

Draft Major Amendment Text in Red Underline

3.0 Project Categorizations

This section explains the categorization of projects subject to this Class EA. The project categories are premised on Category B projects contained in the existing Electricity Projects Regulation; however, this Class EA further differentiates waterpower projects based on the environmental context within which they occur. The categories within this Class EA:

- Build on the current regulatory framework for EA of electricity projects, which includes a proponent-led and flexible approach to address project-specific issues;
- Predetermine process, based on key differences in the environment within which projects are proposed;
- Ensure a consistent approach to evaluation, impact management and documentation;
- Provide for scaled and flexible public, agency and Aboriginal involvement and evaluation/ documentation; and,
- Allow for the relevant range of potential impacts and benefits to be assessed for each project.

The categorization of projects within this Class EA does not define or differentiate the rigor of environmental evaluation required. All projects are required to evaluate and assess the potential impacts of the project and produce an Environmental Report.

3.1 Category B: Projects Subject to This Class EA Categorization

Within this Class EA, waterpower projects have been streamed into categories as a means to match development proposals with the general scope and scale of the environmental context within which they occur. Based on ~~very recent~~ inventories of Ontario's remaining waterpower potential, the array of projects that are expected to come forward in the foreseeable future include:

- Projects 500 kW and under in nameplate capacity and efficiency increases:
 - Projects associated with existing infrastructure;
 - New projects on managed river systems; and
 - New projects on unmanaged river systems.

As discussed in **Section 2**, waterpower projects occurring in similar environmental contexts have been assigned to categories so that the scale and scope of assessment and review for a project is matched to its potential for and nature of effects to the environment and public and/or agency concern.

Should the categorization of waterpower projects in the Electricity Projects Regulation change, the applicant for this Class EA will consider amending the Class EA, and, as appropriate, use the Minor Amendments procedure outlined in **Section 8**.

These streams are intended to facilitate focused assessment and effective and efficient engagement. The following sections describe the categories to which waterpower projects have been assigned under the Class EA. Table 2 provides a summary of the distinctions in process between projects.

3.1.1 Projects 500 kW and Under in Nameplate Capacity and Associated with Existing Infrastructure and Increases in Efficiency

This category applies to small waterpower projects that are associated with existing generation facilities or water management infrastructure (as defined in **Appendix A**), with a resultant nameplate capacity of 500 kW or under, and subject to the criteria listed below. This category also includes projects that only involve increases in efficiency of the existing waterpower facility, regardless of nameplate capacity (as defined in **Appendix A**). These projects associated with existing infrastructure are least likely to involve new environmental effects. In general, this schedule of projects will involve very minimal, short term and localized effects. The scope of change will be restricted to the infrastructure itself or a minor footprint (25% or less) beyond the existing infrastructure. For these projects, water management regimes will already be in place and it is expected that these projects may not result in adverse environmental effects in this regard.

Projects 500 kW and under and associated with existing infrastructure must meet the following criteria:

- Have a resultant installed nameplate capacity of 500 kW or less;
- Are associated with existing water management infrastructure, meaning existing infrastructure may be retrofitted, redeveloped or refurbished/ upgraded (as defined in **Appendix A**);
- Limit any increase in the footprint of the water management infrastructure to 25% or less;
- Maintain the existing water management regime (as defined in **Appendix A**);
- Do not have any significant new inundation area (as defined in **Appendix A**); and
- Have very limited additional fluctuation in the water elevation levels in the headpond or water management infrastructure.

Projects that only involve efficiency increases must meet the following criteria:

- Increase the efficiency of existing equipment at the facility (as defined in **Appendix A**), where:
 - The resultant capacity is under 200 MW; or
 - The increase is less than 25% of existing capacity and the resultant capacity is 200 MW or greater;
- Limit any increase in the footprint of the water management infrastructure to 25% or less;
- Maintain the existing water management regime (as defined in **Appendix A**);
- Do not have any significant new inundation area (as defined in **Appendix A**); and

- Have very limited additional fluctuation in the water elevation levels in the headpond or water management infrastructure.

In terms of process, the projects meeting either set of criteria above will include a proponent-agency coordination meeting and the publication of a Notice of Project to regulatory agencies for confirmation that the proposed project is consistent with the criteria outlined above. If the project is not consistent with either set of criteria above, the project will be otherwise classified under the Class EA. The Notice of Project will also be provided to other agencies that may have an interest in the project, any interested persons who may be directly affected by the project, the local municipality and Aboriginal communities that may be potentially affected by the project.

There will also be a second public notice (Notice of Completion) to parties who have requested to be informed and engaged and/or who have participated in the consultation.

3.1.2 Projects Over 500 kW in Nameplate Capacity and Associated with Existing Infrastructure

This category includes waterpower projects that result in additional nameplate capacity of over 500 kW and that are expansions, modifications or redevelopments and are proposed at, near or around existing facilities or water management infrastructure. As an example, this could include the retrofit of an existing dam to incorporate a waterpower facility.

Although the Electricity Projects Regulation does not define “retrofitting” or “redevelopment”, these terms, as they are commonly applied to waterpower projects, have been defined in this Class EA (see Appendix A) for additional clarity in the categorization of projects. Projects associated with existing infrastructure are ~~less~~ **least** likely to involve new significant effects and/or create broad public, Aboriginal community and/or agency interest. In general, this category of projects will involve relatively localized direct effects to the environment and, while project size may vary, the scope of change will often be restricted to the infrastructure itself and the zone of influence resulting from modification. However, these types of facilities may have been in existence for many years and may have built cultural heritage value or interest. These projects, therefore, have the most likelihood to affect buildings or structures of cultural heritage value or interest (“built heritage”). However, the possibility of affecting built heritage is potentially relevant to all categories.

In addition to the limitations imposed by changes to existing infrastructure, it is reasonable to expect that water management regimes are already established, either as expressed through a formal water management plan or through the identification of relevant social and environmental values and interests. Projects within the category that involve significant changes in water management regimes are likely to be more complex than those that do not.

In terms of process, the projects will include a proponent-agency coordination meeting, a mandatory public notice at the beginning of the project (Notice of Commencement)

and a second public notice (Notice of Completion) to parties who have requested to be informed and engaged and/or who have participated in the consultation.

Applying the framework of the Electricity Projects Regulation, these projects include:

- Expansion or change to an existing generation facility that has a resultant nameplate capacity of over 500 kW and less than 200 MW;
- Expansion or change to an existing generation facility by less than 25% with an initial nameplate capacity of less than 200 MW and resultant nameplate capacity of 200 MW or more;
- Expansion or change to an existing generation facility by less than 25% with an initial nameplate capacity of greater than 200 MW;
- Retrofitting of existing infrastructure with a resultant nameplate capacity of over 500 kW and less than 200 MW.
- Note that if the project is an efficiency increase as per section 3.1.1, it may proceed under the process set out for projects under section 3.1.1.
- Note the transition and grandparenting exemptions of the Electricity Projects Regulation.

3.1.3 New Projects on Managed Waterways

These are new projects on waterways that have water management infrastructure and / or waterpower facilities on them, regardless of whether the project is located within the zone of influence of the existing infrastructure or waterpower facility. These projects may be expected to have potential broader effects and/or public, Aboriginal community and/or agency interest. However, given that projects in this category are restricted to those that take place on river systems already subject to water management, the evaluation and assessment will be primarily focused on the development site, the immediate zone of influence and the potential incorporation of the new operation into the existing water management regime. Some developments may involve changes to the existing regime and, hence, the involvement of a broader scope of interests and potentially a broader study area / zone of influence.

Proponents of projects in this category are required to convene a proponent-agency coordination meeting, issue a mandatory public notice at the beginning of the project (Notice of Commencement) and a second broad public notice (Notice of Completion), regardless of any concerns or interest that come forward as the result of the first notice or the level of participation through consultation.

These projects include:

- Development of a new generation facility less than 200 MW nameplate capacity on a managed waterway.

3.1.4 New Projects on Unmanaged Waterway

These projects occur on unmanaged waterways and can have the most potential to cause broad effects and/or are expected to have considerable public, Aboriginal community and/or agency interest. These projects feature new developments on river systems not previously subject to water level and flow management. They will not only involve consideration of the direct effects of the new infrastructure, but are also most likely to require an assessment of the implications of an introduced water management regime.

Given the potential for greater complexity, the process defined in the Class EA provides for additional public, Aboriginal community and/or agency involvement.

These projects include:

- New development less than 200 MW nameplate capacity on an unmanaged river waterway.

Table 2 provides a summary of the distinctions in process between projects.

Table 2 Distinctions Between Project Types

	<u>New Projects 500 kW and under and associated with existing infrastructure or efficiency increase of an existing waterpower facility</u>	New Projects <u>over 500 kW</u> and associated with existing infrastructure	New Projects on managed waterways	New Projects on unmanaged waterways
Rationale for Categorization	<u>Small project (500 kW and under), or efficiency increases, with use of existing infrastructure with no effect to existing water</u>	Use of existing infrastructure with potential for site specific effects and concerns focused in the immediate area.	Introduction of new infrastructure on a system with existing infrastructure with greater potential for localized and up	Introduction of infrastructure on a previously undisturbed system (e.g. Far North Rivers) with potential broad scale effects and/or

	<u>management regimes, and meet all category requirements.</u>		and downstream effects and/ or concerns.	regional concerns.
Mandatory Notification Requirements	<u>Notice of Project</u> <u>Notice of Completion (to parties who have expressed an interest or participated)</u> <u>Statement of Completion</u>	Notice of Commencement Notice of Completion (to parties who have expressed an interest or participated) Statement of Completion	Notice of Commencement Notice of Completion Statement of Completion	Notice of Commencement Notice of Inspection (to parties who have expressed an interest or participated) Notice of Completion Statement of Completion
Key Environmental Considerations	<u>Environmental considerations will often be site-specific and localized to the immediate area; existing infrastructure could have built cultural heritage value in some instances.</u>	Environmental considerations will often be site-specific and localized (i.e. immediately up and downstream; existing infrastructure could have built cultural heritage value in some instances). Some potential that considerations may extend to include changes to the existing water management regime.	Environmental considerations may extend to the impacts and benefits of the introduction of new infrastructure on a segment of the waterway above and/or below existing infrastructure and existing water management regimes.	Environmental considerations may extend to the impacts and benefits of the introduction of new infrastructure and a water management regime on a system that has not been previously affected.
Involvement	<u>Agencies, Interested</u>	Agencies, Interested	Agencies, Interested	Agencies, Interested

	<u>Parties, Aboriginal Communities, as appropriate.</u>	Parties, Aboriginal Communities, as appropriate.	Parties, Aboriginal Communities, as appropriate.	Parties, Aboriginal Communities, as appropriate.
Documentation	<u>Environmental Report</u>	Environmental Report	Environmental Report	Environmental Report
General Level of Detail Expected	<u>Categorization of projects does not define or differentiate the rigor or level of the environmental evaluation required. All projects require an evaluation and assessment of the potential impacts and benefits of the project, which should be commensurate with the anticipated potential environmental effects and in consideration of the surrounding environment.</u>	Categorization of projects does not define or differentiate the rigor or level of the environmental evaluation required. All projects require an evaluation and assessment of the potential impacts and benefits of the project, which should be commensurate with the anticipated potential environmental effects and in consideration of the surrounding environment.	Categorization of projects does not define or differentiate the rigor or level of the environmental evaluation required. All projects require an evaluation and assessment of the potential impacts and benefits of the project, which should be commensurate with the anticipated potential environmental effects and in consideration of the surrounding environment.	Categorization of projects does not define or differentiate the rigor or level of the environmental evaluation required. All projects require an evaluation and assessment of the potential impacts and benefits of the project, which should be commensurate with the anticipated potential environmental effects and in consideration of the surrounding environment.
Target Timelines for EA Completion*	<u>9-12 months</u>	12 months	12-18 months	12-24 months

* Target timelines are specific to the Class EA process, are approximate and will vary (more or less) depending on factors such as technical study timeframes and consultation requirements, and do not include subsequent permitting and approvals.

3.2 Waterpower Projects beyond the Scope of the Class EA

This Class EA does not cover all waterpower projects. Some waterpower projects have no EA Act requirements and some projects require an individual EA. This section explains in further detail how these projects relate to the Class EA; however, they are not in fact subject to this Class EA.

3.2.1 Category A Projects: Not Subject to This Class EA

Under the Electricity Projects Regulation, Category A projects are those that are either exempt from provincial EA requirements or that are not subject to the EA Act. By definition, they are expected to have minimal or no new effects to the environment. There are no waterpower projects designated under the definition of Category A under the Electricity Projects Regulation. The minimum threshold for a new waterpower facility is a Category B project.

However, under the Electricity Projects Regulation, some waterpower projects are designated under the EA Act but then made exempt for purposes of grandparenting and transitioning. This Class EA does not change the exemptions provided for these projects, which are as follows:

- changing or expanding a water power generation facility for which no approval under Section 5 of the EA Act was required to construct; and which result in a less than 25% increase in nameplate capacity at such existing facility; and
- constructing, operating, changing, expanding or retiring of a water power generation facility for which no approval under Section 5 of the EA Act was required to construct; and which either began construction before April 23, 2001 or obtained any approvals required to begin construction and any approvals required to operate under the Environmental Protection Act or the Ontario Water Resources Act before April 23, 2001; and was substantially completed by April 23, 2006.

Although these projects are exempt from the EA Act, if there is a related requirement for a new disposition of rights to Crown resources, this aspect of the project will be subject to the MNRF Class EA – RSFD or the MNRF Class EA – PPCR, as appropriate. In addition, these projects may still be subject to the requirements of the CEA Act. Section 5 provides detail on these requirements.

3.2.2 Category C Projects: Individual EA

As described in the Electricity Projects Regulation, Category C projects are determined to be major projects with the potential for significant net effects. These projects require an individual EA and are beyond the scope of the Class EA. The required process for a Category C project would be determined through the preparation and approval of Terms of Reference under Part II of the EA Act. Category C projects include:

- Development of a new generation facility with a nameplate capacity of 200 MW or more; and
- Significant modification of an existing generation facility with a nameplate capacity of 200 MW or more.

3.3 Incorporating Waterpower Projects into the Grid

As described in **Section 2.1**, new transmission lines and transformer or distribution stations operating at 115 kilovolts or greater that are associated with the project are to be considered part of the project and evaluated using the Class EA process.

If the transmission lines are proposed to occupy Crown land, MNRF will require documentation confirming the completion of the requirements under the EA Act (i.e., filing a Statement of Completion), prior to issuing a disposition. Category A projects such as transmission and distribution facilities that are not subject to the Electricity Projects Regulation but require a disposition of rights to Crown Resources will require evaluation pursuant to MNRF's RSFD Class EA or the MNRF Class EA – PPCR, as appropriate. Opportunities exist to coordinate the generation portion of the project under this Class EA and the transmission portion of the project under the MNRF RSFD Class EA or the MNRF Class EA – PPCR, as appropriate. Proponents are encouraged to establish an approach to such situations at or before the initial co-ordination meeting with the MNRF, the appropriate transmission company and other interested agencies.

4.0 Class EA Planning Process

This section describes the steps of the Class EA planning process for all projects. It should be noted that some components of the process may be iterative. For example, the proponent should initiate a coordination meeting early in the process however it may be beneficial to have another meeting after the completion of the matrix or prior to the publication of the Environmental Report (ER). Likewise, a project description should be prepared in the initial concept phase of the project, but a revised and more detailed project description may be prepared in the definition and assessment phases.

In brief, this Class EA outlines the planning process in five phases through which a project proposal moves from concept to implementation phases. These phases are described as follows for each project proposal, with certain differences noted for projects applicable under section 3.1.1.

- Phase 1 – Project Concept: the initial concept phase of a project proposal and the development of public engagement and consultation plans, as appropriate (**Section 4.1**);
- Phase 2 – Project Definition: the determination of project specific considerations and the start of public engagement and consultation in the EA process (**Section 4.2**);
- Phase 3 – Project Assessment: development of mitigation strategies to address identified key considerations (**Section 4.3**);
- Phase 4 – Documentation: summarizing and reporting on information analyzed and collected, outcomes of consultation and engagement and reaching conclusion on the EA (**Section 4.4**); and
- Phase 5 – Project Implementation: subsequent permits, approvals and monitoring (**Section 4.5**).

This planning framework is presented in Figure 6 and key components are expanded upon throughout this section. Elements in **BOLD** denote mandatory points of public notice. Subsequent sections build on this framework, particularly with respect to the incorporation of additional legislative and regulatory planning requirements for waterpower projects that are the subject of the Class EA (**Section 5**).

The process outlined is generic and the timelines proposed within categories are targets. Project specific information and the nature of the concerns of interested parties will help determine the degree to which the process can be expanded or contracted by the proponent.

Figure 5 Class EA for Waterpower Projects – Process for Projects 500 kW and Under in Nameplate Capacity and Associated with Existing Infrastructure and Increases in Efficiency

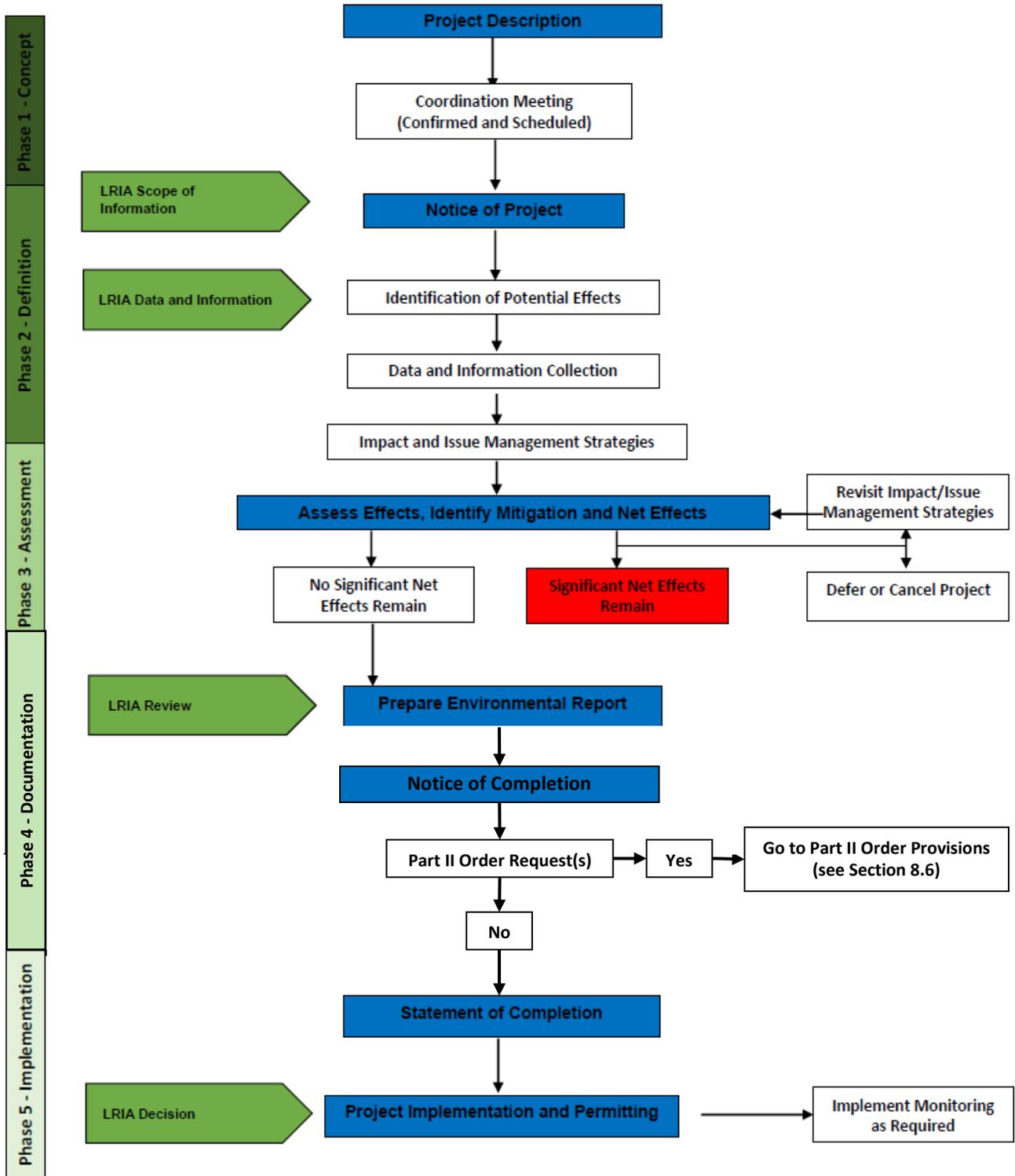
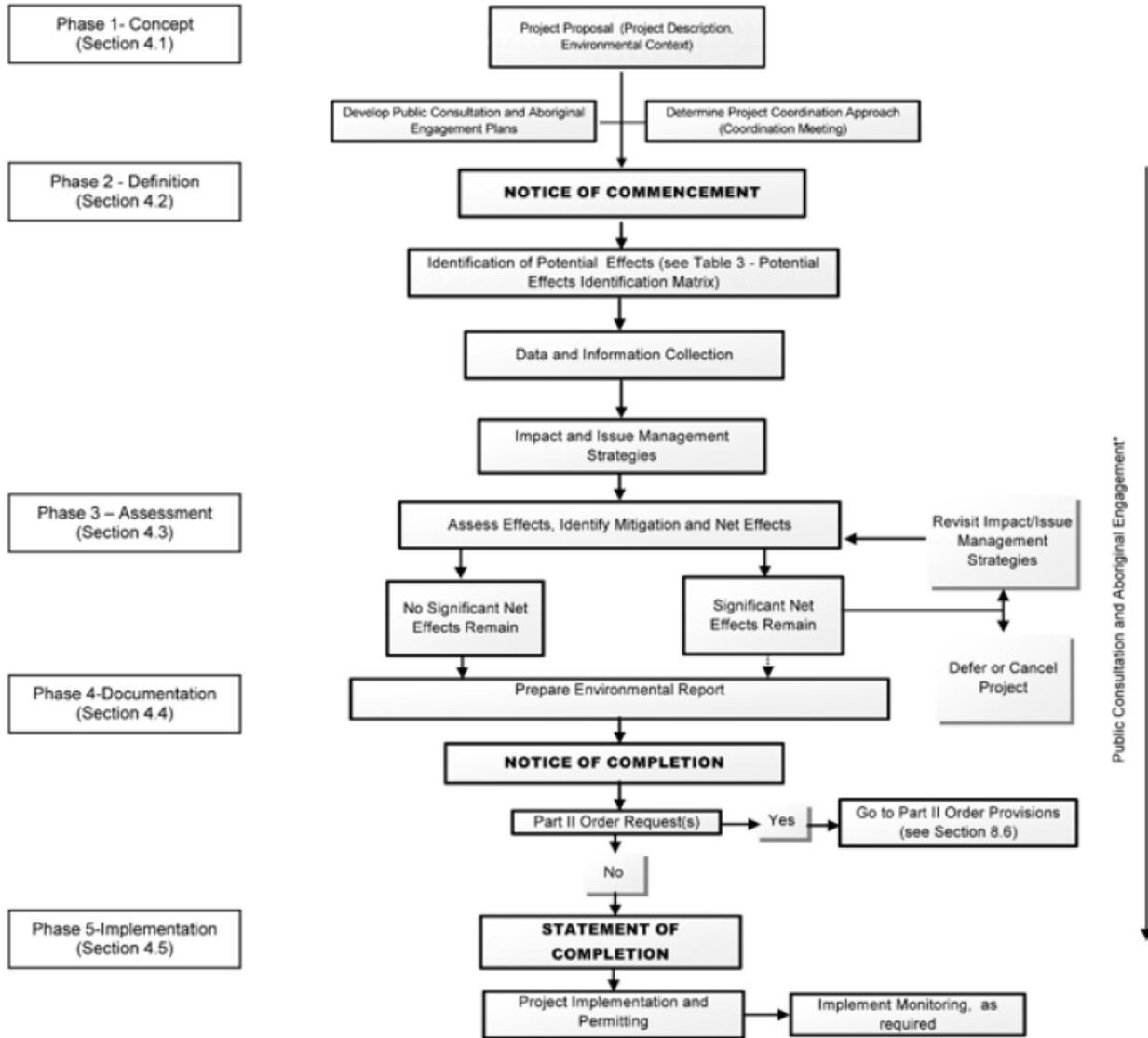


Figure 6 Class EA for Waterpower Projects – Process for Projects Over 500 kW in Nameplate Capacity



*Public Consultation and Aboriginal Engagement may precede and/or continue through regulatory processes.

4.1 Phase 1 – Project Concept

This phase of the EA process is intended to establish the initial basis for project evaluation and public engagement. It is the foundation upon which all subsequent phases are premised and, therefore, warrants particular emphasis by the proponent. In many instances, this phase will follow on the effort and investments already made in securing access to the proposed location or, in the case of projects at existing infrastructure, will be undertaken after initial feasibility has been established.

For projects under section 3.1.1, key aspects of this phase include:

- Describing the project and the characteristics of the environment within which the project is proposed;
- Establishing a project coordination approach with key provincial and federal agencies; and
- Determining which members of the public and Aboriginal communities may be potentially affected by the project.

For all other projects, key aspects of this phase include:

- Describing the Project and the characteristics of the environment within which the project is proposed;
- Establishing a project coordination approach with key provincial and federal agencies (e.g. Fisheries and Oceans Canada); and
- Developing public consultation and Aboriginal engagement plans, as appropriate.

4.1.1 Project Description and Environmental Context

A detailed project description will help to ensure that all aspects of the project are accounted for in the definition and assessment stages. The project description should include, as is practical at the predevelopment stage, sufficient detail to allow for the public, Aboriginal communities and agencies to provide meaningful comment when the Notice of Commencement is issued.

For all projects, key elements include:

- purpose of the project
- rationale, location, duration of the project
- watercourse identification
- anticipated zone of influence
- potential effects to the environment
- early avoidance/prevention/mitigation concepts
- proposed project phasing

A separate project description may not be required by provincial agencies where it has already been prepared as part of a Waterpower Site Strategy (e.g., MNR Waterpower Site Release and Development Review Policy). Expectations should be confirmed at the initial proponent-agency coordination meeting.

Proponents should delineate the study area for the project and identify the potential impact zones of relevance to environmental, social, cultural and economic features. The description of the project components will facilitate the identification of those environmental, cultural and socio-economic components that, if present, could be affected either directly or indirectly. The proponent must give consideration to the implications of a waterpower project to any existing water management regime.

Proponents should assess projects in their entirety. It is generally inefficient to break up or “piecemeal” a larger project into separate components or phases with each part addressed as a separate project, though phasing of project implementation may be appropriate.

4.1.2 Project Coordination

A key objective of the Class EA is to help coordinate and integrate requirements of regulatory agencies and the CEA Act by using the Class EA as the primary vehicle for identifying environmental concerns appropriately addressed through the Class EA planning process. Of relevance to most waterpower projects are likely to be approvals related to fish and fish habitat (Fisheries Act), navigation (Navigable Waters Protection Act), [water taking \(Ontario Water Resources Act\)](#), infrastructure (Lakes and Rivers Improvement Act) and land disposition (Public Lands Act /Provincial Parks and Conservation Reserves Act). Of specific relevance to waterpower projects in protected areas is fulfillment of management planning requirements (for example, amendments to management direction). The proponent led coordination meeting with key agencies (e.g., MNR, [MOEMOEC](#), DFO, TC, CEA Agency, CAs, local municipality[ies], etc.) is an important tool to achieve this objective.

[For all projects](#), once the proponent has the intent to commence the Class EA process, the proponent should initiate a meeting with relevant agencies to discuss, among other things:

- overview of project concept;
- agency mandates and how the proposed project relates to the statutes and policies administered by each agency;
- known project-specific environmental, social and economic values;
- the approach to data and information collection;
- the approach to public consultation;
- the approach to involving Aboriginal interests and relative roles and responsibilities;

- expectations for future communication (e.g., when, who) and expected timelines and tasks associated with the stages of the process; and
- other potential permitting and approval requirements.

In advance of the meeting, the proponent should provide the agencies invited to the coordination meeting with the project description and environmental context prepared earlier in the process, as described in Section 4.1.1 above. In order to be effective the coordination meeting requires the timely commitment of staff and information from key regulatory agencies with an interest in the project. For the vast majority of new waterpower projects, the window of opportunity with respect to the timing of environmental studies and surveys is seasonally dependent. In practice, this can mean that a short period of time lost at the commencement of the process can translate into an extended delay for the project. Early investment by all parties will yield efficiencies throughout the process. The inability of agencies to participate, however, will not prevent the continuation of a project through the Class EA process.

4.1.3 Developing Public Consultation and Aboriginal Engagement Plans

Early and meaningful engagement of representative interests and publics that may be affected by the project is prudent business practice and a critical element of achieving the intent of the Class EA. The purpose of public consultation and Aboriginal engagement is to provide those who may have an interest in the project, or those who may wish to participate with the opportunity to contribute to and inform decisions relating to a project. It provides the proponent with the opportunity to gain information and knowledge related to social, cultural, economic and environmental considerations of relevance to the project.

For projects under section 3.1.1, Aboriginal consultation will be completed primarily by sending the Notice of Project (see section 4.2.1), the Notice of Completion (see Section 4.4.3) and the Statement of Completion (see Section 4.5.1) to the Aboriginal communities by registered mail. Public consultation will be completed primarily by direct mailings to anyone potentially directly affected by the project. Further discussions with any potentially affected Aboriginal communities or parties may be required depending on the level and nature of potential impact.

For all other projects, proponents are expected to design and implement their consultation plans considerate of the context (e.g., geography, timing, needs of interested parties) most relevant to the proposal. In practice, this can mean adopting project specific approaches to notification and involvement or both. As with the project description, plans at this stage will be anticipatory, and may be refined as the planning process unfolds. Specific information on consultation planning and implementation is included in **Section 6**.

With respect to the engagement of Aboriginal interests, some project proposals may have been developed with the direct involvement and participation of communities prior to commencing EA. In these instances, the Class EA component of Aboriginal

engagement will be informed by the relationships already established. Specific advice is included in **Section 7**.

4.2 Phase 2 – Project Definition

While the Class EA process is not linear, it does provide a framework that moves a proposal from the general to the specific. The evaluation of potential impacts, benefits and issues informs not only the design of the proposal, but can also be used to tailor the process. In this phase proponents are expected to:

- identify potential effects on the environment;
- implement public consultation and Aboriginal engagement, as appropriate; and
- address data and information collection/acquisition priorities.

4.2.1 Notice of Project and Notice of Commencement

Notice of Project – for Projects Under Section 3.1.1

Proponents undertaking a project with 500 kW or less capacity that is associated with existing infrastructure and projects that are only efficiency increases at an existing facility are not required to issue a Notice of Commencement. Instead proponents must issue a Notice of Project to regulatory agencies, other agencies that are potentially interested in the project, anyone potentially directly affected by the project, and potentially affected Aboriginal communities. The Notice of Project initiates formal project coordination of the EA, and must be issued prior to developing the ER. This notice allows regulatory agencies to ensure the classification of the project is correct, and guide the development of the ER. The Notice of Project will be published on the OWA website and, if available, the proponent's website.

The Notice of Project must include:

- The project title;
- The name of the proponent;
- A brief description of the project and tentative schedule;
- A map showing project location and anticipated zone of influence;
- The project type (retrofit, redevelopment or refurbishment/upgrade; or efficiency increase);
- Watercourse identification;
- Current installed capacity and proposed installed capacity;
- Anticipated % expansion of infrastructure, if any;
- A statement that the project meets the criteria in section 3.1.1 subject to confirmation with regulatory agencies;
- A statement that: “This project is being evaluated as a [small hydro project associated with existing infrastructure/project that only involves an increase in

efficiency of the existing facility] per section 3.1.1 of the Class Environmental Assessment for Waterpower Projects; and

- An explicit statement that subsequent direct notices will be provided to those who express an interest in the project.

If it is determined that the proponent incorrectly classified the project at any point during the Class EA process, the proponent will issue a Notice of Commencement in accordance with **Section 4.2.1**. Regulatory agencies may request the proponent consult with particular Aboriginal communities or directly affected parties as part of developing the ER. Ideally these communities and/or parties will be identified at the proponent-agency coordination meeting, but may also be identified later in the EA process as new information may be made available.

Notice of Commencement – for All Other Projects

For proponents undertaking a project over 500 kW capacity or a project that is not only an efficiency increase, in order to help ensure that potentially interested parties are aware of the project, the proponent must issue a Notice of Commencement of a Class EA for a Waterpower Project. This public notice is a mandatory point of contact and must be directly provided to:

- adjacent and potentially affected riparian landowners/tenants;
- potentially affected Aboriginal communities;
- the **MOEMOEC** Regional EA Coordinator at the appropriate Regional Office of the **MOEMOEC**;
- the local MNRF office and/or park zone office (for projects within a provincial park or conservation reserve);
- other potentially interested government agencies (e.g., Municipal Affairs and Housing, **Tourism, Culture and Sport**, Parks Canada etc.) as appropriate;
- potentially interested municipalities, including those hosting project-related infrastructure;
- other potentially directly affected water management infrastructure owners/operators;
- other directly interested or affected parties (e.g., local interest groups, businesses, resources licensees, members of the public that may be directly affected by some aspect of the project); and
- the President of the OWA.

For all projects under this Class EA, a Notice of Commencement must also be published in a local newspaper having general circulation within the area of the project. Where local newspapers do not exist, the proponent should use an equivalent means of achieving the same objective of adequate notification of local interests. Additional notification methods may also be employed at the proponent's discretion. Where an internet site is employed as an additional notification technique, proponents are

encouraged to submit the web address (URL) to the OWA for posting on the OWA website and/or to embed it within their notice of commencement. The OWA will post all Notices of Commencement on its website.

A Notice of Commencement must include:

- The project title;
- The name of the proponent;
- A brief description of the project and tentative schedule;
- A map showing project location and anticipated zone of influence;
- A statement that the project is subject to a defined process under the Class EA for Waterpower Projects;
- An invitation to participate in the process;
- A contact name, address, fax and telephone number and/or e-mail address to whom questions or requests for additional information should be directed or comments can be sent;
- For projects associated with existing infrastructure, an explicit statement that subsequent direct notices will be provided to those who express an interest in the project; and
- An indication of additional opportunities to be informed and/or involved in the project.

Templates for a [Notice of Project and](#) Notice of Commencement [are](#) included in **Appendix D**.

4.2.2 Identification of Potential Effects

This section, and the accompanying matrix provided as **Table 3**, [applies to all projects in this Class EA and](#) is intended to provide guidance to proponents in assessing the relevance of potential impacts and benefits under individual criteria and for the project as a whole. The evaluation completed during this phase of the Class EA will assist proponents in the identification of considerations of most relevance to the project and the determination of relative priorities for investigation and investment in the creation of the ER.

The evaluation, like the entire Class EA process, is proponent-led, and will help inform the proponent's approach to obtaining input and information specific to planning and assessing the project. However, it is recommended that the proponent consult with relevant federal and provincial agencies and municipal authorities, appropriately qualified persons, potentially affected and interested individuals and the public when completing the potential effects identification matrix. The results of the environmental, social, cultural and economic evaluation are to be used by the proponent to inform the subsequent consultation, data collection and assessment phases of the Class EA process.

An effect is any change to the environment, positive or negative, that could occur as a result of a project. Effects include the impact or benefit that a project could potentially have, directly or indirectly, on the environment at any stage in the project life cycle. This Class EA requires the proponent to assess the potential effects as well as any net effects after mitigation and focuses on those effects common to waterpower projects. This includes consideration of both direct and indirect effects.

The following guidance explains the intended meaning for assigning the level of potential effect to each project, for the criteria listed in **Table 3**.

- A “nil” effect would be assigned where there is no effect on that criterion.
- A “low” potential effect would be assigned where the potential impact and/or benefit is considered low or minimal.
- A “high” potential effect would be assigned where the potential impact and/or benefit is believed to be considerable.
- An “unk” would be assigned where the potential effects are unknown or there is insufficient information to assign a potential level of effect with reasonable certainty.
- “-” means a potential negative effect.
- “+” means a potential positive effect.

To document the early identification of potential effects of the project, the proponent will complete the matrix provided as **Table 3** by marking the appropriate column and noting any clarifying comments or rationale for the rating. It is recommended that proponents apply the general approach outlined in **Table 3** separately for potential construction related effects and for potential operational effects. Rationale for the prediction of potential effects should be included for each criterion in **Table 3**.

A project may have both positive and negative effects in one criterion, and will be noted in the columns and described in the comments/rationale column. Where information is unavailable for the proposal it should be noted and, where the information is of significance to the proposal, the gap will need to be addressed. The criteria are not intended to be numerically scored or tallied, but rather to scope the potential issues and the proponent’s priorities.

The proponent will record in the matrix the potential effects before applying possible mitigation measures. Following completion of the matrix described in this section, the proponent has more clarity with respect to the focus of consultation activities, data and information collection/acquisition priorities and the emphasis of impact management strategies.

For cultural heritage resources, regardless of potential benefits or level of effect, any project that may affect a built heritage resource, cultural heritage landscape, a known archaeological site, or an area of archaeological potential may require further technical heritage studies by qualified persons. In general, areas within 300 metres of a historic or

present-day water source have the greatest potential for the presence of cultural heritage resources. Proponents should recognize this when completing **Table 3**. Definitions of “Qualified persons” and “Technical Heritage Studies” are included in **Appendix A. Section 5.3.8** provides additional guidance on the consideration of cultural heritage values.

Table 3 Potential Effects Identification Matrix

[as displayed in the Class EA]

4.2.3 Public Consultation and Aboriginal Engagement

As outlined in Sections 6 and 7, respectively, effective public consultation and Aboriginal engagement by the proponent is key to ensuring meaningful and reasonable participation.

Within the boundaries established in the public consultation and Aboriginal engagement plans and/or processes, consultation approaches should incorporate some flexibility so the proponent can respond to circumstances that were not originally anticipated. For example, where a project creates a greater level of public concern than expected, the proponent may expand upon the process to ensure that consultation techniques employed are relative to the concerns or interest expressed. Where a project shows a lower level of public interest or concern than was anticipated, a proponent may contract the consultation approach to reflect this, provided all mandatory points of notification are made. Interested parties have the responsibility to take advantage of opportunities provided by proponents for public involvement during the Class EA project process. The interested party should bring to the attention of the proponent concerns that they may have about the potential effects of the project as early as possible. The sooner the concerns are brought to the attention of the proponent, the greater the flexibility the proponent has to attempt to accommodate these considerations in the project and in the planning process. Interested persons should make their request very clear and should focus on concerns associated with the potential effects of the project, not on previous planning decisions, broad policy or just not wanting the project in their community.

In some instances, the proponent will need to assess the likelihood of issue resolution and may wish to consider the early use of alternative dispute resolution methods (see reference in **Appendix C**). It may also be of benefit for the proponent to identify the concern(s) with ~~MOE~~MOECC and/or other agencies, as appropriate. The proponent’s impact and issue management strategies should document such concerns and the approach taken.

4.2.4 Gap Analysis, Data and Information Collection/Acquisition

Completion of the Potential Effects Identification Matrix will help inform the relative priorities for addressing key data and information gaps and contribute to the design and implementation of the proponents’ data acquisition strategy. The proponent will also have had the benefit of the agency coordination meeting, response to the Notice of Project or Notice of Commencement and initial advice from public consultation and

Aboriginal engagement, as appropriate. This evaluation of the project impacts and issues should also be undertaken considerate of other project-specific legislative requirements such the CEA Act. While some information may not be required until the permitting and approval stage, (i.e., after EA), early identification of these requirements will facilitate coordinated and efficient information gathering. Proponents must consider all directly relevant aspects of the environmental context within which projects will occur. The resultant ER should be complete and detailed enough to demonstrate the potential impacts of a project, and identify any potential proposed impact management measures.

4.3 Phase 3 – Project Assessment

Applicable to all projects under this Class EA, This phase of the project focuses on prioritizing and assessing key potential impacts and issues and developing strategies and mitigation measures to manage them. All projects follow a similar project path, but reflective of the specific considerations identified through the potential effects identification and public response. At the completion of the project assessment phase, the proponent should be in a position to assess the overall environmental advantages and disadvantages of the project.

4.3.1 Assessment of Effects

At this part of the process the proponent, using the potential effects identified during the phase discussed in **Section 4.2.2** as a guide, confirms the potential effects of the project, determines the appropriate avoidance, prevention and/or mitigation strategies and assesses the net effects of the project. If the project has potential to cause negative effects, the resultant ER must provide information that summarizes:

- the potential negative effect;
- the relative level of the effect;
- the mitigation or impact management measures that will be used;
- any individual net effects (after mitigation) and their significance; and
- the overall positive, neutral and negative effects of the project.

The assessment of the significance of net effects after impact management and mitigation should consider the value of the resource affected, geographic extent of the effect, duration and frequency of the effect, irreversibility of the effect, and ecological / social context, as described below:

The importance of the value affected

Some values may be given a higher priority than others. For example, an affect on public safety would most often be of more importance than an affect on recreational use.

Duration and frequency

Longer term or more frequent effects may be greater.

Geographic extent

While the categorization of projects is premised on the environmental context within which projects will occur, potential impacts and benefits should nonetheless be considered based on their geographic extent.

Irreversibility of the effect

Some potential effects may not be easily remedied or mitigated. Some effects can be reversed over a period of time. The potential irreversibility of an effect should be considered.

Ecological / social context

All potential effects should be assessed in both an ecological and social context. The potential impacts or benefits of projects may be significant. For example, impacts that occur in areas or regions that are ecologically fragile and have little resilience to imposed stresses may be of particular importance. Similarly, benefits to local communities (e.g., flood/drought mitigation) may provide value above and beyond electricity production.

4.3.2 Impact and Issue Management Strategies

A key purpose of applying this Class EA is to help proponents identify and avoid, prevent or mitigate effects that may be potentially negative. This Class EA has adopted the conceptual hierarchy of avoidance, prevention and mitigation for all projects across the categories. Where impacts cannot be avoided or prevented (e.g., project location), mitigation measures will be considered.

Mitigation measures can include:

- reducing the magnitude, duration etc. of the impact;
- repairing the situation post-impact to achieve (more of a) pre-impact state;
- offsetting the impact through other means, not necessarily directly related to that impact; and
- enhancing positive effects where possible.

While there is a suite of standard approaches to mitigation of effects associated with waterpower projects (see **Appendix B**), the state of the science(s) continues to evolve and improve and the toolbox of approaches continues to expand. As listed in **Appendix C**, the OWA will undertake to provide access to the best available information on mitigation techniques on an ongoing basis, rather than to limit the creativity of proponents through prescriptive measures.

With respect to issue management, the proponent should consider the degree to which the concerns expressed are persistent or new and the effectiveness of investments already made in attempting resolution. It is at the discretion of the proponent to determine whether or not additional public consultation is appropriate at this stage of the project. This determination is most likely to be made considerate of the results of previous consultation and the degree to which any outstanding issues and/or impacts could reasonably be expected to be resolved. The proponent may also wish to consider the potential effectiveness of self-directed mediation for significant outstanding issues.

If the proponent determines that net effects and outstanding issues (after mitigation) are significant and have not been resolved through the proposed impact and issue management strategies, these strategies may be revisited or revised. In terms of time and efficiency, it is in the proponent's best interest to attempt to address significant concerns associated with potential effects to the environment. This approach can help reduce the potential for such concerns to be the subject of a Part II Order request later in the process. The proponent may also determine that the importance of net effects, the costs of mitigation or the significance of unresolved issues make the project unfeasible.

4.4 Phase 4 – Project Documentation

The outcome of the project assessment phase of the Class EA process will be documented in the Environmental Report (ER), including a description of impact management strategies, the significance of any remaining net effects, concerns or issues, and the overall project advantages and disadvantages. The following subsections describe the required contents of the ER and associated mandatory notices [for all projects](#) under the Class EA process.

4.4.1 Environmental Report

After seeking input and advice from the public, agencies and Aboriginal communities, as appropriate, determining the relative priorities and identifying methods to address impacts and issues, the proponent will prepare the project's ER. The report will be reflective of the relative complexity of the project, as informed through the evaluation and consultation processes. The ER includes a description of the environmental factors assessed, the potential adverse effects on these factors, details of the effects and an impact management strategy. Issues that remain outstanding and the approach taken by the proponent in attempting to resolve them must be documented in the ER. In addition, the proponent must summarize how comments received from the [Notice of Project](#), Notice of Commencement and public consultation and Aboriginal engagement activities were considered, as appropriate.

The ER must contain:

- Background information (project description, purpose);
- Map of project location and study area;
- Description of the study area and the existing environmental context;

- A completed potential effects identification matrix;
- A description of potential effects (positive and negative);
- The results of the analysis, evaluation, and assessment conducted for the subject effects, concerns or issues;
- Information on public and agency consultation, including a description of the public and agency consultation program and consultation activities/events, a list of agencies contacted, summary of public and agency concerns or issues and how they have been or have attempted to be addressed;
- Information on Aboriginal community involvement, including a description of the engagement program and activities/events, a list of communities contacted, summary of community concerns or issues and how they have been or have attempted to be addressed;
- Changes to the original proposal, if any, resulting from the environmental evaluation and/or consultation and engagement processes;
- Description of the net effect(s) (after mitigation), if any, including an identification of the significance of the net effect(s);
- Planned avoidance/prevention/mitigation and/ or other impact management measures for any potential negative effects;
- A review of overall advantages and disadvantages of the project, including a discussion of any benefits that might offset disadvantages;
- A summary of planned construction and post-construction monitoring programs, as required, including mechanisms for their implementation and reporting. If no monitoring is required, then reasons should be provided;
- Technical reports supporting the findings, as appropriate;
- Anticipated timelines for project implementation; and
- A listing of any other known required approvals and permits.

Projects under section 3.1.1 are also required to include how the project:

- Meets the criteria for classification in section 3.1.1.

4.4.2 Notice of Inspection for Projects on Unmanaged Waterways

The Notice of Inspection is an additional notice required for projects on unmanaged waterways. It provides participants in the process with an additional opportunity to review the ER and to comment on a proponent's proposed implementation approach. This step, although not required by the Electricity Projects Regulation, has been added recognizing the increased likelihood of complexity for these types of projects. The manner of distribution will be at the discretion of the proponent, but the Notice must be provided to participants who have expressed an interest in the project. Participants will be given the opportunity to provide comments during the Notice of Inspection period (30 days unless otherwise extended by the proponent) and will be placed on a mailing list to

be directly notified of the Notice of Completion. Proponents will collate the comments received and consider any outstanding issues. Proponents will then finalize the ER before issuing the Notice of Completion.

The Notice of Inspection should include:

- A title indicating the project name and location;
- A summary description of the project;
- A map of the location of the project and anticipated zone of influence;
- An invitation to provide comments on the ER;
- A description of how the ER can be accessed (e.g. electronically, in hard copy at convenient locations) and reviewed;
- An invitation to any additional public consultation activities (if planned), along with the date, time, location, etc.;
- A contact name, address, telephone and fax number, and email address; and
- Deadline for comment (30 days).

A template for the Notice of Inspection is included in **Appendix D**.

4.4.3 Notice of Completion

For Projects under Section 3.1.1 and Projects Over 500 kW in Nameplate Capacity and Associated with Existing Infrastructure, the Notice of Completion will be directly sent to all Aboriginal communities, agencies and other parties who expressed interest when the Notice of Project or Notice of Commencement was issued and to those who participated in the consultation process.

For all other categories of projects, the Notice of Completion will also be sent to the distribution list created for the Notice of Commencement.

Note that the deadline for comments and/or requesting a Part II Order is 30 days unless otherwise extended by the proponent.

The Notice of Completion must include:

- The information required for the Notice of Project or Notice of Commencement;
- The conclusions of the ER;
- Information regarding how the ER may be accessed and reviewed;
- Deadline for comment (30 days);
- A stipulation that concerns should be addressed with the proponent, and if the issue should remain unresolved, that a written request can be made to the Minister of the Environment and Climate Change (or delegate) for a Part II Order;
- The address of the Minister of the Environment and Climate Change (or delegate); and

- The last date when Part II Order requests will be received.

Proponents will consider comments received and any outstanding issues that may require further consultation. Further consultation is at the discretion of the proponent at this stage of the process. Input and advice received during the comment period will be discussed in the Conclusion of EA component of the Statement of Completion. A party requesting a Part II Order must make such a request within 30 days of the issuance of the Notice of Completion. **Section 8.6** provides detail on the process involved in a Part II Order request.

A template for a Notice of Completion is included in Appendix D.

4.5 Phase 5 – Project Implementation

4.5.1 Statement of Completion

Proponents will document in the project files any outstanding issues resulting from the Notice of Completion and review period. Proponents should also contact the Environmental ~~Assessment and~~ Approvals Branch to verify that no Part II Order Requests (see **Section 8.6**) were received during the Notice of Completion comment period. Once comments are documented and addressed, as appropriate, and it has been confirmed that no Part II Order requests were received, the proponent may file the Statement of Completion and will make the final project documentation publicly available. Filing of the Statement of Completion indicates completion of the project under the EA Act and the conclusion of the EA component of the project and the proponent may proceed with the project permitting and approvals processes.

Proponents will complete a Statement of Completion form, and file a copy with the ~~MOEMO~~ **EOECC** Regional EA Coordinator and the Director of ~~MOEMO~~ **EOECC**'s Environmental Assessment and Approvals Branch, with copies to the District MNR Office, and the President of the OWA. The proponent is also required to retain a copy for a minimum of ten years.

The Statement of Completion for all projects must include the following information:

- Proponent information
 - Proponent name
 - Contact name
 - Proponent mailing address, telephone and fax numbers, and email address
- Site information
 - Site mailing address
 - Site survey address
- Project information
 - Project name
 - Nameplate capacity of facility (MW/kW)

- Category of Class EA completed
- Document Availability Information
 - Details of where records are kept and can be accessed
- Part II Order Request Information
 - Describe how many Part II Order Requests were received and basis of concern
 - If any received, a description of how they were addressed
- Statement of Proponent
 - A statement that the information contained in the Statement of Completion is complete and accurate and that it has complied with the requirements of the Class EA
- Conclusion of Class EA
 - Conclusion of the final Environmental Report
- Documentation of Aboriginal engagement (as appropriate)
 - A summary of key points of engagement, issues and outcomes
- Documentation of public and agency consultation
 - A summary of key points of consultation, issues and outcomes

A template for the Statement of Completion is included in **Appendix D**.

4.5.2 Subsequent Permits and Approvals

Once the Statement of Completion has been filed and subject to any other approval requirements the proponent can proceed with the next stage of the project. As detailed in Section 5, of specific relevance to most waterpower projects are likely to be approvals related to fish and fish habitat (Fisheries Act), navigation (Navigable Waters Protection Act), [water taking \(Ontario Water Resources Act\)](#), infrastructure (Lakes and Rivers Improvement Act) and land disposition (Public Lands Act /Provincial Parks and Conservation Reserves Act). The proponent should have satisfied the substantive environmental planning-related requirements for these subsequent permits and approvals and, through the coordination meeting and subsequent dialogue with provincial and federal agencies, will have identified project-specific requirements.

The project must be implemented in the manner described in the ER. Any further commitments the proponent made to address concerns after the report was prepared must also be fulfilled as the project is implemented. The proponent must also comply with any conditions that the Minister or his/her delegate applies in a decision not to issue a Part II Order for a project. During implementation of the project, the proponent must undertake any effects monitoring programs outlined in the ER. As detailed below, monitoring is often necessary to ensure that the mitigation measures identified in the ER are fulfilled and are effective.

4.5.3 Effects Monitoring

Effects monitoring strategies may be required for any project subject to this Class EA. Potential monitoring requirements and the level of monitoring that is necessary for the undertaking should be considered throughout the planning process for these projects (e.g., during the project assessment stage of the Class EA process). The level and duration of monitoring required will be determined on a project specific basis. Monitoring can be relevant at all stages of a project (e.g., site preparation, construction, commissioning, operation etc.) and may also be a condition of subsequent permits and approvals.

It may be important to monitor to verify the extent of effects (and compare actual with predicted effects), effectiveness of impact management strategies and whether additional measures are warranted. This may be particularly true in cases for projects where the ER indicates that there may be significant net effects.

Monitoring programs should consider and document the following:

- Component: the environmental component or strategy being monitored and the scope of the program;
- Rationale: the reason for monitoring;
- Methods and timing/duration: the procedures that are to be used for monitoring (e.g., techniques, equipment, indicators, measurements, duration, frequency, etc.);
- Reporting: provision for reporting of data, results and action taken, including frequency and to whom results are reported; and
- Adaptive Management: provision for additional actions that may be required to mitigate an impact, including any related monitoring.

Appendix C references resource material available from the OWA on the subject of effects monitoring.

4.5.4 Document Retention

Proponents are required to retain all Notices, a copy of the ER and any Monitoring Reports. Records of public, agency and Aboriginal consultation may support subsequent approvals and permitting processes. These records must be retained for a minimum of ten years and be made available pursuant to Freedom of Information and Privacy Provisions.

6.0 EFFECTIVE PUBLIC INVOLVEMENT

Early and meaningful engagement of representative interests and publics that may be affected by or have an interest in the project is prudent business practice and a critical element of achieving the intent of the Class EA. The purpose of public consultation is to provide those who may wish to participate the opportunity to contribute and inform decisions relating to a project. It provides the proponent with the opportunity to gain information and knowledge related to social, cultural, economic and environmental considerations of direct relevance to the project as well as the means to inform and explain the approach to and value of the proposal. Proponents are expected to design and implement their consultation activities considerate of the context (e.g., geography, timing) most relevant to the proposal. In practice, this can mean project-specific approaches to notification and involvement.

This section provides:

- A general outline of the role of consultation for an undertaking subject to this Class EA; and
- Consultation principles and a summary of consultation techniques that may be employed to ensure the objectives of consultation are met.

6.1 Legislated Requirements for Public Consultation

Proponents are required to consult with the public as part of the planning process for any undertaking subject to the EA Act. The proponent must document the consultation approach that was employed as well as the results of the consultation and how the input and advice was considered.

6.1.1 Mandatory Consultation Requirements

This section discusses the mandatory notification requirements for the project categorizations discussed in Section 3. The mandatory points of contact for a project associated with existing infrastructure include:

- [Notice of Project or](#) Notice of Commencement;
- Notice of Completion (to those who either responded to the [Notice of Project or](#) Notice of Commencement or have otherwise expressed an interest in the project to the proponent); and
- Statement of Completion.

The mandatory points of contact for a project on a managed waterway include:

- Notice of Commencement;

- Notice of Completion; and
- Statement of Completion.

The mandatory points of contact for a project on an unmanaged waterway include:

- Notice of Commencement;
- Notice of Inspection (to those who either responded to the Notice of Commencement or have otherwise expressed an interest in the project to the proponent);
- Notice of Completion; and
- Statement of Completion.

6.2 Creating a Public Consultation Process or Plan

A proponent should consider the following when designing a consultation process or plan:

- A schedule of consultation events;
- The consultation methods to be used at each step and the rationale for their use;
- The scope of information to be provided and messages to be conveyed;
- The flexibility to accommodate unforeseen needs;
- How concerns will be considered and inform the project;
- The documentation of consultation efforts and outcomes; and
- The application of the Class EA consultation process to other legislative requirements and approvals.

6.2.1 Public Consultation Principles

Effective engagement and participation is premised on commonly-held principles of the EA process. These core principles include:

- **Mutual Respect**
 - for differing values
 - for differing roles in environmentally responsible development
 - for timelines
 - for each parties' constraints
- **Clarity**
 - of purpose and objectives
 - of how, when and which decisions can be influenced and those decisions that cannot
 - of mandates and/or stake in the development of the project

- of how information will be used or may be used during the planning of the project
- of how participants can be engaged
- **Transparency**
 - information will be provided to allow for meaningful and constructive participation and consideration of values
 - participation in the EA process will inform the outcome of and the final decisions for the project
- **Flexibility**
 - adaptive participation programs to address the public's ability to be involved
 - considerate of the ability of participants, to the extent practical, to contribute to the development of the timelines and specifics of how the process will be executed
 - translation of publications and information to local languages, as appropriate
- **Trust**
 - that all involved will contribute to the sustainable development and use of Ontario's waterpower resources
 - that information gathered will not be used as a means of penalizing the people who provided it
 - that there will be follow-through on commitments made
- **Certainty**
 - a defined beginning and end to the process
 - use of a single coordinated process

6.2.2 Consultation Approaches

In preparing for public consultation, proponents of projects under the Class EA should consider the following approaches:

- *Broad initial identification of probable and potential interests*

Interests in waterpower projects will be those who are most likely to be affected by, or concerned with, the proposed project and are likely to include the public, riparian right holders, local interest groups, local community members and government agencies. At the initial stage of the proposal, it is important to cast the net of engagement as wide as is practical relative to the nature and scope of the proposal.

- *Early engagement*

Consultation should be initiated as early in the process as possible. Bringing together all relevant viewpoints at the earliest opportunity is more likely to ensure that all potential concerns are identified. Early consultation also ensures that people's values, concerns and interests are built into the development of plans and projects from the point of inception. A lack of contact in the initial stages can lead to a loss of confidence in the process among the parties that are not informed about the project until significant decisions have been made.

- *Variety in participatory techniques*

A range of opportunities for public participation in the Class EA process will optimize the potential for all interested parties to provide input. Techniques should be chosen according to the purpose of the engagement, the audience and the desired outcomes.

- *Adequate provision of information*

Provision of good quality background information regarding the project is essential to ensuring good levels of understanding amongst participants. Information should be provided so that parties can provide constructive input. Consultation materials should be provided in plain language and where additional material is of value, it should be provided in a timely manner.

- *Ongoing dialogue*

A key objective of early engagement of probable and potential interests is to determine those for whom the project is of specific relevance or importance. Ongoing dialogue with these interests can augment the mandatory notice opportunities and facilitate more informed involvement.

6.2.3 Notification Techniques

There are a number of ways that a proponent may notify the public about the characteristics of a waterpower development project. As the mandatory component of consultation, notices are critical to achieving effective and efficient engagement both for the proponent and the public. Notices allow the proponent to disseminate information regarding the project to a wide range of participants. This section summarizes some of the methods that can be used to provide notification of project activities. The list is not intended to be an either/or approach, nor is it presumed to be all-inclusive.

- *Newspaper Advertisements*

Newspaper advertisements are one means to provide broad formal notice. The amount of information contained in these advertisements will be limited, but all the necessary information must be included. The proponent must be clear and concise in conveying the intended message. Newspapers selected should be related to the potential geographic extent of interest.

- *Direct Mail*

Mail outs are typically used to provide information on a project because they ensure a uniform provision of information to a known list of potential interests, or a group of people within a given geographic area. Mail can also be used as a means to provide individual responses to members of the public who have expressed interest in the project. Mailings can convey large amounts of information, including reports. Contact information should always be provided for those who may want to respond to the information being sent out.

- *Internet and email*

A project website is an efficient way to post information regarding the status of the project as it becomes available. Copies of reports and useful background information can be readily accessed and easily obtained from an Internet site. Proponents will also be provided the option of having project notifications posted on the OWA website. Email correspondence enables a quick turnaround time for information sharing. The proponent should be aware that some members of the public may not have access to a computer. The use of electronic communications should primarily be used to complement other consultation techniques.

- *Newsletters*

Project newsletters can be used to keep interested members of the public updated as to the status of the project. Newsletter distribution can be designed so as to focus on expressed interests in the project, allowing for the provision of more detailed information to an already engaged and informed public.

- *Local Cable TV*

Local Cable TV, where available, can be an effective means of notifying a wide community of potential interest.

6.2.4 Consultation Techniques

This section summarizes some of the methods that can be used to stimulate active consultation.

- *Public Information Centres*

A Public Information Centre (PIC) is a way to provide the public with information on the project with display boards, posters, interactive displays, surveys, etc., and to immediately respond to any concerns that may arise. PICs can include presentations followed by a “question and answer session.”

PICs should be held at an appropriate venue in the community closest to the project location. The venue should be easily accessible for interested parties to attend. Proponents (and support staff) should be on site to answer any questions an interested party may have.

- *Meetings/Workshops*

Smaller, focused meetings with specific stakeholders may be more successful for resolving contentious issues associated with an undertaking. Proponents should arrange meetings on an as-needed basis to discuss any concerns related to the project.

- *Comment Cards*

Comment cards are typically distributed at a PIC where members of the public can submit concerns and opinions directly to the proponent, or bring them home and mail them to the proponent after the event. Comments cards can be structured in a way so that the proponent can determine on a larger scale what the most common concerns about a project may be.

Attention should be paid to the format of the comment card, to ensure that relevant information is obtained without using questions that are too narrow and that may influence a response. The comment card should be formatted so an interested party can include their address for potential follow-up.

- *Site Visits*

Site visits enable the proponent to discuss any concerns a party may have in person. This allows the proponent to fully understand any issues a concerned party may have and address these issues accordingly.

- *Direct Correspondence*

Parties may also be invited to submit written comments on the project by using mail, fax or email. Responses should be acknowledged within a reasonable time period.

- *Advisory Committees*

In some instances, there may be value in developing a cohesive group of local stakeholders who are representative of the varied interests in the project, particularly in situations where there may be public values and expectations that may be in conflict with one another.

- *Draft Reports*

At its discretion, the proponent may elect to issue draft reports (e.g., technical studies and/or ER) to all or a subset of project stakeholders. This may be done to facilitate enhanced understanding of the project, or to provide additional opportunities to review and comment on project documentation before it is finalized.

6.3 Documentation

A key element of satisfying the requirements of the Class EA process is documentation of the approaches applied and outcome of public engagement. In support of the Notice of Completion, the ER must summarize:

- *the consultation process;*
- *the participants to the process;*
- *how advice and input was considered; and*
- *how the advice and input affected the project proposal.*

As described in Section 4.5.1, additional consultation undertaken following the issuance of the Notice of Completion should be documented and summarized prior to issuance of the Statement of Completion.

7.0 ENGAGING AND INVOLVING ABORIGINAL COMMUNITIES

7.1 Aboriginal Interests

Aboriginal communities are expected to have a range of views to offer and contribute. Some communities are interested in the economic opportunities that a waterpower project, as a form of renewable energy, can offer. Others may have concerns with the potential impact of project on their traditional uses of land, water and resources. Engagement may take on different forms in each community, depending on both the scope of the project and the interests of the community. The common thread with respect to Aboriginal interests and waterpower development is the need for openness and inclusiveness. It is important to be aware of the potential impacts that environmental change can have on Aboriginal communities. In many cases, activities that affect the environment will also affect the ability of communities to exercise their Aboriginal and Treaty rights to use the land and its resources, and may also have far-reaching economic, social and cultural effects. Thus, it is important that the rights and concerns of Aboriginal communities are acknowledged during the planning of waterpower projects.

Aboriginal communities include First Nations communities, whether recognized under the Indian Act or not, and Métis communities.

Proponents are expected to involve Aboriginal communities who may be directly affected by, or have an interest in, the development of a waterpower project and to develop an engagement approach specific to these interests. When considering which Aboriginal communities to contact, proponents should be mindful that the traditional territories, treaty areas, or areas of claims involving Aboriginal or treaty rights of some Aboriginal communities are extensive.

For projects on provincial Crown land, the Aboriginal communities to be engaged through the EA will be those identified by the provincial Crown through a coordinated process. In such instances, this list will often have been developed through the MNRF Crown land site access process.

Proponents should also be mindful of the need to communicate with both the formal leadership of an Aboriginal community as well as others who may represent the interests of that community. For example, in some communities, there may be both an elected Band Council as well as a traditional council. Sometimes it may also be appropriate to discuss the project with the whole community.

As noted in Section 4.1.3, some project proposals may have been developed with the involvement of Aboriginal communities prior to commencing the EA, and the Class EA

will be informed by the relationships with Aboriginal communities that have already been established. Proponents should be aware that the Crown undertakes consultation with Aboriginal communities in the course of different regulatory processes, including MNRF's Site Release and Development Review process, some planning approvals processes, and processes put in place by ~~other agencies~~ ~~the Ontario Power Authority~~ ("OPA"), as appropriate. To the extent possible, consultation under these processes should be coordinated and harmonized with consultation under the Class EA. In addition, before distributing the Notice of Project or Notice of Commencement for a project, proponents will provide ~~MOE~~ MOECC Regional Offices with a list of Aboriginal communities that the proponent intends to engage and the rationale for the engagement. In many instances, this list will have been informed through the MNRF Crown land site release process.

Aboriginal engagement and involvement is intended to allow the proponent to identify and consider the concerns and issues of Aboriginal communities and to provide those communities with an opportunity to receive information about and have meaningful input to the project proposal. Some possible considerations for the design and implementation of a participation program specific to Aboriginal communities may include:

- The local language;
- Physical and electronic accessibility of communities;
- Governance structures;
- Differing decision-making structures than found in provincial, federal and municipal agencies and potentially between Aboriginal communities themselves;
- Consultation protocols established between federal, provincial and municipal agencies and Aboriginal communities;
- The particular role of women with respect to water in many Aboriginal cultures;
- Relationships between Aboriginal communities; and,
- The unique values, traditions and interests of each Aboriginal community. In addition, it should be noted that the Aboriginal community may wish to:
 - Work solely with government(s);
 - Work directly with the proponent; and/or,
 - Work with the government and proponents simultaneously.

Figure 8, courtesy of the Chiefs of Ontario provides an example of an overview of the First Nations Communities in Ontario and their Provincial Treaty Organization affiliation, if any.¹ Additional information sources and contact information for First Nations Communities, Tribal Councils and Treaty Organizations is available from the OWA, as referenced in **Appendix C**.

[see Class EA for Figure 8]

Many Aboriginal communities, tribal councils and provincial territorial organizations have their own websites where information about their communities may be found.

Information on Aboriginal and Métis communities may also be found on the Ontario Ministry of Aboriginal Affairs and the Indian and Northern Affairs Canada websites.

7.2 Aboriginal Traditional Knowledge

Many of the activities related to EA involve environmental studies and environmental data collection. Aboriginal peoples have the potential to make important contributions in this area. Aboriginal Traditional Knowledge (ATK) can also be referred to as “traditional knowledge,” “indigenous knowledge,” or “naturalized knowledge.” ATK usually refers to those indigenous systems of knowledge, as well as cultural practices and methodologies related to the production of knowledge based on traditional belief systems, relationships to the environment, and community practices. It is the accumulated and living knowledge possessing a depth and breadth of information built upon the historic experiences of peoples living on the land and adapts to social, economic, environmental, spiritual and political change. It can have particular value in understanding species, ecosystems, sustainable management, conservation and wise use. It comprises a deep understanding of complex interrelationships between individual environment components, the dynamics of local ecosystems and the peoples that live in them. ATK is often used to denote systems which may differ from western approaches to science and knowledge. Much of this knowledge may be orally transmitted, and it may be considered sacred, thus it is important that ATK as well as community attitudes and desires regarding the use of ATK be treated with the utmost respect.

7.3 The Crown’s Duty to Consult

Some waterpower projects may affect Aboriginal communities who hold or claim Aboriginal or treaty rights, or lands that may be subject to a land claim. Any project that interferes with or infringes on the exercise of these rights or potential rights may result in a duty to consult on the part of the Crown. Nothing in the Class EA is intended to alter or detract from any obligation the Crown may have to consult with Aboriginal communities in light of the protection provided for the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada as recognized and affirmed in Section 35 of the *Constitution Act*, 1982. Although the ultimate responsibility for fulfillment of the Crown’s duty to consult and accommodate rests with the Crown, the Crown may delegate certain procedural aspects of consultation to proponents.

The Crown has a duty to consult with and accommodate Aboriginal communities when it has knowledge, real or constructive, of the existence or potential existence of an Aboriginal or treaty right and contemplates conduct that might adversely affect it.

During the consultation and engagement process with Aboriginal communities, it may be determined that the proposed Class EA project may potentially adversely affect an existing or asserted Aboriginal or treaty right protected under Section 35 of the *Constitution Act*, 1982 and that the Crown has a legal duty to consult.

The Class EA is not intended to fully describe how any duty to consult on the part of the Crown, if it is triggered, may be discharged. However, the Crown may delegate the procedural aspects of consultation to proponents and recognizes a corresponding responsibility of Aboriginal communities to participate in the process, make their concerns known and respond to efforts to address their concerns. Respective roles and responsibilities for engaging Aboriginal communities should be discussed prior to or at the initial proponent-agency coordination meeting and throughout the Class EA process.

If an Aboriginal community has asserted that the Crown has a duty to consult based on the potential adverse effects on an Aboriginal or treaty right during the course of engagement about the potential effects of the Class EA project, the proponent should notify the Director of the [EAABEAB](#).

Proponents can assist the [MOEMOEC](#) by providing the list of the Aboriginal communities that have been engaged and details of what has transpired to date between the proponent and the Aboriginal community(ies). The [MOEMOEC](#) will determine whether additional consultation is required or whether additional Aboriginal communities should be consulted. The Director may request that the proponent seek and provide further particulars of the assertion where appropriate.

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

- The nature, scope, and content of the duty to consult and accommodate varies with the circumstances;
- Meaningful consultation requires the Crown to listen with an open mind to what the Aboriginal communities have to say;
- Consultation may oblige the proponent to make changes to its proposed project based on information obtained;
- Accommodation requires a process of balancing interests; and
- Responsiveness is a key element of both consultation and accommodation.

Appendix A – Glossary

Water Management Regime: The physical conditions of a watercourse characterized by its water flow and level. Where water management infrastructure exists, the regime is generally defined by the annual operating band of the headpond or reservoir.

Water Management Infrastructure: Civil infrastructure that includes but is not limited to a dam, weir, powerhouse, penstock/pipeline, diversion channel/tunnel/canal, turbine, wingwall, spillway/sluiceway, and associated electrical incorporation.

Associated with Existing Water Management Infrastructure: Where the existing water management infrastructure at a site may be used, retrofitted, redeveloped or refurbished/ upgraded for a particular project at that site.

Retrofit (currently in the Class EA but with revisions): The conversion of ~~an~~ existing infrastructure (e.g. dam, canal, conduit, or similar) that previously did not produce electricity so that it does produce electricity ~~does not use electricity to~~ (i.e. a Generating Station/Facility).

Redevelopment (currently in the Class EA but with revisions): Uses existing water management infrastructure that previously did produce electricity to produce electricity again. Redevelopment involves a major modification to, or an extension of, a hydroelectric facility. A redevelopment is normally carried out on a facility that is beyond economic maintenance/repair and is often at the end of its useful life. Redevelopment involves the replacement of a facility or a substantial portion thereof. Facility redevelopment may result in the construction of a new facility and retirement of the existing one. The redevelopment of generation facilities may not necessarily occur at the same locations, but may take place in the same general area as the existing facilities. An extension to a generating station traditionally refers to the addition of one or more complete generating unit(s) which increases the name plate capacity of the facility. This extension may be in the same general area or near the existing facilities.

Refurbishment/Upgrade: Uses existing water management infrastructure that produces electricity to produce more electricity.

Efficiency Increase: Refers to the like for like equipment replacement including generators, transformers and runners that results in an increase in the production of the existing facility, where the resultant capacity is either under 200 MW or the increase is less than 25% of existing capacity and the resultant capacity is 200 MW or greater, but does not change the water management regime.

Significant New Inundation: New inundation that is detectable beyond the historical mean monthly high water level.

Appendix D – Notice of Project Template

Notice of Project under the Class EA for Waterpower Projects

_____ Waterpower Project

Date: _____

Proponent _____ is planning to undertake an environmental evaluation and assessment for a proposed waterpower project (*name of project*) located _____.

Insert Project Location Map

The project is subject to the provisions of the Ontario Waterpower Association “Class Environmental Assessment for Waterpower Projects” for Projects 500 kW and Under in Nameplate Capacity and Associated with Existing Infrastructure and Increases in Efficiency. Pursuant to the Class EA, this project is considered to:

- be one of the following project types:
 - have a resultant nameplate capacity of 500 kW or less and be associated with existing water management infrastructure; or
 - only involve an increase in efficiency of an existing facility; and
- meet other criteria set out in section 3.1.1 of the Class EA.

The Class EA process requires *Proponent* to undertake an evaluation of the project to evaluate its potential effects to the environment (positive and negative) and prepare a detailed Environmental Report. The project is also expected to require review and approvals under the (*Lakes and Rivers Improvement Act, Ontario Water Resources Act etc.*). This notice and the public consultation process for the project under the Class EA is intended to coordinate and meet the notification requirements relevant to the planning stage of the project under these statutes. The evaluation and environmental report will assess the potential effects of the proposed waterpower project on the environment during its construction and operation.

You are invited to provide comments on the key considerations to be addressed, and/or to ask to be placed on the project’s mailing list. For information on the project proposal or to be placed on the mailing list, contact: _____.

This project is being evaluated as a [small hydro project associated with existing infrastructure/project that only involves an increase in efficiency of the existing facility] under section 3.1.1 of the Class Environmental Assessment for Waterpower Projects. The Notice of Completion will be provided to all Aboriginal communities, agencies and other parties who expressed interest as a result of this Notice of Project and who participated in the consultation process.

All personal information included in a submission – such as name, address, telephone number and property location – is collected, maintained and disclosed by the Ministry of the Environment and Climate Change for the purpose of transparency and consultation.

The information is collected under the authority of the Environmental Assessment Act or is collected and maintained for the purpose of creating a record that is available to the general public as described in s.37 of the Freedom of Information and Protection of Privacy Act (FIPPA). Personal information you submit will become part of a public record that is available to the general public unless you request that your personal information remain confidential.

For more information, please contact the Ministry of the Environment and Climate Change's Freedom of Information and Privacy Coordinator at 416-327-1434.