

# **Interim Framework:**

## **Public Participation Under the *Impact Assessment Act***

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<sup>1</sup> This is a draft document. Contents may change as a result of ongoing engagement and feedback received. [Please check back regularly for updates.](#)



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# 1. Introduction

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## 1.1 Ministerial Statement

Public participation is an essential part of open, informed and meaningful impact assessment and regional and strategic assessment processes. Strong public participation also provides the Government of Canada an opportunity to share information with respect to the policy and regulatory regime in place to manage major projects, including the rigour with which they are assessed and regulated. The Government recognizes that engaging members of the public will strengthen the quality of project assessment and decision-making. To achieve this, the Government of Canada is committed to providing Canadians with the opportunity to participate meaningfully in the process and to providing them with the information needed to participate in an informed way.

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## 1.2 Context

This framework applies to impact assessments of designated projects (those physical activities described in the *Regulations Designating Physical Activities*), or those designated by the Minister of Environment and Climate Change under section 9 of the *Impact Assessment Act*. Impact assessments are conducted by the Impact Assessment Agency of Canada (the Agency), a Review Panel or an Integrated Review Panel with a lifecycle regulator. The framework also applies to regional assessments that assess the effects of existing or future activities in a region and strategic assessments that consider federal policies, plans or programs that are relevant to conducting impact assessments (section 92 and 95 of the Act, respectively).

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## 1.3 Purpose

The framework is intended to provide the public with information about how the Agency provides the public with the opportunity to meaningfully participate in impact assessments, regional assessments and strategic assessments. Policy and guidance specific to engagement and consultation with Indigenous peoples will also be made available.

This framework is accompanied by a guide that provides practical information for the public and practitioners about the implementation of meaningful public participation during each phase of an impact assessment.

Distinct policy and guidance documents related to participation and consultation with Indigenous peoples is also being developed.

## 2. Principles

Meaningful public participation means that members of the public who wish to participate in an impact assessment have an opportunity to do so and are provided with the information and capacity that enables them to participate in an informed way. Meaningful public participation also means that public perspectives inform and influence decision-making and allows those who participated to see that their input was considered.

The *Impact Assessment Act* recognizes the importance of meaningful public participation and requires that opportunities be provided through the assessment process, in accordance with legislation, regulations, policies and guidance established by the Agency.

The Act sets out timelines for the impact assessment process. The Planning Phase will occur within 180 days and the impact assessment within 300–600 days, depending on whether the assessment is conducted by the Agency or by a Review Panel. To ensure activities required to complete the impact assessment process fall within the legislated timelines, the Agency, or Review Panel, will set activity-specific timelines throughout the process. Public views received within these timelines will be considered and will inform decision-making.

The Agency is committed to implementing a public participation approach for impact assessments of designated projects and regional and strategic assessments that is inclusive and responsive to community needs. To achieve these objectives, the Agency's approach to public participation will be guided by several overarching principles:

- It starts early and continues throughout each step of the process, including timely notification of proposed engagement.
- It is supported with funding made available through the Agency's [Participant Funding Program](#), which will be enhanced to improve public and Indigenous participation in impact assessments.
- It is transparent and information is available and accessible to the public on the proposed Impact Assessment Registry of Canada (the Registry), unless subject to valid exceptions set out in the Act, such as financial information that is consistently treated in a confidential manner.
- It is designed to increase the knowledge of participants and government and foster relationships. Citizens and communities are able to contribute to the science and evidence base for decision-making.
- It is designed to prioritize the participation of those who are most affected by the proposed project, while also ensuring that interested members of the public have an opportunity to share their views.
- Methods are flexible, innovative and consider the assessment context and legislated timelines. It includes a variety of engagement techniques that are appropriate to the circumstances and are accessible to diverse groups, including women, men, gender-diverse people and underrepresented Canadians.
- It influences decision-making and participants see that their input was considered.
- It continually adapts and improves. Each assessment will contribute to a greater understanding of participation practices.

### 3. Tools for Implementing Public Participation

Under the *Canadian Environmental Assessment Act, 2012* the Agency currently uses a variety of public participation mechanisms to ensure that the knowledge and interests of the public are taken into consideration and assessed during an environmental assessment process including information posted on the public Registry, or received at town halls and open houses.

The Agency will continue to apply these tools to the new process and use improved online and interactive tools as well as more face-to-face fora in order to encourage participation. A more in-depth guide to selecting the appropriate tools will be developed separately.

#### Approaches to implement meaningful public participation:

- **In-person events** take many forms and occur at various stages and times in an impact assessment, depending on public needs, timelines set in legislation, public engagement timelines set by the Agency or Review Panel, and project context. In-person events could include information sessions, open houses, workshops, technical meetings, focus groups as well as informal meetings held within affected communities.

#### EXAMPLES OF PUBLIC PARTICIPATION METHODS

Public participation can take many forms. When determining what methods to use, the Agency will first consider the purpose or objective of the consultation activity, legislated timelines, and the public's views on how they want to be consulted within the parameters of the *Impact Assessment Act*.

- To **share information** with the public, participation methods could include:
  - Social media and advertising to reach a variety of audiences, to share information with the public about impact assessments;
  - Open houses and town halls held in the day or evenings to accommodate various needs, to share information about a specific project and the impact assessment process; and
  - The Registry, which would include information related to a project and the impact assessment process.
- To **gather information** from the public, participation methods could include:
  - Workshops, technical meetings or focus groups, for detailed discussions with a selected or smaller set of individuals on specific issues;
  - The Registry, to provide a forum to share comments, which will be made publicly available; and
  - Informal meetings in potentially affected communities to hear from the public on their community values, interests and concerns related to a proposed project.

- **Online and interactive tools** could be used to engage the public including a modern, user focused public registry that would facilitate increased interactive dialogue by posting comments publicly and seeking responses to project specific questions.
- **Social media platforms** could be used to share information about impact assessments.
- **Plain-language documents** and accessible information will be posted publicly.

When developing the public participation plan and determining which public participation approaches and tools to use, the Agency will consider a number of factors, such as:

- The objective of the participation opportunity. For example, the objective could range from to developing relationships, informing the audience, or learning from people who may have particular knowledge;
- The timelines set in legislation, or by the Agency for a public engagement opportunity;
- The audience, their needs and how they want to be engaged;
- Potential barriers to participation;
- The level of interest and type of venues in a community; and
- Any limitations to accessing digital information, building on successful methods used in previous assessments.

The impact assessment process will include multiple opportunities for participants to make their views and concerns known to the Agency or to a Review Panel. In certain circumstances, where the volume of participation is high and the amount of time available for participation is limited, the Agency or Review Panel may apply various techniques or approaches to best manage participation, while ensuring members of the public have an opportunity to share their views and concerns.

For example, the Agency or Review Panel may take measures to prioritize the allocation of time at an in-person event to those individuals or groups that, in the view of the Agency or Review Panel, are most likely to be impacted by the project, or to those most likely to have relevant expertise or information to provide. The time allocations would not preclude other members of the public from participating in the process through other engagement methods. These circumstances have proven to be rare and are likely to occur only for highly contentious projects. The objective of any such time allocation measures taken would be to ensure that the available time is used to hear the full range of views, and to avoid, where possible, frivolous or vexatious participation. The Agency will continue to build on its experience and will be flexible in its approach to managing public participation under these circumstances. The tools at the disposal of the Agency include, but are not limited to: pre-registration, focusing in-person participation events on those nearest the project, adding engagement events where timelines permit, and encouraging participants to focus on priority issues and to submit broad comments using online tools.

## 4. Accessing Information Needed to Participate Meaningfully

The *Impact Assessment Act* will significantly increase transparency in the assessment process and increase the accessibility and quantity of assessment information available to the public on the Registry. Plain language summaries of government documents will be available on the Registry and all information will be accessible to the public. Public comments provided during project assessments will be publicly available on the Registry. In addition, Decision Statements issued at the end of an impact assessment by the Minister of Environment and Climate Change will demonstrate how public interest factors were considered in the decision-making process, including the project's contribution to sustainability.

The modernization of the Registry will provide greater public access to information related to designated projects, the impact assessment process, regional and strategic assessments conducted under the Act, as well as other regulatory/permitting processes that apply to a designated project. This will enable the public to track the progress of activities in each phase of the impact assessment process. The Registry will capture a wide range of views from stakeholders through an interactive digital portal in support of greater transparency and public engagement.

In addition to the Registry, an Open Science and Data Platform hosted by Natural Resources Canada will consolidate scientific reports, research and data (including science that could be relevant to the assessment of cumulative effects of development projects). This includes information specific to individual projects as well as national and regional scale information from many sources. The Open Science and Data Platform will make it easier to consolidate access to science and data. This includes access to information produced by the Government of Canada, Provinces and Territories and trusted parties that collect and curate their own data (such as Conservation Data Centres in the NatureServe Canada network).

## 5. Meaningful Public Participation in Assessment Processes

Through the *Impact Assessment Act*, the Government of Canada is establishing new rules to better protect the environment, recognize and respect Indigenous rights, strengthen the economy and restore public trust in the impact assessment and regulatory system. This will be achieved through earlier and more effective engagement with jurisdictions, Indigenous peoples and the public throughout the process, considering a broader range of effects, including positive and negative health, social and economic effects of projects. Decisions will focus on whether the adverse effects within federal jurisdiction or that are the result of a federal decision about the project are in the public interest based on the Impact Assessment Report and a consideration of the following factors:

- The extent to which the designated project contributes to sustainability, which means the ability to protect the environment, contribute to the social and economic well-being of the people of Canada and preserve their health in a manner that benefits present and future generations;
- The extent to which the effects within federal jurisdiction and the direct or incidental effects are significant;

- Mitigation measures;
- The impacts the designated project may have on Indigenous groups and on the rights of Indigenous peoples; and
- The extent to which the designated project contributes to or hinders Canada's ability to meet its environmental obligations and commitments related to climate change.

The Act requires that the public be provided a meaningful opportunity to participate at key stages of the assessment. The Agency, or a Review Panel, would seek the views of the public to inform decisions taken during the impact assessment process. Public participation would start even before the formal impact assessment begins. Public participation during the planning phase, for example, would build awareness and trust in the process, set clear objectives for public participation, and allow for issues and concerns to be identified early and influence project design where feasible. The products issued by the Agency at the end of the Planning Phase such as the Tailored Impact Statement Guidelines and the Public Participation Plan will clearly establish the scope of the impact assessment and opportunities for public participation throughout the impact assessment process.

During the Planning Phase, the Agency will engage with jurisdictions that have environmental assessment responsibilities in relation to the designated project, Indigenous groups and the public to seek their views on the proposed project. The Planning Phase provides for the development of a Public Participation Plan that reflects the input of the public. The Public Participation Plan prepared by the Agency, in collaboration with other jurisdictions where appropriate, will include participation objectives, opportunities, and methods that align with the needs of communities. The Public Participation Plan would provide certainty to participants on how and when they will be consulted throughout the impact assessment. In the case of designated projects regulated by a lifecycle regulator, public participation activities conducted after a decision will be undertaken by the relevant regulator.

Public participation will occur within legislated timelines and consultation timelines set by the Agency.

During an impact assessment led by the Agency, a range of engagement methods will be used to ensure contextually appropriate meaningful public participation. A flexible approach will ensure that public participation opportunities are tailored to the circumstances of a particular project or the community needs identified in the Planning Phase, as well as to legislated timelines.

While the Agency is committed to ensuring that the public can have a say and can participate in impact assessments, it is also important to ensure that the voices of those who will be most affected by a project or have relevant expertise are heard. To this end, not every public participation opportunity will be the same for every individual. While any member of the public may provide comments online through the Agency's online registry or participate in engagement opportunities, the Agency's face-to-face engagement activities will focus primarily on communities near the designated project area.

Under the Act, the Public Engagement Plan issued by the Agency at the end of the Planning Phase will also guide an impact assessment by Review Panel. During a Review Panel process, the public is offered opportunities to participate in the assessment including through orientation sessions, technical sessions or webcasts that increase understanding of the proposed project and its potential impacts. Near the end of an assessment by a Review Panel, the Review Panel holds a public hearing that provides an opportunity for participants to provide views, pose questions and provide information to help the panel complete its assessment.

Regional and strategic assessments conducted under the *Impact Assessment Act* would also provide the public with an opportunity for meaningful participation. The Agency, or the Review Panel established by the Minister to conduct the regional or strategic assessment, will ensure that the public has opportunities to participate, while ensuring that the information used during the assessment is publicly available. Participation in these broader assessments may include seeking input on the draft Terms of Reference for the assessment and the Report prepared for the Minister of Environment and Climate Change.

## Additional Information

The Agency is committed to ensuring that the principles outlined in this framework are implemented so that members of the public are provided with the opportunity to participate meaningfully in impact assessment, regional and strategic assessment processes. Additional information about the implementation of public participation throughout the phases of an impact assessment and the roles and responsibilities related to public participation is available in the 'Technical Guide to Public Participation in Impact Assessments'.

# Annex 1: Legislative Provisions

The *Impact Assessment Act* includes provisions related to meaningful public participation in the preamble and purposes of the Act, factors to be considered during the Planning Phase, impact assessment by the Agency, impact assessment by Review Panel, substitution, regional and strategic assessments, participant funding, and the Registry. These legislative requirements are set out below.

## PREAMBLE

"Whereas the Government of Canada recognizes the importance of public participation in the impact assessment process, including the planning phase, and is committed to providing Canadians with the opportunity to participate in that process and with the information they need in order to be able to participate in a meaningful way."

## PURPOSES OF THE ACT

### Section 6(1)(h):

"The purposes of this Act are:

- (h) to ensure that opportunities are provided for meaningful public participation during an impact assessment, a regional assessment or a strategic assessment"

## FACTORS TO BE CONSIDERED

### Section 22(1):

"The impact assessment of a designated project, whether it is conducted by the Agency or a review panel, must take into account the following factors:

- (m) community knowledge provided with respect to the designated project
- (n) comments received from the public"

## PLANNING PHASE

### Section 11:

"The Agency must ensure that the public is provided with an opportunity to participate meaningfully, in a manner that the Agency considers appropriate, in its preparations for a possible impact assessment of a designated project, including by inviting the public to provide comments within the period that it specifies."

### Section 14(1):

"The Agency must provide the proponent of a designated project with a summary of issues with respect to that project that it considers relevant, including issues that are raised by the public or by any jurisdiction or Indigenous group that is consulted under section 12, and with any information or knowledge made available to it by a federal authority that the Agency considers appropriate."

### **Section 15(1):**

“The proponent must provide the Agency with a notice that sets out, in accordance with the regulations, how it intends to address the issues referred to in section 14 and a detailed description of the designated project that includes the information prescribed by regulations made under paragraph 112(1)(a).”

### **Section 16(2):**

“In making its decision, the Agency must take into account the following factors:

- (d) any comments received within the time period specified by the Agency from the public and from any jurisdiction or Indigenous group that is consulted under section 12;”

### **Section 18:**

“If the Agency decides that an impact assessment of a designated project is required – and the Minister does not approve the substitution of a process under section 31 in respect of the designated project – the Agency must, within 180 days after the day on which it posts a copy of the description of the designated project under subsection 10(2), provide the proponent of that project with:

- (a) a notice of the commencement of the impact assessment of the project that sets out the information or studies that the Agency considers necessary for it to conduct the impact assessment; and
- (b) any documents that are prescribed by regulations made under paragraph 112(1)(a), including tailored guidelines regarding the information or studies referred to in paragraph (a) and plans for cooperation with other jurisdictions, for engagement and partnership with the Indigenous peoples of Canada, for public participation and for the issuance of permits.”

## **IMPACT ASSESSMENT BY AGENCY**

### **Section 27:**

“The Agency must ensure that the public is provided with an opportunity to participate meaningfully, in a manner that it considers appropriate, within the time period specified by the Agency, in the impact assessment of a designated project.”

### **Section 28(1):**

“The Agency must ensure that a draft report with respect to the impact assessment of a designated project is prepared, and must ensure that the following are posted on the Internet site:

- (a) a copy of the draft report or an indication of how a copy may be obtained; and
- (b) a notice that invites the public to provide comments on the draft report within the period specified.”

### **Section 28(3.2):**

“The report must also set out a summary of any comments received from the public, as well as the Agency’s recommendations with respect to any mitigation measures and follow-up program and the Agency’s rationale and conclusions.”

## IMPACT ASSESSMENT BY A REVIEW PANEL

### Section 51:

"A review panel must, in accordance with its terms of reference:

- (b) ensure that the information that it uses when conducting the impact assessment is made available to the public
- (c) hold hearings in a manner that offers the public an opportunity to participate meaningfully, in the manner that the review panel considers appropriate, within the time period specified by the review panel, in the impact assessment.
- (c) prepare a report with respect to the impact assessment that:
  - iii. sets out a summary of any comments received from the public"

## SUBSTITUTION

### Section 31(2):

"When the Minister receives a request for substitution, the Agency must post the request on the Internet site as well as a notice that invites the public to provide comments respecting the substitution within 30 days after the day on which the notice is posted."

### Section 31(3):

"The Minister must consider any comments received from the public in deciding whether to approve the substitution."

### Section 33(1):

"The Minister may only approve a substitution if he or she is satisfied that:

- (e) the public will be given an opportunity to participate meaningfully in the assessment and provide comments on a draft report
- (f) the public will have access to records in relation to the assessment to enable its meaningful participation."

## PARTICIPANT FUNDING PROGRAM

### Section 75(1):

"The Agency must establish a participant funding program to facilitate the participation of the public in:

- (a) the Agency's preparations for a possible impact assessment of – or the impact assessment of and the design or implementation of follow-up programs in relation to – designated projects that include physical activities that are designated by regulations made under paragraph 112(1)(e) or that are part of a class of activities designated by those regulations;
- (b) the impact assessment of, and the design or implementation of follow-up programs in relation to, designated projects that are referred to a review panel and that do not include physical activities that are designated by regulations made under paragraph 112(1)(e) or that are not part of a class of activities designated by those regulations; and

- (c) regional assessments and strategic assessments.”

## REGIONAL ASSESSMENTS AND STRATEGIC ASSESSMENTS

### Section 99:

“The Agency, or the committee, must ensure that the public is provided with an opportunity to participate meaningfully, in a manner that the Agency or committee, as the case may be, considers appropriate in any assessment referred to in section 92, 93 or 95 that it conducts.”

## INTERNET SITE

### Section 105(1):

“The Agency must establish and maintain an Internet site that is available to the public.”

### Section 105(2):

“The Agency must ensure that the following records and information relating to the impact assessment of the designated project that it conducts are posted and, subject to paragraph (4)(c), maintained on the Internet site:

- (a) any public notice that is issued by the Agency to request the participation of the public in the impact assessment;
- (b) a description of the factors to be taken into account in the impact assessment and of the scope of those factors;
- (c) the report with respect to the impact assessment that is taken into account by the Minister under subsection 60(1), or a summary of the report and an indication of how a copy of the report may be obtained;
- (d) any scientific information that the Agency receives from a proponent or federal authority, or a summary of the scientific information and an indication of how that information may be obtained;
- (e) a description of the results of the follow-up program that is implemented with respect to that designated project or a summary of the results and an indication of how such a description may be obtained;
- (f) notice of the Agency’s decision to terminate the impact assessment under section 73;
- (g) any other information that the Agency considers appropriate, including information in the form of a list of relevant records and an indication of how a copy of them may be obtained;
- (g.1) any public comments received during the impact assessment;
- (h) any other record or information prescribed by regulations made under paragraph 112(1)(f).”

## ADMINISTRATION

### Section 114(3):

“The Minister must provide reasonable public notice of and a reasonable opportunity for anyone to comment on draft guidelines, codes of practice, agreements, arrangements or criteria under this section.”

### Section 114(4):

“Any guidelines, codes of practice, agreements, arrangements or criteria must be made available to the public.”