

Appendix G Consultation Materials



Appendix G.1 Contact List



Appendix G.2 Notices





Fullarton Dam Rehabilitation Class Environmental Assessment

NOTICE OF COMPLETION

Fullarton Dam Rehabilitation

The Upper Thames River Conservation Authority has now completed the Class Environmental Assessment (Class EA) evaluating a remedial flood and erosion control project at the Fullarton Dam, located in the Fullarton Conservation Area.

The Process

The Class EA process invited members of the public and interested parties to provide input at key stages of the study. The Class EA process defined the issue and its causes, considered and evaluated alternative solutions, assessed the potential impacts of the preferred solution, and identified measures to reduce potential adverse impacts.

We Want to Hear from You

Interested persons may provide written comments to our project team by DATE – 30 days after this notice. All comments and concerns should be sent directly to the project team identified below.

We thank you for your interest, and for your participation in the planning of this project.

Please visit the project webpage: <https://thamesriver.on.ca/water-management/recreational-dams/fullarton-dam-class-ea>.

For more information please contact:

Jillian Smith

Upper Thames Region Conservation Authority
Phone: (519) 954-6181, ext 320
smithj@thamesriver.ca

Heather Amirault

Stantec Consulting Ltd.
Phone: (519) 585-7453
heather.amirault@stantec.com

In addition, a request to the Minister of the Environment, Conservation and Parks for an order imposing additional conditions or requiring an individual environmental assessment may be made on the grounds that the requested order may prevent, mitigated or remedy adverse impacts on constitutionally protected Aboriginal and treaty rights. Request should include your full name and contact information.

Requests should specify what kind of order is being requested (additional conditions or an individual environmental assessment), explain how an order may prevent, mitigate or remedy potential adverse impacts, and can include any supporting information.

The request should be sent to:

Minister of the Environment, Conservation and Parks Ministry of Environment, Conservation and Parks 777 Bay Street, 5 th Floor Toronto ON M7A 2J3 minister.mecp@ontario.ca	Director, Environmental Assessment Branch Ministry of Environment, Conservation and Parks 135 St. Clair Ave. W, 1 st Floor Toronto ON M4V 1P5 EABDirector@ontario.ca
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Requests should also be sent to the Upper Thames River Conservation Authority by mail or e-mail. Please visit the ministry's website for more information on requests for orders under section 16 of the Environmental Assessment Act at: <https://www.ontario.ca/page/class-environmental-assessments-section-16-order>.

All personal information included in your request – such as name, address, telephone number and property location – is located, under the authority of section 30 of the Environmental Assessment Act and is collected and maintained for the purpose of creating a record that is available to the general public. As this information is collected for the purpose of a public record, the protection of personal information provided in the Freedom of Information and Protection of Privacy Act (FIPPA) does not apply (s. 37). 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.

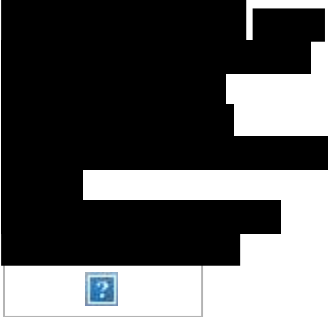
This notice issued:

Appendix G.3 Public Information Centre Slides and Written Comments



From: [REDACTED]
To: [REDACTED]
Subject: FW: Fullarton Dam Environmental Assessment- Notice of Intent
Date: September 27, 2023 4:47:59 PM
Attachments: [2023_09_27_Fullarton Dam MNRF Response.pdf](#)

FYI



The content of this email is the confidential property of Stantec and should not be copied, modified, retransmitted, or used for any purpose except with Stantec's written authorization. If you are not the intended recipient, please delete all copies and notify us immediately.

From: [REDACTED]
Sent: Wednesday, September 27, 2023 3:37 PM
To: [REDACTED]
Subject: RE: Fullarton Dam Environmental Assessment- Notice of Intent

Dear [REDACTED]

The Ministry of Natural Resources and Forestry (MNRF) received the Notice of Intent for the Fullarton Dam Environmental Assessment on September 26, 2023. Thank you for circulating this to our office. Please note the ministry has not completed a screening of natural heritage, natural hazards, other natural resource values, or applicable ministry permits or approvals at this time.

This response provides information to guide you in identifying ministry interests and engaging the ministry for advice as needed. MNRF has prepared the attached MNRF Areas of Interest package to provide proponents an overview of MNRF mandated interests and the ministry's commenting role in respect of external requests for comment for projects subject to the *Environmental Assessment Act*.

Please note it is the proponent's responsibility to be aware of, and comply with, all relevant federal or provincial legislation, municipal by-laws and/or other agency approvals.

After reviewing the information provided, if you have identified that your project would not impact any MNRF interests there is no need to circulate any subsequent notices to our office. If you have identified MNRF interests and/or may require permit(s) or further technical advice, please direct your specific questions to the undersigned.

If you have any questions or concerns, please feel free to contact me.

Best Regards,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

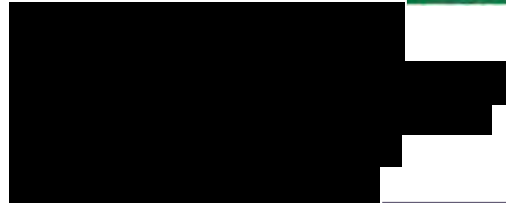
From: [REDACTED]
Sent: September 27, 2023 2:55 PM
To: [REDACTED]
Subject: FW: Fullarton Dam Environmental Assessment- Notice of Intent

From: [REDACTED]
Sent: September 26, 2023 1:21 PM
Cc: [REDACTED]
Subject: Fullarton Dam Environmental Assessment- Notice of Intent

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good afternoon,
I hope this email finds you well, my name is Jillian Smith and I work at the Upper Thames River Conservation Authority. This email is to inform you that the Upper Thames River Conservation Authority and Stantec have initiated an Environmental Assessment of the Fullarton Dam. Attached is the Notice of Intent, I will continue to email you and provide you with updates as the project progresses.
Please do not hesitate to contact me and [REDACTED] for any questions or concerns you may have.

Thank you,



Caution: This email originated from outside of Stantec. Please take extra precaution.

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Atención: Este correo electrónico proviene de fuera de Stantec. Por favor, tome precauciones adicionales.

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: File 0018488: Fullarton Dam Environmental Assessment- Notice of Intent
Date: Friday, November 17, 2023 1:01:22 PM
Attachments: [ATT00001](#)
[Notice of Intent 1.pdf](#)
[2023-11-17_FullartonDamRehab-MCM-Ltr.pdf](#)

Hi Team,
FYI and attached.

[REDACTED]

[REDACTED]

[REDACTED]



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From: [REDACTED]
Sent: Friday, November 17, 2023 11:08 AM
To: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: FW: File 0018488: Fullarton Dam Environmental Assessment- Notice of Intent

You don't often get email from [REDACTED] [Learn why this is important](#)

Please find attached our initial advice on the above referenced undertaking.

Please note that the responsibility for administration of the *Ontario Heritage Act* and matters related to cultural heritage have been transferred from the Ministry of Tourism, Culture and Sport (MTCS) to the Ministry of Citizenship and Multiculturalism (MCM). Individual staff roles and contact information remain unchanged. Please continue to send any notices, report and/or documentation to both Karla Barboza and myself.

Please do not hesitate to contact me with any questions or concerns.

Regards,

[Redacted]

From: [Redacted]
Sent: September-26-23 1:21 PM
Cc: [Redacted]
Subject: Fullarton Dam Environmental Assessment- Notice of Intent

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good afternoon,
I hope this email finds you well, my name is Jillian Smith and I work at the Upper Thames River Conservation Authority. This email is to inform you that the Upper Thames River Conservation Authority and Stantec have initiated an Environmental Assessment of the Fullarton Dam. Attached is the Notice of Intent, I will continue to email you and provide you with updates as the project progresses.
Please do not hesitate to contact me and [Redacted] for any questions or concerns you may have.
Thank you,



[Redacted]

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Atención: Este correo electrónico proviene de fuera de Stantec. Por favor, tome precauciones adicionales.

**Ministry of Citizenship
and Multiculturalism**

Heritage Planning Unit
Heritage Branch
Citizenship, Inclusion and
Heritage Division
5th Flr, 400 University Ave
Tel.: 613.242.3743

**Ministère des Affaires civiques
et du Multiculturalisme**

Unité de la planification relative au
patrimoine
Direction du patrimoine
Division des affaires civiques, de
l'inclusion et du patrimoine
Tél.: 613.242.3743



November 17, 2023

EMAIL ONLY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

MCM File : 0018488
Proponent : Upper Thames River Conservation Authority
Subject : Remedial Flood and Erosion Control Works Class EA
Notice of Intent
Project : Fullarton Dam Rehabilitation
Location : Fullarton, West Perth

Dear [REDACTED]:

Thank you for providing the Ministry of Citizenship and Multiculturalism (MCM) with the Notice of Intent for the above-referenced project.

MCM's interest in this project relates to its mandate of conserving Ontario's cultural heritage, which includes:

- archaeological resources, including land and marine);
- built heritage resources, including bridges and monuments; and
- cultural heritage landscapes.

Under the EA process, the proponent is required to determine a project's potential impact on known (previously recognized) and potential cultural heritage resources.

Project Summary

The Upper Thames River Conservation Authority has initiated an Environmental Assessment for the Fullarton Dam, located in the Fullarton Conservation Area. A Dam Safety Assessment was completed in 2007 which identified spillway capacity issues and stability concerns. As a result the Environmental Assessment was initiated to assess the existing conditions and evaluate alternative solutions. The project will be assessed in accordance with the Conservation Ontario Class Environmental Assessment for Remedial Flood and Erosion Control Projects document (June 2013).

Identifying Cultural Heritage Resources

While some cultural heritage resources may have already been formally identified, others may be identified through screening and evaluation.

Archaeological Resources

A stage 1 archaeological assessment (under Project file number P422-0027-2023) was found to be compliant and entered into the Ontario Public Register of Archaeological Assessment Reports, recommending Stage 2 archaeological assessment.

The Stage 2 archaeological assessment and any further recommended archaeological assessment (e.g., Stage 3,4) should be undertaken as early as possible during detailed design and prior to any ground disturbing activities.

Please note that archaeological concerns have not been fully addressed until reports have been entered into the Ontario Public Register of Archaeological Reports where those reports recommend that:

1. the archaeological assessment of the project area is complete and
2. all archaeological sites identified by the assessment are either of no further cultural heritage value or interest (as per Section 48(3) of the *Ontario Heritage Act*) or that mitigation of impacts has been accomplished through excavation or an avoidance and protection strategy.

Proponents should wait to receive the MCM’s review letter indicating that the report(s) has been entered into the Register before issuing a decision or proceeding with any ground disturbing activities.

Built Heritage Resources and Cultural Heritage Landscapes

We understand that a preliminary *Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment* (dated March 9, 2023, by Stantec Consulting Ltd.) was posted on the project website. This preliminary report includes a discussion on existing conditions, and we understand that the report will be updated, and the preliminary impact assessment will be included once more detailed information is available regarding the design of the preferred alternative.

Please submit the updated Cultural Heritage Report, once available, to MCM’s Heritage Planning Unit, the Municipality of West Perth Heritage and Culture Committee and other interested parties for review and comment.

Environmental Assessment Reporting

All technical cultural heritage studies and their recommendations are to be addressed and incorporated into EA projects. Please provide the technical cultural heritage studies to MCM before issuing a Notice of Completion or commencing any work on the site. If screening has identified no known or potential cultural heritage resources, or no impacts to these resources, please include the completed checklists and supporting documentation in the EA report or file.

Please note that the responsibility for administration of the *Ontario Heritage Act* and matters related to cultural heritage have been transferred from the Ministry of Tourism, Culture and Sport (MTCS) to the Ministry of Citizenship and Multiculturalism (MCM). Individual staff roles and contact information remain unchanged. Please continue to send any notices, report and/or documentation electronically to both Karla Barboza and myself.

- [REDACTED]

- [REDACTED]

Thank you for consulting MCM on this project and please continue to do so throughout the EA process. If you have any questions or require clarification, please do not hesitate to contact me.

Sincerely,

[REDACTED]

[REDACTED]

It is the sole responsibility of proponents to ensure that any information and documentation submitted as part of their EA report or file is accurate. The Ministry of Citizenship and Multiculturalism (MCM) makes no representation or warranty as to the completeness, accuracy or quality of the any checklists, reports or supporting documentation submitted as part of the EA process, and in no way shall MCM be liable for any harm, damages, costs, expenses, losses, claims or actions that may result if any checklists, reports or supporting documents are discovered to be inaccurate, incomplete, misleading or fraudulent.

Should previously undocumented archaeological resources be discovered, they may be a new archaeological site and therefore subject to Section 48(1) of the *Ontario Heritage Act*. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a licensed consultant archaeologist to carry out an archaeological assessment, in compliance with Section 48(1) of the *Ontario Heritage Act*.

The *Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33* requires that any person discovering human remains must cease all activities immediately and notify the police or coroner. If the coroner does not suspect foul play in the disposition of the remains, in accordance with *Ontario Regulation 30/11* the coroner shall notify the Registrar, Ontario Ministry of Public and Business Service Delivery, which administers provisions of that Act related to burial sites. In situations where human remains are associated with archaeological resources, the Ministry of Citizenship and Multiculturalism should also be notified (at archaeology@ontario.ca) to ensure that the archaeological site is not subject to unlicensed alterations which would be a contravention of the *Ontario Heritage Act*.

**Ministry of the Environment,
Conservation and Parks**

**Ministère de l'Environnement,
de la Protection de la nature
et des Parcs**

Environmental Assessment
Branch

Direction des évaluations
environnementales

1st Floor
135 St. Clair Avenue W
Toronto ON M4V 1P5
Tel.: 416 314-8001
Fax.: 416 314-8452

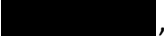
Rez-de-chaussée
135, avenue St. Clair Ouest
Toronto ON M4V 1P5
Tél. : 416 314-8001
Télééc. : 416 314-8452

November 8, 2023



BY EMAIL ONLY

**Re: Fullarton Dam Rehabilitation
Upper Thames Region Conservation Authority
Class Environmental Assessment for Remedial Flood and Erosion Control Projects
Acknowledgement of Notice of Intent**

Dear ,

This letter is in response to the Notice of Intent for the above noted project. The Ministry of the Environment, Conservation and Parks (MECP) acknowledges that the Upper Thames Region Conservation Authority (proponent) has indicated that the study is following the approved environmental planning process for a project under the Class Environmental Assessment (Class EA) for Remedial Flood and Erosion Control Projects under the Ontario *Environmental Assessment Act*.

The **updated (August 2022)** attached "Areas of Interest" document provides guidance regarding the ministry's interests with respect to the Class EA process. Please address all areas of interest in the EA documentation at an appropriate level for the EA study. Proponents who address all the applicable areas of interest can minimize potential delays to the project schedule. **Further information is provided at the end of the Areas of Interest document relating to recent changes to the Environmental Assessment Act through Bill 197, Covid-19 Economic Recovery Act 2020.**

The Crown has a legal duty to consult 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 may adversely impact that right. Before authorizing this project, the Crown must ensure that its duty to consult has been fulfilled, where such a duty is triggered. Although the duty to consult with Aboriginal peoples is a duty of the Crown, the Crown may delegate procedural aspects of this duty to project proponents while retaining oversight of the consultation process.

The proposed project may have the potential to affect Aboriginal or treaty rights protected under Section 35 of Canada's *Constitution Act* 1982. Where the Crown's duty to consult is triggered in relation to the proposed project, **the MECP is delegating the procedural aspects of rights-based consultation to the proponent through this letter.** The Crown intends to rely on the delegated consultation process in discharging its duty to consult and maintains the right to participate in the consultation process as it sees fit.

Based on information provided to date and the Crown's preliminary assessment the proponent is required to consult with the following communities who have been identified as potentially affected by the proposed project:

- Aamjiwnaang First Nation
- Bkejwanong (Walpole Island)
- Caldwell First Nation
- Chippewas of Kettle and Stony Point
- Chippewas of the Thames First Nation
- Oneida Nation of the Thames

Steps that the proponent may need to take in relation to Aboriginal consultation for the proposed project are outlined in the [“Code of Practice for Consultation in Ontario’s Environmental Assessment Process”](#). Additional information related to Ontario’s Environmental Assessment Act is available online at: www.ontario.ca/environmentalassessments.

Please also refer to the attached document “A Proponent’s Introduction to the Delegation of Procedural Aspects of consultation with Aboriginal Communities” for further information, including the MECP’s expectations for EA report documentation related to consultation with communities.

The proponent must contact the Director of Environmental Assessment Branch (EABDirector@ontario.ca) under the following circumstances after initial discussions with the communities identified by the MECP:

- Aboriginal or treaty rights impacts are identified to you by the communities;
- You have reason to believe that your proposed project may adversely affect an Aboriginal or treaty right;
- Consultation with Indigenous communities or other stakeholders has reached an

- impasse; or
- A Section 16 Order (formerly Part II Order) request is expected based on impacts to Aboriginal or treaty rights.

The MECP will then assess the extent of any Crown duty to consult for the circumstances and will consider whether additional steps should be taken, including what role you will be asked to play should additional steps and activities be required.

Please ensure a copy of the final notice is sent to the ministry's South West Region EA notification email account [REDACTED]. Depending on the documentation process that is followed, a Project Plan or an Environmental Study Report will be prepared and the draft and final copies should be made available for the MECP upon request.

Should you or any members of your project team have any questions regarding the material above, please contact me at [REDACTED]

Sincerely,

[REDACTED]

[REDACTED]

Cc:

[REDACTED]

Enclosed: Areas of Interest

Attached: Client's Guide to Preliminary Screening for Species at Risk

A Proponent's Introduction to the Delegation of Procedural Aspects of Consultation with Aboriginal Communities

AREAS OF INTEREST (v. August 2022)

It is suggested that you check off each section after you have considered / addressed it.

Planning and Policy

- Applicable plans and policies should be identified in the report, and the proponent should describe how the proposed project adheres to the relevant policies in these plans.
 - Projects located in MECP Central, Eastern or West Central Region may be subject to [A Place to Grow: Growth Plan for the Greater Golden Horseshoe \(2020\)](#).
 - Projects located in MECP Central or Eastern Region may be subject to the [Oak Ridges Moraine Conservation Plan \(2017\)](#) or the [Lake Simcoe Protection Plan \(2014\)](#).
 - Projects located in MECP Central, Southwest or West Central Region may be subject to the [Niagara Escarpment Plan \(2017\)](#).
 - Projects located in MECP Central, Eastern, Southwest or West Central Region may be subject to the [Greenbelt Plan \(2017\)](#).
 - Projects located in MECP Northern Region may be subject to the [Growth Plan for Northern Ontario \(2011\)](#).
- The [Provincial Policy Statement \(2020\)](#) contains policies that protect Ontario's natural heritage and water resources. Applicable policies should be referenced in the report, and the proponent should describe how the proposed project is consistent with these policies.
- In addition to the provincial planning and policy level, the report should also discuss the planning context at the municipal and federal levels, as appropriate.

Source Water Protection

The *Clean Water Act, 2006 (CWA)* aims to protect existing and future sources of drinking water. To achieve this, several types of vulnerable areas have been delineated around surface water intakes and wellheads for every municipal residential drinking water system that is located in a source protection area. These vulnerable areas are known as a Wellhead Protection Areas (WHPAs) and surface water Intake Protection Zones (IPZs). Other vulnerable areas that have been delineated under the CWA include Highly Vulnerable Aquifers (HVAs), Significant Groundwater Recharge Areas (SGRAs), Event-based modelling areas (EBAs), and Issues Contributing Areas (ICAs). Source protection plans have been developed that include policies to address existing and future risks to sources of municipal drinking water within these vulnerable areas.

Projects that are subject to the Environmental Assessment Act that fall under a Class EA, or one of the Regulations, have the potential to impact sources of drinking water if they occur in designated vulnerable areas or in the vicinity of other at-risk drinking water systems (i.e.

systems that are not municipal residential systems). Class EA projects may include activities that, if located in a vulnerable area, could be a threat to sources of drinking water (i.e. have the potential to adversely affect the quality or quantity of drinking water sources) and the activity could therefore be subject to policies in a source protection plan. Where an activity poses a risk to drinking water, policies in the local source protection plan may impact how or where that activity is undertaken. Policies may prohibit certain activities, or they may require risk management measures for these activities. Municipal Official Plans, planning decisions, Class EA projects (where the project includes an activity that is a threat to drinking water) and prescribed instruments must conform with policies that address significant risks to drinking water and must have regard for policies that address moderate or low risks.

- The proponent should identify the source protection area and should clearly document how the proximity of the project to sources of drinking water (municipal or other) and any delineated vulnerable areas was considered and assessed. Specifically, the report should discuss whether or not the project is located in a vulnerable area and provide applicable details about the area.
- If located in a vulnerable area, proponents should document whether any project activities are prescribed drinking water threats and thus pose a risk to drinking water (this should be consulted on with the appropriate Source Protection Authority). Where an activity poses a risk to drinking water, the proponent must document and discuss in the report how the project adheres to or has regard to applicable policies in the local source protection plan. This section should then be used to inform and be reflected in other sections of the report, such as the identification of net positive/negative effects of alternatives, mitigation measures, evaluation of alternatives etc.
- While most source protection plans focused on including policies for significant drinking water threats in the WHPAs and IPZs it should be noted that even though source protection plan policies may not apply in HVAs, these are areas where aquifers are sensitive and at risk to impacts and within these areas, activities may impact the quality of sources of drinking water for systems other than municipal residential systems.
- In order to determine if this project is occurring within a vulnerable area, proponents can use [Source Protection Information Atlas](#), which is an online mapping tool available to the public. Note that various layers (including WHPAs, WHPA-Q1 and WHPA-Q2, IPZs, HVAs, SGRAs, EBAs, ICAs) can be turned on through the “Map Legend” bar on the left. The mapping tool will also provide a link to the appropriate source protection plan in order to identify what policies may be applicable in the vulnerable area.
- For further information on the maps or source protection plan policies which may relate to their project, proponents must contact the appropriate source protection authority

More Information

For more information on the *Clean Water Act*, source protection areas and plans, including specific information on the vulnerable areas and drinking water threats, please refer to [Conservation Ontario's website](#) where you will also find links to the local source protection plan/assessment report.

A list of the prescribed drinking water threats can be found in [section 1.1 of Ontario Regulation 287/07](#) made under the *Clean Water Act*. In addition to prescribed drinking water threats, some source protection plans may include policies to address additional "local" threat activities, as approved by the MECP.

□ **Climate Change**

The document "[Considering Climate Change in the Environmental Assessment Process](#)" (Guide) is now a part of the Environmental Assessment program's Guides and Codes of Practice. The Guide sets out the MECP's expectation for considering climate change in the preparation, execution and documentation of environmental assessment studies and processes. The guide provides examples, approaches, resources, and references to assist proponents with consideration of climate change in EA. Proponents should review this Guide in detail.

● **The MECP expects proponents of Class EA projects to:**

1. Consider during the assessment of alternative solutions and alternative designs, the following:
 - a. the project's expected production of greenhouse gas emissions and impacts on carbon sinks (climate change mitigation); and
 - b. resilience or vulnerability of the undertaking to changing climatic conditions (climate change adaptation).
2. Include a discrete section in the report detailing how climate change was considered in the EA.

How climate change is considered can be qualitative or quantitative in nature and should be scaled to the project's level of environmental effect. In all instances, both a project's impacts on climate change (mitigation) and impacts of climate change on a project (adaptation) should be considered.

- The MECP has also prepared another guide to support provincial land use planning direction related to the completion of energy and emission plans. The "[Community Emissions Reduction Planning: A Guide for Municipalities](#)" document is designed to educate stakeholders on the municipal opportunities to reduce energy and greenhouse gas emissions, and to provide guidance on methods and techniques to incorporate consideration of energy and greenhouse gas emissions into municipal activities of all types. We encourage you to review the Guide for information.

□ Air Quality, Dust and Noise


- If there are sensitive receptors in the surrounding area of this project, a quantitative air quality/odour impact assessment will be useful to evaluate alternatives, determine impacts and identify appropriate mitigation measures. The scope of the assessment can be determined based on the potential effects of the proposed alternatives, and typically includes source and receptor characterization and a quantification of local air quality impacts on the sensitive receptors and the environment in the study area. The assessment will compare to all applicable standards or guidelines for all contaminants of concern. **Please contact this office for further consultation on the level of Air Quality Impact Assessment required for this project if not already advised.**
- If a quantitative Air Quality Impact Assessment is not required for the project, the MECP expects that the report contain a qualitative assessment which includes:
 - A discussion of local air quality including existing activities/sources that significantly impact local air quality and how the project may impact existing conditions;
 - A discussion of the nearby sensitive receptors and the project's potential air quality impacts on present and future sensitive receptors;
 - A discussion of local air quality impacts that could arise from this project during both construction and operation; and
 - A discussion of potential mitigation measures.
- As a common practice, "air quality" should be used as an evaluation criterion for all road projects.
- Dust and noise control measures should be addressed and included in the construction plans to ensure that nearby residential and other sensitive land uses within the study area are not adversely affected during construction activities.
- The MECP recommends that non-chloride dust-suppressants be applied. For a comprehensive list of fugitive dust prevention and control measures that could be applied, refer to [Cheminfo Services Inc. Best Practices for the Reduction of Air Emissions from Construction and Demolition Activities](#) report prepared for Environment Canada. March 2005.
- The report should consider the potential impacts of increased noise levels during the operation of the completed project. The proponent should explore all potential measures to mitigate significant noise impacts during the assessment of alternatives.

□ **Ecosystem Protection and Restoration**

- Any impacts to ecosystem form and function must be avoided where possible. The report should describe any proposed mitigation measures and how project planning will protect and enhance the local ecosystem.
- Natural heritage and hydrologic features should be identified and described in detail to assess potential impacts and to develop appropriate mitigation measures. The following sensitive environmental features may be located within or adjacent to the study area:
 - Key Natural Heritage Features: Habitat of endangered species and threatened species, fish habitat, wetlands, areas of natural and scientific interest (ANSIs), significant valleylands, significant woodlands; significant wildlife habitat (including habitat of special concern species); sand barrens, savannahs, and tallgrass prairies; and alvars.
 - Key Hydrologic Features: Permanent streams, intermittent streams, inland lakes and their littoral zones, seepage areas and springs, and wetlands.
 - Other natural heritage features and areas such as: vegetation communities, rare species of flora or fauna, Environmentally Sensitive Areas, Environmentally Sensitive Policy Areas, federal and provincial parks and conservation reserves, Greenland systems etc.

We recommend consulting with the Ministry of Natural Resources and Forestry (MNRF), Fisheries and Oceans Canada (DFO) and your local conservation authority to determine if special measures or additional studies will be necessary to preserve and protect these sensitive features. In addition, for projects located in Central Region you may consider the provisions of the Rouge Park Management Plan if applicable.

□ **Species at Risk**

- The Ministry of the Environment, Conservation and Parks has now assumed responsibility of Ontario's Species at Risk program. Information, standards, guidelines, reference materials and technical resources to assist you are found at <https://www.ontario.ca/page/species-risk>.
- The Client's Guide to Preliminary Screening for Species at Risk (Draft May 2019) has been attached to the covering email for your reference and use. Please review this document for next steps.
- For any questions related to subsequent permit requirements, please contact 

□ **Surface Water**

- The report must include enough information to demonstrate that there will be no negative impacts on the natural features or ecological functions of any watercourses within the study area. Measures should be included in the planning and design process to ensure that any impacts to watercourses from construction or operational activities (e.g. spills, erosion, pollution) are mitigated as part of the proposed undertaking.
- Additional stormwater runoff from new pavement can impact receiving watercourses and flood conditions. Quality and quantity control measures to treat stormwater runoff should be considered for all new impervious areas and, where possible, existing surfaces. The ministry's [Stormwater Management Planning and Design Manual \(2003\)](#) should be referenced in the report and utilized when designing stormwater control methods. **A Stormwater Management Plan should be prepared as part of the Class EA process** that includes:
 - Strategies to address potential water quantity and erosion impacts related to stormwater draining into streams or other sensitive environmental features, and to ensure that adequate (enhanced) water quality is maintained
 - Watershed information, drainage conditions, and other relevant background information
 - Future drainage conditions, stormwater management options, information on erosion and sediment control during construction, and other details of the proposed works
 - Information on maintenance and monitoring commitments.
- Any potential approval requirements for surface water taking or discharge should be identified in the report. A Permit to Take Water (PTTW) under the *Ontario Water Resources Act* (OWRA) will be required for any water takings that exceed 50,000 L/day, except for certain water taking activities that have been prescribed by the Water Taking EASR Regulation – *O. Reg. 63/16*. These prescribed water-taking activities require registration in the EASR instead of a PTTW. Please review the [Water Taking User Guide for EASR](#) for more information. Additionally, an Environmental Compliance Approval under the OWRA is required for municipal stormwater management works.

□ **Groundwater**

- The status of, and potential impacts to any well water supplies should be addressed. If the project involves groundwater takings or changes to drainage patterns, the quantity and quality of groundwater may be affected due to drawdown effects or the redirection of

existing contamination flows. In addition, project activities may infringe on existing wells such that they must be reconstructed or sealed and abandoned. Appropriate information to define existing groundwater conditions should be included in the report.

- If the potential construction or decommissioning of water wells is identified as an issue, the report should refer to Ontario Regulation 903, Wells, under the OWRA.
- Potential impacts to groundwater-dependent natural features should be addressed. Any changes to groundwater flow or quality from groundwater taking may interfere with the ecological processes of streams, wetlands or other surficial features. In addition, discharging contaminated or high volumes of groundwater to these features may have direct impacts on their function. Any potential effects should be identified, and appropriate mitigation measures should be recommended. The level of detail required will be dependent on the significance of the potential impacts.
- Any potential approval requirements for groundwater taking or discharge should be identified in the report. A Permit to Take Water (PTTW) under the OWRA will be required for any water takings that exceed 50,000 L/day, with the exception of certain water taking activities that have been prescribed by the Water Taking EASR Regulation – *O. Reg. 63/16*. These prescribed water-taking activities require registration in the EASR instead of a PTTW. Please review the [Water Taking User Guide for EASR](#) for more information.
- Consultation with the railroad authorities is necessary wherever there is a plan to use construction dewatering in the vicinity of railroad lines or where the zone of influence of the construction dewatering potentially intercepts railroad lines.

Excess Materials Management

- In December 2019, MECP released a new regulation under the Environmental Protection Act, titled “On-Site and Excess Soil Management” (O. Reg. 406/19) to support improved management of excess construction soil. This regulation is a key step to support proper management of excess soils, ensuring valuable resources don’t go to waste and to provide clear rules on managing and reusing excess soil. New risk-based standards referenced by this regulation help to facilitate local beneficial reuse which in turn will reduce greenhouse gas emissions from soil transportation, while ensuring strong protection of human health and the environment. The new regulation is being phased in over time, with the first phase in effect on January 1, 2021. For more information, please visit <https://www.ontario.ca/page/handling-excess-soil>.
- The report should reference that activities involving the management of excess soil should be completed in accordance with O. Reg. 406/19 and the MECP’s current guidance

document titled "[Management of Excess Soil – A Guide for Best Management Practices](#)" (2014).

- All waste generated during construction must be disposed of in accordance with ministry requirements

Contaminated Sites

- Any current or historical waste disposal sites should be identified in the report. The status of these sites should be determined to confirm whether approval pursuant to Section 46 of the EPA may be required for land uses on former disposal sites. We recommend referring to the [MECP's D-4 guideline](#) for land use considerations near landfills and dumps.
 - Resources available may include regional/local municipal official plans and data; provincial data on [large landfill sites](#) and [small landfill sites](#); Environmental Compliance Approval information for waste disposal sites on [Access Environment](#).
- Other known contaminated sites (local, provincial, federal) in the study area should also be identified in the report (Note – information on federal contaminated sites is found on the Government of Canada's [website](#)).
- The location of any underground storage tanks should be investigated in the report. Measures should be identified to ensure the integrity of these tanks and to ensure an appropriate response in the event of a spill. The ministry's Spills Action Centre must be contacted in such an event.
- Since the removal or movement of soils may be required, appropriate tests to determine contaminant levels from previous land uses or dumping should be undertaken. If the soils are contaminated, you must determine how and where they are to be disposed of, consistent with *Part XV.1 of the Environmental Protection Act* (EPA) and Ontario Regulation 153/04, Records of Site Condition, which details the new requirements related to site assessment and clean up. Please contact the appropriate MECP District Office for further consultation if contaminated sites are present.

Servicing, Utilities and Facilities

- The report should identify any above or underground utilities in the study area such as transmission lines, telephone/internet, oil/gas etc. The owners should be consulted to discuss impacts to this infrastructure, including potential spills.
- The report should identify any servicing infrastructure in the study area such as wastewater, water, stormwater that may potentially be impacted by the project.

- Any facility that releases emissions to the atmosphere, discharges contaminants to ground or surface water, provides potable water supplies, or stores, transports or disposes of waste must have an Environmental Compliance Approval (ECA) before it can operate lawfully. Please consult with MECP's Environmental Permissions Branch to determine whether a new or amended ECA will be required for any proposed infrastructure.
- We recommend referring to the ministry's [environmental land use planning guides](#) to ensure that any potential land use conflicts are considered when planning for any infrastructure or facilities related to wastewater, pipelines, landfills or industrial uses.

Mitigation and Monitoring

- Contractors must be made aware of all environmental considerations so that all environmental standards and commitments for both construction and operation are met. Mitigation measures should be clearly referenced in the report and regularly monitored during the construction stage of the project. In addition, we encourage proponents to conduct post-construction monitoring to ensure all mitigation measures have been effective and are functioning properly.
- Design and construction reports and plans should be based on a best management approach that centres on the prevention of impacts, protection of the existing environment, and opportunities for rehabilitation and enhancement of any impacted areas.
- The proponent's construction and post-construction monitoring plans must be documented in the report, as outlined in Section 3.9 of the Class EA for Remedial Flood and Erosion Control Projects parent document.

Consultation

- The report must demonstrate how the consultation provisions of the Class EA have been fulfilled, including documentation of all stakeholder consultation efforts undertaken during the planning process. This includes a discussion in the report that identifies concerns that were raised and **describes how they have been addressed by the proponent** throughout the planning process. The report should also include copies of comments submitted on the project by interested stakeholders, and the proponent's responses to these comments (as directed by the Class EA to include full documentation).
- Please include the full stakeholder distribution/consultation list in the documentation.

□ **Class EA Process**

- When it is determined that formal Conservation Authority involvement is required to address a problem involving existing development which is at risk from flooding or erosion, an evaluation of possible alternative solutions shall be completed, and the Conservation Authority will initiate the Class EA process. Once the preferred alternative method of carrying out the undertaking is selected, then it will be subjected to a more detailed study of the net impacts likely to be associated with implementation as previously determined.
 - A Project Plan (PP) is prepared for remedial works for which it has been demonstrated that there are no negative impacts or outstanding concerns held by the Conservation Authority or reviewers.
 - An Environmental Study Report (ESR) is prepared for projects for which it has been demonstrated that negative impacts will occur, and tradeoffs must be made, in choosing among alternative methods of carrying out the proposed remedial work. An ESR may also be prepared in response to concerns that arise in the preparation and/or review of a PP.
- The report should provide clear and complete documentation of the planning process in order to allow for transparency in decision-making.
- The Class EA requires the consideration of the effects of each alternative on all aspects of the environment (including planning, natural, social, cultural, economic, technical). The report should include a level of detail (e.g. hydrogeological investigations, terrestrial and aquatic assessments, cultural heritage assessments) such that all potential impacts can be identified, and appropriate mitigation measures can be developed. Any supporting studies conducted during the Class EA process should be referenced and included as part of the report.
- Please include in the report a list of all subsequent permits or approvals that may be required for the implementation of the preferred alternative, including but not limited to, MECP's PTTW, EASR Registrations and ECAs, conservation authority permits, species at risk permits, MTO permits and approvals under the *Impact Assessment Act*, 2019.
- Ministry guidelines and other information related to the issues above are available at <http://www.ontario.ca/environment-and-energy/environment-and-energy>. We encourage you to review all the available guides and to reference any relevant information in the report.

Amendments to the EAA through the Covid-19 Economic Recovery Act, 2020

Once the report is finalized, the proponent must issue a Notice of Completion providing a minimum 30-day period during which documentation may be reviewed and comment and input can be submitted to the proponent. The Notice of Completion must be sent to the appropriate MECP Regional Office email address.

The public can request a higher level of assessment on a project if they are concerned about potential adverse impacts to constitutionally protected Aboriginal and treaty rights. In addition, the Minister may issue an order on his or her own initiative within a specified time period. The Director (of the Environmental Assessment Branch) will issue a Notice of Proposed Order to the proponent if the Minister is considering an order for the project within 30 days after the conclusion of the comment period on the Notice of Completion. At this time, the Director may request additional information from the proponent. Once the requested information has been received, the Minister will have 30 days within which to make a decision or impose conditions on your project.

Therefore, the proponent cannot proceed with the project until at least 30 days after the end of the comment period provided for in the Notice of Completion. Further, the proponent may not proceed after this time if:

- a Section 16 Order request has been submitted to the ministry regarding potential adverse impacts to constitutionally protected Aboriginal and treaty rights, or
- the Director has issued a Notice of Proposed order regarding the project.

Please ensure that the Notice of Completion advises that outstanding concerns are to be directed to the proponent for a response, and that in the event there are outstanding concerns regarding potential adverse impacts to constitutionally protected Aboriginal and treaty rights, Section 16 Order requests on those matters should be addressed in writing to:

[Redacted]

and

[Redacted]

Ministry of the Environment,
Conservation and Parks

Environmental Assessment Branch

1st Floor
135 St. Clair Avenue W
Toronto ON M4V 1P5
Tel.: 416 314-8001
Fax.: 416 314-8452

Ministère de l'Environnement, de la
Protection de la nature et des Parcs

*Direction des évaluations
environnementales*

Rez-de-chaussée
135, avenue St. Clair Ouest
Toronto ON M4V 1P5
Tél. : 416 314-8001
Télééc. : 416 314-8452



Instructions for Providing Class EA Notices to the Ministry of the Environment, Conservation and Parks

The following protocol for providing Class EA notifications to the Ministry of the Environment, Conservation and Parks is in effect as of **May 1, 2018**. Important information is below. Please read carefully.

You must follow the process described below and submit an electronic version of the Notice and completed Project Information Form to the appropriate Regional EA Notification email address. These email addresses are provided below.

All Notices of Commencement and Completion are to follow this process. Please feel free to pass along this information to your colleagues. Thank you.

Notification Procedure:

The Ministry of the Environment, Conservation and Parks becomes aware of streamlined environmental assessments (e.g., class environmental assessment projects, electricity projects and waste management projects) through notifications by project owners. Notifying the ministry is an important step in the streamlined environmental assessment processes. As part of the ministry's ongoing efforts to improve processes and ensure the ministry has an opportunity to provide input on projects undergoing streamlined environmental assessments, the ministry has established dedicated email accounts in each regional office. These accounts will be used to receive notices as required in your class environmental assessment process along with a new "Project Information Form". As of May 1, 2018, proponents must use this new process.

4 Step Process for Submitting Notices for Streamlined EAs

To submit your notice, you must do the following:

- 1. Download and complete the Project Information Form.** (The Form can be found [here](#) under “Streamlined EAs”. It is an excel spreadsheet with columns that need to be filled out by the proponent. The form has been developed for ease of use (i.e. drop-down pick list for most fields). Instructions on filling out the form are contained in 2 tabs within the form itself).
- 2. Create an email. The subject line of your email must include in this order: Project location, Type of streamlined EA, and Project name**

For example:

- York Region, MEA Class EA, Elgin Mills Rd East (Bayview to Woodbine)
 - Durham Region, Electricity Screening Process, New Cogeneration Station
 - City of Ottawa, Waste Management Screening Process, Landfill Expansion
- 3. Attach the completed Project Information Form (in excel format) and a copy of your project notice (in PDF format) to the email.**
 - 4. Send by email to the appropriate ministry regional office:**

██

██

██

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██

Notes:

- The hyperlink to the [MECP District Officer Locator](#) website, can be used to assist with determining what ministry region your project is located.
- The minimum requirement is to send project initiation and completion notices (and where applicable, Revised Notice of Completion, Notice of Filing of Addendum, Statement of Completion). All other notices (e.g. Notice of PIC/OH) can be sent to the Regional email address but not required.
- If your project is located in more than one ministry region, you need to submit your notices to all appropriate regions.

A PROPONENT’S INTRODUCTION TO THE DELEGATION OF PROCEDURAL ASPECTS OF CONSULTATION WITH ABORIGINAL COMMUNITIES

DEFINITIONS

The following definitions are specific to this document and may not apply in other contexts:

Aboriginal communities – the First Nation or Métis communities identified by the Crown for the purpose of consultation.

Consultation – the Crown’s legal obligation to consult when the Crown has knowledge of an established or asserted Aboriginal or treaty right and contemplates conduct that might adversely impact that right. This is the type of consultation required pursuant to s. 35 of the *Constitution Act, 1982*. Note that this definition does not include consultation with Aboriginal communities for other reasons, such as regulatory requirements.

Crown – the Ontario Crown, acting through a particular ministry or ministries.

Procedural aspects of consultation – those portions of consultation related to the process of consultation, such as notifying an Aboriginal community about a project, providing information about the potential impacts of a project, responding to concerns raised by an Aboriginal community and proposing changes to the project to avoid negative impacts.

Proponent – the person or entity that wants to undertake a project and requires an Ontario Crown decision or approval for the project.

I. PURPOSE

The Crown has a legal duty to consult Aboriginal communities when it has knowledge of an existing or asserted Aboriginal or treaty right and contemplates conduct that may adversely impact that right. In outlining a framework for the duty to consult, the Supreme Court of Canada has stated that the Crown may delegate procedural aspects of consultation to third parties. This document provides general information about the Ontario Crown’s approach to delegation of the procedural aspects of consultation to proponents.

This document is not intended to instruct a proponent about an individual project, and it does not constitute legal advice.

II. WHY IS IT NECESSARY TO CONSULT WITH ABORIGINAL COMMUNITIES?

The objective of the modern law of Aboriginal and treaty rights is the *reconciliation* of Aboriginal peoples and non-Aboriginal peoples and their respective rights, claims and interests. Consultation is an important component of the reconciliation process.

The Crown has a legal duty to consult Aboriginal communities when it has knowledge of an existing or asserted Aboriginal or treaty right and contemplates conduct that might adversely impact that right. For example, the Crown’s duty to consult is triggered when it considers

issuing a permit, authorization or approval for a project which has the potential to adversely impact an Aboriginal right, such as the right to hunt, fish, or trap in a particular area.

The scope of consultation required in particular circumstances ranges across a spectrum depending on both the nature of the asserted or established right and the seriousness of the potential adverse impacts on that right.

Depending on the particular circumstances, the Crown may also need to take steps to accommodate the potentially impacted Aboriginal or treaty right. For example, the Crown may be required to avoid or minimize the potential adverse impacts of the project.

III. THE CROWN'S ROLE AND RESPONSIBILITIES IN THE DELEGATED CONSULTATION PROCESS

The Crown has the responsibility for ensuring that the duty to consult, and accommodate where appropriate, is met. However, the Crown may delegate the procedural aspects of consultation to a proponent.

There are different ways in which the Crown may delegate the procedural aspects of consultation to a proponent, including through a letter, a memorandum of understanding, legislation, regulation, policy and codes of practice.

If the Crown decides to delegate procedural aspects of consultation, the Crown will generally:

- Ensure that the delegation of procedural aspects of consultation and the responsibilities of the proponent are clearly communicated to the proponent;
- Identify which Aboriginal communities must be consulted;
- Provide contact information for the Aboriginal communities;
- Revise, as necessary, the list of Aboriginal communities to be consulted as new information becomes available and is assessed by the Crown;
- Assess the scope of consultation owed to the Aboriginal communities;
- Maintain appropriate oversight of the actions taken by the proponent in fulfilling the procedural aspects of consultation;
- Assess the adequacy of consultation that is undertaken and any accommodation that may be required;
- Provide a contact within any responsible ministry in case issues arise that require direction from the Crown; and
- Participate in the consultation process as necessary and as determined by the Crown.

IV. THE PROPONENT'S ROLE AND RESPONSIBILITIES IN THE DELEGATED CONSULTATION PROCESS

Where aspects of the consultation process have been delegated to a proponent, the Crown, in meeting its duty to consult, will rely on the proponent's consultation activities and documentation of those activities. The consultation process informs the Crown's decision of whether or not to approve a proposed project or activity.

A proponent's role and responsibilities will vary depending on a variety of factors including the extent of consultation required in the circumstance and the procedural aspects of consultation the Crown has delegated to it. Proponents are often in a better position than the Crown to discuss a project and its potential impacts with Aboriginal communities and to determine ways to avoid or minimize the adverse impacts of a project.

A proponent can raise issues or questions with the Crown at any time during the consultation process. If issues or concerns arise during the consultation that cannot be addressed by the proponent, the proponent should contact the Crown.

a) What might a proponent be required to do in carrying out the procedural aspects of consultation?

Where the Crown delegates procedural aspects of consultation, it is often the proponent's responsibility to provide notice of the proposed project to the identified Aboriginal communities. The notice should indicate that the Crown has delegated the procedural aspects of consultation to the proponent and should include the following information:

- a description of the proposed project or activity;
- mapping;
- proposed timelines;
- details regarding anticipated environmental and other impacts;
- details regarding opportunities to comment; and
- any changes to the proposed project that have been made for seasonal conditions or other factors, where relevant.

Proponents should provide enough information and time to allow Aboriginal communities to provide meaningful feedback regarding the potential impacts of the project. Depending on the nature of consultation required for a project, a proponent also may be required to:

- provide the Crown with copies of any consultation plans prepared and an opportunity to review and comment;
- ensure that any necessary follow-up discussions with Aboriginal communities take place in a timely manner, including to confirm receipt of information, share and update information and to address questions or concerns that may arise;

- as appropriate, discuss with Aboriginal communities potential mitigation measures and/or changes to the project in response to concerns raised by Aboriginal communities;
- use language that is accessible and not overly technical, and translate material into Aboriginal languages where requested or appropriate;
- bear the reasonable costs associated with the consultation process such as, but not limited to, meeting hall rental, meal costs, document translation(s), or to address technical & capacity issues;
- provide the Crown with all the details about potential impacts on established or asserted Aboriginal or treaty rights, how these concerns have been considered and addressed by the proponent and the Aboriginal communities and any steps taken to mitigate the potential impacts;
- provide the Crown with complete and accurate documentation from these meetings and communications; and
- notify the Crown immediately if an Aboriginal community not identified by the Crown approaches the proponent seeking consultation opportunities.

b) What documentation and reporting does the Crown need from the proponent?

Proponents should keep records of all communications with the Aboriginal communities involved in the consultation process and any information provided to these Aboriginal communities.

As the Crown is required to assess the adequacy of consultation, it needs documentation to satisfy itself that the proponent has fulfilled the procedural aspects of consultation delegated to it. The documentation required would typically include:

- the date of meetings, the agendas, any materials distributed, those in attendance and copies of any minutes prepared;
- the description of the proposed project that was shared at the meeting;
- any and all concerns or other feedback provided by the communities;
- any information that was shared by a community in relation to its asserted or established Aboriginal or treaty rights and any potential adverse impacts of the proposed activity, approval or disposition on such rights;
- any proposed project changes or mitigation measures that were discussed, and feedback from Aboriginal communities about the proposed changes and measures;
- any commitments made by the proponent in response to any concerns raised, and feedback from Aboriginal communities on those commitments;
- copies of correspondence to or from Aboriginal communities, and any materials distributed electronically or by mail;

- information regarding any financial assistance provided by the proponent to enable participation by Aboriginal communities in the consultation;
- periodic consultation progress reports or copies of meeting notes if requested by the Crown;
- a summary of how the delegated aspects of consultation were carried out and the results; and
- a summary of issues raised by the Aboriginal communities, how the issues were addressed and any outstanding issues.

In certain circumstances, the Crown may share and discuss the proponent's consultation record with an Aboriginal community to ensure that it is an accurate reflection of the consultation process.

c) Will the Crown require a proponent to provide information about its commercial arrangements with Aboriginal communities?

The Crown may require a proponent to share information about aspects of commercial arrangements between the proponent and Aboriginal communities where the arrangements:

- include elements that are directed at mitigating or otherwise addressing impacts of the project;
- include securing an Aboriginal community's support for the project; or
- may potentially affect the obligations of the Crown to the Aboriginal communities.

The proponent should make every reasonable effort to exempt the Crown from confidentiality provisions in commercial arrangements with Aboriginal communities to the extent necessary to allow this information to be shared with the Crown.

The Crown cannot guarantee that information shared with the Crown will remain confidential. Confidential commercial information should not be provided to the Crown as part of the consultation record if it is not relevant to the duty to consult or otherwise required to be submitted to the Crown as part of the regulatory process.

V. WHAT ARE THE ROLES AND RESPONSIBILITIES OF ABORIGINAL COMMUNITIES' IN THE CONSULTATION PROCESS?

Like the Crown, Aboriginal communities are expected to engage in consultation in good faith. This includes:

- responding to the consultation notice;
- engaging in the proposed consultation process;
- providing relevant documentation;

- clearly articulating the potential impacts of the proposed project on Aboriginal or treaty rights; and
- discussing ways to mitigate any adverse impacts.

Some Aboriginal communities have developed tools, such as consultation protocols, policies or processes that provide guidance on how they would prefer to be consulted. Although not legally binding, proponents are encouraged to respect these community processes where it is reasonable to do so. Please note that there is no obligation for a proponent to pay a fee to an Aboriginal community in order to enter into a consultation process.

To ensure that the Crown is aware of existing community consultation protocols, proponents should contact the relevant Crown ministry when presented with a consultation protocol by an Aboriginal community or anyone purporting to be a representative of an Aboriginal community.

VI. WHAT IF MORE THAN ONE PROVINCIAL CROWN MINISTRY IS INVOLVED IN APPROVING A PROPONENT'S PROJECT?

Depending on the project and the required permits or approvals, one or more ministries may delegate procedural aspects of the Crown's duty to consult to the proponent. The proponent may contact individual ministries for guidance related to the delegation of procedural aspects of consultation for ministry-specific permits/approvals required for the project in question. Proponents are encouraged to seek input from all involved Crown ministries sooner rather than later.

Client's Guide to Preliminary Screening for Species at Risk

***Ministry of the Environment, Conservation and Parks
Species at Risk Branch, Permissions and Compliance***

DRAFT - May 2019

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1.0 Purpose, Scope, Background and Context

1.1 Purpose of this Guide

This guide has been created to:

- help clients better understand their obligation to gather information and complete a preliminary screening for species at risk before contacting the ministry,
- outline guidance and advice clients can expect to receive from the ministry at the preliminary screening stage,
- help clients understand how they can gather information about species at risk by accessing publicly available information housed by the Government of Ontario, and
- provide a list of other potential sources of species at risk information that exist outside the Government of Ontario.

It remains the client's responsibility to:

- carry out a preliminary screening for their projects,
- obtain best available information from all applicable information sources,
- conduct any necessary field studies or inventories to identify and confirm the presence or absence of species at risk or their habitat,
- consider any potential impacts to species at risk that a proposed activity might cause, and
- comply with the *Endangered Species Act* (ESA).

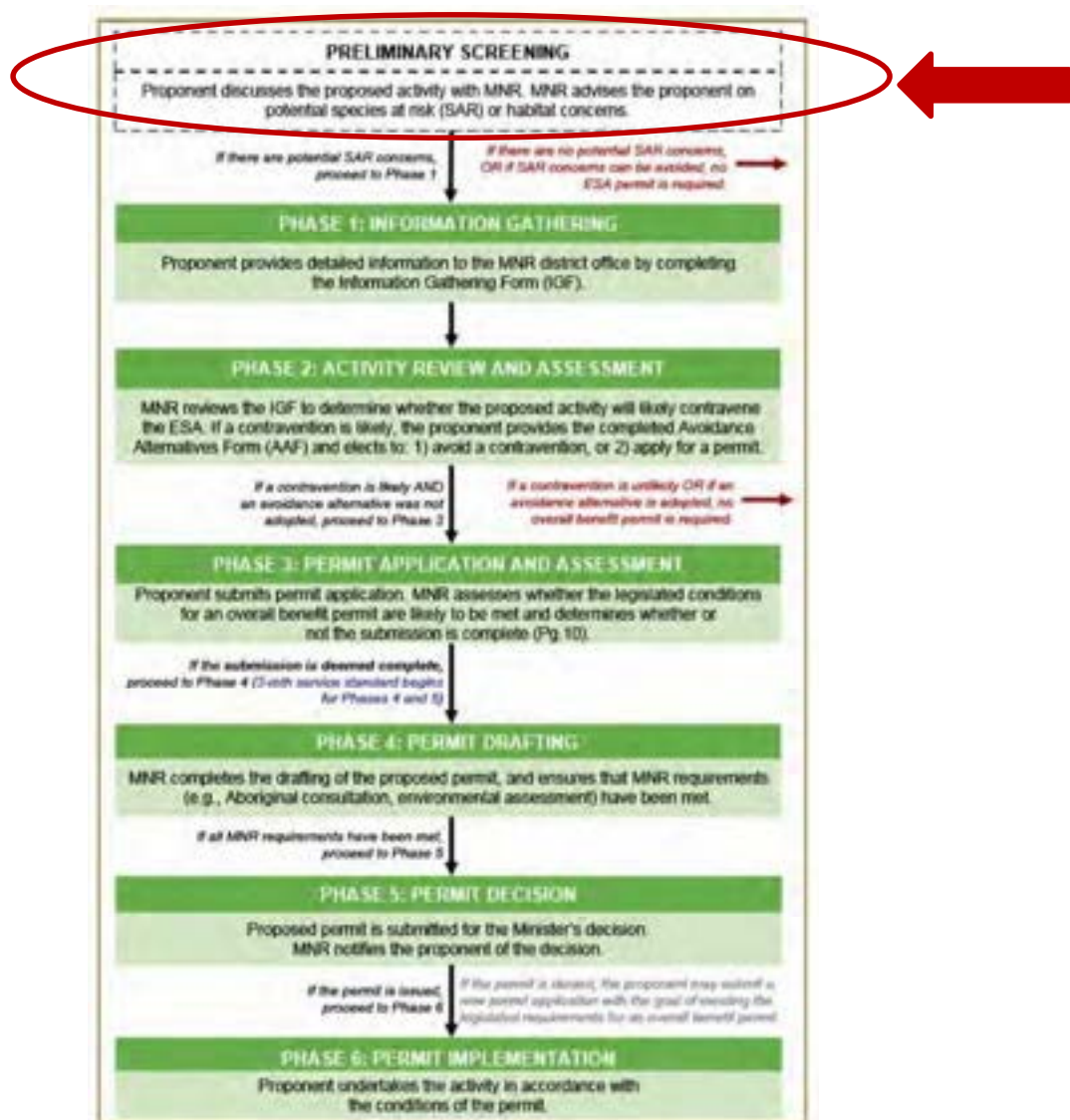
To provide the most efficient service, clients should initiate species at risk screenings and seek information from all applicable information sources identified in this guide, at a minimum, prior to contacting Government of Ontario ministry offices for further information or advice.

1.2 Scope

This guide is a resource for clients seeking to understand if their activity is likely to impact species at risk or if they are likely to trigger the need for an authorization under the ESA. It is not intended to circumvent any detailed site surveys that may be necessary to document species at risk or their habitat nor to circumvent the need to assess the impacts of a proposed activity on species at risk or their habitat. This guide is not an exhaustive list of available information sources for any given area as the availability of information on species at risk and their habitat varies across the province. This guide is intended to support projects and activities carried out on Crown and private land, by private landowners, businesses, other provincial ministries and agencies, or municipal government.

1.3 Background and Context

To receive advice on their proposed activity, clients must first determine whether any species at risk or their habitat exist or are likely to exist at or near their proposed activity, and whether their proposed activity is likely to contravene the ESA. Once this step is complete, clients may contact the ministry at SAROntario@ontario.ca to discuss the main purpose, general methods, timing and location of their proposed activity as well as information obtained about species at risk and their habitat at, or near, the site. At this stage, the ministry can provide advice and guidance to the client about potential species at risk or habitat concerns, measures that the client is considering to avoid adverse effects on species at risk or their habitat and whether additional field surveys are advisable. This is referred to as the “Preliminary Screening” stage. For more information on additional phases in the diagram below, please refer to the *Endangered Species Act Submission Standards for Activity Review and 17(2)(c) Overall Benefit Permits* policy available online at <https://www.ontario.ca/page/species-risk-overall-benefit-permits>



2.0 Roles and Responsibilities

To provide the most efficient service, clients should initiate species at risk screenings and seek information from all applicable information sources identified in this guide prior to contacting Government of Ontario ministry offices for further information or advice.

Step 1: Client seeks information regarding species at risk or their habitat that exist, or are likely to exist, at or near their proposed activity by referring to all applicable information sources identified in this guide.

Step 2: Client reviews and consider guidance on whether their proposed activity is likely to contravene the ESA (see section 3.4 of this guide for guidance on what to consider).

Step 3: Client gathers information identified in the checklist in section 4 of this guide.

Step 4: Client contacts the ministry at SAROntario@ontario.ca to discuss their preliminary screening. Ministry staff will ask the client questions about the main purpose, general methods, timing and location of their proposed activity as well as information obtained about species at risk and their habitat at, or near, the site. Ministry staff will also ask the client for their interpretation of the impacts of their activity on species at risk or their habitat as well as measures the client has considered to avoid any adverse impacts.

Step 5: Ministry staff will provide advice on next steps.

Option A: Ministry staff may advise the client they can proceed with their activity without an authorization under the ESA where the ministry is confident that:

- no protected species at risk or habitats are likely to be present at or near the proposed location of the activity; or
- protected species at risk or habitats are known to be present but the activity is not likely to contravene the ESA; or
- through the adoption of avoidance measures, the modified activity is not likely to contravene the ESA.

Option B: Ministry staff may advise the client to proceed to Phase 1 of the overall benefit permitting process (i.e. Information Gathering in the previous diagram), where:

- there is uncertainty as to whether any protected species at risk or habitats are present at or near the proposed location of the activity; or
- the potential impacts of the proposed activity are uncertain; or
- ministry staff anticipate the proposed activity is likely to contravene the ESA.

3.0 Information Sources

Land Information Ontario (LIO) and the Natural Heritage Information Centre (NHIC) maintain and provide information about species at risk, as well as related information about fisheries, wildlife, crown lands, protected lands and more. This information is made available to organizations, private individuals, consultants, and developers through online sources and is often considered under various pieces of legislation or as part of regulatory approvals and planning processes.

The information available from LIO or NHIC and the sources listed in this guide should not be considered as a substitute for site visits and appropriate field surveys. Generally, this information can be regarded as a starting point from which to conduct further field surveys, if needed. While this data represents best available current information, it is important to note that a lack of information for a site does not mean that species at risk or their habitat are not present. There are many areas where the Government of Ontario does not currently have information, especially in more remote parts of the province. The absence of species at risk location data at or near your site does not necessarily mean no species at risk are present at that location. On-site assessments can better verify site conditions, identify and confirm presence of species at risk and/or their habitats.

Information on the location (i.e. observations and occurrences) of species at risk is considered sensitive and therefore publicly available only on a 1km square grid as opposed to as a detailed point on a map. This generalized information can help you understand which species at risk are in the general vicinity of your proposed activity and can help inform field level studies you may want to undertake to confirm the presence, or absence of species at risk at or near your site.

Should you require specific and detailed information pertaining to species at risk observations and occurrences at or near your site on a finer geographic scale; you will be required to demonstrate your need to access this information, to complete data sensitivity training and to obtain a Sensitive Data Use License from the NHIC. Information on how to obtain a license can be found online at <https://www.ontario.ca/page/get-natural-heritage-information>.

Many organizations (e.g. other Ontario ministries, municipalities, conservation authorities) have ongoing licensing to access this data so be sure to check if your organization has this access and consult this data as part of your preliminary screening if your organization already has a license.

3.1 Make a Map: Natural Heritage Areas

The Make a Natural Heritage Area Map (available online at http://www.gisapplication.lrc.gov.on.ca/mamnh/Index.html?site=MNR_NHLUPS_NaturalHeritage&viewer=NaturalHeritage&locale=en-US) provides public access to natural heritage information, including species at risk, without the user needing to have Geographic Information System (GIS) capability. It allows users to view and identify generalized species at risk information, mark areas of interest, and create and print a custom map directly from the web application. The tool also shows topographic information such as roads, rivers, contours and municipal boundaries.

Users are advised that sensitive information has been removed from the natural areas dataset and the occurrences of species at risk has been generalized to a 1-kilometre grid to mitigate the risks to the species (e.g. illegal harvest, habitat disturbance, poaching).

The web-based mapping tool displays natural heritage data, including:

- Generalized Species at risk occurrence data (based on a 1-km square grid),
- Natural Heritage Information Centre data.

Data cannot be downloaded directly from this web map; however, information included in this application is available digitally through Land Information Ontario (LIO) at <https://www.ontario.ca/page/land-information-ontario>.

3.2 Land Information Ontario (LIO)

Most natural heritage data is publicly available. This data is managed in a large provincial corporate database called the LIO Warehouse and can be accessed online through the LIO Metadata Management Tool at <https://www.javacoeapp.lrc.gov.on.ca/geonetwork/srv/en/main.home>. This tool provides descriptive information about the characteristics, quality and context of the data. Publicly available geospatial data can be downloaded directly from this site.

While most data are publicly available, some data may be considered highly sensitive (i.e. nursery areas for fish, species at risk observations) and as such, access to some data maybe restricted.

3.3 Additional Species at Risk Information Sources

- The Breeding Bird Atlas can be accessed online at <http://www.birdsontario.org/atlas/index.jsp?lang=en>
- eBird can be accessed online at <https://ebird.org/home>
- iNaturalist can be accessed online at <https://www.inaturalist.org/>
- The Ontario Reptile and Amphibian Atlas can be accessed online at <https://ontarionature.org/programs/citizen-science/reptile-amphibian-atlas>
- Your local Conservation Authority. Information to help you find your local Conservation Authority can be accessed online at <https://conservationontario.ca/conservation-authorities/find-a-conservation-authority/>

Local naturalist groups or other similar community-based organizations

- Local Indigenous communities
- Local land trusts or other similar Environmental Non-Government Organizations
- Field level studies to identify if species at risk, or their habitat, are likely present or absent at or near the site.
- When an activity is proposed within one of the continuous caribou ranges, please be sure to consider the caribou Range Management Policy. This policy includes figures and maps of the continuous caribou range, can be found online at <https://www.ontario.ca/page/range-management-policy-support-woodland-caribou-conservation-and-recovery>

3.4 Information Sources to Support Impact Assessments

- Guidance to help you understand if your activity is likely to adversely impact species at risk or their habitat can be found online at <https://www.ontario.ca/page/policy-guidance-harm-and-harass-under-endangered-species-act> and <https://www.ontario.ca/page/categorizing-and-protecting-habitat-under-endangered-species-act>
- A list of species at risk in Ontario is available online at <https://www.ontario.ca/page/species-risk-ontario>. On this webpage, you can find out more about each species, including where it lives, what threatens it and any specific habitat protections that apply to it by clicking on the photo of the species.

4.0 Check-List

Please feel free to use the check list below to help you confirm you have explored all applicable information sources and to support your discussion with Ministry staff at the preliminary screening stage.

- ✓ Land Information Ontario (LIO)
- ✓ Natural Heritage Information Centre (NHIC)
- ✓ The Breeding Bird Atlas
- ✓ eBird
- ✓ iNaturalist
- ✓ Ontario Reptile and Amphibian Atlas
- ✓ List Conservation Authorities you contacted: _____

- ✓ List local naturalist groups you contacted: _____

- ✓ List local Indigenous communities you contacted: _____

- ✓ List any other local land trusts or Environmental Non-Government Organizations you contacted: _____

- ✓ List and field studies that were conducted to identify species at risk, or their habitat, likely to be present or absent at or near the site: _____

- ✓ List what you think the likely impacts of your activity are on species at risk and their habitat (e.g. damage or destruction of habitat, killing, harming or harassing species at risk): _____

Ministry of Natural Resources and Forestry

Land Use Planning and Strategic Issues
Section
Southern Region

Regional Operations Division
300 Water Street
Peterborough, ON K9J 3C7
Tel.: 705 761-4839

Ministère des Richesses naturelles et des Forêts

Section de l'aménagement du territoire et des questions stratégiques
Région du Sud

Division des opérations régionales
300, rue Water
Peterborough (ON) K9J 3C7
Tél. : 705 761-4839



September 27, 2023

[REDACTED]

**SUBJECT: Fullarton Dam Rehabilitation Class Environmental Assessment
– Notice of Intent to Undertake a Remedial Project**

The Ministry of Natural Resources and Forestry (MNRF) received the Notice of Intent on September 26, 2023. Thank you for circulating this to our office. Please note that we have not completed a screening of natural heritage or other resource values for the project at this time. This response, however, does provide information to guide you in identifying and assessing natural features and resources as required by applicable policies and legislation, as well as engaging with the Ministry for advice as needed.

Please also note that it is the proponent's responsibility to be aware of, and comply with, all relevant federal or provincial legislation, municipal by-laws or other agency approvals.

Natural Heritage

MNRF's natural heritage and natural resources GIS data layers can be obtained through the Ministry's [Land Information Ontario \(LIO\)](#) website. You may also view natural heritage information online (e.g., Provincially Significant Wetlands, ANSI's, woodlands, etc.) using the [Make a Map: Natural Heritage Areas](#) tool.

We recommend that you use the above-noted sources of information during the review of your project proposal.

Natural Hazards

A series of natural hazard technical guides developed by MNRF are available to support municipalities and conservation authorities implement the natural hazard policies in the Provincial Policy Statement (PPS). For example, standards to address flood risks and the potential impacts and costs from riverine flooding are addressed in the *Technical Guide River and Stream Systems: Flooding Hazard Limit (2002)*. We recommend that you consider these technical guides as you assess specific improvement projects that can be undertaken to reduce the risk of flooding.

Petroleum Wells & Oil, Gas and Salt Resources Act

There may be petroleum wells within the proposed project area. Please consult the Ontario Oil, Gas and Salt Resources Library website (www.ogslibrary.com) for the best-known data on any wells recorded by MNRF. Please reference the 'Definitions and Terminology Guide' listed in the publications on the library website to better understand the well information available. Any oil and gas wells in your project area are regulated by the *Oil, Gas and Salt Resource Act*, and the supporting regulations and operating standards. If any unanticipated wells are encountered during development of the project, or if the proponent has questions regarding petroleum operations, the proponent should contact the Petroleum Operations Section at POSRecords@ontario.ca or 519-873-4634.

Fish and Wildlife Conservation Act

Please note, that should the project require:

- The relocation of fish outside of the work area, a Licence to Collect Fish for Scientific Purposes under the *Fish and Wildlife Conservation Act* will be required.
- The relocation of wildlife outside of the work area (including amphibians, reptiles, and small mammals), a Wildlife Collector's Authorization under the *Fish and Wildlife Conservation Act* will be required.

Public Lands Act & Lakes and Rivers Improvement Act

Some Project may be subject to the provisions of the *Public Lands Act* or *Lakes and River Improvement Act*. Please review the information on MNRF's web pages provided below regarding when an approval is, or is not, required. Please note that many of the authorizations under the *Lakes and Rivers Improvement Act* are administered by the local Conservation Authority.

- For more information about the *Public Lands Act*: <https://www.ontario.ca/page/crown-land-work-permits>
- For more information about the *Lakes and Rivers Improvement Act*: <https://www.ontario.ca/page/lakes-and-rivers-improvement-act-administrative-guide>

After reviewing the information provided, if you have not identified any of MNRF's interests stated above, there is no need to circulate any subsequent notices to our office. If you have identified any of MNRF's interests and/or may require permit(s) or further technical advice, please direct your specific questions to the undersigned.

If you have any questions or concerns, please feel free to contact me.

Best Regards,

[Redacted signature block]



[REDACTED]

10 April 2024

[REDACTED]

[REDACTED]

Re: Fullarton Dam Environmental Assessment - Alternatives

Dear Madams:

The Ontario Rivers Alliance (ORA) is a not-for-profit grassroots organization with a mission to protect, conserve and restore riverine ecosystems across the province. The ORA advocates for effective policy and legislation to ensure that development affecting Ontario rivers is environmentally and socially sustainable.

An important impact of dams and their associated reservoirs that was not mentioned in the presentation are the copious amounts of greenhouse gas (GHG) emissions, including methane, that will continue to be generated for the full life cycle of the dam and pond. The reservoir warms in the sun and collects sediment and biomass behind the dam, creating the perfect environment for microbes to feast on the biomass and decompose submerged organic matter in a process that results in carbon, methane and nitrous oxide emissions being released into the atmosphere.

ORA is in perfect alignment with the preferred management strategy for the dam, to be selected based on natural environment considerations and social uses associated with the Fullarton Conservation Area.

In consideration of the purpose of this Environmental Assessment, as well as the four alternatives for the Fullarton Dam and its reservoir, the ORA offers our strong support and recommendation for Option 4 – dam decommissioning and watercourse restoration.

Full dam decommissioning and watercourse restoration comply with the preferred management strategy and criteria in the following ways:

1. Removes all dam safety deficiencies and public safety risks.
2. Removes dam monitoring, maintenance and management responsibilities.
3. Removes the risk of floodwaters backing up behind the dam and flooding stakeholders.
4. Restores stream flow, reduces stream temperature and improves water quality.
5. Increases stream resilience to a warming climate.
6. Increases the extent of uninterrupted fish habitat.
7. Converts a GHG emitter into a GHG sink.
8. A healthy, free-flowing river provides for the perfect family outing on a beautiful sunny day.



In addition, full dam decommissioning would improve stream temperature and habitat conditions for temperature-sensitive fish species, such as the Mottled Sculpin, and for the Northern Sunfish and Rainbow Shell Mussel, which is of Special Concern.

Thank you for this important opportunity to comment and provide our recommendations!

[Redacted signature block containing several lines of blacked-out text]

March 28, 2024

[REDACTED]
[REDACTED]
[REDACTED]

Re: Fullarton Dam Environmental Assessment – Public Comment Submission

Good afternoon,

I would like to thank the UTRCA staff and project consultants for their efforts to date and for providing communication and information respecting this project to the public in a timely manner. The information related to the processes associated with this project is helpful in keeping those of us who are interested informed.

As a user of the existing day-use trail system located at the Fullarton CA, my input is based around a desire to see that consideration is given to maintaining public access to the existing passive recreational uses that are permitted currently at this CA.

As a long time visitor to this space, I appreciate the spirit of the initial land donation which was done for the purpose of creating a naturalized area which could be enjoyed by future generations. I am grateful to be one of these – and it is important to me that we preserve these spaces.

I am cognizant of the environmental and resource challenges associated with the existing dam and maintenance thereof. The assessment documentation provided to date outlines the existing conditions well – and I trust that the consultants who undertook this work are knowledgeable, and have presented sound recommendations and alternatives to move forward.

Further, I know that CA's in Ontario are experiencing a time of transition – the new legislative requirements around land inventories, programs and services, and the potential for future disposition of CA lands is more than a small challenge for our CA's.

I would ask that the UTRCA and maintain or enhance the trail network as is possible, and when moving forward with the implementation of the preferred alternative, make efforts to maintain public access to the outdoor space where possible during the transition period.

Sincerely,

[REDACTED]

Appendix G.4 Indigenous Consultation



- Home
- About
- Consultations
- GeoKeeper
- My organizations
- My contacts
- Conversations

Fullarton Dam Environmental Assessment


Project access requirements:




- Uses existing access
- Requires creating new access
- Uses existing access and requires creating new access

Project area hectare Area of new cut (disturbance) hectare

Please upload a spatial attachment that meets requirements (see the help button next to the upload button). The shapes uploaded should indicate the scope of impact. For projects without physical impact, such as policy change consultations, a point giving the office location of the submitter is preferable to the entire area of consultation as that creates problems in spatial analysis.

[📁 UPLOAD SPATIAL FILES](#) 🔍 No files uploaded



-  Organize pages
-  Add comments
-  Request e-signatures
-  Scan & OCR
-  Protect a PDF
-  Redact a PDF
-  Compress a PDF
-  Prepare a form
-  Fill & Sign



Deshkan Zibiing
Chippewas of the Thames
First Nation Treaties, Lands
and Environment

320 Chippewa Road
Manley, ON, N0L 1Y0
Tel: 519-289-3555
Fax: 519-289-2230
info@cottfn.com

Project Name:

Fullarton Dam Environmental Assessment

FN Consultation ID:

Consulting Org Contact:

[REDACTED]

Consulting Organization:

[Upper Thames River Conservation Authority](#)

Date Received:

Tuesday, October 10, 2023

October 29, 2023

Dear [REDACTED]

Chippewas of the Thames First Nation (COTTFN) has received the notice of intent concerning the Fullarton Dam Environmental Assessment, dated October 10, 2023. The proposed project is located within the Huron Tract Treaty, and within the Big Bear Creek Additions to Reserve (ATR) land selection area, as well as COTTFN Traditional Territory.

After screening this project, we have identified it to be of moderate concern. As this time, I am requesting that COTTFN be updated as project details and updates emerge. UTRCA can continue to upload any relevant documents on the NationsConnect Portal for review. We also would like to be added to the email list of interested parties.

Throughout the project, if there is a need for an Archaeology Assessment, we require notification and the opportunity to actively participate by sending First Nation Field Liaisons on behalf of this First Nation.

We look forward to continuing this open line of communication. To implement meaningful consultation, COTTFN has developed its own protocols - a document and a process that will guide positive working relationships. We would be happy to meet with you to review COTTFN's Consultation Protocols if needed. As per 'Appendix C' of the Wiindmaagewin, we will be sending an invoice based on our time to review the documentation pertinent to the project. The invoice will come from COTTFN's Finance Department. Please do not hesitate to contact me if you need further clarification of this letter.

Sincerely,

Original Signed

[REDACTED]

Subject: Re: Fullarton Dam EA - Notice of Intent

Good afternoon,

Thank you for your comments regarding the Fullarton Dam Environmental Assessment. Please see the attached response letter.

We look forward to working with you on this ongoing project.

Thank you,



>>>

From: [Redacted]
To: [Redacted]
CC: [Redacted]

Date: 2023-10-02 10:18 AM
Subject: EXTERNAL EXTERNAL: Re: Fullarton Dam EA - Notice of Intent

Good morning [Redacted],

I hope this message finds you well.

CKSPFN Consultation is writing to address some important aspects regarding the Class Environmental Assessment (Class EA) for the Fullerton Dam.

1. Future Correspondence: As previously mentioned, kindly inform the UTRCA and Stantec contact involved in this project to direct all future correspondence to the Consultation email channel via [Redacted].
2. Archaeological Assessment: CKSPFN Consultation anticipates the Stage 2 archaeological assessment report due to the significant archaeological potential in the study area (77%). We request information on scheduling for Stage 2 test-pitting and expect UTRCA to provide funding for a First Nation archaeological monitor to supervise archaeological activities.

3. Capacity Funding: To thoroughly review the Class EA report and related documentation, CKSPFN Consultation estimates needing approximately \$5,000 in capacity funding. Further engagement for cultural and natural heritage considerations may require additional support.
4. Reports Caution: The Cultural Heritage, Natural Heritage, and 2017 Existing Environmental Conditions reports lack evidence of engagement with Indigenous communities or groups. CKSPFN Consultation advises against relying solely on these reports for the Class EA.

We appreciate your attention to these matters and anticipate your collaboration as we progress with the project. Please don't hesitate to contact us for any inquiries or clarification needed.

Miigwetch,

CKSPFN Consultation

From: [REDACTED]

Date: Friday, September 29, 2023 at 8:19 AM

To: [REDACTED]

Cc: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Fullarton Dam EA - Notice of Intent

Good morning, [REDACTED]

CKSPFN administration forwarded our team a notice of intent for an EA of the Fullarton dam.

For all consultation notices, please send directly to this email -

[REDACTED]

We look forward to ongoing collaboration with the Upper Thames River Conservation Authority.

Miigwetch,

CKSPFN Consultation

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January 25, 2024

Via email

Attention: Consultation Team
Chippewas of Kettle and Stony Point First Nation
6247 Indian Lane, Lambton Shores

Dear Consultation Team,

RE: Upper Thames River Conservation Authority (UTRCA), Fullarton Dam Rehabilitation Environmental Assessment, Request to Consult

Thank you for your feedback provided via email on October 2, 2023.

The Upper Thames River Conservation Authority believes that consultation with First Nations is an integral part of the Class EA process, and understands that the study area is important to you. We acknowledge that the Cultural Heritage, Natural Heritage, and 2017 Existing Environmental Conditions work was done prior to consultation with Indigenous communities and we welcome your involvement as this work is updated as part of this ongoing study. We see the opportunity for naturalizing the flow as an important improvement to the Natural Heritage of the area and we would appreciate your involvement in this project as you have outlined in your email.

UTRCA would like to:

- 1) Provide the requested capacity funding to review the Environmental Assessment reports and related documentation including updated information. We look forward to receiving your input into this work.
- 2) Extend an invitation and provide capacity funding for a First Nations Archeological Monitor to help supervise the Stage 2 Archeological Assessment.
- 3) Meet with you to discuss the project in more detail prior to public consultation.

We look forward to meeting with you, please provide us with some dates you are free to discuss the project further. As requested we will direct future correspondence to the Consultation email channel via [REDACTED]

Sincerely,

[Redacted signature block]

Cc: [Redacted recipient list]

From: [REDACTED]
Cc: [REDACTED]
Subject: EXTERNAL EXTERNAL Consultation submitted
Date: October 5, 2023 1:45:47 PM

The following project has been submitted for review on NationsConnect:

Fullarton Dam Environmental Assessment
<https://nationsconnect.ca/i-Consultation-9247>

Once your project details have been reviewed for completion and accuracy, the project will be sent to the selected communities.

Please log back in to NationsConnect to check the status of your project.

[REDACTED]

Regards,
The NationsConnect Support Team

From: [REDACTED]
To: [REDACTED]
Subject: FW: Fullarton Dam EA - Notice of Intent
Date: September 29, 2023 9:36:48 AM

[FYI for consultation contact.](#)

[REDACTED]

[REDACTED]

[REDACTED]



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From: [REDACTED]
Sent: Friday, September 29, 2023 8:20 AM

[REDACTED]

Subject: Fullarton Dam EA - Notice of Intent

Good morning, [REDACTED]

CKSPFN administration forwarded our team a notice of intent for an EA of the Fullarton dam.

For all consultation notices, please send directly to this email - consultation@kettlepoint.org.

We look forward to ongoing collaboration with the Upper Thames River Conservation Authority.

Miigwetch,

CKSPFN Consultation



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From: [REDACTED]
To: [REDACTED]
Subject: FW: Fullarton Dam Environmental Assessment- Notice of Intent
Date: September 27, 2023 11:07:30 AM
Attachments: [image001.png](#)
[NationsConnect User Guide.pdf](#)

FYI

[REDACTED]

[REDACTED]

[REDACTED]



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From: [REDACTED]
Sent: Wednesday, September 27, 2023 10:12 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Fullarton Dam Environmental Assessment- Notice of Intent

Good morning,

The Chippewas of the Thames First Nation has transitioned to using NationsConnect to receive consultation and engagement requests. **Notifications or requests sent over email, mail or fax are not considered submitted and will not be reviewed.**

To register for NationsConnect, and submit your request, please visit [REDACTED]

Along with the project information, a spatial file in .kml, .kmz, or .zip shapefile formats will be required to submit your request. Once your project has been submitted, you can attach additional files or send updated communication through the Conversations feature on NationsConnect.

If you have any technical questions about NationsConnect, please reach out to [REDACTED]

[REDACTED]

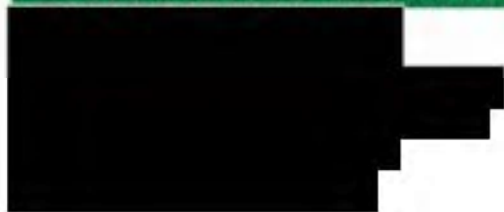


[Visit us online at cottfn.com](http://cottfn.com)

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From: [REDACTED]
Sent: Tuesday, September 26, 2023 1:21 PM
Cc: [REDACTED]
Subject: Fullarton Dam Environmental Assessment- Notice of Intent

Good afternoon,
I hope this email finds you well, my name is [REDACTED] and I work at the Upper Thames River Conservation Authority. This email is to inform you that the Upper Thames River Conservation Authority and Stantec have initiated an Environmental Assessment of the Fullarton Dam. Attached is the Notice of Intent, I will continue to email you and provide you with updates as the project progresses.
Please do not hesitate to contact me and [REDACTED] for any questions or concerns you may have.
Thank you,



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[Redacted]

[Redacted]

CONSULTATION PROTOCOL



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PART I: Introduction and Purpose

1. History of Deshkan Ziibiing Aki (Chippewas of the Thames First Nation)

The watersheds of southwestern Ontario have been the home of Anishinaabe people for millennia. Deshkan Ziibiing edbendaagzijig, “those that belong to Antler River,” comprise one of the traditional Anishinaabe nations governing the territory of Waawayaatanong or “Round Lake.” This region is known as the third stopping place of the Water Drum on its sacred journey to Madeline Island, centuries before the era of colonization.

The purpose of this protocol is to ensure that our relationships with others develops in ways that respect Deshkan Ziibiing’s responsibilities to mother earth and protects the full range of our rights. This protocol shall serve to guide governments and third-party proponents who are interested in pursuing healthy and mutually beneficial relationships with Deshkan Ziibiing within our traditional territory.

2. Territory

Deshkan Ziibiing edbendaagzijig’s traditional territory was recognized and affirmed by Canada in the Big Bear Creek Land Claim Settlement Agreement (2013). Within this territory, we are also signatory to pre-Confederation Treaties with the British Crown. Traditional Anishinaabe territory in southwestern Ontario includes lands addressed in the McKee Treaty (1790), the London Township Treaty (1796), the Sombra Township Treaty (1796), the Longwoods Treaty (1822), and the Huron Tract Treaty (1827). Deshkan Ziibiing is party with other Anishinaabe nations to several of these treaties but is the sole Anishinaabe party to the Longwoods Treaty.

A comprehensive description of our ancestral lands is attached as Appendix “A” together with a map.

We who are Deshkan Ziibiing edbendaagzijig continue our commitment to protect the watersheds of the Thames River, Bear Creek, the Au Sable River, and the Erie and Huron

lakeshores. We regard all of our ancestral lands as part of our consultation territory. Our treaties did not “surrender” our lands or waters.

3. Community Profile

As a community, Deshkan Zibiing has always welcomed and incorporated people from other nations. Our families have always shared a common world around the Great Lakes with the families of the Pottawatomis and the Odawas. Delawares (Lenape) and Oneidas were welcomed here between 1791 and 1840 and allowed to create their own communities on land adjacent to and within our homeland. At various times, other Haudenosaunee, Shawnees, Huron/Wendats, as well as Anglo or French traders and settlers marrying our people, have all been incorporated into our society. Today, our population is approximately 3,200 people, with 1,000 residing within Deshkan Zibiing’s unceded reserve land.

4. Historical Relationships

Deshkan Zibiing’s relationships with other nations have generally been pursued through the creation of Treaty partnerships.

The great Treaty of Niagara (1764) emerged from this long practice and is the template for all subsequent treaties between Britain and Deshkan Zibiing. The Two Row Wampum, a belt the Haudenosaunee first used with the Dutch in 1613, recognized a relationship of equals.

The imposition of colonialism and Canada’s shameful conduct in breaking sacred promises contained in our Treaties have had a lasting effect on the people of Deshkan Zibiing. Colonial rule presumed the ‘surrender’ of well over 90% of our traditional territory. Efforts to ‘civilize’ and assimilate our people, through Canada’s unilateral imposition of legislation, harsh policies, and the residential school system have taken a toll on our people and have unlawfully infringed our human rights as well as our Aboriginal and Treaty rights.

However, despite Canada’s assertions of sovereignty over our lands and people, we have remained resilient and have continued to assert our inherent rights as a sovereign nation.

Deshkan Ziibiing remains intent on protecting our traditional territory. Our vision for the engagement formalized in this protocol remains that of Tecumseh, our Treaty chiefs, and the Two Row Wampum.

We are fundamentally committed to self-determination and the preservation and restoration of our Anishinaabe jurisdiction and heritage. We expect that those with whom we engage in matters respecting our traditional territories will act in a manner consistent with the principles contained in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and shall seek to fulfil the objectives of reconciliation.

We are focused on fair partnerships based on our free, prior, and informed consent and the wise and respectful use of our traditional lands and waters.

5. Principles of Intersocietal Governance and Communication

Our engagement with other communities stems from our recognition of several principles, which derive from our Creator's gifts to us of life and land, and from our Creator having placed us within a world full of relationships with others. Our responsibility to maintain these relationships, in accordance with principles derived from our creation story, is central to our continued wellbeing as a people. These principles guided our ancestors in their Treaty partnerships historically, and they remain foundational today in our dealings with federal, provincial, and municipal bodies. They indicate our fundamental orientation towards all matters of discussion concerning our rights and responsibilities and underpin our approach to "the duty to consult" as articulated by the Supreme Court of Canada in *Haida Nation* (2004) and subsequent cases.

Our principles provide a basis for fruitful and healthy intersocietal development, governance, and communication.

a. Principles of Governance

(1) Gdinawendimi: "We are all related." A basic truth of our creation story is that we are related to everything that shares the world with us. We expect that all consultation and

discussion with governments and third parties will focus on how the proposed project will foster this relatedness.

(2) Mno-bmaadiziwin: “The good life.” We understand that the Creator placed us within our world’s web of spiritual and bio-physical relationships in order for life to flourish. Life flourishes when we base our relationships on the gifts of the Seven Grandfathers: Nbwaakaawin “wisdom,” Zaagidiwin “love,” Minaadendamowin “respect,” Aakde’ewin – or Zoongide’ewin “bravery,” Gwakwaadiziwin “honesty,” Dbaadendiziwin “humility,” Debwewin “truth.” Proposals should enhance the good life for all our relations and discussions regarding those proposals should be grounded in the Seven Grandfather teachings.

(3) Naaknigewin: “Law”. We expect that all consultation and discussion with governments and third parties will aim to respect and embody our laws, including our Chi-Inaakonigewin, as the measure for our decisions provided by the Creator.

(4) Anishinaabe dbendizawin: “Anishinaabe independence,” or “self-determination.” We were created to live as an independent people, and are therefore able to ally with, but not to become subject to, other independent peoples. The Two Row Wampum embodies this alliance of equals, each party free to follow its own way without interference, but each also attentive to the wellbeing of the other. We expect that all proposals from governments will respect this most basic tenet of the Two Row Wampum.

b. Principles of communication

(1) Zgaswediwin: “To smoke together.” When Anishinaabeg met in council, they began with the ceremony of smoking. In our stories, Nanabush provided our ancestors with the pipe of peace to help us foster the path of goodwill and reconciliation towards earth, plants, animals, and our fellow humans. Asemaa, “tobacco,” carries our thoughts and prayers to the Creator, and demonstrates our desire to speak the truth, and to build relationships that reflect

gratitude in our dependence on the natural order. We expect that all consultation will be grounded in truth, reconciliation, and gratitude.

(2) Ginoondiwin: “talk to each other.” Our practice has been to reach decisions in common, after full and satisfying discussion addressing the concerns of all involved. Consultation must be designed and implemented with flexibility, respecting the nature of the rights potentially impacted and the scope of the possible impacts. Deshkan Ziibiing expects to determine the level of consultation that is necessary and appropriate where our rights and interests are potentially impacted.

(3) Gii-nenmaasiinaawaan: “they didn’t let them”. In all consultations which impact our Treaty and traditional lands, we expect Crown and Proponents to adhere to the principle of Free, Prior, and Informed Consent, embodied in article 32(2) of the United Nations Declaration on the Rights of Indigenous Peoples (2007).

Chi-dibaakinigewin: a “great judgment,” Our ancestors negotiated with settler governments to reach mutually beneficial agreements. However, colonial governments have ignored obligations under these solemn agreements and have justified erosion of our rights over time. We expect that governments will adhere to the true intent of treaties and agreements and will respect the gravity of the promises that are made.

c. Principles of Co-Existence and Economy

(1) Gdoonaaganinaan: “Our Dish,” the agreement reached with the Haudenosaunee in 1701, enabled our respective peoples to hunt and harvest in mutual safety, and ensured mutual wellbeing, within our ancestral lands. We expect all Proponents to demonstrate how proposed projects will promote mutual safety and wellbeing.

(2) Maatookiiwin: “sharing”. Our Treaties concern our sharing of the lands that the Creator has shared with us. There are no Anishinaabemowin transcriptions of treaties that

use the word *adaawaage*, meaning “to sell.” It is our expectation that in the spirit of sharing what the Creator has provided, benefits related to projects will also be shared.

(3) Gnawenjigewin: “to take care of things.” Our use of the lands and waters of our territory is subject to Anishinaabe principles of stewardship, derived from our creation story, and instilled through the growth of Traditional Knowledge. We expect that all project proposals will respect and incorporate conservation practices and Traditional Knowledge of Deshkan Ziiibiing.

(4) Niigaan-inaabiwin: “looking ahead”. Decision-making that respects the full web of relationships within which the Creator has placed us, and aims to chart the impacts of our choices as far as possible into the future to ensure harmony and balance. We expect project proposals with the potential to affect our lands, waters, air, health and wellbeing to demonstrate as concretely as possible the long- term implications for Deshkan Ziiibiing.

6. Statement of Reserved Rights

The rights that Deshkan Ziiibiing exercises in relation to our traditional lands, Treaty lands, reserve lands, and Addition to Reserve lands, are inherent - grounded most basically in the Creator’s gift of lands, waters, and way of life to *ndodeminaanig*, “our clans.” These rights are embodied in our historical and ongoing occupation of our territory, and in our practice of self- determination as a people.

Our rights as a self-determining people are recognized in several instruments, including, the Royal Proclamation of 1763, our Treaties, s.35(1) of *Canada’s Constitution Act* and the *United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)(2007)*.

UNDRIP recognizes, among other things, the need to respect and promote the inherent rights of Indigenous peoples, including our right to self-determination within our traditional lands and territories. Our rights derive from our political, economic, and social structures and from our cultures, spiritual traditions, histories, and philosophies. UNDRIP encourages States to comply

with and effectively implement all their obligations as they apply to Indigenous peoples under international instruments in consultation and cooperation with the peoples concerned. Relevant articles include, but are not limited to:

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 26:

Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

Article 32:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or

territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

In June 2021, Canada passed into law the *United Nations Declaration on the Rights of Indigenous Peoples Act* which affirmed UNDRIP as a universal international human rights instrument with application in Canadian law; thereby providing a framework for Canada's implementation of UNDRIP.

This legislation represents a step toward implementing UNDRIP as a framework for reconciliation as recommended by the Truth and Reconciliation Commission of Canada in their "Calls to Action" – which Canada committed to addressing.

Within the *UNDRIP Act*, Canada rejects all forms of colonialism and commits to advancing relations with Indigenous peoples that are based on good faith and on the principles of justice, democracy, equality, non-discrimination, good governance, and respect for human rights. Canada further committed to taking effective measures including legislative, policy and administrative measures, in consultation and cooperation with Indigenous peoples, to achieve the objective of UNDRIP.

This *Wiindmaagewin* represents a framework for consultation which is consistent with the principles of UNDRIP and Canada's stated commitment to implementing these principles to achieve reconciliation; however, the *Wiindmaagewin* is based on the Nation's inherent rights which are not dependent on Canada's legal system or recognition.

PART II Obligation to Consult

7. Purpose and Application

7.1. This Consultation Process balances Deshkan Ziibiing's laws with the legal principles derived from the western common law as well as international instruments, such as UNDRIP. We adhere to the principle of Free, Prior, and Informed Consent. Therefore, where any proposed Activity within Deshkan Ziibiing's Traditional or Treaty Territory, Additions to Reserve Land or any land over which Deshkan Ziibiing claims Aboriginal title, may potentially cause an impact to the environment, health or Deshkan Ziibiing's rights or asserted rights, including changes to laws, regulations or policies, Deshkan Ziibiing expects the Crown and Proponents to respect and follow the processes set forth in this Wiindmaagewin.

7.2. Nothing in this Protocol, nor the process or documents derived from it shall be construed to abrogate or derogate from the rights of Deshkan Ziibiing, regardless of whether such rights are recognized, established or defined.

7.3. Nothing in this Protocol may be construed to limit any consultation or accommodation obligations owed to Deshkan Ziibiing by the Crown or any Proponent.

7.4. Deshkan Ziibiing retains the right to challenge through the legal process, any Activity having the potential to impact the citizens or lands of Deshkan Ziibiing.

8. Definitions

- a. Activity** means any Crown or Proponent activity.
- b. Crown** means either or both of the governments of Canada and Ontario and its component parts and agents, as well as its designates including municipalities.

- c. Crown Activity** means:
- New or changes to legislation, regulations, policies, programs and plans that provide authority to or are implemented or to be implemented by the Crown;
 - Issuance, variation, approval, suspension or cancellation of permits, licenses, authorizations, renewals or anything similar by the Crown;
 - Any unfunded mandate or obligation sought to be imposed by the Crown upon Deshkan Ziibiing without provision of corresponding adequate resources, financial or otherwise;
 - Any failure to act by the Crown where the Crown is obligated to take action to protect or given effect to Deshkan Ziibiing’s Aboriginal or Treaty rights; and
 - Any other action which may be authorized or undertaken by the Crown.
- d. Proponent** means the party (which could include the Crown, a municipality, a Land Use Planning Authority, a corporation, partnership, sole proprietorship, association, organization, person or the like) that proposes to undertake or is undertaking the Proponent Activity but excludes any business in which Deshkan Ziibiing has a majority interest or financial control.
- e. Proponent Activity** means any Activity pursuant or incidental to anything authorized or ordered by the Crown or that the Crown is contemplating authorizing or ordering. This includes Planning Authorities who are required to engage and coordinate with Indigenous communities on land use planning matters and consider our interests when identifying, protecting, and managing cultural heritage and archaeological resources. It does not include any Activity of Deshkan Ziibiing or a member of the Nation or a business in which members of the Nation have majority control or interest which Activity Deshkan Ziibiing has authorized.
- f. Impact** means any effect that an Activity may have on the land, economy or environment within or around Deshkan Ziibiing’s Reserve, Additions to Reserve, Traditional or Treaty territory or any adverse effect on the health of any Deshkan Ziibiing member or on the Aboriginal or Treaty rights of Deshkan Ziibiing or any of its

citizens. This assessment of impact may relate to the cumulative impacts (long-term, ongoing, intermittent or repetitive) of a Proponent's proposed Activity or it may relate to the cumulative impacts of development generally which, as a whole will have an adverse impact on the right(s) of Deshkan Ziiibiing.¹

g. **Protocol** means this Wiindmaagewin, the Deshkan Ziiibiing Consultation Protocol.

9. Objectives and Responsibilities

9.1. Objectives of Consultation

Appropriate consultation is a dialogue between communities, a mutual engagement, rather than a mere notification of an external party's intention. Consultation ensures Deshkan Ziiibiing is fully informed about Activities that may affect our Nation's rights and interests; it promotes and deepens the path of reconciliation that will ensure a healthier future for both settler and Anishinaabe communities; it encourages the development of projects that are mutually beneficial to all parties; and it ensures that projects have wide legitimacy both within Deshkan Ziiibiing, and also within the larger network of Anishinaabe nations at home around the Great Lakes.

9.2. Responsibilities of the Parties

All parties engaged in consultation activities have responsibilities in common. Among these are the responsibilities to participate in good faith, and to treat each other with respect, transparency, and honesty. In addition, each party has its own unique responsibilities to ensure that the outcome of consultation is successful and good relations endure.

9.2.1 Crown Responsibilities

Where Deshkan Ziiibiing asserts rights or interests which may potentially be impacted, the

¹ This is consistent with evolving case law on cumulative impacts: See *Yahey v British Columbia*, 2021 BCSC 1287 ([Yahey](#))

Crown must act honourably. This requires that any rights that are protected or potentially protected by s.35 of the Constitution are recognized and respected. In all situations, the honour of the Crown requires reasonable, good faith efforts to engage in meaningful consultation and, where appropriate, accommodation to reconcile the interests at stake. Consultation is an ongoing obligation, and this duty may change during the course of consultation based on changing circumstances and information.

Specific Crown responsibilities include, but are not limited to:

- a) Full and complete collaboration with Deshkan Ziibiing, taking into account the Community's input and perspective in designing and implementing the consultation and accommodation process, respecting Deshkan Ziibiing 's laws and Traditional Knowledge, and acting with transparency, honour, and good faith, all in the spirit of reconciliation;
- b) Full and timely disclosure of all relevant information from the earliest stages of any contemplated Activity/project and as it becomes available throughout the consultation process;
- c) Effective oversight and coordination with other Crown agencies, departments, and Proponents as required;
- d) Timely and transparent communications with Deshkan Ziibiing, including whether and how aspects of consultation are being delegated and the scope of that delegation;
- e) Where delegation occurs, ensuring an appropriate designate is appointed to oversee the effectiveness of the consultation process and ensuring the honour of the Crown is maintained during consultation and accommodation;
- f) Approaching every project/Activity with an open mind and an intention to be flexible and accommodate Deshkan Ziibiing by substantially addressing legitimate concerns raised by the community including concerns related to

- cumulative impacts or effects;
- g) Incorporating Deshkan Ziibiing as a partner into the strategic planning and decision-making process related to the project; and
 - h) Funding for all reasonable costs associated with Deshkan Ziibiing's meaningful participation, including costs associated with receiving, reviewing, and processing initial notices of proposed activities in the form of reasonable application or processing fees.

9.2.2 Proponent Responsibilities

Deshkan Ziibiing acknowledges that Proponents are often delegated certain procedural aspects of the Crown's duty to consult when proposed activities potentially affect our asserted rights and interests.

Specific Proponent Responsibilities include, but are not limited to:

- a) Providing full, accurate, and up-to-date information about their projects on an ongoing basis. Such information should be provided as it becomes available and should not be dependent on explicit requests from Deshkan Ziibiing staff;
- b) Facilitating Deshkan Ziibiing's full participation in any necessary consultation activities and collaborating on Activity specific protocols which will detail consultation activities, timelines, and funding, including access to resources and expertise where required;
- c) Building consultation capacity within the Nation;
- d) Considering alternative approaches, including potential changes which may mitigate impacts;
- e) Respecting our role as steward and taking into account our Traditional Knowledge, practices, and perspectives;
- f) Responding to requests for information and adjusting timelines to facilitate the consultation process; and

- g) Exploring opportunities to share meaningfully in the range of benefits that might result from the Activity contemplated.

Should consultation proceed past the initial stage, we expect project Proponents to provide us with the following written acknowledgements, as requested:

- i. a statement fully acknowledging our inherent and Treaty rights, and our responsibilities to our territory, as they relate to the Activity;
- ii. a statement indicating that the Proponent will share this acknowledgement of our rights and responsibilities in all subsequent communication about the project with shareholders, the public, government departments, lenders, and others, and that the Proponent's subcontractors would function within the same framework.

9.2.3. Deshkan Ziibiing Responsibilities:

Our Elders have conveyed from the Creator our obligations to protect the land and waters of our traditional territory. Our responsibilities to our partners in consultation are similar to those we undertook together with our historic partner in Treaty.

Specific Deshkan Ziibiing Responsibilities include, but are not limited to:

- a) Upholding the terms of this protocol, as well as of any subsequent agreements arising in regard to the consultation process;
- b) Reciprocal good faith engagement with the Crown and Proponents;
- c) Providing timely information and responses as our capacity allows;
- d) Engaging leadership and our people in a meaningful way regarding proposed Activities;
- e) Stating our rights clearly and facilitating an understanding of how any potential impacts will adversely affect us; and,
- f) Providing input about how Proponents and governments might resolve our concerns in good faith, including participation in commercial relationships and/or

partnerships where appropriate.

PART III: Consultation Process

10. Triggering the Consultation Process

The duty to consult is triggered when the Crown contemplates or becomes aware of any Activity which has the potential to affect our Aboriginal or Treaty rights. At the earliest possible moment, notice of this Activity shall be submitted to Deshkan Zibiing by the Crown and/or Proponents in accordance with the contact procedures outlined below. If any Activity has begun or is underway before the consultation process is initiated, Deshkan Zibiing expects the Crown or Proponent to suspend such Activity until Deshkan Zibiing has been appropriately notified and engaged.

11. Submitting Notice to Deshkan Zibiing

Deshkan Zibiing uses the “NationsConnect” platform to receive consultation and engagement requests.

All inquiries and initial proposals for activities from the Crown and/or Proponents must be submitted to the NationsConnect portal, at the earliest possible moment in the development of a project idea. Notifications sent through regular mail, email, or fax will not receive a response and will not be considered submitted for consultation.

To submit, first go to <https://nationsconnect.ca/> to register. Click on the Sign Up Now button to get started.

Proponents will be required to submit information about their project. A spatial file in .kml, .kmz, or .zip shapefile formats are also required for submission. Once the project has been submitted, additional files can be attached. Communications can also be kept up to date through the Conversations feature on NationsConnect.

Consultation staff will respond to NationsConnect submissions within 45 days. Proponents are prompted to select a response date in the NationsConnect portal. Staff will attempt to respond

by the date noted, but it may not be possible due to capacity restraints.

If you need to contact Consultation staff and are NOT submitting a new consultation, email [REDACTED] or call the office at [REDACTED]. A staff member will respond to emails within seven business days. If you do not receive a response within that time frame, please resend.

Reasonable processing and/or consultation service fees will be charged in accordance with the fee schedule outlined in the appendix of this Protocol. The updated Protocol can be found on Deshkan Zibiing's Website at: [REDACTED] under "Duty to Consult."

No action or inaction on the part of Deshkan Zibiing in regard to a failure to provide proper Notice shall be deemed to be a waiver of Deshkan Zibiing's right to be consulted.

12. Notifications for Archaeology Requests

12.1. Deshkan Zibiing participates in archaeological fieldwork occurring within the Nation's Traditional and Treaty Territory by sending Archaeological Field Liaisons (AFLs) to sites. By participating in archaeological fieldwork, the Nation's AFLs help protect the Nation's rights and interests, material culture, and, where applicable, ancestors' remains and sacred items. Treaties, Lands and Environment is developing further protocols around the care of ancestors' remains and potential repatriation of sacred bundles and Anishinaabe material culture. Protocols will be shared when they are finalized.

12.2. The AFL program is managed by the Consultation Unit. Deshkan Zibiing expects to participate in all archaeological fieldwork from Stage 2 to 4. In order to participate in fieldwork, COTTFN and the Proponent or Consultant must execute an Archaeology Field Liaison Agreement. Proponents or Consultants may obtain a copy of this agreement by contacting [REDACTED].

12.3. Invitations to participate in archaeological fieldwork must be emailed to consultation@cottfn.com. Due to technical and time constraints, archaeology requests must NOT be submitted to the NationsConnect portal. Proponents may submit a copy of archaeology-related documents to an existing project in the NationsConnect portal for record-keeping, as long as the documents are first submitted via email.

12.4. Given the time required to complete the agreement, archaeology requests should be submitted at least two weeks prior to the proposed commencement of fieldwork. Once an agreement is in place, the Consultation Unit requires fieldwork notification at least 48 hours prior to the scheduled start time. If insufficient time is given, COTTFN expects the Proponent/Consultant to reschedule the fieldwork to allow for COTTFN's participation.

12.5. COTTFN requests the opportunity to review draft Archaeological Assessments prior to final submission to the Ontario government, whether the Nation was able to send AFLs to the site or not. The Consultation Unit typically requires one month to review and respond to Archaeological Assessments.

12.6. Proponents and consultants should refer to the AFL agreement for comprehensive terms.

13. Evaluation of Activity and Scope of Consultation

13.1. Upon receiving the Notice, Deshkan Ziibiing will undertake an assessment of the Activity and categorize it as follows:

Minimal impact, (a routine or low risk Activity that is unlikely to substantively impact the Aboriginal or Treaty rights and claims of Deshkan Ziibiing, for instance: road repair and resurfacing)

Moderate impact (e.g. aggregate pits)

Extensive impact (e.g. nuclear energy waste storage facilities, alternative energy

developments, oil and gas pipelines or facilities, and landfills)

13.2. Minimal Impact Consultation

- a) The Proponent registers through the NationsConnect portal and submits the required information about the Project to the Consultation Department.
- b) The Consultation Department responds within 45 days.
- c) The Consultation Department requests to send Archaeological Field Liaisons to any archaeological fieldwork occurring from Stages 2-4, at the expense of the Proponent.
- d) The Consultation Department screens the proposal and logs details.
- e) Generally, for minimal impact activities, status reports will be requested from the Proponent.
- f) Processing/Consultation Service fees will apply.

13.3. Moderate Impact Consultation

- a) The Proponent registers through the NationsConnect portal and submits the required information about the Project to the Consultation Department.
- b) The Consultation Department responds within 45 days.
- c) The Consultation Department requests to send Archaeological Field Liaisons to any archaeological fieldwork occurring from Stages 2-4, at the expense of the Proponent.
- d) The Consultation Department screens the proposal and logs details.
- e) Within 60 days, and following an internal review of the Activity, the Consultation Department will communicate the results of its assessment of the Activity and its requirements for next steps based on its assessment.
- f) The party may be invited to meet with the Lands & Environment department and may be asked to provide additional information to determine the extent of concern.
- g) Where appropriate, a consultation plan will be developed.
- h) Processing/Consultation Service fees will apply.

13.4. Extensive Impact Consultation

- a) The Proponent registers through the NationsConnect portal and submits the required information about the Project to the Consultation Department.
- b) The Consultation Department responds within 45 days.
- c) The Consultation Department requests to send Archaeological Field Liaisons to any archaeological fieldwork occurring from Stages 2-4, at the expense of the Proponent.
- d) The Consultation Department screens the proposal and logs details.
- e) Processing/Consultation Service fees will apply.
- f) Within 60 days, and following an internal review of the Activity, the Consultation Coordinator will communicate the results of its assessment of the Activity and its requirements for next steps based on its assessment.
- g) For all Extensive Impact Activities, the Proponent will be required to engage in developing a consultation framework together with Deshkan Ziibiing.
- h) In this event, Deshkan Ziibiing expects that within 30 days following the notice that a consultation framework is required, a meeting will occur between the Crown, Deshkan Ziibiing, and the Proponent to discuss:
 - i. the Activity and the sufficiency of the information provided;
 - ii. Deshkan Ziibiing's history, rights, claim, and interests that may be impacted by the Activity;
 - iii. Traditional knowledge, laws, values, and stewardship obligations and how these will be considered and respected as part of the Activity design conditions or approvals;
 - iv. Identification of any gaps in information and a process to address those gaps including by considering whether additional studies, environmental assessment monitoring or other studies or reports are required;
 - v. The timeline for the Activity and approvals; and
 - vi. The development of a workplan, schedules and associated budgets in

collaboration with the relevant Crown agency/ department and the project Proponent.

14. Workplan

14.1 The Workplan should include, but not be limited to the following:

- a) Identification of significant milestones and timelines associated with achieving those milestones;
- b) Funding throughout the phases of the proposed Activity to ensure and support effective, meaningful participation of Deshkan Ziibiing in the consultation process. Deshkan Ziibiing expects that reasonable costs associated with travel, hosting community engagement sessions, distributing information and providing Elder honoraria would be provided;
- c) Further information required from each party and a process identified to ensure timely information exchange throughout;
- d) Identification of studies, assessments, technical reviews or reports that may be required to collect additional information about potential impacts;
- e) Archaeological monitoring by Deshkan Ziibiing including through the participation of the Archaeological Field Liaisons;
- f) Identification of community engagement processes;
- g) Mechanisms to incorporate Traditional Knowledge and ensuring same is obtained in accordance with Deshkan Ziibiing's internal protocols;
- h) Identifying schedule for future meetings and objectives including work plan monitoring; and
- i) Mechanisms for joint and /or independent monitoring of the Activity and its impacts.

14.2. Work plans may need to be revised as consultation proceeds and should be done collaboratively. Should Parties not be able to reach agreement following good faith discussions, the assistance of a mediator may be sought.

15. Nation to Nation Engagement.

15.1. Deshkan Ziibiing expects the Crown to respect the Nation to Nation relationship. For any Activity that has been identified as “Extensive Impact”, Deshkan Ziibiing expects the Crown will participate in consultation processes, even where consultation or engagement is being undertaken primarily by a Proponent. While administrative staff will be involved, negotiations involving rights will be with the rights-holders.

16. Traditional Knowledge and Confidentiality

16.1. Deshkan Ziibiing will advise how Traditional Knowledge informs our assessment of an Activity. Deshkan Ziibiing will engage citizens, including Elders and Knowledge Keepers as appropriate in the assessment of the project. We expect the Crown and Proponents to fully respect the internal protocols we have developed regarding the gathering of information from our community members.

16.2. Traditional Knowledge and data collected through the consultation process in relation to the Activity will remain the sole property of Deshkan Ziibiing. To the extent that confidential information is shared, parties shall be required to enter into a confidentiality agreement prior to gaining access to this information.

16.3 Where Deshkan Ziibiing determines that the knowledge is of such a nature that it should not be in the public realm, the parties shall meet to discuss the concerns regarding this information and the mechanisms to protect same and thereafter, only Deshkan Ziibiing shall determine whether any part of it shall be shared.

17. Internal Community Engagement

17.1. Deshkan Ziibiing’s practice of governance reflects a long history of community-based decision making. Depending upon the matter for consultation, government departments and project Proponents will need to embrace our approach to internal

community engagement and be willing to work with the processes necessary for Deshkan Ziibiing edbendaagzijig to determine their level of trust and support for the project.

18. Conditions for Providing Consent

18.1. Decisions regarding a project may be achieved in two ways. Those projects having little impact on Deshkan Ziibiing lands, air, waters, health, and wellbeing may be evaluated completely through the efforts of administrative staff, select committees of Council, and/or Chief and Council.

18.2. Those projects with significant potential to impact Deshkan Ziibiing lands, air, waters, health, and wellbeing, will require the scrutiny of the community as whole. Our traditions of governance charge our leaders with gathering and articulating the voices of the community as a whole. Thus, projects raising significant concerns for Deshkan Ziibiing edbendaagzijig will need to be accepted by the community in order for Chief and Council to speak in favour of them.

19. Ongoing Consultation

19.1. In certain cases, consultation may be required past the life of a particular Activity. Where, for instance, decommissioning or cumulative effects raise continuing or additional concerns regarding our rights and interests, we expect consultation to continue.

20. Capacity Requirements:

20.1 Deshkan Ziibiing receives many notifications regarding proposed activities daily. As the duty to consult is reciprocal, Deshkan Ziibiing is required to respond. In an effort to meet the increasing demands, Deshkan Ziibiing has acquired data management systems and employed staff in an effort to respond and handle information flow more efficiently. In order to offset the infrastructure and labour costs associated with the consultation process, Deshkan Ziibiing is required to charge processing and/or consultation service fees in accordance with the services provided.

A complete breakdown of consultation service fees for the varying levels of project impact is attached as Appendix C.

21. Deshkan Ziibiing Initiated Research

21.1 In addition to the Crown or Proponent studies, it may be necessary for Deshkan Ziibiing to supplement our understanding of the impacts. For instance, we may require additional research on the cumulative effects of an Activity or further assessments of the impacts on biodiversity, endangered species, or water quality. This may be the case where either the existing reports or assessments are deemed deficient or not objective, or where a project is especially contentious. We expect that the costs to engage in such research will be reimbursed by the Crown and Proponents.

22. Crown Delegation

22.2. Although the Crown may delegate aspects of Consultation and Accommodation to a Proponent, the Crown cannot delegate its duty to act honourably or its responsibility to ensure that consultation has been adequately and effectively carried out. In cases where a Proponent has been delegated aspects of the duty to consult, the Crown shall maintain oversight over this process and shall ensure that all Parties involved have received Notice of the Crown's intention to delegate, the scope of the delegation and the name of the designate who shall remain charged with oversight over the Crown's duty to consult.

23. Mitigation Measures and Accommodation

23.1. The protection of our inherent and Treaty rights, and the respect for our obligations to preserve the lands and waters of Deshkan Ziibiing, are matters to resolve prior to any discussion of potential benefits that might result from an Activity. Where our lands, waters, health, and wellbeing may be adversely impacted, the Activity cannot proceed without our determining in advance the nature and scope of impacts, how adverse effects will be mitigated, and how our concerns will be accommodated.

23.2. If, through consultation, it is agreed the Activity may proceed, the following represent a non-exhaustive list of measures through which Deshkan Ziibiing edbendaagzijig may embrace the legitimacy of the Activity:

- a) Environmental and protection/monitoring agreements
- b) Stewardship agreements
- c) Co-Management or Recognition agreements respecting resources/jurisdiction
- d) Impact benefits/revenue sharing/ agreements
- e) Compensation
- f) Equity and Partnership agreements
- g) Protection of Intellectual Property and Confidentiality agreements
- h) Lease/royalty/licensing agreements
- i) Training/employment/education and scholarship opportunities

Deshkan Ziibiing expects the Crown to act honourably and provide assistance as requested in the consultation process including in the negotiation of accommodation measures which must be agreed to before the Activity begins.

24. Dispute Resolution Mechanisms

24.1. In the event that Parties have disagreements throughout the consultation process, Deshkan Ziibiing's expects:

- a) Good faith discussions would take place between senior decision makers in an attempt to resolve the dispute.
- b) In the event those efforts fail, the parties may resort to mediation where a mediator is agreed to by all Parties.

- c) Where mediation fails to resolve the disagreement within 60 days, parties may resort to the appropriate court for adjudication of the issue.
- d) The Crown and/or Proponent shall bear all costs of dispute resolution.

Deshkan Ziibiing expects a hold will be placed on the Activity, pending resolution of the issue in dispute.

25. APPENDICES

A. COTTFN Consultation Map

B. Consultation Flow Chart

C. Consultation Service Fees

This protocol is subject to revision and further development as determined by Chief and Council reflecting the consent of Deshkan Ziibiing edbendaagzijig.

For use with permission of Deshkan Ziibiing/Chippewas of the Thames.

APPENDIX “A”
COTTFN Consultation Map

As recognized in these treaties, the ancestral lands of Deshkan Zibiing includes all the lands and waters between Lake Huron to the north and Lake Erie to the south and stretching eastward from the eastern banks of the St. Clair and Detroit rivers to the Mississaugas of New Credit 1792 treaty lands (see Appendix A for Consultation map). In addition, Deshkan Zibiing’s territory extends into what are now the American states of Michigan and Ohio. Historically, Deshkan Zibiing managed portions of our territory in common with other Anishinaabe nations, and at times in partnership with the Haudenosaunee. However, the lands bordering the northern bank of the Thames River have been solely in the stewardship and possession of Deshkan Zibiing since before the treaty era.

NOTE – COTTFN engages in consultation in the area within the dotted black line (see map on next page). The boundary line for Big Bear Creek Land Selection Area is an approximation, not the exact outline. The Consultation Map is not a comprehensive or definitive outline of the Nation’s Traditional Territory. It is used for consultation purposes.