Are you listening?

Context Oriented Solutions for Public Consultation in the Ontario Municipal Class EA Process

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1. ABSTRACT

Public consultation is vital to Ontario Municipal Class Environmental Assessment studies. It is important not only to notify and inform the public of a study, but also to ensure that anyone with an interest and insight into the context of the issues, environment and history of the area, has the opportunity to provide input throughout the study process. Critical to this involvement is for the proponent to "listen" to the concerns and issues raised throughout a project and endeavour to respond appropriately and completely with a context oriented solution.

This paper describes key methods used in Ontario Municipal Class Environmental Assessments for Schedule 'C' projects to elicit public input, while resolving potential issues, concerns and/or conflicts with stakeholders. The paper answers the following questions:

- Who in the general public should be notified?
- How should stakeholders / interested parties be identified, and notified?
- How should stakeholders be engaged in the study?
- How do you build "context" into the consultation opportunities?
- How should concerns / issues and responses be documented to address local issues?
- How can the consultation approach be used to minimize the risk of a Part II Order request?

The purpose of the paper is to identify effective public consultation methods and to provide guidelines to proponents, consultants, and other practitioners of the Municipal Class Environmental Assessment process on the most effective ways to engage stakeholders.

The methodologies documented in the paper are the result of the experience of the authors who have extensive public consultation experience. These documented strategies have been applied in many environmental assessment studies.

2. MANDATORY CONSULTATION

The Ontario Municipal Class Environmental Assessment (EA) Process (Municipal Engineers Association, June 2000) is a process which enables proponent municipalities to comply with the provisions of the Ontario Environmental Assessment Act. Key to this is that the planning and implementation of municipal infrastructure projects be undertaken in accordance with an approved procedure designed to protect the environment. The Municipal Class Environmental Assessment Process outlines the minimum consultation requirements that proponents should satisfy, as discussed in this section.

There are three categories of projects associated with the Municipal Class Environmental Assessment. A brief discussion of each and the minimum consultation requirements follow:

2.1 Schedule A

Schedule A projects involve routine maintenance activities or emergency operations. The environmental effects of these activities are considered to be minimal and these projects are pre-approved. These projects could incorporate consultation to review the problem or opportunity, but any consultation is not mandatory.

2.2 Schedule B

Schedule B projects generally involve minor improvements or expansions to existing facilities. These projects involve some potential for adverse environmental impacts. As such, the proponent is required to proceed through the screening process. Consultation for Schedule B projects is mandatory to allow interested parties to provide input on the problem or opportunity and alternative solutions.

2.3 Schedule C

Schedule C projects typically involve the construction of new facilities, and/or major expansions to existing facilities. These projects involve some potential for adverse environmental impacts. As such, the proponent is required to proceed through the environmental assessment process. Schedule C projects involve mandatory consultation to allow interested parties to provide input on the problem or opportunity, alternative solutions and alternative designs.

3. CONSULTATION METHODS FOR SCHEDULE C PROJECTS

To undertake consultation for a Schedule C project, several questions need to be considered, such as who should be notified, and when and how should they be notified. This section outlines key methods to elicit public input, particularly for Schedule C projects.

3.1 Who Should be Notified?

Depending on the nature and sensitivity of a project, few to many people may be interested in the project. It is therefore important for proponents to cater their consultation program to encompass anyone who may have an interest. Potential stakeholders / interested parties could include:

Federal Agencies
- Environment Canada
- Canadian Environmental Assessment Agency
- Canadian Transportation Agency
- Transport Canada
- Indian and Northern Affairs Canada
- Fisheries & Oceans Canada
- NAV CANADA
- CN Rail
- CP Rail

Provincial Agencies
- Ministry of the Environment
- Ministry of Transportation
- Ministry of Citizenship and Culture
- Ministry of Economic Development
- Ministry of Health
- Ministry of Municipal Affairs
- Ministry of Natural Resources
- Ministry of Public Infrastructure Renewal
- Ontario Provincial Police
- GO Transit
- Ontario Secretariat for Aboriginal Affairs
- Conservation Authorities

Municipal Government
- Region
- Town
- City
- Political Representatives / Council Members
- School Boards
- Emergency Services

Utility Companies
- Telephone
- Hydro
- Gas
- Cable
- Internet
- Water
- Sewer

Local Stakeholders
- Ratepayer Groups / Homeowners Associations
- Interest Groups
  - Business Improvement Association
  - Board of Trade
  - Chamber of Commerce
  - Naturalist Groups
  - Heritage Committee

First Nations
- Any Nation that may have an interest. Indian and Northern Affairs Canada and Ontario Secretariat for Aboriginal Affairs can help identify who may have had a historical interest or claim.

Local Stakeholders (Cont'd)

- Interest Groups
    - Local Architectural Conservation Advisory Committee
    - Residents
    - Property Owners
    - Businesses
    - Schools directly affected can be contacted directly; however, the school boards should also be contacted.
    - Churches

General Public

At the start of a project, it is crucial that a detailed contact list (mailing and/or e-mail) is established. This ensures that interested parties / stakeholders are contacted at all key points of the study and are not overlooked at a later date. The list can be updated throughout the project as additional stakeholders and interested parties are identified (e.g. public consultation centre sign-in sheets, calls and e-mail to the project team, etc.).

3.2 When Should Stakeholders be Contacted?

Three mandatory and key points of contact for a Schedule C project have been established as part of the Municipal Class EA process. The mandatory points of contact are:

- At the end of Phase 2: Alternative Solutions;
- At the end of Phase 3: Alternative Designs; and
- During Phase 4: Environmental Study Report.

Although the above mandatory points of contact outline the minimum requirements, the Municipal Class EA process also outlines discretionary points of contact which could be undertaken.

The project study team could also identify other critical points of contact with stakeholders during any phase of a study. These points of contact will be dependant on stakeholders' involvement / interest in the project, and can be identified by the team or by stakeholders.

It is desirable for proponents to cater their consultation program and to schedule consultation events to complement the project schedule. However, since public consultation is on-going throughout a project, it is also desirable that the project schedule has some flexibility.

3.3 How Should Stakeholders be Consulted?

There are many potential methods of consulting with stakeholders. This section outlines some of the methods used for Schedule C projects. It is essential that proponents cater their consultation program to accommodate the needs of a particular project and its stakeholders.

3.3.1 Notices

Notices are an effective way to reach a large number of people to provide them with pertinent information about the study. Notices include, but are not limited to: (1) Study Commencement; (2) Public Consultation Centres / Public Information Centres / Public Open Houses; and (3) Study Completion.

3.3.1.1 Study Commencement Notices

Notices are issued for a study commencement to notify stakeholders of the study. The notice should contain:

- Proponent
- Study background
- Study purpose
- Study schedule (e.g. Schedule C)
- Study area (including a map)
- Contact information
- Date when notice issued

Notices should generally be published in local newspapers. The notices should also be provided to the stakeholders, particularly residents / businesses adjacent to and within the study corridor, with a study commencement notice letter. Such notices can be mailed or hand delivered. Hand delivery is recommended for projects where it is anticipated that the public will be very involved in the project, and will be a key component to the decision making process.

3.3.1.2 Public Consultation Centre Notices

Notices are issued for public consultation centres to notify stakeholders of the event. The notice should contain:

- Proponent
- Study background
- Study purpose
- Study schedule (e.g. Schedule C)
- Study area (including a map)
- Public consultation centre information (date, time, location, etc.)
- Public consultation centre format (open house, presentation, etc.)
- Contact information
- Date when notice issued

Similar notification to the study commencement notice, with a public consultation centre notice letter, is recommended.

3.3.1.3 Study Completion Notices

Notices are issued at the end of the study to notify stakeholders of the study completion, and the opportunity to review the Environmental Study Report (ESR). The notice should contain:

- Proponent

- Study background
- Study purpose
- Study schedule (e.g. Schedule C)
- Study area (including a map)
- Study recommendations
- ESR review locations, including dates and time
- Contact information
- Date when notice issued

Similar notification to the study commencement and public consultation centre notices, with a study completion notice letter, is recommended.

3.3.2 Public Consultation Centres

Public consultation centres are an effective way to have direct contact with stakeholders. This provides stakeholders the opportunity to interact with the project team, ask questions and receive immediate responses. A number of methods are available to conduct public consultation centres. This section describes two of the most used methods: the open house format and the public meeting format.

3.3.2.1 Open House Format

An open house format consultation centre provides stakeholders the opportunity to interact with the project team on a one-on-one basis. Information panels are set up, and stakeholders review the panels to gain knowledge about the project. The project team is available to respond to any questions stakeholders may have. Comment forms are made available at the consultation centre to provide stakeholders an opportunity to express their opinions in writing, and submit formal written comments to the project team. Comment forms can be completed and submitted at the meeting, or completed after the meeting and submitted at a later date. A 2-week post meeting period is typically given for submission of consultation centre comments. This is done to encourage stakeholders to voice their concerns, issues, approvals or disapproval as soon as possible, though public comments are encouraged and welcomed throughout the duration of a project.

3.3.2.2 Public Meeting Format

A public meeting format consultation centre provides stakeholders the opportunity to interact with the project team in a group setting. A presentation about the project is given, relevant to the phase of the study, as per **Section 3.2** above. A question and answer period follows the presentation to allow stakeholders an opportunity to ask questions and to receive an immediate response. It is recommended that a trained facilitator chairs the question and answer period of the meeting to allow an equal opportunity to all who are interested in asking questions. Comment forms are made available at the consultation centre to provide stakeholders an opportunity to submit formal written comments to the project team, either at the meeting or for submission at a later date. A 2-week response period also applies.

This consultation centre format is very effective since the presentation and question and answer period allows the project team to provide consistent information and responses to the entire group of stakeholders who are present.

The public meeting format is often combined with the open house format. This allows the project team to provide consistent information and responses to a large group, and at the same time allows stakeholders the opportunity to interact with the project team on a one-on-one basis.

3.3.3 Newsletters / Brochures

Newsletters can also be an effective way to provide stakeholders with updates on the study progress, status, schedule, upcoming events and other useful information about a study. The newsletters could be provided to the stakeholders on the mailing list.

Brochures are also a good method to provide stakeholders with useful information about a study. Brochures could be prepared similar to the newsletter or could be prepared to address specific issues for the study (e.g. Archaeology, Natural Environment, First Nations, etc.). The specific brochures would provide stakeholders with a quick reference of the topics of most interest to them. The brochures could be provided to the stakeholders on the mailing list, or could be provided as a handout at the public consultation centres.

3.3.4 Meetings

It can be beneficial to have a meeting with one particular interested party or group on a one-on-one basis, particularly if their concerns / interests are unique. This allows the interested party or group to have the exclusive attention of the project team, and to freely express their opinions and provide their input.

3.3.5 Presentations to Municipal Councils

Presentations to local Municipal Councils are often required at key decision points throughout a study. It is important to provide sufficient lead time to allow municipal staff to prepare staff reports and schedule the Council presentations. Council agendas are often prepared six to eight weeks prior to a Council meeting, which is a good guideline to use when coordinating with municipal staff.

3.3.6 Special Interest Groups / Steering Committees

Special Interest Groups (SIG), Special Advisory Groups (SAG), Community Working Groups (CWG), and / or Steering Committees can be established for larger, more complicated studies. These groups should be established early in the project. The groups should include organizations / stakeholders who have an interest in the study or could provide insight into the study. The number of organizations / stakeholders included in the group should be limited, but should reflect a broad level of interest in the study. These groups generally meet with the project team prior to public consultation centre events. The role of these groups is typically to provide local knowledge, and unbiased input and advice during the project.

3.3.7 Technical Advisory Committees

Establishing a Technical Advisory Committee (TAC) for a project allows the proponent to engage with agencies in a positive way with open lines of communication, and ensures early direct communication. The TAC is generally made up of agencies who could influence the project or who have regulatory obligations for the project. The proponent benefits from receiving input from this group at an early stage, and at key stages throughout the project.

3.3.8 Websites

A website is an efficient and inexpensive way to reach a large number of people, and to provide them with information about the study. Websites can often be established as a page on the proponent's website, or, on occasion – for example on a very large and potentially controversial project, it can be beneficial to create a project specific website.

The website could include:
- Background and study purpose
- Study area map
- Photographs
- Public notices
- Study reports
- Meeting minutes
- Newsletters
- Brochures
- FAQ sheets
- Presentations

The website can also provide interactive capabilities to allow stakeholders to provide comments and ask questions.

3.4 Communications and Consultation Plan

The public participation process should provide a variety of opportunities for the study team and the public to learn, share and respond to each other. It is often beneficial at the outset of a study to establish a communications and / or consultation plan. This plan should identify the above elements: (1) who should be contacted, (2) when should the stakeholders be contacted; and (3) how should the stakeholders be contacted. The plans will outline the appropriate strategy for a particular project. Although the plan will outline the strategy, it is also desirable to maintain some flexibility.

3.5 Stakeholder Sensitivity Analysis

Although the Municipal Class EA document outlines the minimum legal requirements to address public and stakeholder concerns, additional consultation can be pursued. Additional consultation efforts are encouraged by the Ministry of the Environment guidelines and the Municipal Class EA.

Complex or controversial studies could establish a Stakeholder Sensitivity Analysis (SSA) to outline:
- Stakeholders
- Stakeholder Impacts / Issues / Concerns
- Potential resolutions to Impacts / Issues / Concerns
- Risk Management of Impacts / Issues / Concerns that cannot be resolved or mitigated.

This analysis would provide the study team with sufficient information about stakeholder concerns and expectations for consideration while evaluating the planning alternatives (alternatives to) and design alternatives (alternative methods) and the improvements recommended for implementation.

The SSA should be a "living" document which is updated frequently throughout the study, particularly after points of contact (e.g. public consultation centres, meetings with TAC, CAG, SIG, etc.).

4. CONTEXT ORIENTED ISSUES AND SOLUTIONS

Based on the above, it is shown that there are many ways to engage stakeholders during a Municipal Class EA project, particularly a Schedule C. After using many of these methods, and at the least meeting the minimum mandatory Class EA requirements for consulting with stakeholders, a few questions must be asked – (1) Were the stakeholders really listened to? (2) Has the study team acted in accordance with the "spirit" of the Municipal Class Environmental Assessment process? and (3) Has the study team addressed the stakeholders concerns / issues?

For a study consultation program to allow for context oriented input, resulting in context oriented solutions, it is important for the consultation program to:

- Be seen as meaningful by stakeholders, thus they should be engaged as early on as possible, and throughout the study;
- Be transparent, open, traceable, timely, mutually respectful and accountable; and
- Be fair and engage stakeholders in a constructive and balanced manner.

Several examples of context oriented issues and solutions which incorporated stakeholder input are discussed in this section.

4.1 Case Study #1

The proposed project involved the widening of a 4-lane cross-section to a 7-lane cross-section in one section of the study corridor, a widening from a 2-lane cross-section to a 5-lane cross-section in another section of the study corridor, and maintaining the existing 4-lane cross-section in the remaining section of the study corridor, for a total length of approximately 5 km.

4.1.1 Issue

During the consultation program for this study, a residents association became very interested in the project. This group was very vocal about a number of issues, with the most significant one being preservation of a set of old Maple trees at the top of a river valley.

4.1.2 Context Oriented Solution

The residents association was listened to, and to address their concerns, two discussion group meetings, above and beyond previously allocated project public meetings, were held to resolve the issues.

During the design alternatives phase of the project, the project team was able to shift the road alignment away from the Maple trees to accommodate the road widening and minimize impacting the trees.

To further address any potential impact on the Maples trees, it was recommended that a short-term, and a long-term preservation plan be put in place at the time of detailed design and construction, to protect the Maple trees from potential permanent impacts.

4.2 Case Study #2

A Class Environmental Assessment Study was initiated to study the need for improvements to:

- Address existing and projected capacity deficiencies in order to provide adequate level of service through the corridor
- Enhance traffic safety
- Accommodate approved developments
- Support municipal land use and development objectives

4.2.1 Issues

Many issues were raised to the project team throughout the process of this study to investigate the widening of a 6 km section of an arterial urban roadway. Key issues included: access to/from the study corridor from unsignalized side streets and impacts to existing residents and businesses through which the study corridor passed.

4.2.2 Context Oriented Solution

The context oriented solutions to address these issues included an innovative consultation program, a discussion of which is provided below.

4.2.2.1 Community Access Meeting

A Community Meeting was held to assess the thoughts and preferences of the community regarding four alternative road realignment concepts for access local streets from the study corridor. The meeting was also used to determine a mechanism for confirming if any of the options had sufficient support to change the existing street layout.

The format of the meeting included a short introduction and background presentation by the consultant team. This was followed by an attendee workgroup session to allow attendees to discuss and evaluate the proposed alternatives in small workgroups. Participants assembled into four workgroups of approximately 6-10 people. The workgroup session was staffed by the study team. A specialist from the consultant team facilitated the meeting.

Attendees were asked to sign-in and were invited to fill-in comment forms and provide them to the project team at the end of the meeting.

Following the Community Meeting, a summary of the meeting and a survey was sent out to over 300 households. The survey asked each household to vote for either Alternative 1, Alternative 4, or indicate another alternative.

Results

Although many of the residents wanted realignment of the streets; it proved not to be feasible, and realignment was therefore not recommended. However, a centre left turn lane was recommended as part of the Needs Assessment and would alleviate some of the existing problems. Streetscaping plans were also established through the Village to address residents' concerns.

Although a favourable outcome for all interested parties may not always be recommended, it is important to address the issues. This often includes revisiting the recommendation to assess potential revisions which could minimize impacts, etc.

In this case study, the residents did not receive everything that they would have liked; however the local businesses felt it was a good idea to relieve congestion in the corridor to attract business. It is important to balance the interests of many parties throughout the Environmental Assessment process and to come up with the solution that addresses the problem statement, minimizes impacts on the environment and best meets the needs of the community.

4.2.2.2 A Business Impact Assessment (BIA)

A BIA was conducted as part of the study to determine whether a proposed widening of the corridor would have a positive or negative effect on businesses within the study area. Interviews were held and surveys conducted with businesses, business related organizations and associations, and economic development agencies, including the Business Improvement Association.

To determine the effect of the proposed road widening, a short survey was prepared to be used primarily in telephone and face-to-face interviews, and also faxed or e-mailed to those in the business community being surveyed. The 17 study area business contacts represented 45% of the total 38 non-box store or large chain retail or service types of businesses. Almost all of the businesses contacted were owner-operated or locally managed. They included local restaurants, auto service and repair, convenience stores, cleaners, computer sales and repair (non-chain), clothiers, an insurance agency, gas station, video store and a home flooring centre.

Based on the information gathered from the business impact assessment, a number of important observations were made as follows:

1. The majority of those surveyed identified traffic congestion as a problem and were supportive of the road-widening alternative.
2. The businesses surveyed felt that a widening would be helpful and beneficial to their business, or at the very least would have no negative impact.
3. Most of these businesses had well-established clientele from the local area, and were not so dependent on high visibility and easy accessibility.
4. Those that were more dependent on traffic volume recognized that traffic could be a mixed blessing. Traffic volumes are good for business but too much traffic congestion can hinder customer traffic flow to their place of business.

5. Most respondents recognized that there could be some disruption during the construction phase of the project but were willing to deal with the inconvenience. In the long run, they felt that the road widening would be beneficial, both to them and to area businesses in general.
6. There was recognition that improvements could bring more economic development to the area, thereby being a positive impact.
7. The businesses agreed that accessibility needs to be maintained during the construction phase.

Result

In summary, most businesses surveyed were supportive of a road widening because it would reduce congestion, make it easier for customers to access their business and bring positive economic benefit to the study area. Based on this finding, and on observations of the businesses in the study area, it was concluded the widening of the study corridor would have minimal impact on the businesses in the study area. Any impacts on access during construction are expected to be minimal and should be able to be mitigated.

4.3 Case Study #3

4.3.1 Issues

During the Phase 1 and 2 Public Information Centre for this project, members of the community in the study area vicinity expressed concerns regarding traffic operations in the area, specifically, traffic infiltration (resulting in increased traffic volumes on neighbourhood streets), travel speeds, traffic control compliance, and safety for pedestrians and cyclists.

4.3.2 Context Oriented Solution

To respond to these concerns, an additional Traffic Assessment Study was undertaken in the neighbourhood to verify residents' concerns about traffic volumes, and to assess the potential impacts that the projects in the area may have on the neighbourhood.

As part of the Traffic Assessment, the study of several issues was undertaken, including:
- A review of the existing transportation system and services,
- A review of existing road network discontinuities,
- A review of existing traffic level of service for road links and intersections,
- A review of access points and collector road needs,
- An assessment of future traffic levels of service for road links and intersections, and identification of transportation needs,
- A review of collision history of the roads,
- Identification of opportunities for traffic management measures, and
- Recommendation of transportation management measures and appropriate implementation schedule.

The stakeholders also needed to be consulted about the additional study. A newsletter was sent to those on the mailing list. The newsletter provided members of the public with information regarding the Traffic Assessment that the City was undertaking to address concerns expressed by residents adjacent to the study area. The newsletter also informed members of the public that the second Public Information Centre would be delayed due to the additional work undertaken for the Traffic Assessment.

An additional Public Information Centre was held to present to members of the community, options that were identified and assessed in an attempt to address these concerns, and to gather public input.

Based on the additional studies, the recommendation was to implement a number of solutions. These included building a new collector road connection and closing a local neighbourhood road. Both of these improvements (collector road and closure) had been previously identified in the Official Plan (refer to black alignment in **Exhibit 1**). However, there were difficulties in implementing them as identified in the Official Plan due to an area of natural and scientific interest (ANSI). As part of the recommendation, an alignment which avoided impacts to the ANSI was identified (refer to blue alignment in **Exhibit 1**).

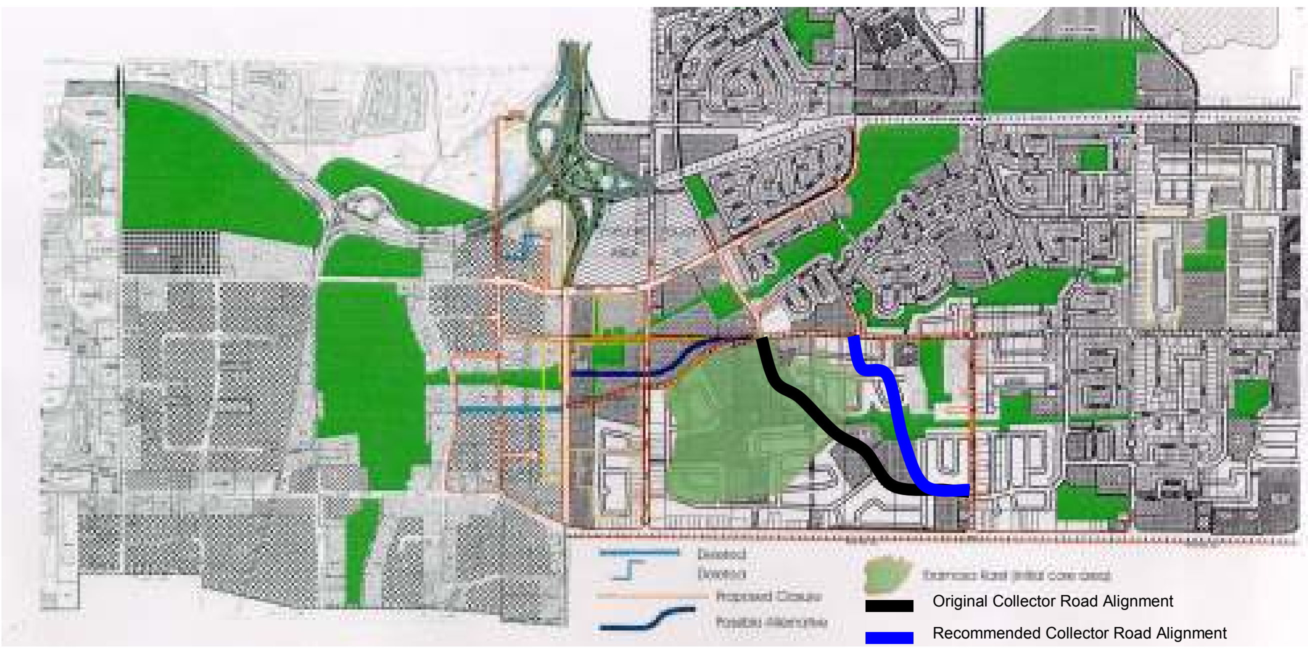

Exhibit 1: Official Plan Collector Road Alignment and Recommended Collector Road Alignment

5. OTHER KEY ITEMS TO CONSIDER IN YOUR NEXT STUDY

5.1 Documenting Issues and Responses

The role and effect of outreach and engagement should be documented throughout the study, showing how input received affected the development of the EA study. Thorough comment and issue tracking is essential in identifying and responding to issues in a manner that is satisfactory to all stakeholders, and manages issues in a professional manner.

All questions and comments from consultation events, electronic comments and those received directly via phone, mail or fax must be documented. Any stakeholder who provides comments via e-mail should receive acknowledgement. Discretion and professional judgement is required to determine if other methods of providing comments require a direct response to the stakeholder. For example, a formal letter of questions / concerns from a stakeholder will require a similar method of response, while a comment sheet submitted at a public consultation centre may not.

It is critical for all comments to be addressed immediately, and for potential issues to be identified and addressed, as appropriate.

5.2 Minimizing the Risk of Part II Order Requests

Members of the public, interest groups and / or review agencies can submit a Part II Order request with the Minister of the Environment, at the completion of a project and filing of the ESR, if it is felt that serious environmental concerns remain unresolved. This request could result in the proponent being required to comply with Part II of the EA Act (Individual EAs) before proceeding with the undertaking. The Minister decides whether or not to approve the request and their decision is final.

Providing a comprehensive consultation program throughout a study can minimize the risk of a Part II Order request. It is more simple for the proponent to resolve issues with interested parties during a project, than to have unresolved issues at the end of a project, or raised late in the project and decided upon by the Minister of the Environment. The Part II Order review process can be quite lengthy and the outcome is always an unknown.

Ensuring that everyone with a potential interest in the study is provided an opportunity to participate in the consultation program, and adequately responding to their input, reduces the risk of a stakeholder having an unresolved issue to present to the Minister during the study public review period.

Issues and concerns should be identified early in the consultation program so that they can be resolved and / or incorporated appropriately into the study, rather than having concerns raised at the end of the process after decisions have already been made.

6. REFERENCE LIST

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