



REFERENCE BULLETIN ON CONDUCTING SHORTER ENVIRONMENTAL ASSESSMENTS

*How and when the Review Board can
conduct environmental assessments under
the 9-month legislative timeline under the
MVRMA*

December 2024

A large, stylized graphic in shades of blue and teal. It features a large, wavy, horizontal shape that resembles a river or a valley floor, set against a background of concentric, semi-circular bands. The overall effect is a layered, organic landscape design.

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About the Review Board

The Mackenzie Valley Environmental Impact Review Board (the Review Board) is an administrative tribunal that was established through the *Mackenzie Valley Resource Management Act* (the Act) that resulted from the *Gwich'in Comprehensive Land Claim Agreement*, the *Sahtu Dene and Métis Comprehensive Land Claim Agreement*, and the *Tłıchǫ Land Claims and Self-Government Agreement*.

The Review Board conducts environmental assessments and environmental impact reviews in the Mackenzie Valley under subsection 114(a) of the Act. The Review Board's mandate is broad and comes from Part 5 of the Act. As per section 115 of the Act, the Review Board must consider in its proceedings:

- *the protection of the environment from significant adverse impacts,*
- *the social, cultural and economic well-being of residents and communities in the Mackenzie Valley, and,*
- *the importance of conservation to the well-being and way of life of Indigenous peoples to whom section 35 of the Constitution Act, 1982 applies and who use an area of the Mackenzie Valley.*



1. Introduction

The Mackenzie Valley Environmental Impact Review Board (Review Board) was established by the *Mackenzie Valley Resource Management Act* (the Act) and is responsible for the environmental impact assessment processes¹ in the Mackenzie Valley of the Northwest Territories.

The Review Board's mandate is set out in Part 5 of the Act. Importantly, the Act requires the Review Board to do its **work in a timely and expeditious manner**.² In fulfilling this mandate, the Review Board is tasked to make wise environmental assessment (EA) decisions that balance the diverse values, interests, and knowledge of all residents of the Mackenzie Valley, while ensuring the protection of the environment for present and future generations.³

Purpose of the reference bulletin

The Act describes two options for the length of the Review Board's EA proceedings: up to 9-months and up to 16-months. The legislated provision for a 9-month proceeding, along with several other time limits, came into force following the 2014 amendments to the Act and creates an option for a shorter, more focused type of EA. The Review Board's *Environmental Impact Assessment Guidelines*⁴ were released in 2004, prior to the 2014 legislative amendments and therefore do not provide guidance on how to conduct these shorter assessments, or under what circumstances these assessments might be conducted.

This reference bulletin sets out the factors the Review Board may take into consideration when deciding the appropriate duration for a proceeding, and the process steps it can take when running a proceeding under the 9-month timeframe.

In every proceeding, the Review Board seeks to balance the time and process steps needed to properly and fairly scrutinize proposed developments against the need to encourage responsible, sustainable resource development in the Mackenzie Valley. While not required by the MVRMA, the Review Board understands that one of the best ways to conduct good EA in under 9-months is to prioritize public hearings.

This reference bulletin describes:

- legislated timelines for EAs in the Mackenzie Valley
- when and how the Review Board will decide to conduct a shorter EA
- how and why shorter EAs can include public hearings and
- the relationship between shorter EAs and consultation.

¹ Environmental impact assessment under the Act includes preliminary screening, environmental assessment, and environmental impact reviews. This reference bulletin only applies to environmental assessments (EAs).

² Paragraph 115(1) of the Act.

³ See the [Review Board's Strategic Plan 2023-2027](#) for more information about the Review Board's Vision, Mission and Goals, available online.

⁴ The Review Board's [Environmental Impact Assessment Guidelines](#) is available online.



2. Legislated timelines for EAs in the Mackenzie Valley

The Act has two legislated timelines for the Review Board to complete its EAs: a 9-month timeline, and a 16-month timeline for assessments with a hearing.⁵ In every EA proceeding, developers can take as long as they need to provide required information to the Review Board. Because of this, the amount of time a proposed development spends in EA is often highly dependent on the amount of time developers take to answer questions and provide information.

The legislated timelines apply only to the time that the Review Board and parties use during a proceeding; it does not include time used by developers to provide information or answer questions.

The Review Board has a proven record of doing EAs as quickly and efficiently as possible and remains committed to doing so in the future. The timeline tracker in Figure 1 below shows how the Review Board was able to complete an EA in less than 9 months, as well as the time taken by the developer and the decision-maker(s) under Part 5 of the MVRMA to fulfill their responsibilities.⁶

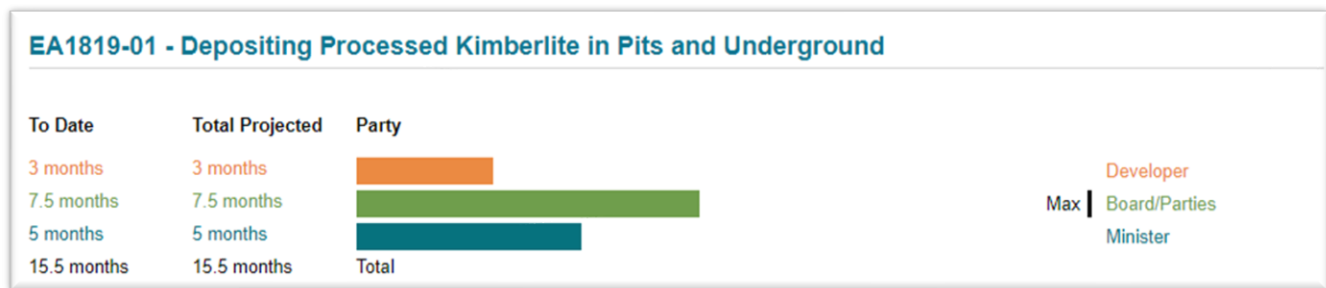


Figure 1- Timeline from EA1819-01 Depositing Processed Kimberlite in Pits and Underground

3. When and how the Review Board will decide to conduct a shorter EA

Objectives-driven scoping and good information early on helps the Review Board decide what length of proceeding to run

During scoping, the Review Board needs to identify and prioritize the issues that should be assessed in the EA. The Review Board can also use the scoping phase to validate the information it receives during the start up-phase of a proceeding from a developer.⁷ Better, more explicit and objectives-

⁵ The 9-month and 16-month timelines are described in subsections 128(2) and (2.1) of the Act. Further, the Act has provisions, subsections 128(2.2) and (2.3), to extend these timelines as needed. For more information, please see the Review Board’s [MVRMA Amendments Reference Bulletin](#) online.

⁶ [Timelines from all recent and current EAs](#) are available on the Review Board’s website.

⁷ For more information on providing good, early information to the Review Board and on early engagement with Indigenous Governments and Organizations, please see the Review Board’s [Guideline for an optional pathway for major projects to enter environmental assessment](#) available on our website.



driven scoping will help the Review Board get the information it needs to understand the issues and decide what length of proceeding these issues warrant.

During scoping, the Review Board may ask questions to inform its decision about what length of proceeding to run. This includes asking specific and explicit questions to better understand:

- the number and type of unresolved issues that require detailed assessment
- if and how the developer responded to community concerns during project development and scoping
- what, if any, impacts can be mitigated with standard regulatory requirements⁸ and/or best-practice, and
- the type and scale of potential impacts of the development, and whether the developer has proposed adequate mitigation to address community concerns.

The Review Board's decision on timelines will follow scoping

In all cases, the Review Board designs comprehensive, fair and efficient EA proceedings that are tailored to the nature and scope of issues for each proposed development. After reviewing all the evidence on the public registry about the proposed development⁹, including information from the developer, the public and parties, **the Review Board issues a decision (with reasons) on the scope of the EA and provides a draft workplan that outlines expected timelines for the proceeding.** If warranted by the circumstances, as described in the next section, the Review Board may choose to run a shorter EA.

The Review Board has the discretion to run its proceeding as it sees fit. The Review Board can modify its procedures and process and update its workplan at any time during an EA, in keeping with the requirements of fairness and effectiveness.¹⁰ This might be necessary if, for example, new information becomes available, or as issues develop and become increasingly important.

While EA workplans can and often do evolve over time, providing an informed workplan as early as possible in the EA is an important accountability mechanism for the Review Board. The workplan gives all participants in the EA an early indication about when participation or review of key documents might

Regardless of the specific workplan that the Review Board develops, proceedings are most efficient when developers provide the Review Board with good, comprehensive and relevant information early and throughout the proceeding. Similarly, proceedings run most smoothly and efficiently when developers show early, transparent and respectful engagement with Indigenous Governments and Organizations, communities and other interested parties.

⁸ For more information on the role that designated regulatory agencies play in environmental impact assessment in the Mackenzie Valley, please see our [reference bulletin available online](#).

⁹ including any relevant regulatory authorization applications and the *Proposal for Development*, if available.

¹⁰ For more information, please see the [Rules of Procedures for Environmental Assessment and Environmental Impact Review](#) on the Review Board's website.



be needed. This will help the developer and all parties in an EA to plan, access and/or allocate resources more effectively.

Characteristics of proposed developments that are best suited to shorter EAs

Based on the Review Board's past experiences, some factors may make a proposed development well-suited to an up to 9-month EA timeline. This includes proposed developments that:

- only raise a few key issues,
- are amendments to, or expansions of, existing developments,
- can be informed by or relate to the findings and recommendations of a regional study or Regional Strategic Environmental Assessment, and/or
- are small, time limited and characterized by good consultation and engagement by a developer during project planning and design.

Proposed developments that may warrant shorter assessments usually center on either social, cultural, or economic issues or primarily technical matters. This means that assessment methods and process steps can be targeted towards a smaller number of issues. Alternatively, they may be smaller projects that use known technology or affect a limited area of the Mackenzie Valley.

4. Shorter EA can include public hearings

Public hearings yield many benefits to the Review Board and to participants in EA proceedings. For this reason, the Review Board highly values and prioritizes public hearings wherever possible and appropriate, including in proceedings that can be conducted under the 9-month timeline.¹¹ Most of these proceedings can be designed to move quickly through the analysis phase of the assessment and to prioritize the public hearing phase.

Some examples of how the Review Board has done this in the past include:

- moving quickly to public hearings where the key issues revolved around community concerns (for example, in the Chedabucto or North Rock EAs)¹²;
- requiring supplemental information in lieu of a comprehensive *Developer's Assessment Report*

Public hearings, where parties and the public express their views directly to the Review Board, are one of the best and most efficient ways to do good EA by:

- ensuring that the Review Board hears directly from Indigenous people and the public so that it can fully consider the rights and interests of these groups and individuals;
- facilitating the efficient testing of evidence through the presentation of interventions and cross-examination; and
- focusing on specific issues that require more attention and focus, leading to better and more information for decision-makers under Part 5 of the Act.

¹¹ The Review Board has the discretion to conduct any hearing under section 24 and an obligation to complete an EA within prescribed timelines under subsection 128(2) and 128(2.1) of the Act.

¹² The [public registry for the Chedabucto EA \(EA1415-02\)](#) and [North Rock EA \(EA03-001\)](#) is available on the Review Board's website.



for cases where there is already sufficient, relevant material on the public registry from previous assessments (for example, in the Diavik EA)¹³; and

- focusing on a narrow set of issues and thereby removing the need for a *Terms of Reference* and *Developer's Assessment Report* (for example, in the Snap Lake amendment EA)¹⁴.

In all EA proceedings, the Review Board will decide what **process steps are required before hearings on a case-by-case basis** and with due consideration for the unique characteristics of the proposed development and assessment at hand.

5. Shorter EAs and consultation

The Review Board's requirements for statutory consultation are the same regardless of whether it decides to run its EA proceedings under the 9 or 16-month timeline.¹⁵ The Review Board takes its responsibility for consultation seriously and will take steps to meet these requirements in all its proceedings. In the Review Board's experience, public hearings are one of the best ways to hear directly from members of the public and Indigenous Governments and Organizations, which means that they are also one of the best tools at the Review Board's disposal to meet its statutory responsibilities for consultation.

6. Conclusion

The Review Board has the discretion to run its proceedings as it sees fit: it can include public hearings in the conduct of an EA proceeding and complete such proceedings under the 9-month timeline. In every proceeding, the Review Board will work with interested parties to find creative ways to conduct a fair, comprehensive and focused assessment that results in a good decision. The specific steps that will be taken within each EA will be outlined in project-specific workplans.

The Review Board may update this reference bulletin from time to time, as necessary.

¹³ The [public registry for the Diavik EA \(EA1819-01\)](#) is available online.

¹⁴ The [public registry for the Snap Lake amendment EA \(EA1314-02\)](#) is available on online.

¹⁵ See sections 3 and 127.1 of the Act. For more information, please see the Review Board's *Reference Bulletin on Consultation and Engagement in Environmental Impact Assessment* [available online](#). The Crown relies on Review Board processes for fulfilling its own duty to consult.

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