



# 4.

## SEIA in Preliminary Screening



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## 4.1 Introduction

Preliminary screening is the first level of EIA in the Mackenzie Valley. Preliminary screening is an initial examination of a proposed development's potential to cause significant adverse impacts on the environment and/or public concern. This happens *after* the developer files a development application. Preliminary screening is a multi-party review of development applications that culminates in the preliminary screener (the regulator) applying the "Might Test."<sup>8</sup>

Figure 6 illustrates how SEIA is incorporated into preliminary screening. Note: This section assumes a general working knowledge of preliminary screening. If you have non-SEIA questions about preliminary screening, consult the *EIA Guidelines*.

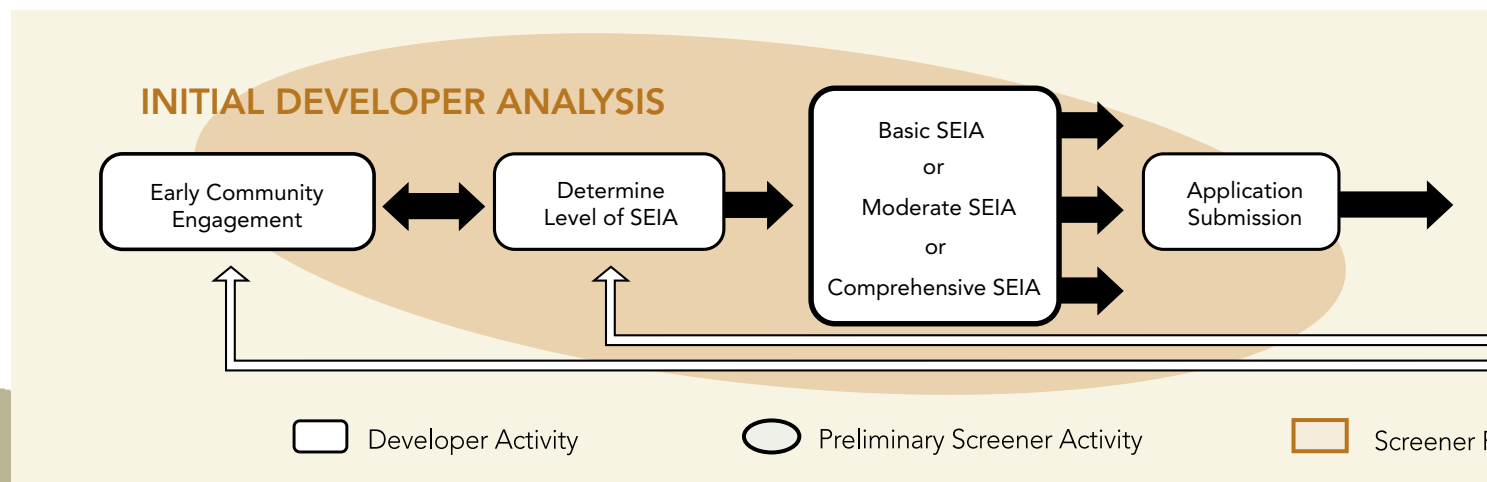
## 4.2 SEIA Roles during Preliminary Screening

The following is a list of participants and their responsibilities during preliminary screening:

### 1. Preliminary screener

- Accepting and distributing information such as initial development applications
- Distributing relevant documents to the appropriate reviewers along with instructions on the review requirements
- Collecting reviewer comments about the SEIA
- Make a decision whether:
  - The initial development application has adequate information about early community engagement and SEIA to be accepted for preliminary screening
  - The proposed development application requires further study

**FIGURE 6** SEIA Steps in the Preliminary Screening Process



8. For more information on the "Might Test", see the *EIA Guidelines*.

- The application should be subject to a hearing to discuss outstanding issues
- To proceed to permitting
- A referral to EA is necessary

## 2. Developer

- Filing an initial development application that includes a full report of early community engagement and SEIA considerations
- Providing additional SEIA information if it is determined that SEIA in the initial development application is insufficient for a preliminary screener to accept the application or make a decision

## 3. Communities and other potentially affected groups

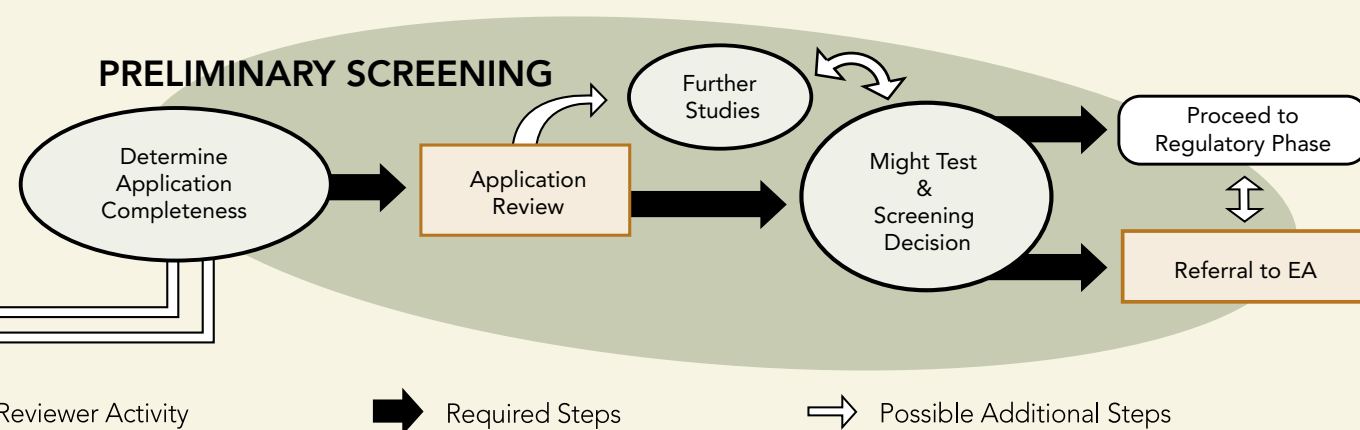
- Providing comments and concerns about the development application to the preliminary screener during the preliminary screening period (municipal and some other community authorities have the power to refer a proposed project to EA – see section 126 of the *Mackenzie Valley Resource Management Act* for more information)

## 4. Reviewers

- Reviewing and commenting on the developer's SEIA
- Providing comments to the preliminary screener about the adequacy of the developer's SEIA based on the following considerations:
  - Whether there is enough evidence in the development application to make a preliminary screening decision
  - Whether the developer must do further studies to eliminate uncertainties in the SEIA or mitigate identified potential impacts and/or public concerns
  - Whether the proposed development might cause significant adverse environmental impacts and/or public concern that requires a referral to the Review Board for an EA

## 5. Referral agencies

- Reviewing and commenting on the initial development application
- Determining whether to refer the development to the Review Board for an EA regardless of the preliminary screener's decision



## 6. The Mackenzie Valley Environmental Impact Review Board

- Monitoring preliminary screening decisions about the initial development application
- Determining whether to refer the development to an EA regardless of the preliminary screener's decision

Before determining the scope/scale of its initial SEIA analysis, the developer should be familiar with the expectations of referral agencies and the Review Board.

## 4.3 Application Completeness and Review

Assessing whether the application is complete is the preliminary screener's first task. The Mackenzie Valley Land and Water Board has guidelines for assessing whether an application is complete (consult other preliminary screeners directly about their specific requirements):

*"A complete application must have all the information necessary for the MVLWB staff to complete a preliminary screening... More specifically, the information submitted with an application must include:*

- *A development description;*
- *Impacts on the environment and associated mitigations/remediation;*
- *A description of consultations undertaken, issues raised, resolutions reached and land use permissions;*
- *Archaeological resources; and*
- *Any affiliated new facilities, structures and activities arising or needed as a result of the application."*

Reviewing the application is the second task. The preliminary screener shares this task with other reviewers. The preliminary screener has the discretion to choose

which organizations review the application (beyond those legally bound to review the application<sup>9</sup>), and which socio-economic issues need to be considered when applying the "Might Test."

GNWT "Social Envelope" departments should be on the distribution list of the preliminary screener when a proposed development with identified SEIA issues is undergoing preliminary screening. Preliminary screeners should also include any other organizations which could provide valuable SEIA expertise.

Thorough and timely application review requires specific instructions for reviewers. In addition to encouraging reviewers to fill out the same SEIA Checklist as applicants for comparative purposes (see Table 6 for an example), preliminary screeners may ask reviewers to identify whether:

1. The list of potentially affected communities is comprehensive
2. The application addresses the concerns and issues of potentially affected communities adequately
3. The level of SEIA effort is adequate for the size, location and complexity of the proposed development
4. There are gaps in the data or methodology
5. There is general uncertainty about socio-economic issues
6. The valued socio-economic components, benchmarks and indicators are relevant, adequate and accurate
7. There are potential socio-economic or cultural impacts missing from the developer's assessment
8. There are gaps in the initial impact prediction or determination of significance
9. There are mitigation measures that should be required for the identified potential socio-economic impacts

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9. Section 63(2) of the MVRMA requires that affected communities and First Nations receive applications for review. Section 124(1) requires the Review Board receive notice of the application.

## 4.4 The Screening Decision: Performing the “Might Test”

Section 125 of the MVRMA governs how a preliminary screener makes decisions. In most cases<sup>10</sup>, the preliminary screener must “*determine and report to the Review Board whether, in its opinion, the development might have a significant adverse impact on the environment or might be a cause of public concern*” (s.125 (1) (a)). If this is determined in the affirmative, the proposed development must be referred to EA.

Compared to the “Likely Test” for EA (see Section 5.6), the “Might Test” is a rudimentary test that does not require the same weight of evidence for support. However, the dictionary definition of might as “possible” is not adequate to perform the “Might Test.”

An absence of socio-economic information in a development application does not mean socio-economic impacts and concerns do not exceed the limits of the “Might Test.” A lack of clarity and analysis of potential impacts during preliminary screening can cause public concern about the potential for unidentified or overlooked impacts happening. Public concern can lead to the proposed development being referred to EA, or make the developer conduct an unnecessarily wide scoping of socio-economic impacts during EA. The checklists and questions for further consideration in Section 3 will help the developer eliminate potential socio-economic impacts and public concerns from further consideration, and identify specific issues requiring further examination.

Every proposed development has possible socio-economic impacts. The Review Board defines “might” as a *realistic possibility*.<sup>11</sup> Preliminary screeners must judge whether the proposed development might have significant impacts or cause significant public concern using ► previous experience with similar developments ► information in the development application, and ► the comments of expert reviewers. Detailed information about applying the “Might Test” is in the *EIA Guidelines*.

Many preliminary screeners are regulators that lack a mandate to include terms and conditions for minimizing socio-economic or cultural impacts in their respective licenses and permits. Whether the preliminary screener has jurisdiction to mitigate these impacts is irrelevant to the preliminary screening, as it is not part of the regulatory process. Preliminary screening is an impact assessment process that precedes any regulatory action. The preliminary screener must consider every issue an EA can address including socio-economic and cultural issues, and various public concerns regardless of their regulatory mandate.

Preliminary screeners ask the following two key questions when making a preliminary screening decision:

- Was the investigation done properly or are there remaining questions that the developer must answer before proceeding?
- Are there any potential adverse impacts on the environment or public concerns that exceed the threshold of the “Might Test”?

Regarding the first question, when the preliminary screener lacks the evidence to make a determination about socio-economic issues, the preliminary screener has the right to defer a decision until further studies are done, and/or hold a public hearing to gather further information (see section 24 (1) of the MVRMA). Proposed developments that might cause a significant adverse impact on the environment – or might cause significant public concern – which cannot be mitigated through further studies or public hearings should be referred to the Review Board for an EA.

The preliminary screener receives information from other referral agencies to answer the second question. Regardless of the preliminary screener’s decisions, any referral agency can refer the proposed development to EA according to section 126 of the MVRMA. Preliminary screeners must forward preliminary screening decisions to the Review Board for final consideration before issuing any permits and/or licenses.

<sup>10</sup> Requirements are slightly different for developments wholly inside local government bounds (MVRMA S. 125(2)).

<sup>11</sup> See the Review Board’s Reference Bulletin on “Operational Interpretation of Key Terminology in Part Five of the *Mackenzie Valley Resource Management Act*” for the Review Board’s interpretations of the terms *might*, *likely*, *adverse*, *significant* and *public concern*. Available at [mveirb.nt.ca](http://mveirb.nt.ca).

## Notes:

[illegible]