assessment in Manitoba

Key takeaways from this section include:

Anishinaabe communities should be familiar with the phases and activities set out by the Environment Act to understand the obligations of the Crown, the proponent, and the community throughout each stage of the process.

The Interim Provincial Policy for Crown Consultations with First Nations, Métis Communities and Other Aboriginal Communities provides guidance to help industry proponents conduct more meaningful engagements.

Manitoba uses "Classes of Development" to define the licencing process for different types of projects.

Overview

Anishinaabe-led Impact Assessment

In this section you will learn about Anishinaabe-led impact assessment, including:

- What an Anishinaabe-led impact assessment is
- The benefits and challenges of leading your own impact assessment
- How Anishinaabe communities can lead their own impact assessment
- The resources needed for an Anishinaabe-led impact assessment
- The process involved in an Anishinaabe-led impact assessment
- Considerations for building the impact assessment report
- What the First Nation Land Management Act is and how communities can implement their own Land Code
- The advantages of collaborating with other communities in impact assessment
- How Anishinaabe-led impact assessment can promote Anishinaabe laws
- How Anishinaabe Guardians Programs can allow communities to lead environmental monitoring

3.5 Anishinaabe-Led Impact Assessment

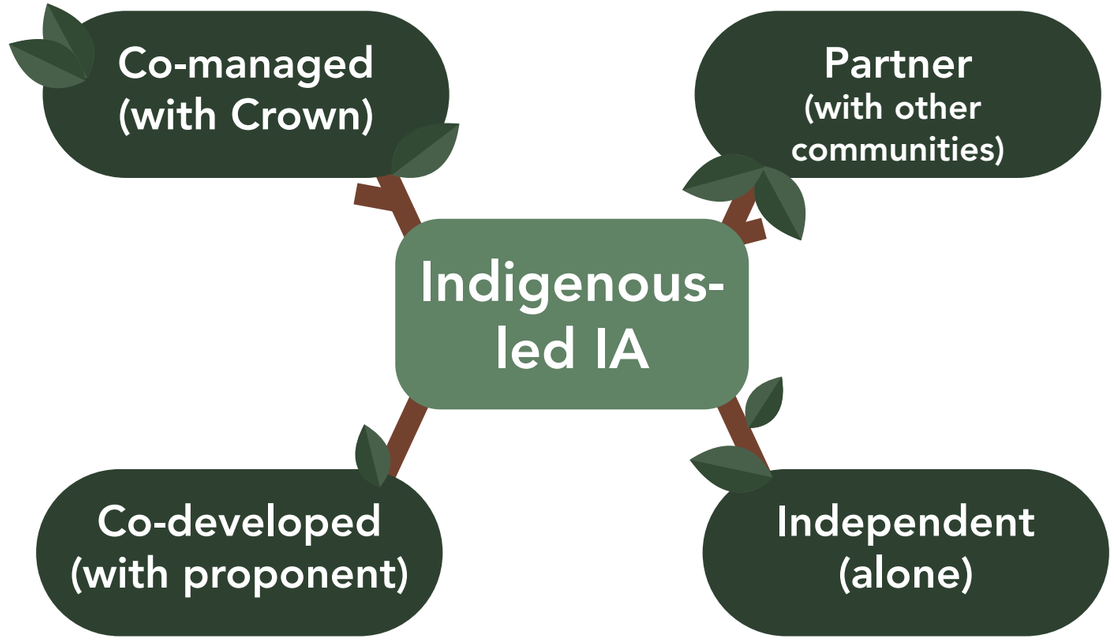
This section will discuss some of the ways in which Anishinaabe communities can lead their own impact assessments ("IA"). Here, we will offer suggestions for why communities may choose to conduct an Anishinaabe-led IA, the considerations and steps involved, how to collaborate with other First Nations in the process, and ways to apply Anishinaabe laws.

3.5.1 What is it?

IAs are traditionally done from a non-Anishinaabe perspective. They are often based purely on western science and fail to meaningfully incorporate Anishinaabe knowledge. In many cases, Traditional Knowledge studies are rushed with limited engagement and are only included as an appendix to the IA report. This type of IA uses a colonial lens, compartmentalizing the environment into individual components. An Anishinaabe-led IA offers potential for a much more holistic approach to understanding the interconnected nature of the environment and potential impacts to it.

There are many ways an Anishinaabe-led IA can be developed. A community may choose to co-manage the assessment with the Crown, co-develop it with the proponent, partner with other communities, or work independently. Because there are many approaches to an Anishinaabe-led IA, the process and resulting report are not limited to a single format.

They may be structured similarly to a federal or provincial IA, but there is flexibility to be creative and go beyond the status quo. Communities completing their own IA can come up with a process that is tailored to the needs, interests, and values of the community. For example, a community may have existing engagement protocols that shape how they work together with their membership, or they may choose to develop their own model for an IA process that aligns with their traditional teachings. Communities should work together with governments and proponents early on to identify how an Anishinaabe-led IA can fit in the process and to work together, if possible. If a community has not led their own IA before, they may want to seek strategic and technical advice to better understand their options before proceeding.



3.5.1.1 The Benefits

An Anishinaabe community can choose to develop their own IA on top of the reports that proponents or government agencies are required to submit in the IA process. Unlike a typical IA that is written by the proponent or government, this allows the First Nation to have full control over their own narrative. An Anishinaabe-led IA can be a great way to make sure the knowledge, values, concerns, and suggestions of the community are communicated properly, especially if there are doubts about the proponent's ability to address these. It can provide an avenue for the Anishinaabe to be equal partners in the IA process. By developing their own unique report, communities can emphasize the UNDRIP principles of FPIC, as well as community principles and teachings. An Anishinaabe-led IA is also an opportunity to establish or build on existing community initiatives. If a community chooses to go through the process of gathering Traditional Knowledge to conduct their own IA, they can think about creative ways to repurpose the knowledge for the future. For example, this could take the form of curriculum development, video documentaries, or community storybooks. When done right, an Anishinaabe-led IA can be an effective tool for communities to meaningfully participate in the IA process and secure long-term benefits.

3.5.1.2 The Challenges

There are several challenges that First Nations may experience when completing their own IA. Conducting an IA can be very expensive, especially when taking the time to do things right. For example, some of these costs may include things like venues, catering, gifts, and honoraria for ceremonies and community engagement, as well as training, wages, and equipment for lands managers and other technical staff. Communities interested in undertaking an Anishinaabe-led IA should be sure to secure adequate funding to avoid carrying the financial burden of the IA work. Preparing an IA report requires a significant amount of technical expertise, which can be another challenge. If communities do not have the capacity to prepare an IA on their own, the First Nation can hire consultants to assist.

3.5.2 How to Lead your Own Assessments

There is no single correct way for Anishinaabe communities to lead their own assessments. What works for one community may not be the best approach for another. Though Anishinaabe-led IA should ultimately be tailored to the community, below are some considerations that can be used as a starting point for building your own process. **Appendix B on page 165** offers a checklist that can be used as a framework to help your community know where to start when undertaking an Anishinaabe-led IA.

3.5.2.1 What You'll Need

Resourcing is an important consideration for communities seeking to conduct their own impact assessment. Communities should create a list of what services and equipment are needed and who can provide them.

It can be helpful to identify what resources are available within the community – for example, Elders, land managers, negotiators, coordinators, caterers, boat operators – and what resources need to be sourced from outside the community – for example, mapping specialists, lawyers, strategic advisors, planners. Communities can then create an inventory of available equipment, services, and skills.

How do I resource for our impact assessment?

Collecting resources for your IA can occurs in many ways. Typically, it involves connecting with your community. Some ways include:

- Making a list of all Elders and Knowledge Keepers and if they have knowledge in specific areas,
- Making a list of hunters and trappers who understand wildlife and their patterns,
- Making a list of fishermen who understand water levels, fish and fish habitat, and water quality.

These people will be beneficial when developing the baseline for your IA.

3.5.2.2 The Process

Conducting an IA involves multiple moving parts. Before developing a report, several steps need to happen first. The community must document knowledge from Elders and Knowledge Keepers through mechanisms like interviews, group discussions, and mapping sessions. They should also engage in discussions with the proponent to ensure all information about the project is available and accessible. Meetings should be held regularly with the community to ensure all members are informed about the project and given opportunities to participate, and ceremonies should occur according to community protocols and the guidance of Elders to ensure things are being done right. Once knowledge has been gathered, it must be analysed and compiled in an impact assessment report.

3.5.2.3 The Report

THE REPORT

In general, standard impact assessments typically include the following components at a minimum:

- A project description
- A statement on the project purpose
- A discussion on project alternatives and why the project was the selected option
- A description of the baseline environmental conditions
- An analysis of the potential impacts
- A suggestion for mitigation measures
- A follow up and monitoring plan.

Anishinaabe-led IAs can go beyond this to emphasize the Anishinaabe perspective. Specific requirements for an Anishinaabe-led IA will depend on whether the project falls under federal assessment or provincial assessment in Manitoba or Ontario. Refer to sections **3.2, 3.3, and 3.4** for more information on the requirements for these types of assessments.

3.5.2.4 Anishinaabe Guardians Programs

An Anishinaabe Guardians Program is an environmental monitoring program that is rooted in Anishinaabe law, traditions, and protocol. They are designed to manage and protect traditional lands and waters with guardians monitor the environmental health of sites. The programs are based on communities' traditional cultural values and teachings and can support the intergenerational transmission of Traditional Knowledge. When leading their own assessments, communities can suggest taking on the monitoring work themselves through an Anishinaabe Guardians Program as a way to mitigate various land-related impacts and provide training and job opportunities for community members.

Anishinaabe Guardians Programs can also be implemented on projects led by industry **proponents** and governments. Developing this program can be negotiated between your community and proponent.

Manito Aki Inakonigaawin and Anishinaabe Guardians Programs

Anishinaabe Guardians Programs are guided by ceremony and customary protocols and rooted in the principles and process of MAI:

- Weweni (Take our time)
- Bebekaa (Doing it right)
- Biiziindun (Listen)
- Gego Gotachiken (Don't be afraid)

Why should my community develop an Anishinaabe Guardians Program?

In projects led by industry proponents, "environmental monitors" are usually hired to follow up on construction and operation activities to ensure the environment is being protected. These monitors are usually only trained in western science methods. This means that Traditional Knowledge often is not used. By implementing an Anishinaabe Guardians Program, you can ensure that Traditional Knowledge is being used in monitoring activities and that you are protecting your lands based on your customs.

An Anishinaabe Guardian Program can be used on specific projects or just for regular environmental monitoring within a community. Anishinaabe guardians may have many roles, such as:

1. **Environmental Monitoring**
   a. Observe, record, and monitor the environment including the land, water, soil, and sky
   b. Track wildlife to promote safe highway crossings
   c. Protect important species like deer, moose, turtles, and sturgeon
   d. Monitor medicines and wild rice
   e. Monitor the effects of climate change

2. **Sharing Anishinaabe Law & Traditional Knowledge**
   a. Document information about the construction activities and environmental conditions near the construction site
   b. Preserve Traditional Knowledge and teachings through video or other means
   c. Share knowledge through creative means like social media

3. **Project Liaisons**
   a. Act as construction liaisons between contractors, construction workers, and community
   b. Regularly share updates with community members
   c. Advise the proponent of activities that may cause environmental damage and recommend mitigation strategies

3.5.2.5 Collaborating With Other Communities

When a project is proposed in joint territory, First Nations may choose to develop an IA in collaboration with the other neighboring communities. Partnering together with other First Nations can be an effective way to address gaps that may exist in capacity and build a stronger, more unified front in negotiations. Working together and establishing proactive engagement protocols based on community principles may also mitigate potential conflict that can arise when projects are proposed in joint territory.

Case Study

Niiwin Wendaanimok Partnership

One example of a collaborative Anishinaabe-led IA process was developed by the Niiwin Wendaanimok Partnership in Treaty #3, comprised of Wauzhushk Onigum Nation, Washagamis Bay First Nation, Shoal Lake 40 First Nation, and Niisaachewan Anishinaabe Nation, who came together in response to the Ministry of Transportation Ontario proposing to twin the TransCanada Highway through their territories. Together, they undertook the Anishinaabe Aki Kakendamowin, a Traditional Knowledge of the lands, skies, soils, and waters, and developed their own unique IA process called the Harmonized Impact Assessment (HIA). The HIA is a massive collective of community knowledge, concerns, and recommendations that merges Traditional Knowledge with western science and respects both Anishinaabe and Canadian laws. It was designed according to community protocols and best practice for IA.

The HIA shows how Anishinaabe communities can work together to create an IA that is far more comprehensive than a standard proponent-led IA. If you would like to see it for yourself, this document is available to view online at https://niiwinwendaanimok.com/#hia.

3.5.2.6 Anishinaabe Laws

An Anishinaabe-led IA can be a great mechanism for enforcing, operationalizing, and teaching Anishinaabe laws. Anishinaabe Nations should consider creative ways to integrate their laws into IAs. The benefit of an Anishinaabe-led IA is that there is flexibility to do this in whatever way the community deems appropriate.

In the Niiwin Wendaanimok example, the IA process was rooted in Manito Aki Inakonigaawin. Every step was guided by this law and its teachings. The Niiwin Wendaanimok Partnership stipulated that Manito Aki Inakonigaawin be respected, followed, and held to the same standard as Canadian law. On February 5, 2020, the province of Ontario signed a **Memorandum of Understanding** with the Niiwin Wendaanimok Partnership, agreeing to follow this sacred law according to the guidance of the Anishinaabe. Since then, the process has followed the protocols of Manito Aki Inakonigaawin, including ceremonies, education, and meaningful engagement, that would otherwise not be required under the western IA process.

3.5.2.7 Land Codes and the First Nation Land Management Act

The First Nations Land Management Act, S.C. 1999, c. 24 (FNLMA) allows Anishinaabe communities to opt-out of 44 sections of the Indian Act relating to land management and instead enact and administer their own land codes. The Act came into effect after a group of First Nation Chiefs approached the federal government with a proposal and negotiated the **Framework Agreement on First Nation Land Management**. The FNLMA enables Anishinaabe communities to develop and enforce their own laws about the environment and take advantage of cultural and economic development opportunities with their own land management authorities.

3.5.2.8 Indian Act

If an Anishinaabe community does not have a land code under the FNLMA, their reserve lands are governed according to the Indian Act, under which the federal government has final say on many land-related decisions in communities.

The Indian Act system inhibits economic development by imposing administrative hurdles on land management and prevents communities from managing their lands on their own according to their own values and legal traditions.

3.5.2.8.1 About the Framework Agreement on First Nation Land Management

The Framework Agreement on First Nation Land Management is a government-to-government agreement signed by the original 13 First Nations who created it and the Minister of Indian Affairs and Northern Development on February 12, 1996. Since then, many other First Nations have signed onto the agreement and the list continues to grow. The Framework Agreement recognizes First Nations' inherent right to govern their lands by allowing signatory communities to replace the land restrictions under the Indian Act with a community **land code**. Through this, signatory communities assume full administration and law-making authority of their reserve lands.

3.5.2.8.2 How to Implement First Nation Land Management

There are several steps Anishinaabe communities should follow if they would like to express interest in pursuing First Nation Land Management.

1. Submit a **Band Council Resolution** and a completed **Land Governance Community Profile** form to the First Nations Land Management Resource Centre or an Indigenous Services Canada ("ISC") regional office requesting to become a signatory to the Framework Agreement on First Nation Land Management.

2. The submission is reviewed by the First Nations Land Management Resource Centre and ISC, who then make a recommendation for entry to the Minister

3. The First Nation and the Minister sign an adhesion document adding the First Nation as a signatory to the Framework Agreement on First Nation Land Management. First Nation signatories are then formally added to Schedule 1 of the First Nations Land Management Act.

4. The First Nation then enters the developmental phase, at which point they may draft a land code, negotiate an individual agreement with the Government of Canada, engage the community, and conduct a ratification vote. Natural Resources Canada provides a description of the lands that will come under the management and authority of a community's land code. This entire stage takes approximately 2 years to complete and is accompanied by milestone-based funding.

5. The First Nation community approves the land code and individual agreement by a ratification vote and enters the operational phase.

6. In the operational phase, the control and administration of the First Nation's land, resources and environment is transferred over to the First Nation. The 44 sections of the Indian Act related to the management of land, resources and environment no longer apply to the First Nation since they now operate under their own community-developed and approved land code.

3.5.2.8.3 Where to Learn More

Anishinaabe communities seeking more information about First Nations Land Management or assistance in implementing First Nation Land Management should contact the Lands Advisory Board, First Nations Land Management Resource Centre, or ISC regional office.

3.5.2.8.4 Benefits and Risks

Anishinaabe communities under First Nation Land Management may experience many benefits. These include more economic development with a faster and more efficient process to support businesses, more control to govern reserve lands according to a community land code, more effective management that saves time and money, and more community involvement to ensure land management aligns with community values, laws, protocols, and traditions. However, there are also risks that communities should be aware of when applying to implement First Nation Land Management. These include the high cost, as the process can be slow and requires significant funding, resources, technical knowledge, and training. Anishinaabe communities also take on liability for any land management issues under First Nation Land Management. To mitigate these risks, Anishinaabe communities can seek legal council and the advice of experts when considering First Nation Land Management. Securing adequate funding is also important; see **Section 4.3 Accessing Funding on page 136** for more information on funding sources.

Recap

Anishinaabe-led Impact Assessment

Key takeaways from this section include:

Anishinaabe-led impact assessments allow communities to have full control over their own narrative and come up with their own process that meets the needs of the community.

Anishinaabe communities can be leaders in the impact assessment process, either by co-managing the assessment with the Crown, co-developing it with the proponent, partnering with other communities, or working independently.

The process involved in an Anishinaabe-led impact assessment should be community-driven.

Identifying existing community resources is an important first step for communities leading their own assessments.

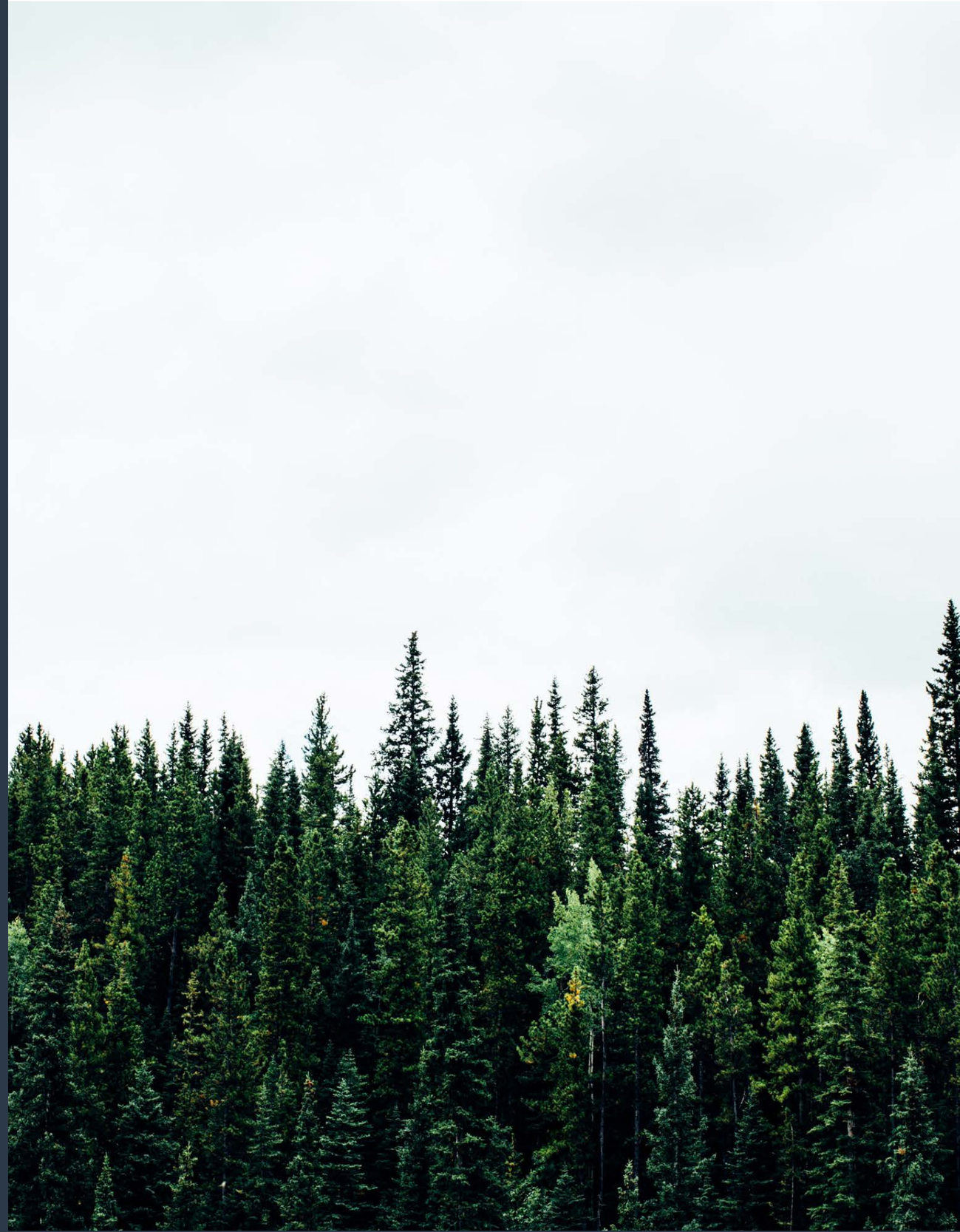
Leading an impact assessment is expensive and requires technical expertise. Communities leading their own assessments should make sure to seek funding opportunities and engage experts where needed.

Working together with other communities can be helpful for securing opportunities and preventing conflict when projects are proposed in joint territory.

Communities can explore Anishinaabe Guardians Programs as a way to mitigate potential impacts, increase employment opportunities, and be responsible for stewardship of the land during the monitoring phase of an impact assessment.

Through the First Nation Land Management Act, communities can opt-out of land-related sections of the Indian Act and instead implement their own Land Code to promote economic development and community-led processes.

Anishinaabe-led impact assessments offer opportunities to enforce, operationalize, and provide education on Anishinaabe laws like the Manito Aki Inakonigaawin.



Overview

Interpreting Impact Assessments

In this section you will learn about how read and understand impact assessment reports, including:

- What goes into an impact assessment report
- Accessing impact assessment reports
- Questions to consider when reviewing an impact assessment report

3.6 Interpreting Impact Assessments

This section will review how to review impact assessment ("IA") or environmental assessment ("EA") reports, key things to look out for, and what happens after you have reviewed the assessment. The IA or EA document will be the largest document you receive from a proponent.

Before reading this section, be sure to review **Sections 3.2 Federal Impact Assessment on page 42 , 3.3 Environmental Assessment in Ontario on page 58 ,** and **3.4 Environmental Assessment in Manitoba on page 78**, which discuss the IA and EA processes in Manitoba, Ontario, and at the federal level.

As we discussed in the previous sections, Anishinaabe communities will have the opportunity to provide formal written comments on the document once the proponent has submitted it for approval. Ideally, the communities will have all the information provided to them by the proponent before reading the document, and its contents should not come as a surprise.

The decision makers who review these documents will make their decision on the project largely based on the information in these reports. Anishinaabe communities should review these documents thoroughly to ensure that their concerns are addressed, their questions are answered, and that you are aware of everything that has been proposed.

If the IA was co-led by an industry or government proponent and an Anishinaabe Nation, your community will have an in-depth knowledge of everything that is going into the IA report.

How do I access an IA report?

If your community was involved in the proponent's consultation process, you should be receiving all necessary documents regarding the project to review. If the proponent did not consult you, you can access all relevant IA documents through the relevant public registry. You can find out where to access public registries in **Section 4.5.1 Public Registries on page 147.**

These documents contain detailed information on every aspect of the project, including:

- A detailed description of the project (i.e. location, engineering, timelines, equipment, materials, etc.)
- A description of the environment baseline conditions of the project site,
- The impact assessment (how the project will impact the baseline conditions, your Anishinaabe nation and Treaty rights, etc.)
- Mitigation measures
- A follow-up and monitoring plan
- A description or summary of consultation activities the proponent undertook, including with Anishinaabe nations, other interested nations, and the public,
- A closure, reclamation, or decommissioning plan (if needed)

Additional materials like maps, design plans, photos, data tables, and graphs may also be included in the report, either throughout the document or as appendices at the end.

Reviewing the executive summary is a good place to start when reviewing an IA report. It will give you a general overview of what was included in the report and what the expected outcomes are. The table of contents will also give you a good first look at what is included in the report.

Before reviewing the IA report, it is a good idea to reflect back on the concerns and questions your community identified. Keep these in mind as you read through the report so you can ensure that these concerns and questions were addressed.

Questions to keep in mind during the review

There are several questions you can keep in mind as you conduct your review to ensure that the information in the report is accurate and clear:

- Did the proponent describe our lands accurately?
- Did the proponent describe our concerns, questions, and consultations accurately?
- Did the proponent explain how we use the land accurately?
- Did the proponent include our Traditional Knowledge?
- Did the proponent answer our questions and address our concerns?

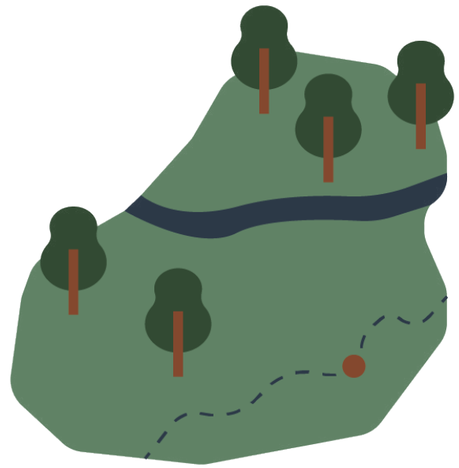
3.6.1 The Project Description

The project description will contain every technical detail about the project. It will explain the mechanics of the project, the steps to reach operation, and the operation of the project. Reviewing this information will ensure that you have a full understanding of the project before you begin reviewing what the impacts of this project could be.

The purpose of the project is where the proponent will explain why the project is needed. This is usually for economic reasons. Review this section to ensure that you feel the project is justified.

In the project description, you can review information on:

- The purpose of the project
- The exact location and size of the project,
- Each component of the project,
- How long the project will be there, including during construction,
- Production capacity and process,
- How many people the facility will employ during construction and operation,
- What technology the project is using,
- The detailed designs of the project,
- If the project will require the construction of access roads, transmission lines, pipelines, quarries, etc.,
- If the project is producing any waste materials (i.e. wastewater or solid waste) and how much,
- Traffic expected during construction and operation,
- Construction equipment use, and
- A project schedule.



Within the project description, the proponent will also note what other approvals their project needs. These could include permits to take water, to release contaminants, or the remove trees. If the proponent notes that they require additional permits, it is a good idea to familiarize yourself with what these permits are and what they allow the proponent to do.

Project Alternatives

As a part of the planning and some licensing processes, the proponent has to identify the alternatives of their project. These are either alternatives to the project or alternative means to carry out the project. For example, if the proposed project is a hydroelectric generating station, an alternative to the project could be building a solar power plant instead. An alternative means to carry out the hydroelectric generating station would be to put the dam in a different location or alter the size.

Project descriptions can be technical and complex in nature. As you read through the project description, make note of areas that you may need further information on if you are not sure of the concepts. Hiring a **technical expert** to assist in reviewing a project description, or an entire IA, can help you fully understand all components of a project.

Why should we bring in technical experts?

Sometimes, it can be beneficial to bring in technical experts when your community is working through a proponent's IA. Technical experts can provide your community with expertise from an external point of view. They will be able to help you determine if the IA identifies all possible impacts to your territory with the best possible accuracy. They can assist you in determining if the IA addresses your community's concerns and meets or exceeds your expectations. They can also identify mitigation measures that can help protect your community, your territory, and your rights. A technical expert can advise on what you should do if you feel like the IA report is inadequate in any way. Engaging with technical experts can also build relationships with specialists that you can utilize down the line for your own projects.

What technical expert does my community need?

Depending on where your community needs assistance, different technical experts may be needed. These can include:

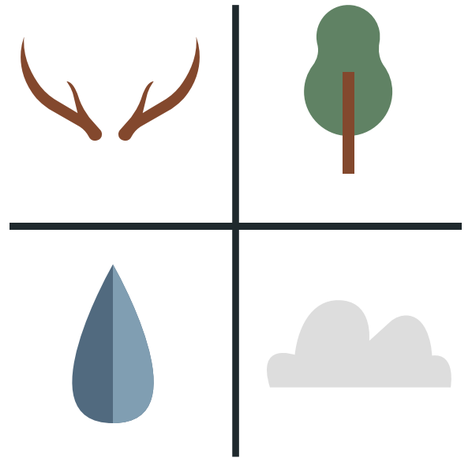
- Aquatic toxicologists to interpret how waterways and fish may be impacted,
- GIS experts that can help map your traditional territory,
- Community Elders that can advise on locations of medicines and important plants,
- Air quality specialist to measure how much air pollution a project can emit, or
- Local or community-based hunters and trappers that can determine the migrations patterns of wildlife.

When should we hire technical experts?

If your community has determined that you need a technical expert's advice about a project, it is important to identity the right moment to hire them. Hiring an expert early can ensure that the expert has enough time to review the IA and consult with your community. Some of the best moments to hire an expert are:

- The project is using technology you are unfamiliar with,
- If your Nation does not have the capacity at the time to review the IA,
- When there are adverse impacts proposed to key areas in your community, or
- When you are lacking information or feel that you have not been provided with enough.

3.6.2 The Environmental Baseline



One of the largest pieces of the IA report is the environmental baseline. Here, the proponent will describe the past and current environmental conditions of the area they are proposing their project.

Some areas that may be included in this baseline data section include:

- Aquatic ecosystems and species,
- Air quality, and
- Plant and animal species.

The baseline will be used to determine how the impacts will affect the region. The baseline data will also determine and support what monitoring is required. If you have provided Traditional Knowledge to the proponent, they may incorporate this knowledge into the baseline sections. In a typical IA, the baseline is based on western science rather than Traditional Knowledge.

TIP:** Refer to the list your community made of things that are important to them, as noted in **Section 4.1** Preparing Your Community on **page 123

It is important to review the baseline information to ensure that it discusses areas and components that are important to your community, including:

- Locations of rare plants used for traditional purposes,
- How areas used for hunting trapping, and fishing are described,
- Water quality, and
- Sacred sites, gathering places, and old settlement grounds.

When reviewing the baseline information, it is also important to assess how accurate the proponent's baseline information is. The proponent will typically use a mix of field data they have collected, and literature about the area. Field studies are conducted during a short time frame in only one season, so they may not paint an accurate picture of what the environment is actually like. Anishinaabe communities will hold generations of knowledge about the environment, how the land has changed, and the relationships between the land, waters, soils, and skies.

What should I do if the information in the baseline studies is not accurate?

If your community feels that the information in the baseline study is not accurate based on your Traditional Knowledge, you have a few options. You can:

- Contact the proponent directly and tell them,
- Contact the governing body overseeing the project and request mediation.

3.6.3 Impacts and Mitigation Measures

One of the most important sections in the IA discusses the potential impacts of the project and what the proposed mitigation measures are. This is where you can review how the project will impact your Nations' traditional lands, waters, soils, and skies, and what the proponent will do to either mitigate that risk or remove it altogether. Attention to detail is important in reviewing the impacts, as you will want to be sure that every possible impact has been noted by the proponent. As the Anishinaabe have lived on the land since Time Immemorial, they have a deep understanding of how their land is impacted by certain actions.

When reviewing the proposed impacts, there are several questions to keep in mind:

- Did the proponent consider the impacts to hunting, trapping and fishing?
- How did the proponent predict the impacts?
- Did the proponent's IA leave any impacts out?
- How did the proponent determine the significance of the impacts and do you agree with it?
- Have any of the impacts been downplayed?

It is beneficial to read through each impacts analysis section from your communities' point of view. For example, if a project requires the clearing of trees and the proponent says this will result in the habitat loss of birds, how will this affect your community?

Advice from a technical expert may also be beneficial when reviewing the impacts analysis sections.

For example, a toxicologist will be able to advise you on how the increase in heavy metals in the water will impact fish health.

In the impacts analysis, the expected impacts are given a rating of significance. This rating notes what the severity of an impact may be.

This rating is determined through a number of metrics, including:

- How reversable the impact is,
- If the impact a well-known or expected impact for this type of project,
- If the project is a common project or if it is a new type, or
- If the impact is well understood.

How does a proponent determine what's impacted?

To determine the impacts of a project, the project will typically use a table called an interaction matrix. The interaction matrix will list all of the activities (in construction, operation, and decommissioning) of a proposed project and list all of the biophysical, physical, aquatic, cultural, and socio-economic components and identify with an "X" where they could interact. Impacts arise from these interactions.

An example interaction matrix for a constructing a water treatment plant may look like this:

PROJECT ACTIVITIES	BIOPHYSICAL ENVIRONMENT						AQUATIC ENVIRONMENT		TERRESTRIAL ENVIRONMENT					SOCIO-ECONOMIC ENVIRONMENT		
	Climate	Topography	Soil and Geology	Groundwater	Ambient Air Quality	Noise	Rivers and Tributaries	Aquatic Species and Habitat	Flora	Mammals	Amphibians and Reptiles	Migratory Birds	Land Use	Traffic	Protected Areas	Heritage Resources
CONSTRUCTION PHASE																
Mobilizing equipment to site	X				X	X				X	X	X		X		
Clearing vegetation	X		X		X	X			X	X	X	X	X		X	X
Storing equipment			X						X							
Construction infrastructure			X		X	X	X	X	X				X		X	
Disposing waste							X	X		X	X	X				
OPERATION PHASE																
Maintaining infrastructure						X										
Operating the treatment plant						X										

When reviewing the impacts analysis, you may find that many impacts are noted as "negligible", meaning that the impact is insignificant. This may be because the impact is actually insignificant, it is a well-known and studied impact, or because enough mitigation measures will be put in place that it the impact after mitigation is negligible. Other ways the significance of impacts is listed is by "neutral", meaning there is no impact, or "adverse", meaning there is a significant impact. It is important to read through each impacts analysis section carefully to ensure that you agree with each of the designations given. If you disagree with the way the proponent has classified an impact, you can make a request to the proponent to discuss the reasoning or to request the assessment for that component be re-done.

Mitigation measures are in place to either reduce the severity or eliminate the potential negative impacts of a project. If a proponent has solid mitigation measures in place, the project is more likely to receive approval. Reviewing the mitigation measures proposed is an important step, especially for measures that would be mitigating the impacts on a component that's important to your community.

A technical expert can be beneficial here as well. For example, a toxicologist will be able to tell you how well the proponent's proposed mitigation measure will work to protect fish health or if more measures are needed.

Some things to keep in mind when reviewing mitigation measures include:

- How well-known is this mitigation measure? Has it been used on this type of project before?
- Does the mitigation measure help protect what is important to my community?
- What happens if the mitigation measure does not work?
- What is needed to make a mitigation measure work?

Additional research may be required about the proposed mitigation measures if you are uncertain on if they will work. You can request additional information from the proponent, ask a technical expert, or conduct your own research.

3.6.4 Monitoring and Follow-up

Follow-up and monitoring is needed during both the construction and the operation of a project. Monitoring of construction activities is needed to ensure that the proponent is follow the mitigation plans they set in place for their construction phase, as well as to ensure that the proponent is following the rules laid out in their license. Monitoring is also needed during the operation phase to ensure that the day-to-day activities of the project are not impacting the environment in ways they were not expected to. Monitoring will look for changes in the environment beyond what was expected.

How can my community be involved in monitoring?

Monitoring is a great way for an Anishinaabe community to be involved on a project after the IA. An Anishinaabe Guardians Program can conduct monitoring work, using both a Traditional Knowledge and Western Science-based approach. As Anishinaabe Nations know their lands better than proponents, they are able to notice changes in the land earlier and can subsequently solve them earlier. You can learn more about establishing an Anishinaabe Guardians Program in **Section 3.5.2.4 Anishinaabe Guardians Programs on page 100** .

3.6.5 Summary of Consultations

As consultations are required in all IAs, the proponent must document all the consultation activities they conducted. It is important to review this section to ensure that your community's thoughts and concerns about the project are conveyed in the report accurately. The approving bodies will be relying heavily on the IA report to inform their decision about the project and if your concerns are not accurately reflected, the government will not know that. If you feel that your thoughts and concerns are not represented properly in the document, you can leave a comment on the public registry, contact the proponent, or contact the government who is reviewing the project.

3.6.6 Closure Plans

Some projects will include closure plans in their IA reports. Closure plan are for projects that have a fixed life span. This is usually the case for production-based projects, such as mines.

> Remember that in Ontario, mine developments are not automatically required to complete an EA. In Manitoba, mines must undergo an EA.

At the federal level, some mining development may be required to complete a federal IA. The plan will outline how the project site will be returned to its natural state safely. Once a project has closed and the site has been rehabilitated, ongoing monitoring of the former site is still required to ensure there are not lingering affects of the project.

Some questions to keep in mind when reviewing a closure plan include:

- How much of the project site will be fully reclaimed and remediated?
- How long will closure take?
- Will there be any lasting impacts after the development has closed?
- Are the proposed closure activities suitable?
- What happens if the proponent doesn't cleanup properly?

It is important to convey these concerns with the proponent about their closure plan early on to ensure the proper changes can be made.

How can I build capacity in my community to review these reports?

As lands managers, it is beneficial to help your communities understand projects that are proposed in your territory. Building capacity within your community to review IA reports will help ensure that community members know how to access the information they are looking for so that they can bring up questions and concerns they may have about a project.

To build capacity in this area, consider hosting an afternoon session where you can walk through this section of the toolkit and review a sample IA document that you can pull from the registry. Building capacity early on with your community will ensure that you are prepared when approached by proponents.

Checklist for Post Impact Assessment Review

After reviewing the proponent's IA report, you may have a few action items. Work through this checklist to determine if you need to get in touch with the proponent:

- Did the proponent address all our concerns?
- Did the proponent accurately describe our community?
- Did the proponent accurately describe our land?
- Are our land use activities accurately described?
- Has the proponent included any protection measures for our sacred sites?
- Do we agree with the identified impacts and their severity?
- Are the mitigation measures adequate?
- Is the proponent considering us in the follow-up programs?
- Did the proponent accurately describe how consultations with our community went?

If you are unsure about any of these questions, it is best practice to reach out to the proponent to receive clarification or additional information. You can learn about effective ways to reach out to proponents in **Section 4.2 Communicating with Proponents on** page 131.

Recap

Interpreting Impact Assessments

Key takeaways from this section include:

If your community participates in an impact assessment, the report should be provided by the proponent for your review.

Impact assessments include the following components: project description, environmental baseline, impacts and mitigation measures, monitoring and follow-up, summary of consultations, and closure plans (depending on the project).

Communities may choose to bring in technical experts to assist in the review.

Section 04

Tools for Land Managers

- Preparing your Community
- Communicating with Proponents
- Accessing Funding
- Collaborating
- How to Know Whats Happening in Your Territory
- Additional Resources

Overview

Preparing Your Community

In this section you will learn about how you can prepare your community for impact assessments, including:

- Identifying your community's goals and objectives
- Identifying your community's questions and concerns
- Identifying what's important to your community
- Developing an Anishinaabe Statement of Rights
- Developing Engagement Protocols
- Developing Consent Protocols

4.0 Tools for Land Managers

This section will outline the various tools that lands managers can use when it comes to impact assessment.

4.1 Preparing Your Community

Before an IA begins, there are a number of things that lands managers can do to help prepare themselves, their leadership, and their communities. Community preparedness is vital to ensure that communities are properly engaged in projects that are proposed by industries, governments, or even by the community themselves. By preparing your community for one assessment, you are in-turn preparing your community for future ones, so you will have also necessary tools and information in place that can be transferred over.

Identifying your Community's Concerns and Questions

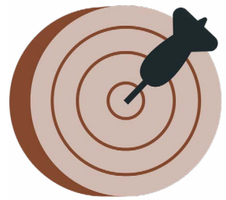
After being approached by a proponent about a project, it is beneficial to sit down with your community, either the leadership, Elders, men, women, and youth, or all, and determine what concerns they have about the project and what questions they may have.

Potential concerns and questions could include:

- How will this project affect our lands, waters, soils, and skies?
- Will the project bring in an influx of outside workers?
- Will the project bring employment opportunities?
- How will impacts be mitigated?
- How can I ensure that my trapline isn't affected?

Identifying your Community's Goals and Objectives

When your community is approach by a proponent and a project is introduced, an important step is determining what your goals and objectives are in relation to the project and the subsequent conversations with the proponent. These include:



- Creating employment opportunities for youth,
- Preventing adverse environmental impacts on the lands, waters, soils, and skies,
- Understanding how the project could impact your community's future,
- Building capacity in conducting your own IA, or
- Understanding how the project will impact your traditional land use.

Identifying what's Important to your Community

When you are approached by a proponent about a project, it is good to be prepared with a list of things that are important to your community that you might be worried about. This could include:

- Water quality,
- Hunting, fishing, and trapping areas,
- Wildlife migration routes,
- Protection of medicines,
- Human health, or
- Protection of sacred sites.

How does my community determine our capacity to be involved in a project?

When your community is first approached by a proponent or becomes aware of a project in your territory, determining what your community's capacity to be involved on the project is a big step.

To assess the capacity your community needs, you will need to think about the following:

- What the project is (ie. in the forest, on rock, near water, on a river)
- What its impacts may be and how severe they are (ie. will the project contaminate a waterway or will it disturb a small grassy area)
- Where the project is being proposed (ie. is it 5 km away from your community or 50 km away)
- How your community uses that area or did use that area (ie. is there an active trapline in this are, was this are used for berry picking in the past, do rare medicines grow there?)

This information should be available for you to review in the "project description." Typically, the further away the project is, the larger it is, and the more use an area has, will require more community capacity.

4.1.1 Developing an Anishinaabe Statement of Rights

A very important element of preparing for an IA (or any other type of project) is to prepare a **Statement of Rights** for your community. This statement of rights can be handed over to proponents when you are first approached. This will ensure that the proponent knows where your community stands, what Inherent Rights you have, and where your traditional territory lies.

A statement of rights for your community could include:

- Outlining your Inherent Rights as Anishinaabe,
- Outlining your Treaty Rights,
- Responsibilities under MAI,
- Identifying where your traditional territory lies, and
- Identifying your Anishinaabe Title to the land.

__TIP:__ Your community's statement of rights should clearly demonstrate what your rights are, how you exercise them, and how they are protected.

A sample/template of a Statement of Rights document can be found in **Appendix C on page 171.**

4.1.2 Developing Consent and Engagement Protocols

It is important for Anishinaabe communities to convey to proponents your community's process for engaging the community and ultimately granting consent to a project. Engagement protocols for your community will help your community dictate how you would like to be engaged. Consent protocols will outline how your community expects proponents to go about receiving (or not receiving) consent for a project.

A sample/template Community Engagement and Consent Protocols document can be found in **Appendix C on page 169**.

There are two ways that you can develop engagement protocols:

1. Protocols for how your community engages its membership, and
2. Protocols for how the proponent engages with your community.

Developing both of these protocols will ensure that the proponent engages with your community in a way that respects your protocols and customs and ensures that your community is well-informed about the project. Developing your own engagement protocols ensures that proponents are following your community's way of operating. MAI is a key component to each of these engagement protocols.

Protocols for engaging your own community could include:

- Holding community-wide meetings to introduce the project, followed by separate meetings for Elders, men, women, and youth,
- Conducting ceremonies, such as sweat ceremonies or smudging, before beginning discussions, and
- Respecting individual decisions to not participate participate in the process,
- Turning to Elders for guidance on decisions,
- What consent looks like and what to do when community members do not agree.

It is important to pay attention to the impact assessment timelines that the proponent is following to ensure you don't miss important deadlines.

Hosting internal engagements with your community allows community members to voice their opinions freely if they were not comfortable doing so in front of the proponent.

Engaging your community before the proponent begins their engagement process is recommended. That way you can inform your community on what they can expect from proponent-led engagements.

Industry proponents usually have their own way of engaging communities, following a process that may not be respectful of Anishinaabe customs and practices. By sharing your community engagement protocols with proponents, it puts the community in the driver's seat, ensuring that the proponents respect the community's way of operating and engaging their members.

Protocols for proponent to community engagement could include:

- **Initial meetings between leadership and proponents:**
  - o Beginning and ending all meetings in ceremony with an Elder,
  - o Ensuring the proponent offers tobacco,
  - o Relaying the community's statement of rights and consent protocols.

- **Community meetings with proponents**
  - o Ensuring the proponent offers tobacco,
  - o Smudging the group,
  - o Ensuring the proponent makes arrangements for a feast,
  - o Noting that the proponent will have to have multiple community meetings, potentially including separate ones with Elders, men, women, and youth,
  - o Ensuring the proponent sets enough time aside for questions and discussions,
  - o Ensuring the proponent compensates Elders for their time, or
  - o Introductions from the proponent and community members.

It is beneficial to have your community participate in drafting proponent-community engagement protocols. This way, community members get a say in how they want to be engaged and will know what to expect during the process.

Ensuring the proponent makes information accessible, including paying for translation services from English to Anishinaabemowin.Before beginning meetings with leadership and your community, proponents should be fully informed on what your communities' consent process looks like.

Project engagement is an area where you can partner with the proponent and lead engagement sessions together. This way, you can ensure the proponent is being respectful of your engagement protocol. Community members may also trust the process more if lands managers from the community are present and working with the proponent.

Consent can be a part of your overall engagement protocols or separate. Having consent protocols in place will ensure that your community and the proponent know how consent is granted and when. If a proponent is not following your consent protocols, you can refuse the project early on. Some key principles in developing consent protocols can come from FPIC: Free, Prior, and Informed Consent. An overview of FPIC was discussed in **Section 2.2.2.1 UNDRIP on page 26**.

Who gives consent from my community on a project?

For your community's benefit, it is important to outline "who" gives consent for a project. Will your Chief and Council make the final decision? Will the Elders make the decision? Or will there be a community vote? Developing these protocols ahead of being contacted by a proponent is important to ensure that your community is on the same page when giving (or not giving) consent.

Recap

Preparing Your Community

Key takeaways from this section include:

Community should get prepared for an impact assessment by identifying their goals, objectives, questions, concerns, and priorities when a project is proposed in their territory.

Communities should get prepared for an impact assessment by developing an Anishinaabe Statement of Rights, Consent Protocols, and Engagement Protocols for the proponent.

Overview

Communicating with Proponents

In this section you will learn about communicating with **proponents**, including:

- The benefits of early communication
- What to do when your community is approached by a proponent about a project
- What to do if a proponent is hard to contact
- Questions to ask during initial discussions

4.2 Communicating with Proponents

Clear communication between lands managers and proponents is needed when a project is proposed in your territory. When a project is proposed in your territory, it is important to engage the proponent early, working on your own timeline instead of the proponent's. The proponent may be working slower than you'd prefer, so it's important to be proactive. The proponent will have the important information your community needs to gain a solid understanding of the project.

The benefits of early communication for your community include:

- Getting early access to information about the project,
- Offering a chance to start building a relationship with the proponent,
- Gauging how you will be able to interact with the proponent moving forward,
- Communicating your concerns early on,
- Communicating how your community should be consulted, and
- Introducing the topic of partnering on the IA.

During initial discussions with the proponent, consider discussing or asking the following:

- How the proponent will respect and implement MAI on their project.
- What information can you give your community right away about the project?
- How will you be incorporating our Traditional Knowledge into your assessment?
- What opportunities will this project bring our community? What are the risks?
- Is there an opportunity for collaboration or partnership in the assessment or on the project? If not, then how can we make it possible?

I've been approached by a proponent about a project. What do I do?

When you are first approached by a proponent about their proposed project, it is best to discuss an action plan with your community's leadership. Items to discuss could include:

- Initial thoughts on the proponent and project,
- The level of involvement that you want your community to have,
- What capacity your community has to be involved,
- What other communities are going to be affected, and
- How your community might feel about this project.

Once you have had this internal meeting, setting up a meeting between the proponent, your leadership, and you as a lands manager to discuss the project. A letter template for initial discussions with a proponent can be found in **Appendix C on page 169.**

Ongoing communication with the proponent is also needed throughout the duration an IA and operation of the project. This will ensure that if you are fully informed about the project as it progresses through its assessment, and you can identify areas where you may be able to provide expertise or become more involved. Establish a meeting schedule with the proponent where you can regularly discuss the project. This is essential to discuss concerns, ask questions, and to let the proponent know where they may need to improve in their current process.

What can we do if a proponent is hard to contact?

Occasionally, communities may find communicating with a proponent to be difficult, or the proponent is not following your community's engagement protocol. This may be because the proponent is not interested in working in collaboration with Anishinaabe Nations. Suggestions for connecting with a difficult proponent include:

- Sending a letter to the proponent from your Chief,
- Contacting the Ministry responsible for reviewing the impact assessment and telling them that the proponent is not conducting meaningful consultations,
- Letting the proponent know that consent for the project cannot be reached if the proponent is not cooperating, and
- Seeking strategic or legal advice from experts.

Recap

Communicating with Proponents

Key takeaways from this section include:

Communication between communities and proponents should begin as early as possible and be ongoing throughout the impact assessment process.

Communities may want to ask questions about the project, incorporation of Traditional Knowledge, opportunities for the Anishinaabeg, possible partnerships, and risks during initial discussions.

If a proponent is difficult to work with, communities may send a letter from the Chief, emphasize that consent will not be given without cooperation, contact the Ministry, or seek strategic and legal advice.

Overview

Accessing Funding

In this section you will learn about funding programs to participate in impact assessments, including:

The Environment Act Participant Assistance Regulation in Manitoba

The Aboriginal Participation Fund in Ontario

The Participant Funding Program, Indigenous Capacity Support Program, and the Reserve Lands and Environment Management Program in Canada

4.3 Accessing Funding

Participating in an Impact Assessment can be costly. Proponents will sometimes front the costs associated with conducting their engagements, however, if communities want to participate more fully in an IA, some funding is available to help them do so.

4.3.1 Manitoba

In Manitoba, funding from the government is only available in the case of a CEC hearing through **The Environment Act Participant Assistance Regulation, 125-91**. Under this regulation, the Minister "may establish a participant assistance program for the assessment of a development that is the subject of a public hearing under the Act and that, in the opinion of the minister, is of significant public interest". This would open up a public funding that the proponent may have to pay, that members of the public, including Anishinaabe communities, can apply to. Unfortunately, as less than 1% of projects in Manitoba receive a CEC hearing, this funding program is rarely available.

What are the costs of participating in an impact assessment?

Although there are great benefits to communities that fully participating in IAs, there are costs associated with it. These include:

- Community consultation and meeting costs – If your community wants to hold additional meetings about a project, the proponent may not pay to cover them.
- Leadership – Leadership must dedicate their paid time to reviewing a project, its documents, and negotiating with proponents.
- Time & energy – Lots of time and energy is needed by the community to fully participate in an IA. This could mean taking time off work to attend meetings.
- Technical & legal costs – If your community wants to hire legal help or pay for their own technical studies, the community will have to cover these costs.
- Travel – Travel to another city or community may be needed to participate in an IA. These costs can add up if your community is remote.

4.3.2 Ontario

In Ontario, funding from the government is only available for projects relating to mineral exploration and development through the **Aboriginal Participation Fund**. This fund "supports Aboriginal consultation capacity, education and relationship-building activities as they relate to mineral exploration and development". This fund has three programs that communities can apply to:

1. **Mineral Development Advisory Positions and Support Funding** - This stream provides communities with additional resources to review exploration plan submissions, exploration permit applications, closure plans and closure plan amendments. It helps communities and organizations participate effectively in project-specific regulatory process under the Mining Act. This stream also helps provide communities and organizations with additional resources to increase community knowledge and understanding of the mining sequence, mining activities and the possible range of economic benefits arising from mineral development.

2. **Values Mapping and Related Projects** - This stream supports projects that focus on values identification or related projects between Aboriginal communities, which will support the capacity of communities to effectively participate in and respond to specific information requests in regulatory processes under the Mining Act. This includes projects on Traditional Knowledge and values mapping and resolving shared territory issues between communities.

3. **Education and Relationship Building** - This stream helps communities and organizations to enhance their understanding of mineral exploration and development processes as well as to support the development of relationships between communities, industry and government.

4.3.3 Federal

The federal government has several funding opportunities for Anishinaabe communities to tap into to participate in IAs and to support **lands management** activities.

4.3.4 Participant Funding Program

The Participant Funding Program aims to support public engagement and Indigenous consultation during an assessment – whether it is a project-specific assessment by the Agency or review panel, regional assessment, or strategic assessment. It does so by providing funding at key stages throughout an assessment process, including the implementation of follow-up programs. The participant funding program only offers funding for projects with current participation activities.

It is recommended to frequently check the Participant Funding Program opportunities list to be aware of funding opportunities available for projects near you.

The funding program will note which projects currently have funding opportunities open at this link: https://iaac-aeic.gc.ca/050/evaluations/participation?Type=2&culture=en-CA

4.3.5 Indigenous Capacity Support Program

The federal government offers funding for Indigenous communities to participate in projects under federal review through the **Indigenous Capacity Support Program**. The program "provides funding to Indigenous communities and organizations to support capacity building in Indigenous communities so they can better participate in current and future assessments". Through this fund, communities can have costs for report, professional services, travel, and honoraria reimbursed.

4.3.6 Reserve Lands and Environment Management Program

The **Reserve Land and Environmental Management Program** provides funding to Indigenous communities to develop capacity to manage reserve land, resources, and environment if their lands are still governed under the Indian Act. Funding is available to trains lands managers in communities and to help prepare communities for managing their lands and opting out of the lands management sections of the Indian Act.

While a community is training a land manager, they are eligible for 80% of their operational funding to set up and start running a lands office. Once they have a certified lands manager, the community can then receive 100% of their operational funding as they take on full responsibility for lands and environmental management activities.

4.3.7 Indigenous Guardians

If your community is interested in developing their own Anishinaabe Guardians program, funding is available to help kick-start the program.

4.3.7.1 Indigenous Guardians Program

The federal Ministry of Environment and Climate Change is investing $173 million of funding over five years to develop Indigenous Guardians Programs. As of September 2021, this funding is not yet available. Stay tuned to for announcements from the Ministry of Environment and Climate Change on how to apply.

More information on funding Anishinaabe Guardians Programs can be found by consulting the Indigenous Guardians Toolkit, discussed in Section 4.6 Additional Resources on page 153page 152.

Shoal Lake 40 Anishinaabe Guardians Program

The Treaty #3 community of Shoal Lake 40 received funding from the federal Indigenous Guardians funding program to fund their Anishinaabe Guardians program. The funding is being used for training stewards of the land by monitoring the community's lands, waters, skies, and soils. The guardians are using knowledge of the environment from a fusion of Anishinaabe Knowledge Keepers and traditions, and contemporary science and best practices.

Recap

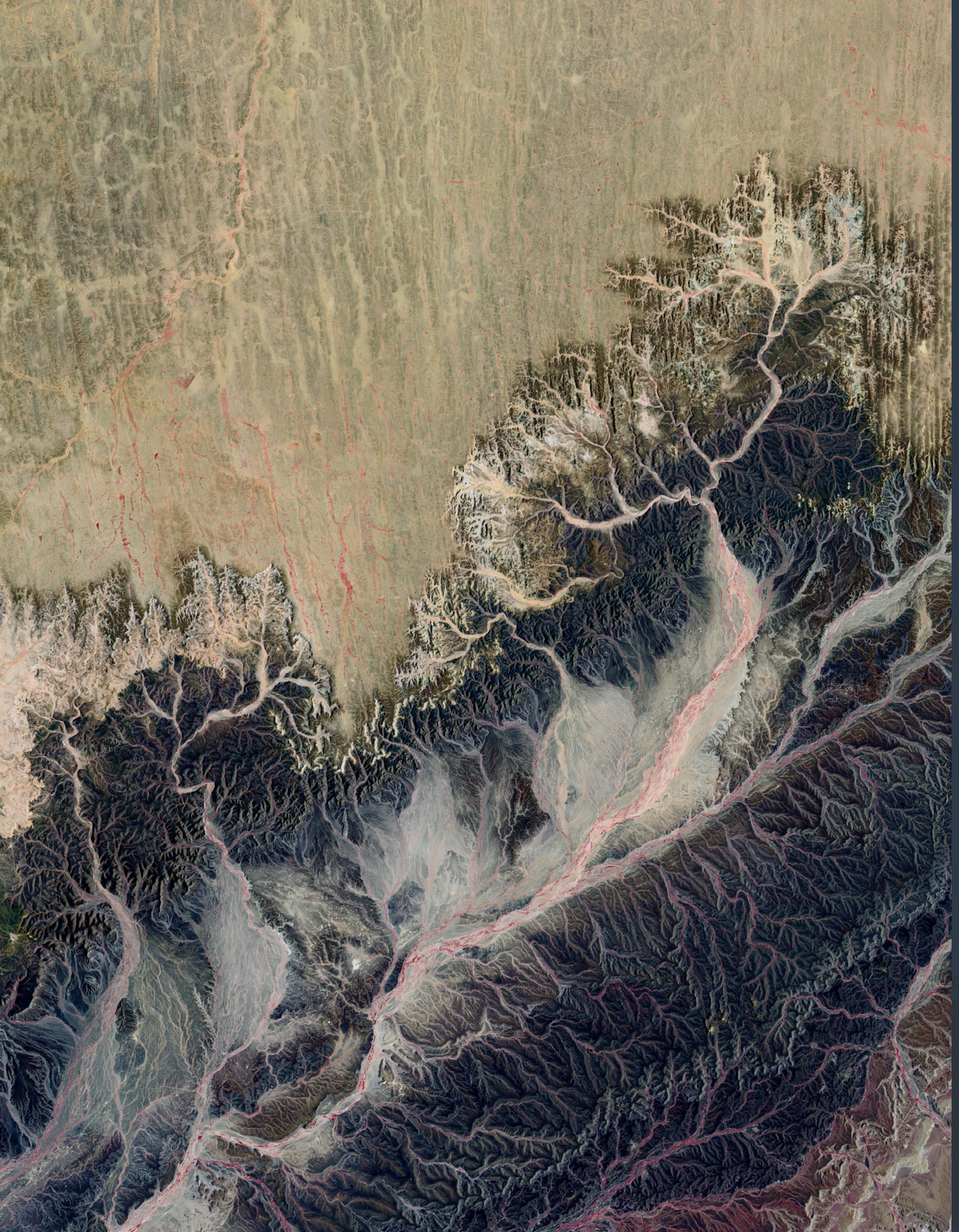
Acessing Funding

Key takeaways from this section include:

In Manitoba, funding is available for CEC hearings through the Environment Act Participant Assistance Regulation.

Federally, funding is available to support community engagement through the Participant Funding Program, capacity building through the Indigenous Capacity Support Program, and lands management through the Reserve Lands and Environment Management Program.

In Ontario, funding is available for projects relating to mineral exploration and development through the Aboriginal Participation Fund.



Overview

Collaborating

In this section you will learn about collaborating with other groups, including:

- Collaborating with other communities
- Collaborating with the proponent

4.4 Collaborating

In an impact assessment, there are many opportunities to collaborate with the proponent, either for the whole process or for certain parts. For example, communities may request to collaborate in background studies, either by working jointly with the proponent to develop the studies together or by sharing their own Anishinaabe-led studies, to ensure that community knowledge and perspectives are represented accurately. This could include studies such as traditional land use or community health studies, for example. Similarly, communities may also seek to collaborate on the IA report, either by codeveloping certain sections or by conducting their own IA while coordinating with the proponent. Given the Crown's duty to consult and, where appropriate, accommodate, Treaty #3 communities can also collaborate on consultations and accommodation measures.

Engaging the community alongside the proponent will reduce duplication in the process and build trust between the community and the proponent, while co-developing accommodation measures will help reach mutually satisfactory solutions to any issues raised by the community

Depending on the size, location, and complexity of the project, more than one Anishinaabe community may have an interest in a proposed project. In these cases, it may be beneficial to collaborate with these communities during the IA. This could come in the form of creating partnerships for negotiations or conducting traditional land use studies together. When you are approached by a proponent, consider reaching out to your neighbouring communities to discuss a plan of action.

Case Study

Niiwin Wendaanimok Partnership

Since 2010, the Ministry of Transportation Ontario (MTO) has been in the process of developing a plan to "twin" (double-lane) Highway 17 between the Manitoba border and City of Kenora as part of an effort to reduce traffic and increase road safety.

To coordinate their shared experiences, concerns, and interests, the Nations of Shoal Lake 40, Wauzhushk Onigum, Niisaachewan, and Washagamis Bay formed the **Niiwin Wendaanimok Partnership** to negotiate with MTO together. By collaborating with their neighboring communities, the Nations were able to build a stronger position with greater capacity than any one would have had individually. The Niiwin Wendaanimok Partnership and MTO then partnered together to collaborate on the project with the understanding that the Nations would be respected as equal partners rather than merely consulted with. The Niiwin Wendaanimok Partnership developed a unique Harmonized Impact Assessment process and submitted their own report together with MTO's report. By approaching the project in the spirit of cooperation and collaboration, it has now been able to move forward with success.

Recap

Collaborating

Key takeaways from this section include:

Anishinaabe communities may choose to collaborate with the proponent to co-develop an impact assessment.

Anishinaabe communities may choose to partner together with neighboring communities when a project is proposed in shared territory.

Anishinaabe communities may choose to build partnerships with other communities and the proponent, like in the Niiwin Wendaanimok example.

Overview

How to Know What's Happening in Your Territory

In this section you will learn about how Anishinaabe communities can be aware of activities being proposed in their territory, including:

- Public registries
- Mailing lists
- Databases

4.5 How to Know What's Happening in Your Territory

There are many ways that lands managers can stay engaged and aware of what is happening in their territories. This can be done through regularly checking project registries, reviewing resource databases, and following the news surrounding resource development.

4.5.1 Public Registries

Public registries are databases of projects currently undergoing an IA. This is where information on projects can be accessed, comments can be provided, and the decisions on project can be located.

It is recommended to regularly review the public project registries to determine if any new projects have been consulted in your territory that you weren't made aware of.

4.5.1.1 Federal

For projects undergoing a federal review, they are posted on the **Canadian Impact Assessment Registry** (the "Registry"). You can sort through the projects by province, their assessment status, the type of assessment, and the type of project.

The Registry also contains an interactive map of Canada that identifies where current federal assessments are being undertaken across the country. You can use this feature to explore the Treaty #3 territory and learn more about projects that may be in the area.

You can access the federal Registry by going to:

Canada.ca > Environment and natural resources > Environmental conservation and protection > Projects and impact assessments > Get involved in an impact assessment > Registry

You can also use this link: https://www.canada.ca/en/services/environment/conservation/assessments.html

4.5.1.2 Ontario

In Ontario, projects undergoing review on an IA are added to the Environmental Registry of Ontario ("ERO"). The ERO lists a wide variety of notices beyond just projects. The ERO will provide you with the information on IA reports submitted to the Ministry of Environment, Conservation, and Parks ("MECP") for review and approval. Additionally, this registry also includes applications for permits from other ministries, notices of policy or regulation changes, appeals, and activities being undertaken by other ministries.

You can use the search function to search the name of a project, proponent, or type of project. You can filter these searches in a few ways, including:

- If they are open or closed for comment,
- Type of notice (i.e. policy, regulation, act, etc.),
- Notice stage (i.e. proposal, decision),
- Who posted the notice, and
- What act the notice falls under.

The ERO also has an interactive map feature, where you are able to view proposed projects and their locations across Ontario.

The ERO map can be found here: https://ero.ontario.ca/map or by clicking "Map" on the ERO homepage.

You can find the ERO by going to **ero.ontario.ca**.

You can also find information on projects undergoing an individual EA in Ontario on Ontario's environment assessment homepage. On the homepage, you can "find a project" by searching through their list: www.ontario.ca/page/environmental-assessments-designating-regulations-and-voluntary-agreements

You can access the list by going to:

Ontario.ca>Environment and energy > Environmental assessments > Find an EA project > Designations and voluntary agreements projects

You can also use this link: https://www.ontario.ca/page/environmental-assessments-designating-regulations-and-voluntary-agreements.

4.5.1.3 Manitoba

In Manitoba, projects undergoing review on an IA are added to the Public Registry system. This registry only lists projects that have submitted the environment act proposal. As discussed in Section 3.4 Impact Assessment in Manitoba, once an environment act proposal has been submitted by the proponent and reviewed by the Technical Advisory Committee ("TAC"), it is posted on the public registry.

The public registry sorts the projects into three categories:

- Proposals listed under "**Open for Comment**" are open to anyone to leave comments or concerns about the proposed project. It will note the deadline that comments must be submitted by and who to send your comments to.
- Proposals listed under "**In Process**" are currently under review by environmental approvals branch ("EAB"). The comments from the public registry, TAC, and any additional information the proponent has provided is included in this review.
- Projects listed under "**Completed**" projects lists the projects where a licensing decision has been made. By selecting a project from the list, you will be able to see whether the project was granted or denied a license.

Manitoba's public registry can be found by going to:

Manitoba.ca > Conservation and Climate, Permits, Licenses and Approvals > Environmental Assessment and Licensing > Public Registry

or at this link: https://www.gov.mb.ca/sd/eal/registries/index.html

You can also search projects through the proponent's name, project name, or region. On the registry, you can find all the documents that the proponent has submitted for their project, can view public comments, and locate the decisions made about projects. The registry will show you who the contact person is at the Environmental Approvals Branch, what region of the province the project is in, and when you have to submit your comments by.

4.5.2 Mailing Lists

There are several mailing lists regarding IAs and projects that you can subscribe to and get updates on current projects or notifications of new ones.

The Impact Assessment Agency has a weekly news bulletin that includes links to all news releases issued by the Agency, announcements issued by the Minister of the Environment and Climate Change with respect to federal impact assessment, and opportunities for public comment and availability of participant funding. That registry can be found here: https://iaac-aeic.gc.ca/002/admission-eng.aspx

4.5.3 Databases

In addition to monitoring public registries, you can also familiarize yourself with resource databases. Specifically, both Manitoba and Ontario have databases for mineral resources and deposits in the province. Understanding where certain resources are located in your territory could provide some insight on where you may expect resource development activity in the future. **GeologyOntario** is an online database that contains all of the publicly available digital data collected by the Mines and Minerals division. All data is available for download. This data includes:

- Client-submitted assessment files
- Mineral deposits
- Ontario Geological Survey publications
- Drill hole records
- Mining hazards including abandoned mines

File formats for this data come in various forms, including Google Earth, ArcGIS, and Microsoft excel data on deposits and locations.

Manitoba also has databases and maps on the mineral and geoscientific information in the province, including:

- Mining claims, exploration licences, quarry leases, mineral leases
- Assessment files, disposition history
- Drill hole locations
- Geology, geophysics, geochronology, mineral occurrences, kimberlite indicator mineral data
- Crown oil and gas mineral ownership
- Crown oil and gas rights dispositions
- Batteries/associated facilities
- Wells
- Oilfield boundaries
- Orthophotos showing topography

GeologyOntario's database can be found by clicking "launch" on this webpage:

https://www.mndm.gov.on.ca/en/mines-and-minerals/applications/geologyontario#simple-table-of-contents-1

Manitoba's geoscience databases can be found through this link: https://www.manitoba.ca/iem/geo/gis/databases.html

Recap

How to Know What's Happening in Your Territory

Key takeaways from this section include:

Communities can access online databases to see where certain resources are located.

Public registries in Canada (the Canadian Impact Assessment Registry), Ontario (the Environmental Registry of Ontario), and Manitoba (the Public Registry) are online databases that communities can use to see information about all projects currently undergoing an impact assessment.

Communities can join mailing lists from entities such as the Impact Assessment Agency to receive regular news and announcements.

4.6 Additional Resources

There are additional resources available to lands managers that you can turn to for assistance and to connect with other lands managers. These include:

Grand Council Treaty #3 Territorial Planning Unit (TPU)

The TPU works with Treaty #3 Leadership to protect the lands, waters, and resources within the 55,000 square miles that make up the Treaty #3 Territory. The TPU provides support to the lands managers of Treaty #3, including how to adopt and enforce MAI, address development issues, and assist in ensuring the projects are developed the accommodate and respect the Treaty and inherent rights of the Anishinaabe. Information on the TPU can be found at: http://GCT#3.ca/land/territorial-planning-unit/.

The TPU works to ensure that communities are involved in decision making processes regarding resource developments, and that the voice of the Anishinaabe Nation is heard. Communities can reach out to the TPU for information on how to engage with proponents and for guidance on projects in their communities. You can reach the TPU at **tpu@gct3.ca**

National Aboriginal Lands Managers Association (NALMA)

NALMA membership is made up of the Regional Lands Associations across the country. The Regional Lands Associations are independent regional or territorial associations established by Land Managers. NALMA actively network towards the enhancement of professional development and technical expertise in the functions of Lands Management and which will also incorporate Indigenous values and beliefs in Lands Management.

NALMA offers training in environmental management, land use planning, professional development, surveying, and specialized training.

NALMA can be accessed at https://nalma.ca/

There is both an Ontario and Manitoba section:

- Ontario Aboriginal Lands Association (OALA). OALA provides networking, peer support and training opportunities for First Nation Lands Managers in Ontario. Lands managers from any Nation in Ontario can become a member of this association where they can connect with other lands managers, access training opportunities, and find information on current lands related topics in the province. OALA can be found at: https://oala-on.ca/about-oala/land-regimes/
- Manitoba USKE (USKE). The mission of the Manitoba Uske is to share unique experiences and common interests in the area of First Nation Land Management, to incorporate cultural values and traditions, and to ensure that the Crown maintains its fiduciary relationship with First Nations. USKE offers training and capacity building opportunities to lands managers in Manitoba. USKE can be found at: https://www.uske.ca/about/

Indigenous Guardians Toolkit

Nature United, in collaboration with various communities across Canada, developed the Indigenous Guardians Toolkit. This toolkit is a resource base for Indigenous communities to learn, share, and connect with other communities about Indigenous Guardians programs.

In the toolkit, you can learn about:

- How to start an Indigenous Guardians program,
- How to fund your program,
- How to hire and manage staff,
- How to train your community and build capacity,
- How to monitor and collect data,
- How to conduct research, and
- How to network and build relationship with other guardians.

The Indigenous Guardians Toolkit can be found at: https://www.indigenousguardianstoolkit.ca/

5.0 Conclusion

It is essential that Treaty #3 communities be equipped to meaningfully participate in environmental assessment and impact assessment processes throughout the territory. For far too long the Anishinaabe have not been consulted on development projects or involved in decision-making processes and as a result, they have experienced the brunt of environmental damage and missed opportunities. By understanding the processes and timelines, policy and legislation, strategies and best practice, the Anishinaabe can become leaders in environmental assessment and impact assessment processes, preventing environmental harm and securing opportunities for future generations.

This toolkit is intended to serve as a resource for anyone involved in lands management within Treaty #3 territory, as well as future generations of lands managers across all 28 communities.

Appendix A

Quick Reference Guides

Federal Impact Assessment
Quick Reference Guide

This Quick Reference Guide is intended to summarize essential information about **federal impact assessment** ("IA") in Canada, including the phases of the process, how Treaty #3 communities can participate, and funding opportunities to assist. To learn more, refer to **pages 41 to 55** of the Toolkit.

The Process

The Impact Assessment Act, 2019 outlines the IA process for any major projects proposed on federal lands. The Impact Assessment Agency of Canada ("IAAC" or "the Agency") is responsible for leading federal IAs under the Impact Assessment Act. Federal IAs may either be conducted by the Agency, by a Review Panel, or they may be substituted to a provincial or Indigenous jurisdiction. In Canada, there are five overall steps that go into the impact assessment process. These are:

1. **Planning:** During this phase, the focus is for the Agency to engage with public and Indigenous peoples, determine whether an IA is needed, and if it is, develop planning tools to guide the process, including Tailored Impact Statement Guidelines.

2. **Impact Statement:** The focus of this phase is for the proponent to develop an Impact Statement that evaluates the potential impacts of the project according to the requirements outlined in the Tailored Impact Statement Guidelines.

3. **Impact Assessment:** In this phase, either the Agency, a Review Panel, or a substituted provincial or Indigenous jurisdiction prepares an IA that assesses potential positive and negative impacts of the proposed project, drawing on information from the Impact Statement.

4. **Decision-Making:** The purpose of this phase is to determine if the adverse effects of the project are in the public interest.

5. **Post Decision:** In the final phase, the focus is to ensure compliance with the conditions set out in the Decision Statement. The proponent is responsible for implementing these conditions, which include mitigation measures and a follow-up program.

Where can I access the Impact Assessment Act?

The Impact **Assessment** Act can be accessed at:

https://laws-lois.justice.gc.ca/eng/acts/I-2.75/index.html

Designated Projects

Projects that qualify for an IA under the Impact **Assessment** Act are known as designated projects and are described by the Physical Activities Regulations ("Project List"). The Project List focuses federal IA's on major project that are most likely to have **adverse effects** on federal land.

How Treaty #3 Communities can Participate

There are various ways that the Anishinaabe can be leaders in the federal IA process. Communities may choose to collaborate with the Agency to lead parts of the assessment, operate in partnership with the Agency, undertake their own Anishinaabe-led assessments, or substitute an Anishinaabe jurisdiction's process for the federal assessment process. The Anishinaabe should be invited to participate at each phase in the IA process and engagement should begin early in the planning phase.

Funding

The federal government has several funding opportunities for Anishinaabe communities to tap into to participate in IAs and to support lands management activities. Federal funding is available to support community engagement through the Participant Funding Program, capacity building through the Indigenous Capacity Support Program, and lands management through the Reserve Lands and Environment Management Program. Funding is also available for developing Anishinaabe Guardians programs, which can allow Treaty #3 communities to lead monitoring activities in the Post Decision phase and throughout the life of a project.

Manitoba Environmental Assessment
Quick Reference Guide

This Quick Reference Guide is intended to summarize essential information about **Manitoba's environmental assessment** ("EA") process, including the phases, how Treaty #3 communities can participate, and funding opportunities to assist. To learn more, refer to **pages 77 to 93** of the Toolkit.

The Process

The *Environment Act, 1987* outlines the EA process for projects proposed in Manitoba. The **Environmental Approvals Branch** ("EAB"), situated under the Ministry of Environment, Climate, and Parks, is responsible for reviewing EAs and granting licenses for projects.

In Manitoba, there are five overall steps that go into the EA process. These are:

1. **Scoping:** During this phase, the proponent will determine if an EA is required for their project by reviewing the **Classes of Development Regulation 164/88, 1988**. Projects in this regulation are designated as Class 1, Class 2, or Class 3. If the project is not listed in this regulation, the project does not require an EA. During this phase, the proponent should be contacting communities that will be in the vicinity of their project to establish a relationship early on. There is no timeline for the scoping phase.

2. **Preparing the Environmental Assessment:** The focus of this phase is for the proponent to prepare their **Environment Act Proposal** ("EAP") that evaluates the baseline environment of the project area, the potential impacts of the project, and what mitigation measures are needed. As a part of the **Duty to Consult**, **proponents** are required to engage Anishinaabe communities during this phase.

3. **Proposal Review:** In this phase, the Environmental Approvals Branch ("EAB") will review the EA and all associated documents. After their review, the EAB will pass the EAP into the **Technical Advisory Committee** ("TAC") to review. The TAC consists of specialists who can provide their expertise on the project, and it's impacts. The TAC review takes 60 days.

Where can I access the Impact Assessment Act?

The Environment Act can be accessed at:

https://web2.gov.mb.ca/laws/statutes/ccsm/e125e.php

The Classes of Development Regulation can be accessed at:

https://web2.gov.mb.ca/laws/regs/current/_pdf-regs.php?reg=164/88

After the TAC review, the EAP will be posted on the Public Registry, where Anishinaabe communities and the public can provide comments and feedback on the project. The EAP is available for comment on the Public Registry for 30 days. The TAC will provide their comments and comments from the Public Registry to the Minister to review. The Minister's review takes 90 days.

4. **Decision-Making:** The purpose of this phase is to either grant or deny a license for the project. the Director of the Approvals Branch will issue licenses for Class 1 and most Class 2 Developments. The Minister for Environment, Climate, and Parks will issue licenses for some Class 2 and all Class 3 Developments.

5. **Post Decision:** In the final phase, the focus is to ensure compliance with the conditions set out in the Environment Act License. The proponent is responsible for implementing these conditions, which include mitigation measures and a follow-up program.

How Treaty #3 Communities can Participate

There are various ways that the Anishinaabe can be leaders in the Manitoba EA process. Communities may choose to collaborate with the proponent to lead parts of the assessment, undertake their own Anishinaabe-led assessments, or become actively involved in collecting Traditional Knowledge and conducting community engagements. The Anishinaabe should be invited to participate at each phase in the EA process and engagement should begin early in the scoping phase.

Funding

In Manitoba, funding from the government is only available in the case of a Clean Environment Commission ("CEC") hearing through **The Environment Act Participant Assistance Regulation, 125-91**. In most cases, proponents will host engagements in the communities (at the proponent's expense) who may be impacted and are closest to the proposed project site. Affected communities can also request the proponent to cover any additional expenses related to travel or accommodations for engagements when required.

Ontario Environmental Assessment
Quick Reference Guide

This Quick Reference Guide is intended to summarize essential information about **Ontario's environmental assessment** ("EA") process, including the phases, how Treaty #3 communities can participate, and funding opportunities to assist. To learn more, refer to **pages 57 to 75** of the Toolkit.

The Process

The **Environmental Assessment Act, 1990** outlines the EA process for projects proposed in Ontario. The Ministry of Environment, Conservation, and Parks assesses and grants licenses for all environmental assessments in Ontario.

Ontario splits their EAs up into two processes: **individual environmental assessments** and **streamlined environmental assessments**. The individual EA is used for projects proposed by non-governmental organizations ("NGOs"), private companies, and individuals. It is important to note that private sector proponents (for example, mining companies), only will complete an EA if they have been ordered to do so under a regulation or under the Environmental Assessment Act. These assessments are submitted to the Minister of Environment, Conservation, and Parks for review. Only a small number of projects undergo the individual EA.

Where can I access the Environmental Assessment Act?

The Environmental Assessment Act can be accessed at:

https://www.ontario.ca/laws/statute/90e18

Streamlined EAs are for projects that may be routinely undertaken and have predictable impacts and associated mitigation measures. The proponents of these projects follow a set self-assessment and decision-making process. There are four types of streamlined EAs:

- Class Environmental Assessments (the majority of projects in Ontario are Class EAs)
- Electricity Projects Regulation
- Waste Management Projects Regulation

Each streamlined EA is different and has their own guiding document on how the EA is conducted. More information on streamlined EAs can be found on pages 68 to 71 of the Toolkit.

Individual EAs

In Ontario, there are six overall steps that go into the individual EA process **(pages 68 to 71)**. These are:

1. **Scoping:** During this phase, proponent will contact the Ministry of Environment, Conservation, and Parks to discuss their project and determine if an individual EA is needed. If it is, the proponent will determine the scope of their study, including defining the project area, identifying alternatives, and what baseline environment information is needed. There is no timeline for the proponent to complete the scoping phase.

2. **Terms of Reference:** The proponent will prepare a Terms of Reference ("TOR") document before beginning the EA. This document will outline how the proponent will address all of the legal requirements under the Environmental Assessment Act. This document is a work plan for how the proponent will prepare their EA. There is no timeline for the proponent to prepare the TOR. The TOR will be submitted to the Ministry for review and approval.

3. **Preparing the Environmental Assessment:** After receiving approval of their TOR, the proponent will prepare their EA. The proponent will identify alternatives for their project, baseline environment information, conduct an impact assessment and identify mitigation measures, and a record of their consultations. There is no timeline for a proponent to prepare and submit their EA report.

4. **Review:** Upon completing their environmental assessment, the proponent will submit their EA documents to the Ministry for review. This review is broken up into three reviewing groups over a period of 17 weeks:
   - Public & Government Review (7 weeks)
   - Ministry Review (5 weeks)
   - Public Inspection of Ministry Review (5 weeks)

5. **Decision-Making:** The purpose of this phase is to either grant or deny a license for the project. The Minister will review the comments received on the documents and use them to inform their decision. The Minster can refer the project for a hearing, approve the project, approve the project with conditions, or refuse to issue a license. The Minister has 13 weeks to issue a decision on whether to approve the proposed project.

6. **Post Decision:** Once the proponent has received their approval from the Minister, they can proceed with obtaining other necessary approvals that may be required for their project. Construction can also begin, with the proponent reporting on their compliance with the conditions of their project approval.

How Treaty #3 Communities can Participate

There are various ways that the Anishinaabe can be leaders in the Ontario EA process. Communities may choose to collaborate with the proponent to lead parts of the assessment, undertake their own Anishinaabe-led assessments, or become actively involved in collecting Traditional Knowledge and conducting community engagements. The preparation of the TOR is also a crucial area where Anishinaabe communities will be engaged and where they should stay actively involved. The Anishinaabe should be invited to participate at each phase in the EA process and engagement should begin early in the scoping phase.

Funding

In Ontario, funding from the government is only available for projects relating to mineral exploration and development through the **Aboriginal Participation Fund**. This fund "supports Aboriginal consultation capacity, education and relationship-building activities as they relate to mineral exploration and development".

Appendix B

Framework for Leading Your Own Assessment

Framework for Leading
Your Own Assessment

The following checklist can be used as a framework to help your community know where to start when undertaking an Anishinaabe-led assessment.

Building a Foundation

- ◯ **Identify what values, protocols, and laws should guide the process**
- ◯ **Identify community goals and objectives, and a vision for the future**
  - ◯ Consider how the project might help achieve these

Collaborating with Other Communities

- ◯ **Reach out to neighboring communities, especially if the project is on shared territory**
- ◯ **Communicate early and on an ongoing basis**
- ◯ **Discuss shared interests, goals, and opportunities to work together**
- ◯ **Build strategic alliances**
- ◯ **Develop agreements and a structured process for collaborating**

Resourcing

- ◯ **Make a list of what services and equipment may be needed**
- ◯ **Make a list of community lands managers, negotiators, and other technical experts**
- ◯ **Make a list of community coordinators, caterers, and others who can assist with logistics**
- ◯ **Make a list of all Knowledge Keepers, including Elders and land users such as:**
  - ◯ Hunters and trappers who understand wildlife and their patterns
  - ◯ Fishermen who understand water levels, fish and fish habitat, and water quality
  - ◯ Those who gather berries, medicines, wild rice, or other plants
- ◯ **Identify gaps where equipment and services may not exist in the community**
- ◯ **Identify technical experts and outside services/equipment to fill gaps. For example:**
  - ◯ Mapping specialists, layers, strategic advisors, biologists, planners.

Gathering Knowledge

- ◯ Hold a community meeting early in the process
- ◯ Speak with Elders
- ◯ Inform Knowledge Keepers about the purpose for gathering knowledge and how it may be used
- ◯ Conduct knowledge gathering mapping sessions
- ◯ Conduct knowledge gathering interviews
- ◯ Conduct site visits with Knowledge Keepers

Engaging the Community

- ◯ Hold regular community update meetings to provide information and receive input
- ◯ Hire community coordinators to boost engagement for community events

Engaging the Proponent

- ◯ Communicate with the proponent regularly
- ◯ Request any information needed for the assessment
- ◯ Discuss how the Anishinaabe-led assessment will be used and submitted

Engaging the Crown

- ◯ Work with government agencies
- ◯ Discuss funding opportunities

Reporting

- ◯ Describe the proposed project based on information provided by the proponent
- ◯ Discuss any engagement that was conducted
- ◯ Share knowledge about the land to build a baseline
- ◯ Identify the potential impacts of the proposed project on things like:
  - ◯ Territory and traditional uses of the land
  - ◯ Treaty Rights
  - ◯ The environment, including the lands, the waters, the soils, the plants, the animals, the skies, and how they all interconnect
  - ◯ The Anishinaabe economy, as well as the regional economy and your ability to contribute to it
  - ◯ Your community's health
  - ◯ Anishinaabe culture
- ◯ Suggest ways to mitigate these impacts
- ◯ Identify a monitoring plan (for example, through an Anishinaabe Guardians Program)

Appendix C

Samples

SAMPLE
Community Engagement and Consent Protocols

This document includes examples of what can be included in your community's engagement and consent protocols. These protocols can be provided to proponents when they are beginning engagements with the community, so they know the process to follow in receiving (or not receiving) your consent. These can be customized depending on the customary and traditional protocols your community has in place.

Meetings with Leadership

The proponent shall host an initial meeting with the leadership of _____ **(insert your community's name here)** prior to engaging the community. In this meeting, the proponent should brief leadership on the project, providing information on:

- The project (including location, size, complexity, duration, etc.),
- The purpose and need for the project,
- Potential impacts to the community and the traditional territory, and
- Potential opportunities for the community.

Ensuring the proponent provides the community will all information about their project is crucial step to granting your consent.

The proponent should be prepared to answer questions from the leadership and for the potential for leadership to reject the project outright.

Meetings with the Community

If leadership has given the go ahead to begin community engagement, the proponent can proceed with hosting community meetings with the input and support by leadership. The proponent should host an initial community-wide meeting to introduce the proponent and the project. This larger meeting should be followed by separate meetings for Elders, men, women, and youth. If opposition is brought forth in one or more of these meetings, leadership will be notified. Leadership may decide to end all engagement and reject the project based on the community's input.

You can add information here on the ceremony protocols your community follows that are important to this process.

Ceremonial

As requested, the proponent may be invited to participate in ceremony to guide discussions about the proposed project. The community may also wish to engage in ceremony without the proponent. The ceremonial protocols of _____ (insert your community's name here) will indicate when and where a ceremony is needed.

Granting Consent

Consent for the project will be granted, or not granted, by _____ **(note here how your community will grant, or not grant, consent)**. Some options for how your community grants consent could include:

- Leadership's decision based on feedback from the community
- Leadership's decision based on Elder's discretion
- A community-wide vote

It is important to determine and identify how your community decides to grant, or not grant, consent for a project. You can learn more about his in **Section 4.1.2** on **page 125**.

SAMPLE
Community Statement of Rights

The Anishinaabe of _____ **(insert your community's name here)** are in the traditional territory of Treaty #3. Our ancestors have lived on and used this land since Time Immemorial. Our Nation maintains Inherent Rights and title to this land.

Inherent Rights as Anishinaabe

The Anishinaabe of _____ **(insert your community's name here)** have Inherent Rights that were given to the Nation by the Creator. This includes our right to self-govern as a Nation following our traditions and customary protocols.

Include information on how your community exercises its Inherent Rights and what customary protocols you follow.

Treaty Rights

Include information on how your community exercises its **Treaty Rights**.

If your community operates under the protocols of FPIC, consider including this sentence in your Statement of Rights. Information on FPIC can be found in **Section 2.2.2.1 on page 26.**

_____'s **(insert your community's name here)** Treaty Rights are affirmed and protected under Section 35 of the Constitution Act. Under Treaty, our land is shared with the Crown. _____ **(insert your community's name here)** exercises our Treaty Rights in the following ways:

- Hunting
- Trapping
- Fishing

Our community operates under the principles of Free, Prior, and Informed Consent from the **United Nations Declaration on the Rights of Indigenous Peoples**.

Responsibilities under MAI

Following Manito Aki Inakonigaawin (MAI), our Treaty #3 community of _____ **(insert your community's name here)** maintains rights to all lands and water in the territory throughout our traditional territory. Our communities' responsibilities under MAI include:

- Respecting, protecting, and caring for our lands, soils, waters, and skies
- Conducting ceremony
- Giving thanks to spirits and the Creator when benefitting from Mother Earth's gifts

Include information on your community's responsibilities under MAI and how it fulfills them.

SAMPLE
Initial Letter to a Proponent Regarding a Project

This letter is an example response a community can send a proponent after the proponent has first contacted the community about their project.

TO:
FROM:
DATE:

RE: Proposed Project by_____ (insert the proponent's name here)

Dear _____ **(insert the contact person's name here)**,

I am writing to you today regarding the information _____ **(insert your community's name here)** we received on _____ **(insert the date you received the proponent's letter here)** about the proposed _____ **(insert the project name here)** project by _____ **(insert the proponent's name here)** in our territory. We would like to thank you for your early communication and willingness to engage with our community.

The project falls within the traditional territory of _____ **(insert your community's name here)** in the Nation of Treaty #3. We exercise and maintain our Inherent Rights as Anishinaabe in this jurisdiction and it is our responsibility to ensure these rights and our interests as a Nation are protected. As Anishinaabe we have an inherent responsibility to protect the lands, waters, soils, and skies of our Nation. Our community is eager to learn more about your project and the potential impacts and opportunities it may offer us as well as any options for collaboration. We are therefore requesting a meeting between our two parties to discuss the project further before _____ **(insert the proponent's name here)** moves forward with the project.

Please contact us at _____ **(insert your contact information here)** at your earliest convenience to coordinate the meeting. Thank you for again for your careful consideration of our interests and **jurisdiction**. We look forward to hearing from you.

Regards,

_____

Chief_____ **(insert your Chief's name here)**
_____ **(insert your community's name here)**

SAMPLE
Follow-up Letter to a Proponent

This letter is an example response a community can send a proponent if the proponent has been difficult to contact or if they aren't following your consent protocols. A similar letter can also be sent to the appropriate Ministry to alert them that the proponent isn't fulfilling their Duty to Consult.

TO:
FROM:
DATE:

RE: Proposed Project by_____ (insert the proponent's name here)

Dear _____ **(insert the contact person's name here),**

I am writing to you today regarding the proposed _____ **(insert the project name here)** project by _____ **(insert the proponent's name here)** in our territory. Our community has repeatedly tried to contact you regarding this project regarding outstanding questions we have that have gone unanswered. We would like to remind _____ **(insert the proponent's name here)** that this project lies in our territory and that you are bound by section 35 of the Constitution Act to fulfill your Duty to Consult. Your communication and engagement efforts thus far have been unsatisfactory and do not follow our consent protocols. It is deeply concerning that you are trying to move forward with this project without building a trustworthy relationship with the communities you need support from. This project will have significant impacts to the community rights of _____ **(insert your community's name here).** The lands, waters, soils, and skies are sacred to us and may be impacted by the project activities, including _____ **(list some of the ways your community may be impacted, for example, the contamination of waterways)**. Our community requires the time and resources to be able to review relevant project information and therefore requires additional communication from _____ **(insert the proponent's name here).**

We are confident that together we can reach a cooperative resolution and look forward to discussing this important matter with you. Please contact us at _____ **(insert your contact information here)** to coordinate the meeting.

Thank you for your prompt response to this request.

Regards,

_____

Chief_____ **(insert your Chief's name here)**
_____ **(insert your community's name here)**

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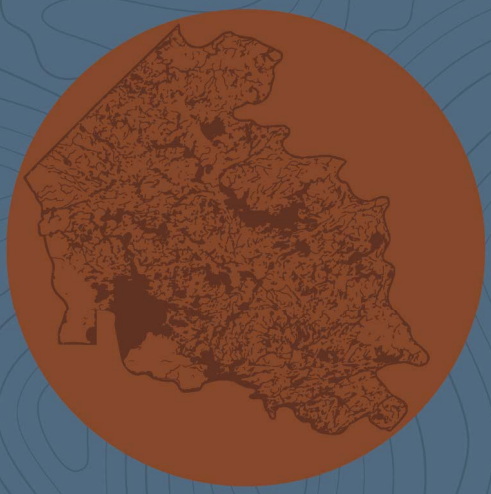
This toolkit was developed in 2022



Zhaagimaa Waabo

narratives