

Environmental Assessments

1.0 Summary

An environmental assessment is a planning and decision-making process that evaluates the potential “environmental impacts” of a proposed project or plan. This process is required under the *Environmental Assessment Act* (Act), primarily for public-sector projects and plans. The intent of the Act is to establish a process that identifies and resolves potential environmental problems before actual environmental damage occurs, for the betterment of Ontarians. Environmental assessments are intended to identify ways to prevent or mitigate negative effects of projects and plans, and find alternatives and consider public concerns prior to going ahead with the project or plan.

The Ministry of the Environment and Climate Change (Ministry) is responsible for administering the Act. The scope of “environmental impacts” under the Act is broad: in addition to the impact on the natural environment, it includes human life, social, economic and cultural factors that influence a community. The Act also allows for most environmental assessments to be “streamlined”—that is, subject to pre-set and less rigorous processes for projects considered to be routine and to have predictable and manageable environmental impacts.

Overall, our audit found that Ontario’s environmental assessment process needs to be modernized and aligned with best practices in Canada and internationally. Because the Act is 40 years old—and is, in fact, the oldest environmental assessment legislation in Canada—it falls short of achieving its intended purpose. For example:

- **Ontario is the only Canadian jurisdiction in which environmental assessments are generally not required for private-sector projects.** These projects—such as mining operations or chemical manufacturing facilities—proceed without an up-front evaluation of the environmental impacts of the project. Such impacts can be extensive and can affect Ontarians for many years. For example, as of March 31, 2015, the government identified that it had a liability of \$1.2 billion to clean up 47 contaminated sites that were caused by mining in Ontario over the years. (See **Section 3.10** Management of Contaminated Sites in our *2015 Annual Report*.) With over 4,400 active and abandoned mine sites and 15,000 recorded mine hazards, MiningWatch Canada reports that Ontario ranks first in Canada as having the biggest environmental liability in the mining sector.
- **Environmental assessments are not completed for many significant government plans and programs.** The impact of

government plans and programs can have a broader and longer-term impact compared to individual projects, and therefore warrant a thorough assessment beyond that which is possible for individual projects. Although the Act applies to government proposals, plans and programs, only streamlined assessments have been conducted, and only for forest-management plans. No other environmental assessments have been completed for any government plan or program in the last two decades. This is because:

- **The Act is not specific about the types of plans and programs that must be assessed.** This means that determining whether a government plan—for example, the province’s Long-Term Energy Plan and the Ministry’s cap-and-trade program—requires an environmental assessment is open to interpretation by the provincial ministries and agencies that propose the plan.
- **Other legislation undermines the role of environmental assessments by exempting certain plans and programs from requiring them.** For example, the Climate Change Action Plan, transportation plans, and the government’s renewable energy program are exempt from requiring an environmental assessment. In reaction to this, 92 municipalities have passed resolutions as “unwilling hosts” to wind farm developments. These resolutions do not have the authority to stop any wind farm development projects.

Public consultation is one of the cornerstones of the environmental assessment process. Prior to passing the Act in 1976, the government emphasized the important role the public can play in identifying potential impacts, assessing their significance, and evaluating the advantages and disadvantages of a project or plan. However, the benefits of public input have not been realized because:

- **Decisions regarding whether to grant public requests for more extensive consultation are at the Minister’s discretion, with no clear criteria or an independent body to ensure objectivity.** In the last five-and-a-half years, the Minister has denied all but one of the public requests to have 177 streamlined assessments “bumped up” to comprehensive assessments. Also, the Minister has denied all 190 public hearing requests related to four projects (Durham and York Energy Centre, Hanover/Walkerton Landfill Expansion, West Carleton Environmental Centre, and Highway 407 East Extension). Clear communication about why requests were rejected would instill more public confidence in the environmental assessment process.
- **The public is not informed about most projects.** The majority of projects undergo the less rigorous streamlined environmental assessment process that includes about 30 days of public consultation. The Ministry’s website only has information about projects undergoing comprehensive environmental assessments. Neither the project owners nor the Ministry provide the public with information about streamlined assessments beyond this brief consultation period.

Neither the comprehensive nor the streamlined process is effectively or efficiently overseen by the Ministry. As a result, the public obtains minimal assurance that these processes are effective in preventing and/or mitigating the negative environmental impacts of projects.

Other significant observations include the following:

- **The type of assessment required for a particular project is often not based on the project’s potential environmental impact.** For example, the basis for determining whether a comprehensive or a streamlined assessment is required for a particular project often depends on its size, scale and cost rather than its potential impact.

- **The Ministry has no assurance that streamlined assessments are conducted properly because of its limited involvement.** Many streamlined assessments are completed without the Ministry's knowledge—including, for example, 80% of those conducted by the Ministry of Transportation in the last five years. Without knowledge of these assessments, Ministry staff cannot provide input into these assessments. In cases where the Ministry was aware of the projects and had reviewed the assessments, deficiencies were identified in more than half the assessments, indicating that project owners were not always conducting them properly.
- **Lengthy Ministry reviews of public requests to bump up streamlined assessments to comprehensive assessments cause unnecessary project delays.** Multiple layers of reviews—including four levels of sign-off by the Director, Assistant Deputy Minister, Deputy Minister and the Minister—resulted in an average of seven months of delays, but did not substantively change the outcome of the review. The additional reviews generally only resulted in grammatical wording changes or merely restated existing commitments in the environmental assessments. Projects were delayed until all reviews were completed, which often resulted in financial and non-financial costs to project owners.
- **The cumulative effects of multiple projects are usually not assessed.** Despite international best practices, project owners are not required to consider the cumulative effects of other relevant activities such as known future projects and those that are already occurring in the project area; this can result in projects going ahead in areas that are already subject to significant environmental stresses.
- **The Ministry does not have effective processes to ensure that projects are implemented as planned.** Such processes could include field inspections during project

implementation or requesting data, after projects are implemented, that shows their environmental impact.

This report contains 12 recommendations, consisting of 20 actions, to address our audit findings.

OVERALL MINISTRY RESPONSE

The Ministry appreciates the Auditor General's observations and recommendations. We will implement many of the recommendations in the short term and continue to review further improvements in the longer term.

The protection, conservation and wise management of the environment for the betterment of Ontarians are the guiding principles for Ontario's environmental assessment program. The Ministry recognizes the importance of environmental assessments being an effective tool to evaluate impacts of proposed projects and to identify ways to mitigate any environmental damage.

The Ministry is continuously working to improve Ontario's environmental assessment program, which was the first of its kind in Canada. We are proud of the work that has been done, such as strengthening consultation opportunities for the public and Indigenous communities.

We recognize that more needs to be done to ensure environmental assessments are timely, effective and properly based on environmental risk. That is why the Ministry will improve its guidance to project owners, members of the public and Ministry staff.

We will further integrate the assessment of climate change and cumulative effects into the Ministry's decision-making process. The Ministry has prepared a draft guide to consider climate change in environmental assessment and has made it available for public review. In 2017, we will finalize a draft guideline for public review for assessing cumulative effects for comprehensive environmental assessments.

We are committed to public transparency and meaningful consultation. The Ministry is undertaking a scoped review of the *Environmental Bill of Rights* that will include reviewing consultation requirements related to environmental assessments.

The Ministry will also work with project owners on options to strengthen access to and transparency of environmental assessment information. It is critical that the Ministry, government agencies, Indigenous communities and the public are properly informed of projects being planned in communities so that they can participate in the process.

2.0 Background

2.1 Overview of Environmental Assessment in Ontario

The *Environmental Assessment Act* (Act), which came into force in 1976, governs the environmental assessment process in Ontario. The Act was designed to establish the planning and decision-making process that would evaluate the potential positive and negative environmental effects of a proposed project and alternatives to it, before the project was begun.

The Ministry of the Environment and Climate Change (Ministry) is responsible for administering the Act. The Act requires anyone who wishes to proceed with an “undertaking” to apply to the Minister of the Environment and Climate Change for approval. It defines “undertaking” broadly, as “an enterprise or activity or proposal, plan or program” by a public body or by a municipality. The Act also extends to government plans and programs.

The Act, therefore, applies mainly to public-sector projects, such as those of provincial ministries, agencies and municipalities. The only exceptions to this are large municipal infrastructure projects undertaken by the private sector, electricity-generation and transmission, and waste-management pro-

jects, and rare cases where the Ministry explicitly requires an environmental assessment. Occasionally, private-sector project owners will voluntarily conduct an environmental assessment.

Under the Act, the project owner must first conduct an environmental assessment before proceeding with a project. (In this report, anyone who is required to conduct an environmental assessment—referred in the Act as the proponent—is referred to as the project owner.) This is required for a wide range of projects such as highways, landfills, electricity-generating stations, municipal roads and sewage treatment plants, as well as forestry and provincial park management activities.

There are two broad types of environmental assessments in Ontario—comprehensive and streamlined. These differ in the extent of both the planning and public consultation activities that the project owner must undertake and the Ministry’s involvement during the assessment. The two types and their differences are described in **Section 2.3**.

2.1.1 Why Environmental Assessments Are Important

Potential Project Risks

Certain types of projects undertaken by both the private and the public sector have the potential to harm the environment, wildlife, and human populations if carried out without regard to their impact. They can result, for example, in contamination of the soil, pollution of the air and water, destruction of habitats and damage to places of economic and cultural significance. The effects can be extensive, and may last for many years.

Human populations can be affected by significant projects or plans in nearly every aspect of their lives, notably in their health but also socially, economically and culturally. When the government proposed the Act over 40 years ago, it stated that without a strong provincial involvement in the early stages of the project, “society could often be in a situation of reacting to environmental problems that could have been avoided.”

Benefits of an Environmental Assessment

Environmental assessments are intended to identify stakeholder concerns as well as alternative solutions and/or measures to prevent or mitigate negative environmental impact, before irreversible decisions and commitments are made regarding a project.

“Environment” is defined broadly in the *Environmental Assessment Act* to include the natural environment, as well as human life, social, economic and cultural conditions that influence the community.

To achieve the benefits intended by the Act, Ministry policy states that project owners should abide by the following key principles when conducting an environmental assessment for their proposed project:

- Consideration of a reasonable range of alternatives (including not doing the project or finding alternative methods of implementing the project).
- Consideration of all aspects of the environment as broadly defined in the legislation.
- Systematic evaluation of the environmental effects of the proposed project and its alternatives.
- Consultation with potentially affected and other interested persons throughout the assessment.

At the end of the environmental assessment process, project owners must prepare an environmental assessment report that documents the planning process that was followed for the proposed project.

All environmental assessments—whether comprehensive or streamlined—follow these key principles.

2.1.2 Ministry Staff Responsible for Environmental Assessment Process

Approximately 30 staff at the Ministry’s head office in Toronto and its five regional offices across the province—the Central, West Central, Southwest,

Eastern and Northern regions—are involved in managing the environmental assessment process. They receive support from 120 staff with technical expertise in areas such as air and water quality assessment, engineering and environmental planning. Many of these staff members, however, also have responsibilities in other programs administered by the Ministry.

2.2 History of the Environmental Assessment Process in Ontario

The *Environmental Assessment Act* came into force in 1976, at a time when no such legislation existed in Canada. Since then, Ontario has made various changes to its environmental assessment process. **Appendix 1** provides a detailed chronology of significant developments since the Act was passed.

2.2.1 Legislative Developments

Although in 1976, the Act applied only to public-sector projects, the government’s intent at the time was for the environmental assessment process to apply to activities within both the public and private sectors. In the late 1980s, it became Ministry policy to make certain large private-sector waste-management projects such as landfills and energy-from-waste facilities subject to the Act.

In the late 1990s, the government made significant amendments to the Act aimed at making environmental assessments “less costly, more timely and more effective.” Such amendments imposed time frames for the Ministry’s review of environmental assessment documentation and made public consultation a legal requirement, while also giving the Minister the power to determine which part of the environmental assessment would be referred for a public hearing.

The Ministry also passed regulations under the Act in 2001, 2007 and 2008 in response to government commitments and initiatives. Specifically:

- The 2001 regulation expanded the scope of the Act to include private-sector electricity

generation and transmission projects, in response to the government's 1997 commitment to make all electricity generators and transmitters subject to the same rules. By expanding the scope of the Act, the government made all electricity projects subject to the same regulatory approvals. The regulation also introduced a streamlined assessment process for certain electricity projects that met the threshold for this process.

- The 2007 regulation expanded the scope of the Act to private-sector waste-management projects, and introduced a streamlined assessment process for certain waste-management projects that met certain thresholds. This was in response to recommendations made by the Environmental Assessment Advisory Panel in 2005 (described in **Section 2.2.2**).
- The 2008 regulation introduced a streamlined environmental assessment process for all public transit projects in response to the government's MoveOntario 2020 initiative. The initiative would fund 52 rapid-transit projects throughout the Greater Toronto and Hamilton area by 2020.

2.2.2 Environmental Assessment Program Reviews

The Ministry has reviewed the environmental assessment process twice—from 1988 to 1992 and again from 2004 to 2005—in an effort to identify ways to improve the program.

From 1988 to 1992, the Environmental Assessment Program Improvement Project consulted with the public and representatives from non-governmental organizations. Then, in 2004 the government established the Environmental Assessment Advisory Panel to provide recommendations on improving the program, particularly as it relates to waste, energy and transit projects. Both program reviews resulted in recommendations to change the legislation as well as certain processes.

Appendix 2 lists the key recommendations from the 1992 and 2005 program reviews, including their current status. The Ministry has taken some action on many recommendations, for example, by developing guidance on how to apply the requirements of the Act, revising its guidelines on public consultation, and creating a website to provide information about environmental assessments.

In March 2015, the Minister announced that another review of the environmental assessment program would start in the fall of 2015, stating that the process “is very time consuming.” The review had not begun at the time of the completion of our audit.

2.3 Types of Environmental Assessments

In Ontario, environmental assessments can be comprehensive or streamlined, with the streamlined assessments generally requiring less rigorous review and public consultation. **Figure 1** illustrates the main differences between the two types of assessments.

2.3.1 Comprehensive Environmental Assessments

Comprehensive environmental assessments are the most rigorous type of assessment in terms of planning and public consultation requirements; they are intended to be prepared for large-scale, complex projects where environmental impacts cannot be easily anticipated or mitigated. As shown in **Figure 2**, the 20 comprehensive environmental assessments approved by the Ministry from 2010/11 to 2014/15 have been primarily waste-management and transportation projects. See **Appendix 3** for a listing of these environmental assessments.

Submission and Approval Process

Comprehensive assessments are completed in two stages: the terms of reference stage and then

Figure 1: Comparison of Types of Environmental Assessments

Prepared by the Office of the Auditor General of Ontario

	Comprehensive environmental assessments	Streamlined environmental assessments	
Nature of projects	Intended for large-scale, complex projects	Intended for routine projects that have predictable and manageable environmental effects	
Documents outlining required environmental assessment steps ¹	Terms of Reference	Class Environmental Assessment Policy Documents	Regulations under the <i>Environmental Assessment Act</i>
Examples of projects	Large landfills, provincial (e.g., 400 series) highways, waterfront development	Municipal infrastructure, sewage treatment facilities, highway maintenance	Electricity generation and transmission, waste management, public transit
Volume of projects (last five years)	20	At least 1,870	At least 48
Extent of Ministry ² review and involvement during the environmental assessment	Ministry must review all documents ³	Ministry may review documents ³	
Required approval for environmental assessment	Environmental assessment requires approval by Minister and Cabinet to proceed	Environmental assessment does not require approval by Minister or Cabinet to proceed	
Public requests for more extensive review or public consultation	Public may request a hearing with the Environmental Review Tribunal	Public may request project be bumped-up to undergo a comprehensive environmental assessment ⁴	
Post-environmental assessment monitoring	Project owner is required to submit monitoring reports ⁵	Project owner is not required to submit monitoring reports unless project owner commits to it or is required by the Ministry	

1. These documents outline the process that project owners must follow, including public consultation requirements, when conducting the environmental assessment. See **Appendix 4** for a description of the Terms of Reference, and **Appendix 5** for a description of the Class Environmental Assessment Policy Document. These documents must be approved by the Ministry.

2. All references to Ministry in this figure refer to the Ministry of the Environment and Climate Change. References to the Minister refer to the Minister of the Environment and Climate Change.

3. Documents reviewed by the Ministry include the Terms of References, Environmental Assessment report, and the studies that support the environmental assessment.

4. In the small portion of cases when the Ministry receives a request to bump up a streamlined project to undergo a comprehensive environmental assessment, the project cannot proceed until the Minister has made a decision. This does not apply to public transit projects.

5. The monitoring reports describe the status of actions taken by the project owner to comply with the commitments made in the environmental assessment report, as well as the conditions imposed by the Minister.

the environmental assessment stage. **Appendix 4** illustrates the submission and approval process for comprehensive environmental assessments.

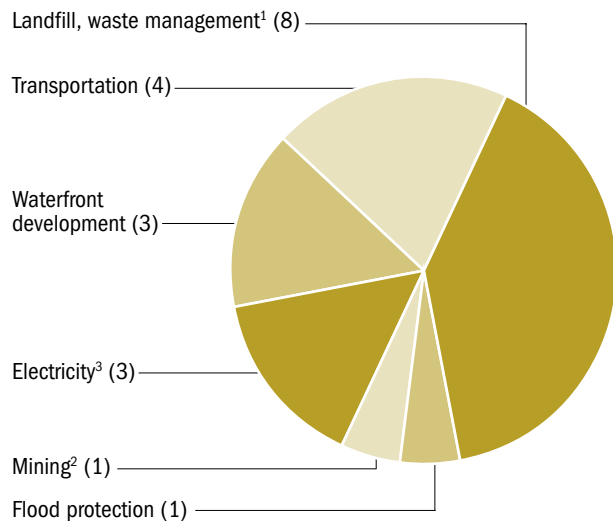
The Ministry attaches legally binding conditions to the approved environmental assessment report that apply to the entire project from design through implementation and operation, and up to the future closure of the project. Such conditions may include, for example, conducting ongoing public consultation during construction or monitoring the quality of groundwater.

Opportunities for Public Input in Comprehensive Environmental Assessments

During the environmental assessment, project owners must notify the public (for example, through newspapers, direct mail or a website) of opportunities to review any of the key documents related to the environmental assessment, including the terms of reference, the environmental assessment report and the related studies. The public can provide feedback at consultation events, submit written comments on these documents, or contact

Figure 2: Comprehensive Assessments by Project Type, 2010/11–2014/15

Source of data: Ministry of the Environment and Climate Change



1. These waste management projects include facilities that convert waste to energy.
2. The mining company voluntarily conducted an environmental assessment. Mining companies are usually not required to conduct a provincial comprehensive environmental assessment, and usually do not voluntarily do so.
3. The projects are related to the construction of infrastructure that would supply electricity to mining operations.

the project owner or the Ministry directly about their concerns about the project.

In addition, once the Ministry has reviewed the environmental assessment report, it is required to publish the results of its review and to solicit public comment on the Ministry's review. Any member of the public can request that the Minister refer the project to the Environmental Review Tribunal (Tribunal) for a public hearing or to a third-party mediator.

2.3.2 Streamlined Environmental Assessments

Streamlined environmental assessments are to be conducted for projects that are considered to be routine, and have predictable environmental effects that can be readily managed. There are two types of streamlined assessments: class environmental

assessments (Class EAs) and regulated environmental assessments (regulated EAs). The main differences between Class EAs and regulated EAs are summarized as follows:

- **Types of projects:** While Class EAs are conducted for 11 groups (or “classes”) of projects ranging from municipal infrastructure and transportation through forest management, regulated EAs are conducted for three specific types of projects—electricity generation, waste management and public transit. **Appendix 5** lists the types of projects covered in each of the 11 Class EAs and the three types of regulated EAs.
- **EA project rules:** For Class EAs, the rules on how to conduct the environmental assessment are set out in standardized environmental assessment documents, one for each of the 11 project groups. For regulated EAs, project owners must follow the standardized process outlined in the specific regulation (described in **Section 2.2.1**).

Planning and consultation activities for streamlined assessments are managed by the project owner, with little Ministry oversight—in contrast to the Ministry's active oversight with a comprehensive assessment. Also, in contrast to comprehensive assessments, project owners do not need Ministry approval to proceed with the project once it completes the environmental assessment.

Appendix 6 provides an illustration of the streamlined environmental assessment process. In the last five years, at least 1,900 streamlined assessments have been completed for a range of projects.

Ministry Involvement in Streamlined Environmental Assessments

During a typical streamlined environmental assessment process, project owners must notify the Ministry at the start and completion of the environmental assessment. The Ministry is not required to review the environmental assessment report or provide feedback for each project. However, in

some cases, the Ministry reviews the environmental assessment report for a particular project to determine whether the project owner has considered all environmental impacts, and comments on any concerns.

Public Requests for Comprehensive Assessment

While project owners are conducting streamlined assessments, they must consult with the public through public meetings that are announced in local newspapers. Ministry policies state that the public should additionally have an opportunity to review the environmental assessment report once the project owner has completed the assessment. Members of the public and other provincial agencies, such as Conservation Authorities, can then request that the Minister “bump up” a streamlined project to require the project owner to conduct a comprehensive assessment.

Once a bump-up request is made, the project owner cannot proceed with the project until the Minister makes a decision. Even if the request is denied, the Minister may still impose conditions on the project owner to address public concerns raised in the request or other environmental concerns, if warranted.

2.4 Co-ordination with Federal Environmental Assessment

Some projects, such as certain electricity generation and transportation projects, require both provincial and federal environmental assessments. Federal environmental assessments are governed by the *Canadian Environmental Assessment Act, 2012*.

Both provincial and federal environmental assessment processes are based on the same key principles discussed in **Section 2.1.1**. However, as shown in **Appendix 7**, the types of projects covered and the impacts that are evaluated differ under each process. Specifically:

- A federal environmental assessment is required for projects that are specifically

listed in a regulation under the *Canadian Environmental Assessment Act, 2012*, including pipelines, large mines that meet certain production capacity thresholds, nuclear waste disposal facilities, airports, and offshore oil and gas facilities. The federal Act makes no distinction between public- and private-sector projects, unlike Ontario’s *Environmental Assessment Act*, which requires a provincial environmental assessment for public-sector projects and two kinds of private-sector projects: electricity generation and waste management.

- Under the federal environmental assessment, project owners evaluate environmental effects based on the components of the environment that are within the federal legislative authority, such as fish and fish habitat, migratory birds and federal lands, as well as effects on Indigenous peoples. Under the provincial environmental assessment, project owners are required to evaluate economic, social and cultural factors that affect the community in addition to impact on the natural environment.

2.5 Chronology of Regulatory Approvals and Permits

Often, obtaining an approval for an environmental assessment is the first of many regulatory permits required by a project owner before its project can be implemented. Many projects require further permits, such as an environmental approval to emit contaminants into the land, air or water; work permits for any work on Crown land; as well as municipal and federal permits. **Section 3.05** of our Annual Report addresses environmental approvals. **Appendix 8** illustrates the chronology of obtaining the required regulatory approvals and permits, beginning with obtaining approval for an environmental assessment.

3.0 Audit Objective and Scope

The objective of our audit was to assess whether the Ministry of the Environment and Climate Change (Ministry) has effective systems and processes in place to:

- ensure that projects that can have a negative impact on the environment and human health are appropriately planned, approved and carried out in compliance with relevant legislation, regulations and Ministry policies, and that such negative impacts are actually prevented or minimized through the law and its application; and
- assess and report on the effectiveness of its environmental assessment process in identifying and mitigating negative environmental effects of projects.

Senior management at the Ministry reviewed and agreed with our audit objective and related criteria.

Our audit work was conducted primarily at the Ministry's head office in Toronto between November 2015 and May 2016. We also visited three of the Ministry's five regional offices (Central, Northern and Southwest). In conducting our audit work, we reviewed applicable legislation, regulations, Ministry policies and relevant environmental assessment files, and other information. We also interviewed staff at the Ministry's head, regional and district offices.

We met with representatives from the Office of the Environmental Commissioner of Ontario and the Environmental Review Tribunal to obtain their perspectives on the environmental assessment process in Ontario. In addition, we interviewed staff from Hydro One, the Ministry of Transportation, and the Ministry of Natural Resources and Forestry to understand how they conduct class environmental assessments and to obtain their perspectives as initiators of class environmental assessment projects. We interviewed representatives from the

Municipal Engineers Association and surveyed and received responses from about 100 municipalities regarding their views on the environmental assessment process. We also met with representatives of private-sector groups such as the Residential and Civil Construction Alliance of Ontario and professional environmental assessment consultants who are involved in conducting environmental assessments.

As well, we interviewed non-governmental environmental groups such as the Wildlife Conservation Society of Canada, Nature Canada and the Canadian Environmental Law Association, to obtain their views on the environmental assessment process in Ontario. We met with representatives of the Canadian Environmental Assessment Agency to understand the federal environmental assessment process, and spoke with representatives from environmental assessment offices in British Columbia, Alberta, Saskatchewan, Manitoba, and Quebec.

In addition, we engaged an independent consultant with expertise in the field of environmental assessments to assist us on this audit.

4.0 Detailed Audit Observations

4.1 Environmental Assessment Not Conducted for Many Private-Sector Projects in Ontario

Ontario is the only Canadian jurisdiction in which environmental assessments are generally not required for private-sector projects. The only private-sector projects that must be assessed are electricity, waste management, and large municipal infrastructure projects by private developers.

4.1.1 Environmental Assessment Act Has Not Been Revised to Reflect Changes in Project Ownership

The *Environmental Assessment Act* applies to all public-sector but only a small portion of private-sector projects. The Ministry informed us that when the Act was passed 40 years ago, it was intended to focus on large-scale infrastructure projects undertaken by the public sector. Since then, the private sector has taken on more projects that have significant impact on the environment.

Despite these changes, the Ministry has only expanded the scope of the Act to private-sector electricity, waste-management, and large municipal infrastructure projects. As a result, many private-sector projects with the potential to harm the environment go ahead without adequate consideration of their impacts, or even without determining whether the project should proceed in the first place. Such environmental harm may not be identified until many years or decades later after damage has occurred, and the effects may be long-lasting and irreversible.

Since the Act came into force, the Ministry has received public requests to require an environmental assessment for 42 private-sector projects that are not currently captured under the electricity

or waste-management regulations (see **Figure 3**). The Ministry granted the requests for only seven of those projects.

The lack of environmental assessment requirements for private-sector projects was noted in the 2005 program review by the Environmental Assessment Advisory Panel. The panel recommended that the comprehensiveness and extent of an environmental assessment should depend on the environmental benefits and risks of a project rather than merely whether the project is undertaken by the public or private sector.

The Ministry indicated to us that in response to this recommendation it created streamlined processes for waste-management projects that extended to the private sector. Even though the Act gives the Ministry authority to require other private-sector project owners to conduct environmental assessments, the Ministry has still not reviewed whether projects such as mining and chemical manufacturing should be required to do so. **Figure 4** shows examples of private-sector projects and their negative environmental impact. Even though some of these projects were initiated prior to the passing of the *Environmental Assessment Act*, they provide insight into the impact private-sector projects can have on the environment.

Figure 3: Public Requests for Environmental Assessment for Private-Sector Projects,¹ 1976–2016

Prepared by the Office of the Auditor General of Ontario

Type of Project	Number of Projects the Public Requested to Undergo Environmental Assessments	Number of Projects Where Request was Denied	Number of Projects Where Request was Approved
Quarries	13	12	1
Industrial facilities ²	8	6	2
Mining operations	5	4	1
Residential development	5	5	0
Private infrastructure ³	3	3	0
Other ⁴	8	5	3
Total	42	35	7

- Figure includes requests related to private-sector projects that are not currently captured under the electricity or waste-management regulations.
- Industrial facilities include 3 manufacturing plants, a refinery, a mineral processing plant, and 2 cement plants and kiln, and a pulp mill.
- Private infrastructure projects include a marina expansion, a snowmobile trail, and a septic disposal system.
- Other projects include an ecological restoration, a harbour remediation, an access road to an island, a grain storage facility, a municipal airport, an energy-from-petroleum-coke generation station, a storage facility for dangerous goods, and a crematorium.

Figure 4: Examples of Private-Sector Projects and Their Environmental Impacts

Prepared by the Office of the Auditor General of Ontario

Project Name	Year	Project Description	Description of Environmental Impact
Steep Rock Mine (north of Rainy River, Northern Ontario)	1943–1979	The iron mine included three large open pit excavation sites. When the mine closed in 1979, the open pits were left to fill with water and eventually become lakes.	The abandoned mine has left acid rock drainage in surface waters, hydrocarbon and metal contamination in the soils and groundwater, and flooding of contaminated water in the open pits. As of February 2016, the Ministry of Natural Resources and Forestry (MNRF) had spent over \$12 million on site clean-up, site monitoring and studies, and securing hazards for public safety. Despite the MNRF's remediation efforts, the site remains contaminated. The lakes formed in the open pits are expected to overflow by 2070. The MNRF is currently seeking public input on a long-term remediation plan.
Chemtura Chemical Manufacturing (Elmira, north of Waterloo)	1941–present	In 1941, a chemical company in Elmira, Ontario began manufacturing a wide range of chemicals for the agricultural, rubber, and plastics industries. Throughout the 1940s and 1960s, the company buried its waste as was the accepted practice at the time.	In 1989, the Ministry of Environment determined that two municipal wells and six private wells in Elmira were contaminated with chemicals discharged by the buried waste. To this day, the over 9,000 residents of Elmira are unable to drink local groundwater.
Dryden pulp and paper mill (Dryden, Northern Ontario)	1963–1970	A paper mill complex discharged organic waste into the English-Wabigoon river system since the mill's construction in 1913. From 1963–1970, it operated as a chloralkali plant, which manufactures materials to bleach paper.	Between 1963 and 1970, the mill discharged approximately nine to 11 metric tonnes of mercury into the river system, contaminating the fish with levels above those acceptable for human consumption, with this still being the case to this day. The local people of Grassy Narrows First Nation have suffered from mercury poisoning since then.
Smithville PCB storage site (Niagara region)	1978–1985	In 1978, a private waste management company located in an industrial park began transferring and storing PCB (polychlorinated biphenyl) in Smithville, Ontario.	Poor waste management led to PCB contamination of the fractured bedrock beneath the site. In 1985, the Ministry assumed control of the site to begin remediation. In 1988, the contamination was found to have migrated to the town's drinking water, and a pipeline had to be built to bring drinking water to the residents of Smithville from neighbouring Grimsby. The remediation is ongoing and the pipeline is still in use today.
"Chemical Valley" (Sarnia)	2007–present	Currently, Sarnia is home to approximately 40% of all of Canada's chemical industry. In 2007, Shell Canada announced interest in building a new oil refinery in the region. As a private-sector undertaking, the proposed project was not subject to the requirements of the <i>Environmental Assessment Act</i> . However, on March 7, 2007, Shell entered into a voluntary agreement with the Minister of the Environment to make the proposed project subject to an environmental assessment. Shell Canada withdrew its proposal and cancelled the project in 2008.	The combined level of heavy industry in Sarnia has led to the region having high levels of pollution. Sarnia also has significantly higher hospital admissions rates than nearby London. Air pollutants in Sarnia have been linked to asthma, smog, cancer, and developmental issues. Refineries also release mercury, sulphur dioxide, and volatile organic compounds.

Environmental Assessment Conducted for Both Public- and Private-Sector Projects in Other Jurisdictions

The environmental assessment laws in all other jurisdictions in Canada require environmental assessments for certain types of projects, regardless of whether the project owner is in the public or private sector (see **Appendix 9** for a summary of the larger provinces). For example:

- Laws in some jurisdictions—such as the federal government, British Columbia, Alberta, southern Quebec, New Brunswick and Nova Scotia—list those projects that require an assessment. These include mines, quarries, large tourist resorts, manufacturing and oil drilling.
- In other jurisdictions—such as Saskatchewan, Manitoba, northern Quebec and New Brunswick—the legislation uses broad criteria based on the characteristics of a proposed project (for example, location, impact on rare or endangered species, likely release of pollutants) to determine whether an assessment is required.

With the exception of electricity and waste-management projects, the *Environmental Assessment Act* in Ontario does not prescribe specific types of projects that require an assessment, nor does it use project-specific criteria to determine whether an assessment is required. Instead, the determination of whether to conduct an environmental assessment is based on who the project owner is.

4.1.2 Potentially Significant and Long-Term Impacts of Mining Projects Not Assessed

Ontario is the largest mineral producer in Canada—accounting for one-quarter of the total Canadian mineral production—but is the only jurisdiction in the country that does not require mining projects to be subject to a comprehensive environmental assessment before proceeding. While an environmental assessment may be required for certain components of a mine, such as the construction of

a road leading to the mine or the mine's electricity generation facility, each component is evaluated in isolation.

Although mining companies in Ontario require certain approvals and permits—such as approvals to conduct their activities on Crown land from the Ministry of Natural Resources and Forestry and the Ministry of Northern Development and Mines—a comprehensive evaluation of the impact of a mining operation is not required to determine whether the project should proceed in the first place. This is in contrast to all other jurisdictions in Canada. For example:

- In 2014, the Canadian Environmental Assessment Agency rejected a proposed open-pit copper/gold mine for the second time after the environmental assessment determined that the mine would cause significant adverse effects on water quality, fish and fish habitat, on the current use of lands and resources by certain Aboriginal groups, and would cause significant adverse cumulative effects on the South Chilcotin grizzly bear population.
- In 2012, the British Columbia Environmental Assessment Office rejected a proposed copper/gold mine project in British Columbia because the environmental assessment concluded that its potential long-term risks outweighed the potential benefits to the province. Risks included potential impact on a genetically unique sockeye salmon population and the potential for long-term provincial liability for future clean-up costs.

Of the 32 mining operations and related projects that were initiated after the enactment of the Act and are currently being planned or in production, only eight have undergone a provincial environmental assessment. For these eight, the mining companies voluntarily conducted the assessments because the project was already subject to a federal environmental assessment.

The environmental and financial costs of mining projects are well known, and continue long after the mine is closed. In particular:

- Mining permanently changes the natural landscape, for example, by stripping and flooding productive lands. In addition, toxic waste from mining activities can result in water and soil contamination that can affect ground and surface water, aquatic life, vegetation and wildlife.
- The Province is currently responsible for significant costs to clean up contamination caused by mining activities because mining companies have failed to do so. Our 2015 report on the management of contaminated sites noted that, of the 10 contaminated sites with the largest provincial rehabilitation cost, four are former mineral extraction sites facing a total estimated rehabilitation cost of \$968 million.

For the remaining 24 mining projects, the Ministry has not assessed their environmental impact as defined in the Act.

4.1.3 Other Regulatory Processes No Substitute for Environmental Assessment

Private-sector projects may require other types of municipal, provincial or federal approvals and permits to begin operations. However, even though many of these are also meant to protect the environment, we noted that, even collectively, they do not result in the same level of comprehensive evaluation as an environmental assessment. **Figure 5** compares factors considered in an environmental assessment against those considered in other approvals.

While many other regulatory approvals for private-sector projects—such as mines, quarries, manufacturing plants and refineries—consider the natural environment, they do not include all key elements of an environmental assessment. For example, while operators of chemical manufacturing plants must obtain an environmental approval from the Ministry to emit contaminants into the land, air and water, the approvals do not consider the social, cultural and economic impacts of the emissions.

Figure 5: Comparison of Ontario’s Environmental Assessment Process and Other Regulatory Processes

Prepared by the Office of the Auditor General of Ontario

	Environmental Assessments	Other Regulatory Processes/Approvals*
When is approval required?	During project planning	Prior to project construction or operation, but after project planning
What is the overall purpose of the process?	To ensure that potential environmental effects are considered before a project begins.	To establish rules for specific activities in a way that helps protect the natural environment and human health.
Does the assessment consider: <ul style="list-style-type: none"> • alternatives to the project – i.e., different ways of addressing the need being addressed by the project; and • alternative methods of carrying out the project – i.e., different ways of doing the same project? 	Yes	No
Does the assessment consider potential environmental effects on the natural, social, economic, cultural and built environments and how they interrelate for every alternative being considered?	Yes	No (only the natural environment)

* Other approvals could include, but are not limited to, Environmental Compliance Approvals, permits to take water, work permits to conduct work on Crown lands, or endangered species overall benefit permits.

RECOMMENDATION 1

The Ministry of the Environment and Climate Change should review and update the requirements in the *Environmental Assessment Act* to ensure that projects with the potential for significant negative impact are assessed, regardless of whether the project is initiated by the public or private sector.

MINISTRY RESPONSE

The Ministry acknowledges that projects that can have a significant impact on the environment should be properly assessed.

The Ministry will make improvements in the short term to the environmental assessment program within the existing legislative framework, and will be incorporating the Auditor General's recommendations in this work. Substantial reforms, such as designating the private sector in the legislation, would require amendments to the Act and are being considered for long-term improvements.

The environmental assessment process is complex, and any changes involve a broad range of ministries and external stakeholders. That is why the Ministry is taking a phased approach to reform, looking to ways it can further improve the existing program now.

4.2 Environmental Assessment Not Completed for Many Government Plans and Programs with Long-Term and Wide-Ranging Impacts

The Act requires an environmental assessment for proposals, plans and programs related to public-sector activities. Only streamlined assessments have been conducted, and only for forest-management plans; no environmental assessments have been completed for any other government plan or program since the early 1990s, when Ontario Hydro conducted, and later withdrew, an environmental

assessment of its Demand Supply Plan. The environmental assessment process highlighted deficiencies in the plan, which was also withdrawn.

Environmental assessments have not been conducted on any recent government proposals, plans or programs because:

- the Act is not clear regarding which types of public-sector proposals, plans and programs require an environmental assessment; and
- legislation related to many government initiatives specifically exempts the initiative and related activities from environmental assessment, thereby undermining the requirements of the Act.

Although the individual projects that are implemented through government plans and programs may require an environmental assessment, the impact of government plans and programs can be broader and longer-term compared to individual projects. Therefore, government plans and programs warrant a thorough assessment beyond that which is possible for individual projects.

Best practices highlight the need to carry out environmental assessments of government plans and programs. The International Association for Impact Assessment—a leading organization in best practices related to environmental assessments—calls for strategic assessments of energy plans, transportation plans, urban expansion plans, climate change strategies, and “actions that will affect large numbers of people.”

4.2.1 *Environmental Assessment Act* Not Clear on Which Plans and Programs Require Environmental Assessments

The Act is not specific on the types of public-sector proposals, plans and programs that must be assessed. This lack of clarity means that determining whether a government plan or program requires an assessment is open to interpretation by the provincial ministries and agencies that propose the plan or program. Consequently, the government has not conducted environmental assessments when it has

wanted to implement certain plans more quickly. For instance:

- The Ministry of Energy did not conduct an environmental assessment of its 2013 Long-Term Energy Plan (Energy Plan). Our 2015 audit of the Electricity Power System Planning found deficiencies in the Energy Plan, including the lack of analysis of alternatives and insufficient stakeholder consultation—both of which are key components of an environmental assessment. A previous energy plan, the 2007 Integrated Power System Plan, was specifically exempted from environmental assessment through a regulation under the *Environmental Assessment Act* because it was the government’s position that policy planning is not subject to an environmental assessment.
- The Ministry did not conduct an environmental assessment of its cap-and-trade program that will be launched in 2017 to help reduce greenhouse gas emissions. Our 2016 audit of the Ministry’s climate change initiatives (see **Section 3.02** of this Annual Report) noted that the Ministry did not consider alternatives, or assess the impact on key stakeholders, before it decided to adopt the cap-and-trade model. It also did not assess the potential economic impact of cap-and-trade on key stakeholders such as northern and rural communities and First Nations communities, despite initially noting the need for such an assessment.

4.2.2 Other Legislation Undermines the Role of Environmental Assessments

As shown in **Figure 6**, various laws related to many government initiatives specifically exempt certain plans and any related activities from having to undergo an environmental assessment. Although these laws still require public consultation, the processes do not require the evaluation of all environmental impacts and of alternatives. For example:

- The *Climate Change Mitigation and Low-carbon Economy Act, 2016* exempted the Ministry’s Climate Change Action Plan (Action Plan) from having to undergo an assessment. The Action Plan outlines the Ministry’s plans for at least the next five years to reduce greenhouse gas emissions using revenues raised from the cap-and-trade program that will be implemented in 2017.
- The *Green Energy Act, 2009* expedited the development of renewable energy by overriding many of the government’s usual planning and regulatory oversight processes. One of these regulatory requirements was the environmental assessment process. Since 2009, renewable energy projects have been exempt from environmental assessment requirements.

One result of this is the lack of opportunity for the public to evaluate options and provide feedback, which has contributed to public concerns about wind farm developments. Currently, 92 municipalities have passed resolutions as “unwilling hosts” to wind farm developments. These resolutions do not have the authority to stop any wind farm development project but highlight the Ministry’s lack of public consultation in this regard. Public concerns regarding wind farms include possible health concerns from the noise, property devaluation and risks to wildlife. For example, a July 2016 report by Bird Studies Canada—using information from a database it developed with the Canadian Wind Energy Association, Canadian Wildlife Service, and the Ontario Ministry of Natural Resources and Forestry—estimated that over 42,000 bats and over 14,000 birds were killed by wind turbines in Ontario in a six-month period from May 1 to October 31, 2015.

RECOMMENDATION 2

The Ministry of the Environment and Climate Change should review and clarify the intent of the *Environmental Assessment Act* regarding the

Figure 6: Legislation That Exempts Government Plans from Environmental Assessment

Prepared by the Office of the Auditor General of Ontario

Note: The *Environmental Assessment Act* requires an environmental assessment for undertakings, which is defined as “an enterprise or activity or a proposal, plan or program in respect of an enterprise or activity by public bodies or municipalities”.

Year	Legislation	Plans not subject to an Environmental Assessment referred to in the Legislation
2001	<i>Oak Ridges Moraine Conservation Act</i>	<p>The Act states: The Oak Ridges Moraine Conservation Plan is not an undertaking as defined in the <i>Environmental Assessment Act</i>.</p> <p>The Oak Ridges Moraine Conservation Plan provides direction regarding land use to ensure that only those uses that maintain the ecological functions of the area are permitted.</p>
2005	<i>Places to Grow Act</i>	<p>The Act states: A growth plan is not an undertaking as defined in the <i>Environmental Assessment Act</i>.</p> <p>Growth plans are long-term plans that identify where and how growth should occur within a region, and help guide government investments.</p>
	<i>The Greenbelt Act</i>	<p>The Act states: The Greenbelt Plan is not an undertaking as defined in the <i>Environmental Assessment Act</i>.</p> <p>The Greenbelt Plan identifies where urbanization should not occur in order to permanently protect about 1.8 million acres of environmentally-sensitive and agricultural land in the Golden Horseshoe.</p>
2006	<i>Clean Water Act</i>	<p>The Act states: A source protection plan is not an undertaking as defined in the <i>Environmental Assessment Act</i>.</p> <p>Source protection plans contain policies to reduce, eliminate or manage identified risks to drinking water sources.</p>
2008	<i>Lake Simcoe Protection Act</i>	<p>The Lake Simcoe Protection Plan to protect and restore the ecological health of Lake Simcoe and its watershed is not an undertaking as defined in the <i>Environmental Assessment Act</i>.</p>
2009	<i>Metrolinx Act</i>	<p>Transportation planning policy statements issued by the Minister of Transportation and municipalities' transportation master plans are not undertakings as defined in the <i>Environmental Assessment Act</i>.</p>
2010	<i>Far North Act</i>	<p>The Act states: The Far North policy statements and the Far North land-use strategy and plan are not undertakings as defined in the <i>Environmental Assessment Act</i>.</p> <p>The Far North policy statements and land-use strategy identify where development can occur, and where land is dedicated to protection in the Far North of Ontario.</p>
2015	<i>Great Lakes Protection Act</i>	<p>An initiative to protect and restore the health of the Great Lakes–St. Lawrence River Basin that is approved under the <i>Great Lakes Protection Act</i> is not an undertaking as defined in the <i>Environmental Assessment Act</i>.</p>
2016	<i>Climate Change Mitigation and Low-carbon Economy Act</i>	<p>The government's action plan to reduce greenhouse gas emissions and any revisions to it are not undertakings as defined in the <i>Environmental Assessment Act</i>.</p>
	<i>Energy Statute Law Amendment Act, 2016</i>	<p>To the extent that any plan, directive, direction or other document issued or otherwise provided in relation to long-term energy planning is an undertaking as defined in the <i>Environmental Assessment Act</i>, that undertaking is exempt from that Act.</p>
	<i>Resource Recovery and Circular Economy Act (Waste-Free Ontario Act)</i>	<p>The Act states: The Strategy [for a Waste-Free Ontario: Building the Circular Economy] is not an undertaking for the purposes of the <i>Environmental Assessment Act</i>.</p> <p>The Waste-Free Ontario Strategy aims to reduce waste and increase the reuse and recycling of waste across all sectors of the economy, etc.</p>

types of government plans and programs that must undergo an environmental assessment.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation.

As noted in our response to Recommendation 1, more substantial reforms, such as clarifying the types of government plans and programs that must undergo an environmental assessment, would require amendments to the Act. These reforms are being considered for long-term improvements. However, the Ministry does not have the final decision when other legislation exempts certain plans and programs from the *Environmental Assessment Act*.

4.3 Thoroughness of Environmental Assessment Not Based on Project's Environmental Risk

It is reasonable that the public would expect those projects that present greater risks to the environment to receive a more comprehensive environmental assessment. However, we noted this was often not the case, since the basis for deciding between a comprehensive or a streamlined assessment often depends on a project's size, scale and cost, rather than its potential environmental impact.

4.3.1 Projects with Greater Risk Are Not Always Thoroughly Assessed

The criteria for determining whether a comprehensive or streamlined assessment is required for a particular project are primarily based on its size, scale and cost. A 2014 report by the Residential and Civil Construction Alliance of Ontario observed that Ontario is the only jurisdiction in Canada in which the cost of infrastructure projects is one of the primary bases for determining the degree of public consultation and environmental assessment

requirements. Using such quantitative criteria to determine the thoroughness of an assessment means that other relevant factors that may be more likely to reflect the project's potential impact—such as the level of public interest or concern, or the potential location—may be disregarded. In contrast, in Saskatchewan, one of the criteria to determine whether an environmental assessment is required is the possibility of causing widespread public concern over “potential environmental changes.”

For example, landfills with capacity of less than 100,000 m³ require only a streamlined assessment. Based on this threshold, a small landfill situated in a heavily populated urban area with the potential for significant impact on the environment and human health would undergo a streamlined assessment, whereas a large landfill situated in a sparsely populated region with little impact on human health would undergo a comprehensive assessment.

We found instances where streamlined assessments were completed for projects that have the potential for significant environmental impact and/or public concern. In the following example, members of the public requested a comprehensive assessment because they believed that the significant risks associated with the project warranted a more in-depth assessment than a streamlined assessment would have entailed.

In 2014, a streamlined assessment was completed for a 230 kilovolt transformer station in the Oak Ridges Moraine—a federally and provincially protected area where thousands of plant and animal species, 88 species at risk, and over 466 rare species found mainly on moraines, have been identified. The Ministry received public requests, including many from environmental groups, for a comprehensive assessment given the project's high-risk location. Concerns about the project included its potential impact on the wildlife in the sensitive areas of the moraine and toxic leaks into the watershed affecting source-water quality. The Ministry denied the requests after reviewing studies presented by the project owner and the requesters.

This, despite Ministry documentation of its review, which acknowledged that members of the public did not have an adequate opportunity to assess potential alternative solutions for the project. The project owner subsequently submitted additional documentation to the Ministry describing the rationale for the chosen option. A comprehensive environmental assessment would have allowed for more extensive public consultation, documentation and Ministry involvement.

RECOMMENDATION 3

The Ministry of the Environment and Climate Change should review and revise its criteria for determining whether a comprehensive or streamlined environmental assessment is required to ensure that the thoroughness of assessment is commensurate with the project's risk and potential impact.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation.

The Ministry is committed to working with streamlined assessment project owners to assess risk and review the criteria in their streamlined assessment documents, during the five-year review anniversaries of their documents. This will ensure there is alignment between a project's environmental risk and the thoroughness of the environmental assessment required. The public will be consulted on any changes required.

The Ministry will also review its environmental assessment codes of practice and guides to determine if additional guidance is required for how project owners assess risks from their projects.

As a modern regulator, the Ministry believes that the level of environmental risk and potential impact of a project is a fundamental consideration in determining the level of assessment.

4.4 Ministry Has Little Information on the Volume or Quality of Streamlined Assessments

The majority of projects that are subject to an environmental assessment in Ontario are assessed under a streamlined process. The Ministry has limited involvement in these assessments. While the Ministry is responsible for administering the *Environmental Assessment Act*, it does not know how many streamlined assessments are completed annually, nor does it have assurance that these assessments are being done properly.

4.4.1 Many Streamlined Assessments Completed without Ministry's Knowledge

The Ministry does not have information on how many streamlined assessments are completed by project owners every year, or even estimates of the volume of such projects.

The Ministry becomes aware of streamlined assessment projects—which represent over 95% of all environmental assessments—only if it is notified by project owners. In the last five years, the Ministry's regional offices received information pertaining to approximately 1,200 streamlined assessments.

We analyzed the information provided to us by the Ministry's regional offices regarding these 1,200 streamlined assessments and compared the results to the number of assessments reported by the project owners. We noted instances where the number of streamlined Class EAs conducted by project owners was significantly higher than those known to the Ministry. When the Ministry does not know about assessments, it has no opportunity to ensure they were properly conducted. For example, the Ministry was only aware of:

- about 20% (185) of the 888 class EAs that the Ministry of Transportation has conducted in the last five years; and

- about 6% (17) of the 278 class EAs that Infrastructure Ontario has conducted in the last five years.

Ministry policy regarding streamlined assessments states that project owners are to notify the Ministry at the start of the environmental assessment and when the environmental assessment report is available for review. We found, through our review of a sample of streamlined assessments that were known to the Ministry, that project owners often did not notify the Ministry at key stages of the assessment. For example:

- In over 40% of the assessments we reviewed, the project owner did not inform the Ministry that it was starting an environmental assessment.
- In almost 25% of the assessments we reviewed, the project owner did not inform the Ministry that the environmental assessment report was available for the Ministry's review and comments. In these cases, the project commenced without an opportunity for the Ministry to provide any input.

Ministry staff also informed us that in some instances the Ministry became aware of a Class EA project only through bump-up requests from the public. Staff at the Ministry's regional offices had no previous information on approximately one-quarter of the 177 Class EA projects for which the Ministry had received bump-up requests in the last five-and-a-half years. In these cases, the project owner had already conducted public consultation and prepared the assessment report before the Ministry became aware of the project. As a result, the Ministry missed opportunities to contact project owners in the early stages of the assessment to ensure that all the risks are identified and addressed.

For example, Ministry regional office staff were not made aware at an early stage of a project that involved widening a road next to a provincially designated Area of Natural and Scientific Interest. The Ministry only learned of it after it received a bump-up request. A local Conservation Authority had expressed concerns to the project owner

throughout the streamlined assessment process, suggesting that wildlife ecopassages (structures that allow animals to cross human-made barriers safely) be added to the project design. When the project owner disagreed due to the extra costs, the Conservation Authority submitted a bump-up request. Only after reviewing the bump-up request did the Ministry require the project owner to prepare a wildlife road crossing safety plan, monitor for species-at-risk, and minimize impacts to sensitive areas by consulting with the Ministry of Natural Resources and Forestry and the Conservation Authority. Without a bump-up request, the Ministry would not have known about the project and have had an opportunity to provide input.

RECOMMENDATION 4

To ensure that the Ministry of the Environment and Climate Change (Ministry) has an opportunity to provide input on projects undergoing streamlined assessments, it should:

- clearly communicate publicly the requirement to notify the Ministry of the start and completion of environmental assessments; and
- assess the appropriateness of penalties for project owners, particularly for municipalities or private-sector project owners, that do not adequately inform the Ministry at all required stages of an environmental assessment.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation to improve notification practices for streamlined environmental assessments.

- It is vitally important that project owners follow the requirements of streamlined assessment processes by providing the proper notifications to the Ministry, the public and other ministries and agencies that may have an interest in their projects, each and every time. The Ministry chairs a committee with

owners of the streamlined environmental assessment documents, called the Class Environmental Assessment Proponents Working Group. This committee meets several times a year to provide an open forum for discussion of any process issues or common questions. In 2017, the Ministry will work through this committee to discuss proper notification in order to improve awareness of project owners' requirements to notify the Ministry about environmental assessment processes. This work will occur in combination with the commitments made in our responses to Recommendations 6 and 10, including improving guidance to proponents and public transparency for notifications.

- The Ministry has existing tools it can apply when project owners do not adequately inform the Ministry about their environmental assessment projects. Typically, the approach would involve education and outreach, but the Ministry can use other compliance tools should they be required.

4.4.2 Oversight of Streamlined Assessments Hampered by Lack of Resources and Direction

Each of the Ministry's five regional offices has between one and three staff members who are responsible for co-ordinating the review of the environmental assessment reports. At the time of our audit, the caseload of active projects ranged from three to 20 projects per person across the five regional offices. These staff also had responsibility for a range of other programs, and the Ministry had not assessed the resources needed at its regional offices to adequately oversee the environmental assessment program.

The 2005 program review by the Environmental Assessment Advisory Panel noted that fees, if

collected from project owners, could be used to support key aspects of environmental assessments, which were under-resourced. It noted that "the absence of fees under the Act is highly anomalous, particularly in light of the significant Ministry resources that are required to review highly technical and often complex environmental assessments." It recommended charging application fees to project owners similar to the user fees levied in other programs, such as the environmental approvals issued under the *Environmental Protection Act*. The Ministry has not implemented this recommendation because the project owners are primarily provincial ministries and municipalities.

Overall, we could not conclude on the extent of Ministry oversight of the approximately 1,200 streamlined environmental assessments that the Ministry had received information on over the last five years. This is because the Ministry did not track which of these it had reviewed. Our review of a sample of these streamlined assessments indicated that Ministry staff evaluated only about half of these.

While the Ministry has an information system to track environmental assessments, regional staff do not have access to this system, because it was designed to be used only by head office staff to track comprehensive assessments and those streamlined assessments for which the Ministry received bump-up requests. Without a means of using this information system to monitor Class EAs, each regional office tracks Class EA projects differently: while some have used information systems designed for other programs (specifically, the system used for the environmental approvals program), others have developed their own record-keeping systems.

The Ministry's head office has not provided guidelines to its regional office staff to ensure that streamlined assessments for at least higher-risk projects are consistently reviewed. Staff at the three regions we visited informed us that they use their

own judgment to determine which projects should be reviewed. Accordingly, we noted inconsistencies among the regions in the types of projects that are reviewed. For example, one region stated that its staff seldom review assessments concerning the right to use Crown land. Another region stated that it was given “internal direction” to not review assessments for transportation projects. Other regions did not specifically exclude any types of assessments from being reviewed. The lack of overall guidance from the Ministry’s head office was noted in the 2010 survey of staff at the regional offices, which stated that “despite being the face of the Ministry for all streamlined assessment-related work, there is no communication or direction from Toronto [the Ministry’s head office].”

RECOMMENDATION 5

To ensure that the Ministry of the Environment and Climate Change provides useful feedback on streamlined environmental assessments for higher-risk projects, it should:

- develop risk-based criteria to be used to determine which streamlined environmental assessments should be reviewed; and
- assess its current staffing levels at all regional offices and determine the amount of resources necessary to conduct required reviews.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General’s recommendation to develop risk-based criteria for the review of streamlined assessments.

- The Ministry will be revising guidance material for staff involved in environmental assessment reviews, including regional offices. As part of this work, the Ministry will incorporate guidance regarding the prioritization of the Ministry’s reviews of streamlined environmental assessments, taking into account the environmental risk of the project and regional environmental conditions. The updated guidance is expected in 2017.

- The Ministry will continually review its workload to ensure the regional offices have adequate resources to deliver the environmental assessment program. For example, the Ministry has added and reallocated resources to regional offices to help manage short-term workload increases.

4.4.3 Streamlined Assessments Not Always Done Properly

Ministry regional office staff reviews of streamlined assessments often identified deficiencies in the environmental assessment done by project owners. Such deficiencies confirm the need for the Ministry to provide feedback on streamlined assessments.

In our review of a sample of streamlined assessments, we found that the Ministry identified deficiencies in about three-quarters of the assessments it reviewed. Such deficiencies include insufficient public and Indigenous consultation, lack of details to support the project owner’s assessment of environmental impact, and additional measures needed to mitigate impact on the environment. Many of these deficiencies would otherwise not have been detected and corrected, since the only other means of identifying these would have been through a public request for a bump-up to a comprehensive assessment—which occurs with less than 10% of projects.

Our survey of municipalities further confirmed the importance of the Ministry’s involvement in the streamlined assessment process. For example, over half of the municipalities that responded to our survey stated that they did not have the internal expertise to conduct the assessments for municipal projects, and those that do have the resources stated that the process is “extremely subjective” and that “more direction could be provided to assist the [project owner] with selecting the appropriate project description.” A few also mentioned that Ministry staff have “stopped answering questions or giving advice regarding process, procedures and interpretation of the guidelines,” and when Ministry staff have been contacted, “they typically

decline to provide guidance, and have advised that they will only review a project if a bump-up request is received from the public.”

RECOMMENDATION 6

To ensure that streamlined assessments are conducted properly, the Ministry of the Environment and Climate Change should:

- consult with stakeholders to determine which areas of the streamlined assessment process require further guidance to be provided; and
- provide clear direction to staff at the regional offices regarding their responsibilities to provide advice to stakeholders.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General’s recommendation.

- In 2017, the Ministry will work through the Class Environmental Assessment Proponents Working Group to discuss areas where project owners need additional guidance from the Ministry to support them when they carry out their environmental assessment processes. The Ministry will also assess how its existing environmental assessment compliance audit program may provide insights into where additional guidance to project owners is needed.
- The Ministry also has an internal committee for the regional environmental assessment co-ordinators within the five regional offices, called the Regional Environmental Assessment Coordinators Committee. This committee provides an ongoing forum to communicate common challenges and improvements in carrying out the regions’ streamlined assessment reviews. In 2017, the Ministry will use this committee to discuss their advisory roles to project owners and where additional guidance may be needed to assist regional staff in filling this role.

4.5 Lengthy Ministry Reviews of Bump-Up Requests Cause Unnecessary Project Delays

The Ministry consistently exceeds the prescribed time frames for reviewing and deciding on public requests to bump up a streamlined to a comprehensive assessment. The lengthy Ministry reviews cause project delays, which result in financial and non-financial costs to project owners.

Class EA policy documents prescribe certain time frames by which the Ministry is to approve or deny a bump-up request (usually within 45–60 days of receiving the request). As shown in **Figure 7**, in the last five and a half years, the Ministry has completed its work within these time frames only a few times—in less than 5% of the 177 requests—often exceeding them significantly.

4.5.1 Multiple Layers of Reviews Add to Delays, But Do Not Add Value to Project

Each bump-up request for class EA projects is reviewed by at least half a dozen Ministry staff. This includes four levels of sign-off—by the Director, Assistant Deputy Minister, Deputy Minister and, finally, the Minister for final approval—after the reviewer makes the initial recommendation to approve or deny the request.

Based on the Ministry’s analysis of time taken to review all requests received in the last five-and-a-half years, the median time for Director sign-off was 80 days, and subsequent sign-offs added an additional 110 days. We reviewed a sample of bump-up requests and found that in all but one of the requests we reviewed, the post-Director review did not substantively change the outcome of the review. We found these reviews generally resulted in grammatical wording changes or merely restated existing commitments in the assessments.

The Act allows the Minister to delegate the authority to approve or deny these requests to the Director. However, the Ministry has only delegated this authority for projects related to forest

Figure 7: Ministry Review Time for Bump-Up Requests, April 2010 to January 2016

Prepared by the Office of the Auditor General of Ontario

Types of projects ¹	# of projects with bump-up requests	All Reviews ²		
		Target ³ (Days)	# of Reviews Completed within target	Average Review Time (Days)
Public Works	3	66	0	149
Forest Management Class EA	14	45	2	94
Minor Transmission Facilities	6	66	0	196
Municipal Infrastructure Projects	116	66	3	240
Provincial Parks & Conservation Reserves	4	66	1	297
Provincial Transportation Facilities	16	45	1	192
Remedial Flood & Erosion Control Projects	1	66	0	67
Resource Stewardship & Facility Development Projects	16	66	1	152
Waterpower Projects	1	45	0	215
Total	177	—	8	213

1. See Appendix 5 for examples of projects for each type.

2. Includes initial review by Ministry staff up to Branch Director and reviews by the Assistant Deputy Minister, Deputy Minister, and the Minister.

3. Targets are prescribed in relevant Class Environmental Assessment Policy Documents.

management, electricity and waste management. As a result, the average review time for bump-up requests related to forest management projects was about half that of the other types of class EA projects.

The 2005 program review by the Environmental Assessment Advisory Panel recommended that the Ministry create new procedures that would support a more efficient process for reviewing bump-up requests, but the Ministry has not acted on this recommendation.

4.5.2 Delays Result in Financial Costs to Project Owners

Class EA project owners and other stakeholders (such as representatives of the construction industry) informed us that delays from the lengthy Ministry review result in significant financial costs. For example, the Municipal Engineers Association (Association)—who developed the Class EA framework for municipal infrastructure projects—stated in its *2015 Annual Report* that the lengthy Ministry reviews “are unnecessarily hold-

ing up key infrastructure projects, increasing costs and slowing growth and economic development. Equally important are the multitude of projects where a delay of a year just cannot be accepted, and the municipalities are forced to make poor and/or expensive decisions to avoid a bump-up request even though the concern really does not have merit.”

Our survey of municipalities confirmed the Association’s comments. Over half of the respondents indicated that in many cases when projects have been delayed due to bump-up requests, the delay has negatively impacted the municipality. Municipalities indicated that the delay increases costs in the form of consultant fees “to deal with the requester and comments from the Ministry that may be entirely unrelated to the underlying request”; in additional construction costs if a construction season is lost or work needs to be done in off-season conditions; and in the loss to the public of not having the infrastructure in place when it is needed. For example:

- One municipality stated that the ongoing Ministry delay—which has now exceeded

two years—in constructing an arterial road has compromised the city’s ability to plan for infrastructure and capital budgeting. The municipality stated it is close to implementing short-term measures (the cost of which are expected to exceed \$1 million) that “will ultimately be considered redundant” once the arterial road is built.

- Another municipality stated that “the bump-up request can also result in significant additional capital costs, for example, aesthetic treatments that are important to only a few people.”

4.5.3 Delays from Ministry Review Also Result in Non-Financial Costs

Delays in the Ministry’s review of bump-up requests also have significant non-financial implications. For example:

- The Ministry took one year to make its decision regarding a bump-up request for a road realignment project that was intended to improve safety, enhance storm-water management and support growth.
- The Ministry took approximately two years to deny a bump-up request regarding measures to reduce the white-tailed deer population in two provincial parks experiencing overpopulation of that species. The requester was opposed to killing deer. However, independent studies show that deer overpopulation has “devastating and long-term effects on forests” (foraging deer affect the growth of vegetation, leading to reduced plant diversity). The reduction measures were on hold for two years, during which deer populations increased at both parks. The Ministry of Natural Resources and Forestry informed us that the delay resulted in “net negative effects to each park’s ecosystem,” including reduced diversity of plant species such as ginseng and trilliums, and decline in forest cover.

RECOMMENDATION 7

The Ministry of the Environment and Climate Change should improve the timeliness of its process for reviewing bump-up requests to ensure that its review does not cause unnecessary delays to projects.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General’s recommendation.

The Ministry will review its bump-up request process to determine where opportunities exist to improve the timeliness of this process.

The timeliness of the Ministry’s review can be affected by not having sufficient detail in the bump-up request about the environmental concerns with the project and how a comprehensive environmental assessment might address those concerns. Therefore, as part of improvements to the environmental assessment program in the short term, the Ministry will prepare guidance to the general public that would complement existing guidance on submitting bump-up requests.

This guidance is expected to be made available for public comment in 2017.

4.6 Impacts of Projects Are Assessed in Isolation

4.6.1 No Requirement to Consider Cumulative Effects of Large, Complex Projects Covered by Comprehensive Assessments

Cumulative effects—meaning the combined impact of past, present and planned future activities in an area, including both human-initiated activities and natural processes—do not usually factor into the Ministry’s environmental assessment decision-making. The Ministry encourages, but does not require, project owners to assess the cumulative effects of a particular project. Failure to assess cumulative

effects can result in projects being approved without consideration of all the risks involved.

In 14 of the 20 comprehensive assessments approved in the last five years, the project owners did not assess the cumulative effects of the project. As discussed in **Section 2.3**, projects subject to comprehensive assessments are complex projects associated with environmental impacts that are difficult to manage.

Where project owners assessed their project's cumulative effects, the results of the assessment further confirmed the importance of such an assessment. For example, the cumulative effect assessment for a proposed landfill resulted in the project owners identifying a need for additional mitigation measures. These included controlling the timing of construction projects to reduce air quality, noise and groundwater contamination, as well as restoring wetland and forests damaged by the project.

Other jurisdictions in Canada—including Alberta, British Columbia, Saskatchewan, the Northwest and Yukon Territories, and the federal government—require project owners to assess the cumulative effects of projects.

4.6.2 Streamlined Assessments Also Do Not Consider Cumulative Effects

Except for two defined groups of projects—those related to provincial parks and conservation reserves, as well as any development or other activity on Crown lands—the Ministry does not require project owners to assess the cumulative effects of projects that undergo a streamlined assessment.

In reviewing a sample of streamlined Class EA projects, we did not find any evidence that the Ministry assessed cumulative effects in its review of the environmental assessment documents. The 2005 program review by the Environmental Assessment Advisory Panel also questioned whether the cumulative effects of such projects are being properly monitored by the project owners or the Ministry. We noted the following examples where a cumulative effects assessment should have been conducted:

- **Mercury contamination in the Grassy Narrows First Nations community:** In 2014, the Ministry of Natural Resources and Forestry completed a Class EA to renew an ongoing forest management plan involving clear-cut logging in the vicinity of the Grassy Narrows First Nation community. The Ministry received a request for a comprehensive environmental assessment initiated collectively by a non-governmental organization and the Grassy Narrows First Nation. The people of Grassy Narrows were concerned about the cumulative effect of clear-cut logging in light of the current state of mercury contamination in their local environment. Studies indicated that clear-cut logging increases the transfer of mercury into aquatic systems. The Ministry denied the request for a comprehensive assessment, stating that the forest management plan included best practices to minimize activities associated with the spreading of mercury, such as a ban on clear-cutting of trees within 30 metres of a body of water. However, we noted that other than these best practices, the forest management plan did not include any mercury monitoring or mitigation measures.
- **Sensitive wildlife area:** In 2012, the Government announced that a new gas plant would be constructed three kilometres from a small island with many endangered species—Heritage Canada named it as one of the top 10 “endangered places” in Canada in 2013. The island has also been recognized for at least three decades as an Important Bird Area of Global Significance by international wildlife organizations. The Ministry did not measure the impact on this natural area of the cumulative effects of the proposed gas plant in addition to:
 - an existing power generating station (adjacent to the proposed gas plant);
 - a large cement manufacturing facility already located on the small island; and

- a proposal to install up to 27 wind turbines 50 storeys high on the island.

During the environmental screening process for the new gas plant, the Ministry received three public requests to bump up the project to a comprehensive assessment, citing concerns about the cumulative impact of the four projects on the small, environmentally significant area. All bump-up requests were denied. The Ministry responded that “any consideration of cumulative effects would have to be done in future project evaluations.” It further stated that “wind projects are not assessed cumulatively with other sources unless they are other wind projects.”

Previous program reviews in 1992 and 2005 recommended that the Ministry should require consideration of cumulative effects in environmental assessments. In 2014, the Ministry updated its environmental assessment guidelines to encourage project owners to include cumulative effects in both comprehensive and streamlined assessments but did not provide direction on how to do so. The Ministry informed us that it is currently developing guidelines to help project owners assess the cumulative effects of their projects, and Ministry staff when reviewing the project owner’s assessment. At the time of our audit the Ministry did not have a time frame for when the guidance document will be finalized, or when cumulative effects assessment will be a requirement.

RECOMMENDATION 8

To ensure that the cumulative effects of projects are assessed to prevent or minimize environmental damage, the Ministry of the Environment and Climate Change should finalize its guideline for assessing the cumulative effects of projects as soon as possible. The guideline should:

- apply to both comprehensive and streamlined environmental assessments;

- identify specific factors that must be considered when assessing cumulative effects; and
- include direction for Ministry staff to ensure they weigh the cumulative impact of projects in their decision-making process.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General’s recommendation.

The Ministry is committed to incorporating cumulative effects in environmental assessment decision-making.

The Ministry is finalizing a guideline for assessing cumulative effects of a project. At this time the guideline is expected to apply specifically to comprehensive environmental assessments, which are the highest-risk projects that have the greatest potential to contribute to cumulative effects. The specific factors recommended for a proponent to consider are currently under development. When the draft guideline is completed in 2017, it will be posted on the Environmental Registry to provide an opportunity for the public to comment on it before it is finalized and published. The Ministry anticipates working with key stakeholders, including industry, environmental and community groups and Indigenous communities, before finalizing the guide.

4.7 Public at a Disadvantage in Assessment Process

The Act requires public consultation throughout the environmental assessment process. However, this requirement is undermined because certain key decisions regarding public requests are at the Minister’s discretion without clear criteria or an independent body to ensure the objectivity of such decisions—in particular:

- when to grant public requests to bump up streamlined assessments, which have minimal public consultation, to comprehensive

assessments, which include extensive public consultation; and

- when to grant public requests for hearings for comprehensive assessments (since there is no option for hearings with streamlined assessments).

Also, the public may not be adequately informed about most projects, and therefore cannot fully participate in the environmental assessment process.

4.7.1 No Clear Criteria or Independent Body to Ensure Decisions about Public Requests Are Made Objectively

Legislative changes made in 1996 gave the Minister unilateral discretion over key decisions related to public requests such as whether to require that a streamlined assessment be bumped up to a comprehensive assessment, or which environmental assessments to refer for a public hearing. Consequently, the environmental assessment process lacks two important mechanisms to ensure that decisions on projects are made objectively and for the protection of the environment:

- **No specific criteria to direct decision-making:** Factors the Ministry considers in reviewing public requests for a comprehensive assessment, or for a public hearing by the Environmental Review Tribunal, are largely subjective—for example, whether the request has “merit and substance” or if it is “being pursued to delay the implementation of the project,” or whether the hearing “will be a wise use of resources.”

The 2005 program review by the Environmental Assessment Advisory Panel also raised concerns about the lack of clear criteria for deciding on these public requests. The Panel stated that the environmental assessment process had become unpredictable because of uncertainties about whether a project may be bumped up to a comprehensive assessment or referred to the Tribunal. The government acknowledged the importance of public hear-

ings when it originally proposed the Act, noting the benefits of a venue for discussing and reconciling viewpoints. Such a process provides better support for public involvement, since not all project owners have the resources or inclination to engage in a more extensive public consultation process.

- **No independent body to solicit public input and provide impartial advice:** The 2005 program review also raised concerns about the lack of an arm’s-length advisory body even though the Act authorizes the Minister to appoint advisory committees. From 1983 to 1995, the Environmental Assessment Advisory Committee (Committee) served as an impartial body that advised the Minister—and frequently solicited public input—on contentious projects and systemic issues such as identifying the need for possible legislative reform. The Committee was disbanded when the government made major legislative and administrative changes to the environmental assessment program in 1996. While the Environmental Review Tribunal could serve in this capacity, the Minister is responsible for deciding when the Tribunal should be involved—and the Minister has referred only two projects to the Tribunal since 1998.

Public Requests Denied in Contentious Projects

The public has raised concerns regarding the apparent trend of the Ministry denying almost all public requests. In the last five-and-a-half years, the Minister has denied all but one of the requests related to bump-ups for 177 streamlined assessments. Also, all 190 hearing requests related to four projects have been denied for reasons that include the Ministry being satisfied with the project owner’s compliance with the agreed-upon terms of reference and that the process has adequately addressed any concerns raised. The Ministry’s decision to deny some of these requests may be justified given the level of evidence presented. However, we noted the following instances where the decision-making process

could have benefited from either more meaningful criteria to give the public confidence about the Ministry's decision or from having an independent body adjudicate the contentious issues:

- Between 2005 and 2008, the Ministry received 12 requests from the City of Mississauga, Region of Peel Medical Officer of Health, City of Toronto Medical Officer of Health, and various citizens and citizens' groups to carry out a comprehensive assessment of the proposed Mississauga gas plant. The requesters were concerned about the potential impact of emissions on human health and on the surrounding environment. The Ministry denied all these requests, stating that "the health impacts were assessed to an appropriate degree." Continuing public opposition to the project due to perceived unresolved concerns eventually led to the government's decision to cancel the plant at a cost that we estimated to be approximately \$275 million (see our 2013 Special Report on the Mississauga Power Plant Cancellation Costs). Literature as far back as the late 1970s has recognized the importance of environmental assessments in resolving disputes and increasing public acceptance of decisions. Experts in the field of environmental assessments even warned that "without a full and frank examination of the political, emotional and technical issues associated with a particular project, public hostility and resentment ... may well spell [its] demise."
- The Ministry received 185 public hearing requests regarding an energy-from-waste facility, citing concerns about impacts on air and water quality, lack of transparency in the process, insufficient commitment from the project owner regarding emissions monitoring, and the need for cumulative-effects assessment. The Ministry denied all the requests, stating that it was "satisfied that the concerns have been addressed or will be addressed through proposed conditions of EA approval."

The Ministry approved the environmental assessment in 2010, and the facility started operations in February 2015. In May 2016, the facility reported that emissions were nearly 12 times the Ministry's limits for dioxins and furans—toxic by-products that can result from burning waste. The project owner shut down a portion of the facility, while the Ministry required the owner to submit a plan to investigate the cause of this exceedance. The investigation found that an operational issue affected the facility's pollution control equipment.

In this case, a public hearing would have allowed for a closer examination of the evidence presented by the project owner to determine whether its measures would be sufficient to keep emissions within the established limits.

The benefits to the environment of holding a public hearing were evident in one of the last projects referred for such a hearing. In 1990, citizens raised concerns regarding a proposed hazardous-waste-processing facility. The public hearing determined that the facility would have contaminated 1,200 hectares of groundwater, requiring up to hundreds of thousands of dollars in remediation costs. The project was rejected by the board that conducted the hearing.

Other Jurisdictions Have Independent Advisory Bodies

While ministerial discretion is not unique to Ontario, other jurisdictions—such as Quebec, Manitoba, Alberta, Nova Scotia, and the federal government—have processes and criteria to support a more objective determination of which projects or plans should be referred to an independent panel or committee review. For example:

- In northern Quebec, environmental assessments are reviewed by boards composed of First Nation, provincial and federal representatives. The Minister makes the final decision

on the project based on the recommendations of these boards.

- In Manitoba, the public may request that projects be submitted to the Clean Environment Commission for a public hearing. The Commission, composed of independent members who may not be employed by any level of government, conducts the hearings, reviews evidence, and presents a report to the Minister containing a recommendation on how to proceed. The Minister makes a final decision on the project.
- In the federal environmental assessment process, the Minister may refer the environmental assessment of a project to a review panel made up of independent experts who conduct the environmental assessment and must hold public hearings.

The International Association for Impact Assessment states that, for the environmental assessment process to be credible, it should be subject to independent checks and verification. Also, “facilitation of public participation by a neutral facilitator improves impartiality of the process.... It also increases the confidence of the public to express their opinions and to reduce tensions, the risk of conflicts among participants, and opportunities for corruption.”

RECOMMENDATION 9

To ensure that decisions regarding environmental assessments are appropriate and transparent, the Ministry of the Environment and Climate Change should:

- clarify the criteria for ministerial decision-making regarding public requests for a comprehensive assessment or a public hearing; and
- assess whether to appoint an independent body to provide objective advice on project-specific and systemic issues as needed, especially for projects considered to significantly impact the environment.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General’s recommendation to clarify the criteria for decision-making on bump-up and hearing requests, as appropriate.

As part of improving the environmental assessment program in the short term, the Ministry is committed to reviewing the codes of practice and consulting with key stakeholders to consider if additional clarity is required in these documents.

For project-specific issues, there are two mechanisms: first the Environmental Review Tribunal (ERT) has the authority to make project specific decisions when referred by the minister. Secondly Section 31 of the *Environmental Assessment Act* allows the minister to appoint an advisory committee on any matter related to the administration of the Act and provides considerable scope for the minister to seek advice, perspectives and views. The Ministry will assess the effectiveness of these mechanisms.

4.7.2 Public Not Fully Informed about Projects

Representatives from environmental groups have informed us that it is often difficult for the public to find out about streamlined Class EA projects given the lack of centralized, online records of such projects. Project owners are required to notify the public about their projects and the related environmental assessments through notices in local newspapers and direct mail. Some of the municipalities that we surveyed also suggested that a more systematic, centralized notification might be more appropriate. For example, one municipality stated that the notification system should be “modernized to ... maximize efficiency of outreach and increase response rates. Project owners are still mandated to incur the cost and issue public notices in a newspaper that may result in only a few people becoming aware of a project.”

The Act requires the Ministry to make relevant documentation about projects available to the public upon request. However:

- While the Ministry's website has summary information about comprehensive assessments, it did not include detailed project information. Such detailed information is maintained in paper files (at the Ministry's head office in Toronto) and is made available only if the Ministry receives a request, which relies on members of the public being aware of their right to do so. The Ministry's website does not inform the public of this right, nor does it provide any instructions on how to make such a request.
- As discussed in **Section 4.4.1**, the Ministry has incomplete information on streamlined assessments, and so is not in a position to provide the public with project information.

The 2005 program review recommended that the Ministry create a website "to enable proponents [i.e., project owners] and stakeholders to electronically track the status of the matter under consideration (for example, Ministry review or bump-up request) and to access information or supporting documentation about the matter, and other documentation relating to the environmental assessment program." Although the Ministry has created a website for the small number of comprehensive assessments, the website does not include information about any of the streamlined assessments, or even those for which it received bump-up requests.

In comparison, the Canadian Environmental Assessment Agency, British Columbia and Alberta each maintain an online database of projects that have been approved and those that are currently undergoing an environmental assessment. These online databases also include relevant ministry documents and studies. In addition, the Canadian Environmental Assessment Agency, British Columbia and Saskatchewan also have interactive maps of the projects. Members of the public may also opt to automatically receive information about any project that has been proposed.

RECOMMENDATION 10

To enable the public to fully participate in the environmental assessment process, the Ministry of the Environment and Climate Change should update its website so that the public has access to all relevant information, including the status, for all environmental assessments.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation. Public participation opportunities are vitally important for the environmental assessment program. The ideas, questions and concerns that the public and Indigenous communities have are valuable inputs into the project owners' environmental planning and into the Ministry's decision-making process.

The Ministry will examine ways to be more transparent in providing environmental assessment information, including through the use of websites. To that end, the Ministry will work with project owners, through the Class Environmental Assessment Proponents Working Group and five-year review anniversaries of their streamlined assessment documents, to discuss ways to improve online access to environmental assessment information. The Ministry is currently undertaking a scoped review of the *Environmental Bill of Rights*, which will include reviewing consultation requirements related to environmental assessments.

4.8 No Way of Knowing if Assessments Were Effective

The Ministry cannot determine if the environmental assessment process is effective in preventing and/or mitigating the negative environmental impact of assessed projects, because the Ministry:

- does not have effective processes to ensure projects are implemented as planned; and

- has not established measures against which to evaluate the results of the environmental assessments.

4.8.1 Post-Assessment Processes Not Enough to Ensure Projects Are Implemented as Planned

No Ministry Field Inspection During Project Development

The Ministry does not conduct field inspections during project construction or development to determine whether the project is being implemented according to commitments made by the project owners or conditions imposed by the Ministry.

Ministry policy states that the Ministry's field inspectors are responsible for enforcing various laws, including the *Environmental Assessment Act*. However, we interviewed inspectors in the three regions we visited, and none of them have ever inspected a project under either a comprehensive or streamlined assessment process, to determine compliance with the commitments and conditions of the environmental assessment. In the last five years, the Ministry inspected only one of the 20 projects that had been subject to a comprehensive assessment and none of the streamlined assessment projects.

The Ministry informed us that inspections were not necessary because environmental assessments are a planning process, and when subsequent environmental approvals are issued—for example, those issued under the *Environmental Protection Act*—they are followed up with inspections to ensure compliance with approval conditions. However, the Ministry does not have an established process to ensure that subsequent environmental approvals include the mitigation measures agreed to in the environmental assessment.

In addition, we noted that:

- Environmental approvals under the *Environmental Protection Act* are required only for projects that emit pollutants. Projects such

as highways, even though they require an environmental assessment, do not require subsequent environmental approvals. Half of the comprehensive environmental assessments in the past five years did not require any subsequent environmental approvals. Also, the Ministry does not inspect such projects to determine whether the project owners are complying with its commitments and the conditions of the environmental assessment after the environmental assessment is approved.

For example, in 2010 the Ministry approved the environmental assessment for a highway extension that would pass through sensitive lands in Ontario's Greenbelt and Oak Ridge's Moraine. Due to the complexity of the project, the Ministry imposed 20 conditions of approval. These conditions included technical monitoring plans and reports ranging from surface water monitoring to vegetation restoration plans. An environmental approval was not required for the project. In 2015, a Conservation Authority informed the Ministry that the project owner had altered the design that had been approved in the environmental assessment. The Conservation Authority was concerned about the impacts that would result from these changes. Subsequent to the Ministry being informed of the issue, the project owner conducted further consultation with the Conservation Authority to determine a more appropriate design. Had the Conservation Authority not identified these issues, they would not have been resolved.

- Inspections under the *Environmental Protection Act* begin only once the facility is operating—and potentially causing environmental harm—not during construction.
- Our 2016 audit of the Ministry's Environmental Approvals program (see **Section 3.05** of this Annual Report) found that the Ministry annually inspects very few Ontario polluters. Specifically, our audit found that the Ministry was not aware of many polluting activities,

and of those it was aware of, it inspected less than 10% annually.

We noted that the Canadian Environmental Assessment Agency, British Columbia, Saskatchewan, Manitoba and Quebec conduct compliance inspections of approved environmental assessments.

Ministry Does Not Monitor Actual Impact of Approved Projects

All comprehensive assessments require project owners to provide data to the Ministry on the project's impact on the environment. However, for four of the 20 projects that had undergone a comprehensive assessment in the last five years, the Ministry has not been ensuring that project owners are providing this data as required. In August 2015, the Ministry found that over the previous four years, reports had not been submitted for these projects. One of these projects was a landfill expansion that was approved in 2010. The municipality was required to submit annual reports to the Ministry regarding results of its water sampling, but had not done so for four years. When the municipality finally submitted all outstanding reports upon the Ministry's request, the reports showed that the municipality had only taken one-third of the required water samples.

In addition, there is no requirement for project owners that undertake streamlined assessments to provide data to the Ministry on the project's impact on the environment unless the project owner commits to providing the information. These commitments would be included in the final environmental assessment report. However, we found that in over one-third of the streamlined assessments we reviewed, the Ministry had not received the final assessment report.

The International Association for Impact Assessment states that the environmental assessment has little value without post-approval monitoring of a project's environmental impact because the outcomes and consequences of the decision to

approve the project will be unknown. Canada and Quebec also require project owners to submit follow-up reports that show how the environmental assessment process helped reduce impacts on the environment.

RECOMMENDATION 11

To assess the effectiveness of environmental assessments, the Ministry of the Environment and Climate Change should ensure that it:

- receives and analyzes information about the actual impact of all assessed projects in the project stages that follow the environmental assessment; and
- compares project impact information with the impacts described in the environmental assessment and follows up on any significant discrepancies.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation.

The Ministry acknowledges it can do more to ensure that environmental assessments are effective at assessing and planning for potential impacts of a project.

- The Ministry will examine further measures to improve practices for post-environmental assessment effects monitoring. These measures may include using existing tools such as conditions of environmental assessment approval and strengthening our internal business processes to link the environmental assessment and environmental approvals programs.
- The Ministry will review its internal practices and procedures for review and follow-up of project owners' compliance reports for ways to improve the Ministry's analysis of actual impacts compared to predicted impacts.

4.8.2 Assessments Are Costly and Time-Consuming but Ministry Lacks Performance Measures against Which to Evaluate Their Results

Given that environmental assessments involve significant time and money, for both the Ministry and project owners it is particularly important to ensure these resources are achieving improved environmental outcomes. These are some examples of the cost and time required:

- The 20 comprehensive assessments that were approved in the last five years took an average of almost five years from the submission of the terms of reference to the approval of the environmental assessment. A 2014 report by the Residential and Civil Construction Alliance of Ontario stated that streamlined assessments for municipal infrastructure projects took an average of 26 months to complete.
- Environmental consultants—who conduct environmental assessments on behalf of project owners—informed us that the costs range from \$100,000 to \$200,000 for streamlined assessments, and from \$1 million to \$6 million for comprehensive assessments.

Despite such significant time and money invested in environmental assessments, the Ministry has not assessed whether such investment has resulted in the best solutions—or even good solutions—for the environment and the community. We noted that other jurisdictions have measures to help assess how effective their strategies are in achieving their goals. For example:

- British Columbia's Environmental Assessment Office (Office) tracks and reports on the percentage of reviews that are completed within legislative timelines. In addition, to assess how well it is monitoring the projects once they are approved, the Office tracks the number of compliance inspections completed

on approved projects, and the percentage of compliance reports from project owners that are reviewed by Office staff and posted online within six weeks of receipt.

- Similarly to British Columbia, the Canadian Environmental Assessment Agency (Agency), a department of the federal government, tracks and reports on the percentage of assessments that are completed within legislative timelines. In addition, the Agency gauges the effectiveness of the assessment process by tracking the percentage of projects where mitigation measures were effective in limiting environmental impact. The Agency also assesses whether the assessment process included meaningful participation of Indigenous groups by measuring how many groups with potential for being impacted provided comments on the assessment documents.

RECOMMENDATION 12

To assess the effectiveness of environmental assessments, the Ministry of the Environment and Climate Change should develop measurable performance indicators against which it can evaluate its delivery of the environmental assessment program.

MINISTRY RESPONSE

The Ministry agrees with the Auditor General's recommendation. We acknowledge the importance of having a system in place to assess the effectiveness of our environmental assessment program.

The Ministry will develop internal performance measures for the environmental assessment program. The Ministry is targeting fall 2017 to build a performance measurement framework.

Appendix 1: Chronology of Significant Developments in Environmental Assessment in Ontario

Prepared by the Office of the Auditor General of Ontario

Legislative Developments	Non-Legislative Developments
Ontario's <i>Environmental Assessment Act</i> (Act) came into force	1976
Scope of the Act was extended to private-sector waste management projects such as landfills and energy-from-waste projects	1987
Government passed the <i>Intervenor Funding Project Act</i> to provide funding to ordinary people to assist in participating in environmental assessments	1988
Government repealed the <i>Intervenor Funding Project Act</i>	1996
Government passed significant amendments to the <i>Environmental Assessment Act</i> (see Section 2.2.1)	1997
Government passed a Deadlines Regulation to impose time frames for the Ministry's review of environmental assessment documents	1998
Government passed the Electricity Projects Regulation to establish a streamlined process for public- and private-sector electricity projects	2001
Government passed the Waste Management Projects Regulation to establish a streamlined process for public- and private-sector waste management projects	2007
Government passed the Transit Projects Regulation to establish a streamlined process for transit projects in response to MoveOntario 2020 announcement	2008
	1983 Government appointed the Environmental Assessment Advisory Committee to advise the Minister on environmental assessment issues
	1988 First major review of the environmental assessment program (ended in 1992). See Appendix 3 for status of recommendations
	1995 Government dissolved the Environmental Assessment Advisory Committee
	2000 Environmental Assessment Board was renamed the Environmental Review Tribunal, and independent Board chair was replaced with a provincial civil servant
	2004 Second major review of the environmental assessment program (ended in 2005). See Appendix 3 for status of recommendations
	2007 Government announced MoveOntario 2020 to fund 52 rapid-transit projects throughout the Greater Toronto and Hamilton area
	2015 Minister announced third major review of environmental assessment program to begin in fall 2015

Appendix 2: Status of Key Recommendations from 1992 and 2005 Program Reviews

Prepared by the Office of the Auditor General of Ontario

IMPLEMENTED

- Develop policies and procedures to provide guidance on how to apply the Act (1992, 2005).

SOME ACTION TAKEN

- Develop a framework such that the nature and extent of documentation, notification and planning depend on the environmental risks of the project (2005)
Ministry action: Streamlined processes for waste management and transit projects, but criteria are not based on risk of projects.
- Revise public consultation guidelines to ensure that the public, First Nation and Aboriginal communities receive timely and effective notification about projects, and have adequate comment opportunities (2005)
Ministry action: Developed public consultation guidelines, but notification methods do not support timely and effective notification about projects.
- Establish a website to enable stakeholders to electronically track the status of environmental assessments, and to access supporting documentation about projects and other documentation related to the environmental assessment program (2005)
Ministry action: Developed a website, but does not allow for electronic tracking of status of environmental assessments, nor access to supporting documentation about projects.
- Develop a compliance strategy to improve the monitoring and reporting, including third-party audits, inspection protocols, and training for staff (1992 and 2005)
Ministry action: Developed a compliance strategy, but strategy is limited in scope. For example, the requirement to report on actual environmental impact of projects is limited to those approved through comprehensive assessments. The strategy also does not include field inspections of approved projects.

NO ACTION TAKEN

- Establish an independent advisory body to provide advice to the Ministry and solicit public input (2005)
- Refer projects for public hearings, alternative dispute resolution or mediation in circumstances where, for example, there is significant unresolved public controversy about the proposed project (2005)
- Review and/or upgrade the environmental assessment information system to ensure that it is accessible by all ministry regional offices (2005)
- Create a formal adjudicative process (administered by an independent body) to expeditiously review and decide bump-up requests (2005)
- Amend the *Environmental Assessment Act* to authorize the Ministry to prescribe fees for certain matters under the Act (2005)
- Review the adequacy of time frames and deadlines for the Ministry's review of environmental assessment documents (2005)

Appendix 3: Comprehensive Environmental Assessments Completed from 2010/11 to 2014/15

Prepared by the Office of the Auditor General of Ontario

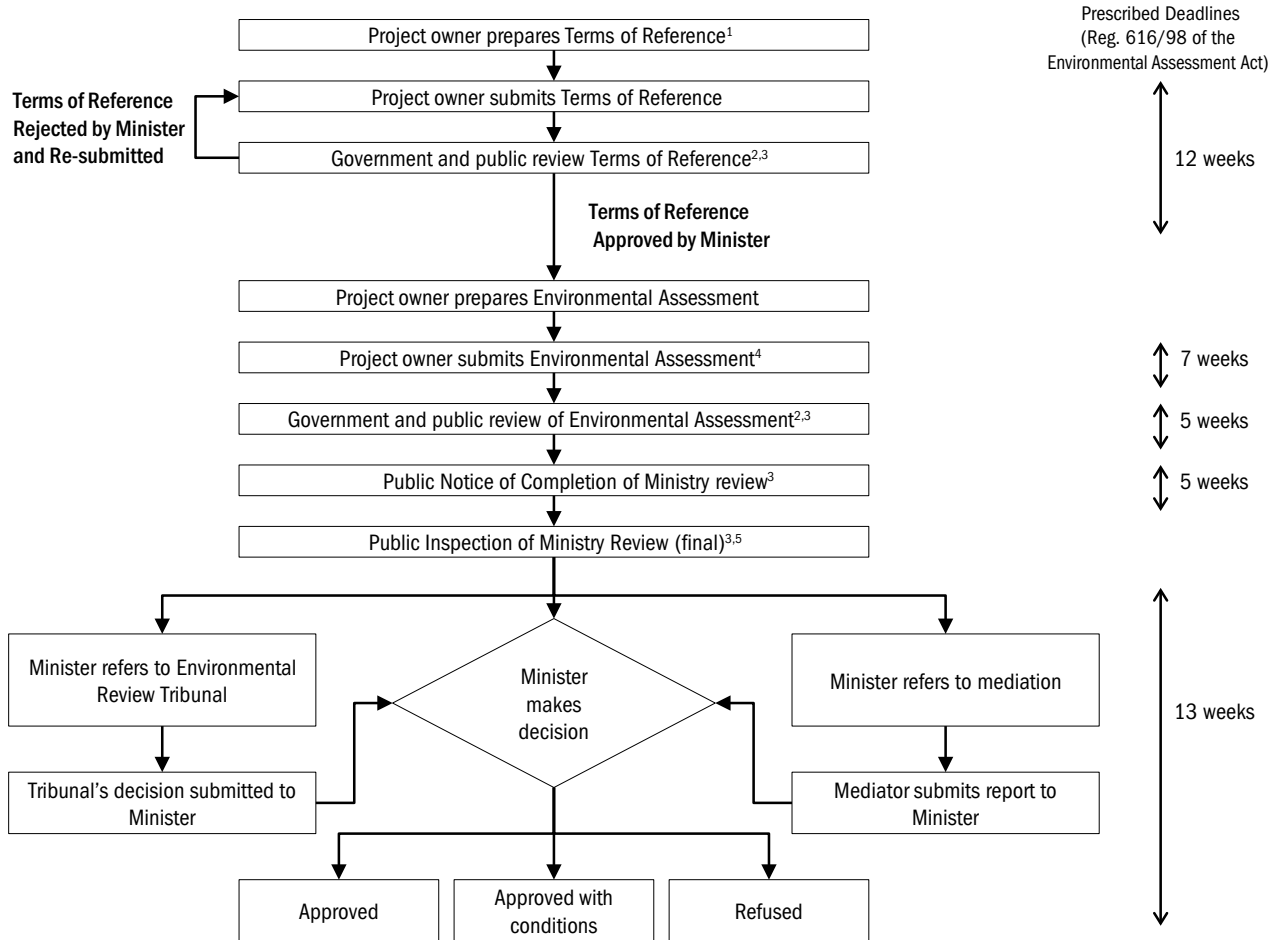
#	Project Name and Location	Description of Project	Project Owner	Date		Project's Current Status
				Environmental Assessment Was Approved	Environmental Assessment Was Approved	
Waste Management Projects						
1	Clean Harbors Lambton Facility (St. Clair, near Samia)	To expand the capacity of an existing landfill by an additional 4.5 to 5.0 million cubic metres of space to extend its projected lifespan by approximately 25 years.	Clean Harbors Canada Inc.	July 2015		Construction
2	Brighton Landfill Expansion (Northumberland, near Peterborough)	To provide additional disposal capacity to an existing landfill to allow the County to continue to operate the landfill through the year 2023.	County of Northumberland	February 2015		Pre-construction
3	West Carleton Environmental Center (Ottawa)	To develop a new landfill with a total capacity of 6.5 million cubic metres as part of a waste management development complex known as the West Carleton Environmental Centre.	Waste Management of Canada	August 2013		Project operational
4	Gerdau Ameristeel Recycling Shredder By-Product Disposal Site (Whitby)	To expand the on-site landfill and provide for future extraction, recovery and re-use of landfilled material for use in the steel mill operation or for the production of saleable products.	Gerdau Ameristeel	March 2013		Construction
5	Maple Lake Landfill Site Expansion (Haliburton County)	To expand the existing waste disposal site to accommodate waste for the next 25 years.	Township of Algonquin Highlands	March 2011		Pre-construction
6	Hanover/Walkerton Landfill Expansion (Municipality of Brockton)	To expand the existing Hanover/Walkerton landfill to provide an additional 347,000 cubic metres of disposal capacity for municipal waste to service the Hanover and Walkerton communities for 25 years.	Town of Hanover/ Municipality of Brockton	March 2011		Operational
7	Moosonee, Town Landfill Expansion (Township of Horden, northern Ontario)	To expand the existing Moosonee Area Development Board landfill to provide additional waste disposal capacity for 40 years.	Town of Moosonee	December 2010		Pre-construction
8	Durham and York Residual Waste Study (Municipality of Clarington)	To construct and operate a thermal treatment waste management facility.	Regions of Durham and York	November 2010		Operational
Transportation						
9	Markham Bypass Extension - Donald Cousens to Morningside Avenue (Markham)	To construct a four-lane urban arterial roadway extension and widen roadways.	Regional Municipality of York	January 2013		Project awaiting funding finalization

#	Project Name and Location	Description of Project	Project Owner	Date Environmental Assessment Was Approved		Project's Current Status
				Project Owner	Date	
10	Western Vaughan Transportation Improvements (Vaughan)	To widen various roadways on the western half of the City of Vaughan.	City of Vaughan	July 2012	Pre-construction	
11	Highway 427 Extension Transportation Corridor (Vaughan)	To construct a 6.6 kilometre extension of Highway 427, new interchanges, and a dedicated transitway.	Ministry of Transportation	October 2010	Pre-construction	
12	MTO Highway 407 East Extension (Region of Durham)	To extend Highway 407 from Brock Road to Highway 35/115, and construct a dedicated transitway corridor and 17 transitway stations.	Ministry of Transportation	March 2010	Operational Phase 1 is operational and Phase 2 is under construction	
Electricity-Generation for Mining Operations						
13	Detour Lake Contingency Power Project (Cochrane, northeast Ontario)	To install diesel-fired generators capable of supplying 10 megawatts of power to the Detour Lake mine site.	Detour Gold Canada Corporation	March 2012	Project not going forward	
14	Musselwhite Mine—Main Power Supply Project—Power System Expansion (103 km north of Pickle Lake, Northern Ontario)	To provide up to 20 megawatts of diesel generated electrical capacity at the existing Musselwhite Mine.	Goldcorp Canada Ltd.	November 2010	Pre-construction	
15	Detour Lake Power Project (185 km northeast of Cochrane, northeast Ontario)	To construct a transmission line and related infrastructure to provide power to the Detour Lake mine site in northeastern Ontario.	Detour Gold Corporation	March 2010	Operational	
Waterfront Development						
16	Lakeview Waterfront Connection Environmental Assessment (Mississauga)	To create a new natural park that will establish ecological habitat and public access on the eastern Mississauga waterfront.	Credit Valley Conservation and Region of Peel	May 2015	Pre-construction	
17	Goderich Harbour Expansion (Goderich)	To provide additional loading/unloading space for ships; additional storage space of salt as well as other commodities; and provide for wind and wave protection to the inner harbour.	Town of Goderich	November 2014	Construction	
18	City of Quinte West Waterfront Development (Marina) (Quinte West)	To develop a new municipal marina facility near the entrance of the Trent-Severn Waterway.	City of Quinte West	March 2014	Construction	

#	Project Name and Location	Description of Project	Project Owner	Date Environmental Assessment Was Approved	Project's Current Status
Flood Protection					
19	Don Mouth Naturalization and Port Lands Flood Protection Project (Toronto)	This project will transform the existing mouth of the Don River (the "Don Mouth") including the Keating Channel, into a healthier, more naturalized river outlet to the Toronto Inner Harbour and Lake Ontario, while at the same time removing the risk of flooding to over 290 hectares of urban land to the east and south of the river.	Toronto and Region Conservation Authority	January 2015	Pre-construction
Mining					
20	Rainy River Gold Mine (Township of Chapple)	To construct, operate and eventually reclaim an open pit and underground gold mine.	Rainy River Resources	January 2015	Construction

Appendix 4: Submission and Approval Process for Comprehensive Environmental Assessments

Source of data: Ministry of the Environment and Climate Change



1. The Terms of Reference describe how the project owner will conduct the environmental assessments, and includes: a description of the proposed project; the current conditions in the area where the project is to be located; the alternatives that will be examined; the studies that will be conducted to evaluate the alternatives; and how the public will be consulted.
2. The Terms of Reference and the Environmental Assessment report are reviewed by a Government Review Team that is made up of staff from municipal, provincial and federal government ministries and agencies who provide comments based on their mandated authority and expertise. For example, the Ministry of Natural Resources and Forestry will provide comments regarding the protection of species-at-risk.
3. All public notices are placed in local newspapers, provided to stakeholders who may be directly affected through direct mail, and/or posted on the project owner's website. Notices are also placed on the Ministry's website.
4. The Ministry publishes the results of its review of the Environmental Assessment report, after which the public has an opportunity to provide comments on the Ministry's review.
5. The Environmental Assessment report describes the results of the project owner's assessment (such as the scientific studies, evaluation of alternatives, public consultation, etc.) to support the action it recommends regarding the proposed project.
6. The Ministry attaches legally binding conditions to the approved environmental assessment report that apply to the entire project from design through implementation and operation, and up to the future closure of the project. Such conditions may include conducting ongoing public consultation during construction, or monitoring the quality of groundwater. The Report must be approved by the Minister and Cabinet.

Appendix 5: Types of Streamlined Environmental Assessments

Prepared by the Office of the Auditor General of Ontario

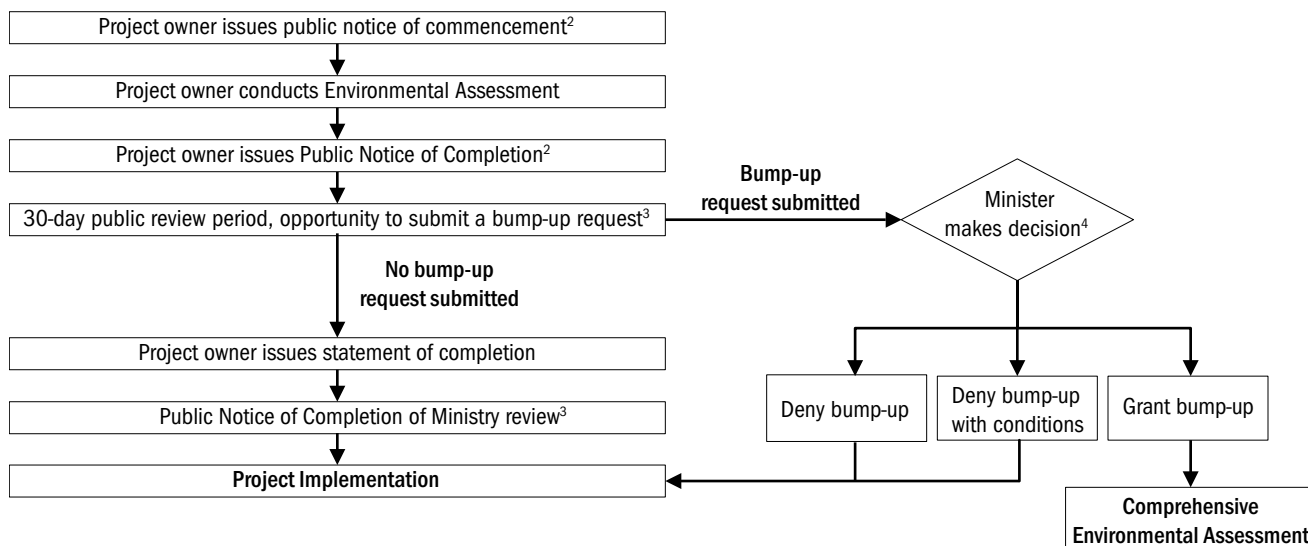
Project Owners	Types of Projects	Volume of Projects ¹ (2010–2015)	% of Total
Class Environmental Assessments			
Hydro One	Minor transmission facilities (1992) <ul style="list-style-type: none"> • Transmission lines • Transmission and distribution stations • Telecommunication towers 	47 ²	2
Ministry of Natural Resources and Forestry	Forest management (1994) <ul style="list-style-type: none"> • Developing Forest Management Plans for activities such as harvesting trees, construction of access roads, etc. 	53 ³	3
Metrolinx	GO Transit (1995) <ul style="list-style-type: none"> • Construction of new commuter rail stations, bus terminals or storage yards • Extension of rail routes • Rail infrastructure improvements 	4	<1
Ministry of Transportation	Provincial transportation facilities (1999) <ul style="list-style-type: none"> • Highway construction and maintenance 	888	46
Ministry of Natural Resources and Forestry	Resource stewardship and facility development (1999) <ul style="list-style-type: none"> • Decision to grant access rights to Crown land 	88	5
Municipalities	Municipal infrastructure projects (2000) <ul style="list-style-type: none"> • Municipal road, sewage and water infrastructure • Municipal transit projects 	435 ⁴	23
Conservation Authorities	Remedial flood and erosion control projects (2000) <ul style="list-style-type: none"> • Actions taken for protection from impending flood or erosion 	7	<1
Infrastructure Ontario	Public works (2004) <ul style="list-style-type: none"> • Property acquisition, planning, leasing, maintenance, construction/demolition, sale 	278	14
Ministry of Natural Resources and Forestry	Provincial parks and conservation reserves (2004) <ul style="list-style-type: none"> • Create, modify or eliminate a provincial park or conservation reserve • Management projects (wildlife, vegetation, etc.) • Park operations (beaches, campgrounds, etc.) • Developing Park Management Plans 	53	3
Ontario Waterpower Association	Waterpower projects (2008) <ul style="list-style-type: none"> • New waterpower projects <200 megawatts • Modifications to existing waterpower projects • Transmission lines <115 kilovolts • Transformer/distribution centres >115 kilovolts 	8	<1
Ministry of Northern Development and Mines	Mining (2012) <ul style="list-style-type: none"> • Abandoned mine rehabilitation • Decisions to grant licences to mining companies to conduct exploratory activities 	16	1
Subtotal—Class Environmental Assessments		1,877	98

Project Owners	Types of Projects	Volume of Projects ¹ (2010–2015)	% of Total
Regulated Environmental Assessments			
Examples include: • Bracebridge Generating Ltd. • Ontario Graphite Ltd. • C.P.V. Nanticoke Energy LP	Electricity generation (2001) • Wilson’s Falls generating station • Kearney Graphite Mine power generation • Nanticoke Energy Centre	18	1
Examples include: • Plasco Energy Group • Niagara Waste Systems Ltd. • Alltantic Power	Waste management (2007) • Waste conversion facilities • Atlas landfill remediation • Calstock power plant–ash landfill expansion	7	<1
Examples include: • Metrolinx • Municipal transit authorities (e.g., Toronto Transit Commission)	Public transit (2008) • Eglinton Crosstown LRT • Scarborough Rapid Transit conversion and extension • Transit maintenance facilities	23	1
Subtotal—Regulated Environmental Assessments		48	2
Total Streamlined Assessments		1,925	100

1. Unless indicated otherwise (see Notes 2–4), figures are based on annual reports submitted by project initiators to the Ministry.
2. The class EA framework for minor transmission projects does not require Hydro One to submit annual reports to the Ministry. The volume of projects is an estimate obtained by OAGO directly from Hydro One.
3. The volume of projects for the Forest Management Class EA is based on the number of times various forest management plans have been subject to public review in the last five years. This Ministry does not track the number of class EA processes by any other means.
4. The volume of projects for the Municipal Infrastructure Class EA is based on figures in the annual reports to the Ministry (2011–12) and the number of notices regarding projects that were received by the Ministry’s head office from municipalities (2013–15).

Appendix 6: Streamlined Environmental Assessment Process¹

Prepared by the Office of the Auditor General of Ontario



1. The above figure illustrates the general process followed for streamlined environmental assessments. The process—as outlined in the relevant Class Environmental Assessment Policy Document or regulation under the *Environmental Assessment Act*—may vary slightly depending on the type and scale of the project.
2. Project owners must notify relevant government agencies at the start and completion of the environmental assessment. Notices are also made public through local newspapers and/or provided to stakeholders who may be directly affected through direct mail, etc.
3. After the project owner issues the Notice of Completion, members of the public, the Ministry, and other interested parties have the opportunity to review the environmental assessment report and request that the Minister bump up a streamlined project to a comprehensive assessment.
4. Class Environmental Assessment Policy Documents and the regulations under the *Environmental Assessment Act* prescribe timelines for the Minister's decision.

Appendix 7: Other Stakeholders in the Environmental Assessment Process

Prepared by the Office of the Auditor General of Ontario

Note: The following list is not exhaustive, and includes only those that are mentioned in our report.

Federal Government

Three agencies administer environmental assessments at the federal level:

- The National Energy Board administers the environmental assessments for designated projects they regulate such as pipelines and transmission lines.
- The Canadian Nuclear Safety Commission administers the environmental assessments for designated projects they regulate such as nuclear projects.
- The Canadian Environmental Assessment Agency (CEAA) administers the environmental assessments for all other designated projects such as airports, marine terminals and mines.

The scope of the federal assessment includes the impact on components of the environment that are within the federal legislative authority: fish and fish habitat, migratory birds, federal lands and Indigenous peoples.

In 2004, Ontario entered into an agreement with CEAA to co-ordinate environmental assessment processes when projects require both provincial and federal assessments. Since then, these 10 projects have been subject to a co-ordinated provincial-federal environmental assessment (most of which are mining projects):

- Bending Lake Iron Mine/Josephine Coal Mine (in progress since 2012)
- Cote Gold Mine (in progress since 2013)
- Detour Lake Mine Project
- Hammond Reef Gold Mine (in progress since 2011)
- Hardrock Gold Mine (in progress since 2014)
- Noront Multi-Metal Mine (in progress since 2011)
- Rainy River Gold Mine
- Detroit River International Crossing

- Highway 407 East Extension
- Western Vaughan Transportation Improvements

Environmental Review Tribunal

The Environmental Review Tribunal (Tribunal) is an independent administrative tribunal. It functions as a quasi-judicial body, whose primary role is adjudicating applications and appeals under 11 different environmental statutes, including the *Environmental Protection Act*, *Ontario Water Resources Act*, *Environmental Assessment Act* and *Environmental Bill of Rights*.

The Tribunal holds public hearings to assess the merits of proposed development projects, plans or programs that may impact the environment. For example, the Tribunal hears appeals arising from decisions regarding the issuance, alteration or revocation of an order or approval under the *Environmental Protection Act*, *Ontario Water Resources Act*, and *Environmental Assessment Act*.

Environmental Commissioner of Ontario

The Environmental Commissioner of Ontario reports to the Legislative Assembly under the authority of the *Environmental Bill of Rights*. The Commissioner is responsible for reviewing and reporting on the government's compliance with the *Environmental Bill of Rights*.

Ontario Municipal Engineers Association

The Ontario Municipal Engineers Association is an association of public-sector professional engineers employed in municipalities. The class EA

framework for municipal infrastructure projects is prepared by the Association on behalf of the municipalities.

Residential and Civil Construction Alliance of Ontario

The Residential and Civil Construction Alliance of Ontario is an alliance of key industry stakeholders from the residential and civil construction industry, which was created to address the major challenges affecting the construction industry.

Canadian Council of Ministers of the Environment

The Canadian Council of Ministers of the Environment is made up of the 14 environment ministers from the federal, provincial and territorial governments. The Council normally meets at least once a year to discuss national environmental priorities and determine work to be carried out to achieve positive environmental results.

Appendix 8: Chronology of Plan and Project Implementation

Prepared by the Office of the Auditor General of Ontario

LONG-TERM GOVERNMENT PLANS ¹	
<p>1. Plan Development</p> <p>The responsible government ministry or agency conducts an environmental assessment while developing the plan.</p> <p>For example, an environmental assessment of a long-term energy plan should:</p> <ul style="list-style-type: none"> Identify reasonable and viable ways to achieve the objectives of the plan²: Reasonable alternatives are those that take into account the environmental and socio-economic evidence as well as legislative and policy requirements. For example, different energy supply options under different scenarios (e.g., differing electricity demands based on population projections). Viable alternatives are those that are technically and economically feasible, supported by stakeholders and the public, and can be implemented within the plan period. Assess and mitigate the cumulative effects of multiple energy projects. Balance environmental, societal and economic benefits and costs of the alternatives. 	<p>2. Plan Implementation</p> <p>Individual projects identified in the plan are implemented.</p> <p>Some action items in the plan are administrative, such as updating regulations and policies, and will not result in physical projects. Other action items, such as construction of energy-from-waste facilities, will result in physical projects. These projects will then undergo project-specific environmental assessments (see below).</p>

INDIVIDUAL PROJECTS	
<p>1. Project Planning</p> <p>The project owner conducts an environmental assessment for the proposed project.</p> <p>For example, an environmental assessment for a facility that converts waste to energy will:</p> <ul style="list-style-type: none"> Identify alternative technologies that can be used, alternative locations for the project. Assess the environmental, human health, cultural and socio-economic effects of the project. Hold the project owner accountable for commitments made to mitigate the negative impact of the project. 	<p>2. Project Construction</p> <p>The project owner obtains other regulatory approvals and permits.</p> <p>Once the environmental assessment for the energy-from-waste facility is approved and before construction begins, the project owner must obtain, for example:</p> <ul style="list-style-type: none"> Municipal permits to build the facility, discharge sewage to the municipality's storm sewers, operate beyond standard work hours, etc. Environmental approvals to emit contaminants emissions into air, water, or land. Permit to Take Water from groundwater resources during construction. Ontario Energy Board licence to generate and sell electricity.
	<p>3. Project Operation</p> <p>Project begins operations.</p> <p>The municipal, provincial and federal approvals and permits outline terms and conditions for operation that the project owner must comply with once the project begins operating.</p>

1. The example of an environmental assessment for a long-term energy plan is provided for illustration only. Although the *Environmental Assessment Act* requires an environmental assessment for public-sector proposals, plans and programs, no such assessment has been conducted for any long-term government plan since 1992.

2. Based on best practices promoted by the International Association for Impact Assessment—the leading international organization for best practices related to environmental assessments.

Appendix 9: Comparison of Ontario's Environmental Assessment Process to Other Canadian Jurisdictions

Prepared by the Office of the Auditor General of Ontario

	Ontario	Canada	British Columbia	Alberta	Saskatchewan	Manitoba	Northern Quebec	Southern Quebec
Applicable legislation	<i>Environmental Assessment Act</i>	<i>Canadian Environmental Assessment Act, 2012</i>	<i>Environmental Assessment Act</i>	<i>Environmental Protection and Enhancement Act and the Water Act</i>	<i>Environmental Assessment Act</i>	<i>Environment Act</i>	<i>Environmental Quality Act, James Bay and Northern Quebec Agreement, and the Northeastern Quebec Agreement</i>	<i>Environment Quality Act</i>
Year legislation was first passed	1976	1992 ¹	2002	1993	1980	1987	1980	1980
Does the Act apply to private sector projects?	Only for electricity-generation and transmission and waste-management ²	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Is environmental assessment required for mining projects?	No ³	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Does the Act allow streamlined environmental assessments?	Yes	No	No	For oil sand mines, industrial plants, and coal mines	No	Yes	Projects may be determined to not require a full EA	No
Are project owners required to assess the cumulative effects of projects?	No	Yes	Yes	Yes	Yes	No	Yes	Yes
Is there an independent body to provide advice to the Minister?	No	Yes	No	For energy projects	No	Yes	Yes	Yes

	Ontario	Canada	British Columbia	Alberta	Saskatchewan	Manitoba	Northern Quebec	Southern Quebec
Does the Ministry/Agency conduct site inspections?	No	Yes	Yes	No	Yes	Yes	Yes	Yes
Does the environmental assessment website contain:								
<ul style="list-style-type: none"> a list of all projects that have undergone, or are currently undergoing, an environmental assessment 	Some	Yes	Yes	Yes	Some	Some	Yes	Some
<ul style="list-style-type: none"> all relevant documentation produced by the project owner 	Some	Yes	Yes	Yes	Some	Some	No	Some
<ul style="list-style-type: none"> all relevant documentation produced by the Ministry/Agency 	Some	Yes	Yes	Yes	Some	Some	No	Some

1. The *Canadian Environmental Assessment Act* was first passed in 1992. The current *Canadian Environmental Assessment Act, 2012* was passed as part of the 2012 Budget Implementation Bill, Bill C-38.
2. The *Environmental Assessment Act* also allows private-sector project owners to voluntarily conduct an environmental assessment.
3. Certain components of a mining project—such as the construction of a road leading to the mine or its electricity generation facility—may require a streamlined environmental assessment.