



Comité consultatif pour l'environnement de la Baie James
James Bay Advisory Committee on the Environment
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BEST-PRACTICE GUIDANCE FOR PROJECT PROPONENTS

PROJECT-RELATED PUBLIC PARTICIPATION AND ENGAGEMENT IN THE JAMES BAY TERRITORY

Early engagement and integration of public insights in project designs
and Section 22 environmental and social impact assessments and reviews

Prepared by the
James Bay Advisory Committee on the Environment

June 2019

A COLLABORATIVE EFFORT

This guide was produced by the James Bay Environment Committee on the Environment (JBACE) with the gracious collaboration of representatives from the Cree Nation Government, the Canadian Environmental Assessment Agency, the Ministère de l'Environnement et de la Lutte contre les changements climatiques, and the assessment and review bodies established by Section 22 of the James Bay Northern Québec Agreement (JBNQA) – the Evaluating Committee (COMEV), the Environmental and Social Impact Review Committee (COMEX), and the Federal Review Panel-South (COFEX-South).

Legal Deposit

Bibliothèque et archives nationales du Québec

Library and Archives Canada

ISBN (print) 978-1-9995599-4-6

ISBN (PDF) 978-1-9995599-5-3

Printed on recycled material

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ACRONYMS

CEA Act - 2012	<i>Canadian Environmental Assessment Act - 2012</i>	ESIA	Environmental and Social Impact Assessment and Review
CEA Agency	Canadian Environmental Assessment Agency	IBA	Impact benefits agreement
CNG	Cree Nation Government	JBACE	James Bay Advisory Committee on the Environment
COFEX-South	Federal Review Panel-South	JBNQA	James Bay Northern Québec Agreement
COMEV	Environmental and Social Impact Evaluating Committee	JBT	James Bay Territory
COMEX	Environmental and Social Impact Review Committee (provincial)	MERN	Ministère de l'Énergie et Ressources naturelles
EIJBRG	Eeyou Istchee James Bay Regional Government	MELCC	Ministère de l'Environnement et de la Lutte contre les changements climatiques
EIS	Environmental and Social Impact Statement		

SCOPE, OBJECTIVE, AND INTENDED AUDIENCE

The James Bay Advisory Committee on the Environment (JBACE) designed this guide for all proponents with projects located in or that may affect the environment and the communities in the James Bay Territory (JBT). It is intended to encourage and to assist proponents with their public engagement and participation activities with the Territory's Cree and Jamésien inhabitants (the 'public'), as well as certain key bodies that are active at local and regional levels in the JBT, over the continuum of their projects' activities. It is thus crafted to guide proponents in such matters over the course of their projects' concept planning, construction, operation, monitoring, and closure. This guide is:

1. Focused on assisting proponents of all development sectors by outlining best-practices for their project-related public engagement and participatory activities in the unique context of the JBT; and,
2. Intended to be used independently of whether or not a project is the object of an environmental and social impact assessment and review per Section 22 of the [James Bay Northern Québec Agreement](#) (JBNQA), or per other applicable provincial or federal statutes, regulations, or procedures.¹

Although a description of the Section 22 JBNQA environmental and social impact assessment and review procedure is provided in this guide – along with a description of the formal public information and consultation activities that are held over the course of the said procedure – this guide is also intended to be used by proponents with projects that do not require such assessments or reviews but would benefit from opportunities to inform and consult the public. Its use is also encouraged by proponents whose projects have already completed assessments or reviews (e.g. when already-authorized projects must be modified, when the impacts of such projects are being monitored, or when such projects are closing down).

The JBACE also anticipates that this guide may be valuable to the public as a reference. Not only does it outline certain expectations that concern the public in matters relating to participation over the course of project planning in the JBT, it also provides a useful overview of the Section 22 JBNQA environmental and social impact assessment and review procedure and of its associated institutions.

This guide, however, does not modify the federal and provincial governments' duty to consult and accommodate Aboriginal peoples.

Use of this guide, respecting other obligations, and using other guidance

This guide sets out the JBACE's suggestions regarding public participation best-practices that proponents may voluntarily employ. It does not supersede or replace any other obligations or expectations that may apply to proponents in light of federal, provincial, and local statutes, regulations, policies, agreements, or other applicable guidance documents – whether these obligations or expectations pertain specifically to public engagement and participation, or not.

Proponents must note that other guidance on public participation exists and should also be used. The federal government has drafted documents on the matter,² the Ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC) provides [guidance](#) on navigating the environmental and social impact assessment and review procedures in northern regions, the Ministère de l'Énergie et Ressources naturelles (MERN) has published [guides](#) for specific sectors, and the Section 22 Environmental and Social Impact

¹ For example, federally-legislated impact assessment procedures, the procedure applicable in Nunavut per Section 23 of the JBNQA, or the one for southern Québec per the *Environment Quality Act* (CQLR c. Q-2).

² For example, see '[Public Participation in Environmental Assessment under the Canadian Environmental Assessment Act, 2012 – Interim Guide](#)' (published in March 2018) and the '[Reference Guide Considering Aboriginal Traditional Knowledge in Environmental Assessments Conducted under the Canadian Environmental Assessment Act](#)' (published in March 2015).

Review Committee (COMEX) published a document entitled '[Consultations conducted by the proponent: Expectations of the Review Committee](#).' Other non-governmental institutions, such as the [International Association for Impact Assessment](#) and the [International Association for Public Participation](#) have also produced materials that proponents should use. See the [References](#) section of this guide for a comprehensive but non-exhaustive list of available guidance materials.

A COMMITMENT TO ENGAGE WITH THE PUBLIC

The Cree and Jamésien know the James Bay Territory (JBT), its environmental and social conditions, local needs and concerns. They may provide timely information to proponents regarding these topics, and may also be immediately affected by project impacts, whether positive or negative. They should thus have an opportunity to express themselves.

However, undertaking project-related public participation and engagement activities may be complex. Proponents will need to commit, from the outset, to such exercises by mobilizing the necessary time, human and financial resources. As will be outlined in [Section 4](#), proponents should also be prepared to employ different types and formats of activities in some cases.

VALUE-ADDED OF PUBLIC ENGAGEMENT AND PARTICIPATION

Informing and engaging with the public in the context of project planning has become increasingly important in recent years. The public now fully expects to be informed of and to be consulted on projects that may affect them, and may even wish to participate in the planning of a given project. Proponent-driven public engagement and participation is now a matter of good business and can provide proponents with tangible added value:

- ✓ It is the basis for establishing a trusting relationship with the public, communities and other stakeholders. It can also bring to the fore corporate-social responsibility by implicating them in decisions that may affect them, thereby also reducing risks associated with opposition or litigation;
- ✓ It is an avenue to collect valuable locally-based information and knowledge, outlining the citizen's values and concerns as opposed to strictly professional and scientific data;
- ✓ It helps hone projects to local conditions and concerns, and may help identify innovative solutions to mitigate impacts and generate novel project design alternatives that are more mutually beneficial to all parties;
- ✓ It helps to equip proponents, and regulators when required, with insights on the public's degree of social acceptability for the projects in question.

Examples of the value-added of public engagement and participation are provided on the following page. In the interest of objectivity, the identities of the proponents, of the immediately affected communities, and of the public participants or stakeholders, are withheld.

Example nº 1 in the James Bay Territory

A mine project proponent undertook a public participation campaign prior to its approval and maintains a dialogue with the public years after the approval. In the JBACE's opinion, several of the proponent's efforts constitute best-practices. Examples are listed below, as well as several related benefits of having done so:

- ✓ Four years prior to tabling an environmental impact statement (EIS) for the mine's authorization, the proponent signed a memorandum with the affected community to recognize the respective rights and expectations of each party, including the need for the company to respect Cree culture and traditions;
- ✓ The proponent engaged with the community's administration and several key local and regional organizations. In parallel, the proponent organized informal sessions and discussion forums where the public could get information on the project and pose questions;
- ✓ Two years before tabling its EIS, the company drafted a formal communication and consultation plan and provided this to the community. It also hired a liaison officer and set up a community advisory panel to provide on-site and established platforms for exchanges with the community;
- ✓ The proponent outlined the proposed layouts of all project components and openly discussed these with the public and local organizations in order to adapt them in relation to their concerns;
- ✓ While the project was subjected to a Section 22 environmental and social impact assessment and review (ESIA) and an environmental assessment per the *Canadian Environmental Assessment Act - 2012 (CEA Act – 2012)*, the company continued to pursue designs that met the community's concerns. The proposed siting of the mine's stockpiles, basins, and effluents were revisited to avoid a body of water of public importance;
- ✓ All the while, the company communicated with the community in its primary language (Cree), as well as in French, and in English. The proponent documented all public inputs and reported back to the community on a consistent basis. It also ensured that all such information was available on its website;
- ✓ The company continues to maintain an ongoing and open dialogue with the community.

The proponent's early, transparent, and adaptive approach to engagement, along with its willingness to find mutually-beneficial design solutions, facilitated trust with the community. The proponent received the formal support of the community one year prior to obtaining the project's formal authorization upon completion of the said ESIA procedures. In turn, the public's own willingness to engage stemmed from this trust, as fostered over time by the proponent, and illustrates the benefits of public participation in project planning.

Example nº 2 in the James Bay Territory

In the JBACE's opinion a recent road renovation project that was exempted from a Section 22 environmental and social impact review served to exemplify how being open to public input can improve a project:

- ✓ The proponent attended recurrent bi-annual open-houses to inform the public of the project's objectives, timetables and operations, to obtain public insights and opinions, and to answer questions. These events confirmed for the proponent the public's positive reception of the project (the public supported the project given that the renovation works would ensure safe transit);
- ✓ Several stakeholders stated that the works would need to be modified in order to allow room for the setup of safe and sufficiently large rest-areas along the road. The proponent pursued its engagement with them, using various methods (interviews, written correspondence, in-person discussions), and modified the project's layout to allow for their setup. The company met the needs of these stakeholders without jeopardizing its work schedule;
- ✓ Another set of stakeholders identified the lack of sufficient construction materials for the works scheduled in an area along the road. The proponent engaged with these stakeholders and the relevant regulatory authorities to hash out options. While discussing these matters, the parties successfully identify alternative sources of construction materials near the area in question. The openness of the proponent to engage with these third parties facilitated the identification of a mutually-beneficial solution that did not unduly affect the project's operations.

In this case, despite the public's support for the project, the proponent's willingness to pursue its engagement with the public and other stakeholders served to improve its design and execution.

1. INTRODUCTION

1.1 James Bay Territory (JBT)

The James Bay Territory has been occupied by the Cree people since time immemorial. It is now home to nine Cree communities with a total population of around 17,000.³ Each Cree community is managed by a local administration, commonly referred to as a 'Band council,' with the assistance of the Cree Nation Government (CNG). The Cree Nation Government also recognizes a tenth Cree community – that of Washaw Sibi.

20th Century resource development (namely, forest, mineral, and hydroelectric) greatly expanded the Jamésien population. Some 14,000 Jamésiens now call the JBT home, largely residing in four municipalities and three localities.⁴ The municipalities are administered by their local governments. The localities have councils under the supervision of the Eeyou Istchee James Bay Regional Government (EIJBRG).

Covering roughly 350 000 km² from the 49th to the 55th parallel and from James Bay's east coast towards the Otish Mountains, it is a vast and resource-rich land. See the map on the following page.

Cree culture

The Cree have an intimate relationship with the land and continue to practice traditional hunting, fishing, trapping, and gathering activities. Many still live primarily off the land, and almost all partake in traditional wildlife harvesting activities at some times of the year. Some activities, such as the 'Goose Break' (in the spring to early summer) and the Moose hunting season in the fall, are centuries-old traditionally-important hunting periods.

The link that the Cree have with the land is a vital foundation of their society, culture, spirituality and traditional way of life. The Cree derive well-being from maintaining this link with their land which, in turn, is an important factor in their cultural identity and the foundation of Cree traditional knowledge. They maintain a rich oral history and the majority speak the Cree language.

The Cree thus have unique perspectives, intimate knowledge, and detailed insights of the land and its resources. Proponents should be prepared to seek these out and to respect them when seeking to advance development projects.

Conditions, climate, and access

The JBT is rugged, dominated by the boreal forest which shifts into the taiga in the north. It is characterized by a high water-table, peatlands, and innumerable water bodies. Winter conditions can be extreme. Airstrips and all-weather roads provide access to each community, with the exception of the community of Whapmagoostui which has no road access. Coastal communities have boat access.

Quick Tip n° 1

Proponents should be sensitive to the Crees' strong connection to the land.

When engaging with the Cree, proponents should avoid scheduling participation activities during traditional hunting seasons, make efforts to provide project information in the Cree language, and account for traditional knowledge.

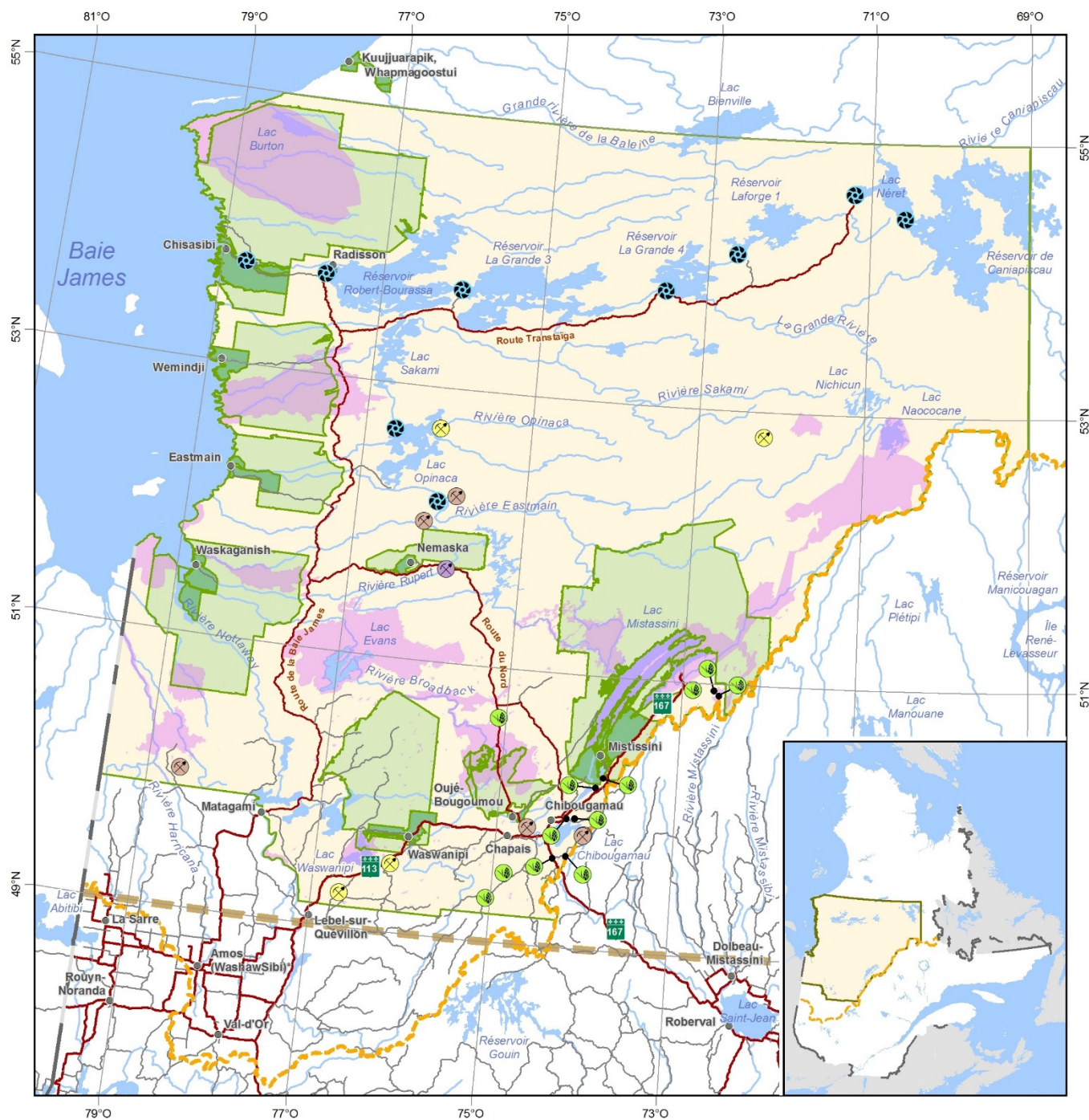
Quick Tip n° 2

Much of the interior of the Territory is not easily accessed by water, air, or road year-round. Proponents must plan new or alternative means to access their project sites. These should be part of the dialogue when engaging with the public.

³ The communities of Whapmagoostui, Chisasibi, Wemindji, Eastmain, Waskaganish, Waswanipi, Nemaska, Mistissini, and Oujé-Bougoumou.

⁴ The non-Cree population in the JBT are commonly referred to as 'Jamésiens.' The four municipalities are Chibougamau, Chapais, Matagami, and Lebel-sur-Quévillon; and, the three localities are Radisson, Valcanton, and Villebois.

1.2 Map of the territory covered by the environmental and social protection regime set out in Section 22 of the JBNQA



Limits

- Territory covered by the regime¹
- Cree Category I lands
- Cree Category II lands
- Southern limit of JBNQA Territory
- Border
- Southern limit of Plan Nord territory

Infrastructures

- Mine
- Mine project (enhancement)
- Mine project (development)
- Hydroelectric power station

Conservation areas

- Exceptional forest ecosystem
- Protected area

¹ The Crees do not recognize the southern limit of the regime as defined on this map

* The Washaw Sibi Eeyou Association is temporarily based in Amos

Sources

Land division, mine site, MERN, 2018
 Exceptional forest ecosystem, MFFP, 2018-04-23
 Protected area, MDDELCC, 2018-12-31
 Hydroelectric infrastructures, CEHQ, 2018
 Native land, MERN, 2018-05-18
 File : 19-0022_loc2_gn_CCEBJ_2019_anglais_190218.mxd

0 45 90 km

Scale : 1 : 4 500 000

Map projection : Conique de Lambert, NAD83

Produced by : Groupe Conseil Nutshimit-Nippour, February 2019



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1.3 The James Bay Northern Québec Agreement (JBNQA)

To allow for the James Bay Hydroelectric Development Project, the Gouvernement du Québec, the Government of Canada, and the Grand Council of the Crees (of Québec) signed the JBNQA in 1975.⁵ The JBNQA was decidedly innovative at the time, representing the first modern treaty – or land claims agreement – in Canada. Several complementary agreements have been signed by the afore-mentioned parties over the years. As a whole, the JBNQA and its complementary agreements are protected by Section 35 of the *Constitution Act* of 1982.⁶

The JBNQA is comprehensive. Among other things, it outlines the following for the Territory (not exhaustive):

- ✓ A specific land regime based on three discrete categories of land; [Section 5]
- ✓ A unique environmental and social protection regime subject to a set of nine guiding principles, as well as a project environmental and social impact assessment and review procedure (ESIA); [Section 22]
- ✓ A special status of involvement for the Cree in the application of the environmental and social protection regime and ESIA procedure; [Section 22]
- ✓ A distinct hunting, fishing and trapping regime which recognizes certain Cree wildlife harvesting rights as a function of the land regime, which reserves certain species exclusively for the Cree, and which also overtly recognizes the Cree traditional system of family-based hunting territories, or traplines, throughout the Territory. Proponents should be keenly aware of the importance of Cree traplines – more information on the traplines follows. [Section 24]

Land regime, local and regional governance

- ⇒ *Category I lands* are lands allocated to the Cree communities and amount to an area of ~5500 km². These lands are reserved for the exclusive use of the Cree communities and are managed by their local administrations with the support of the Cree Nation Government (CNG);
- ⇒ *Category II lands* are provincial Crown lands, totalling ~70 000 km². The CNG is intimately involved in their management. The Cree enjoy exclusive hunting and fishing rights on these lands. These lands may only be developed for other uses on the condition that the affected parcel(s) of land are replaced or compensated for;
- ⇒ *Category III lands* are provincial Crown lands and cover ~277 000 km². They are overseen by the Eeyou Istchee James Bay Regional Government (EIJBRG).⁷ The Cree have exclusive trapping and fishing rights, for certain species, and non-exclusive hunting and fishing rights for the others.

In sum, each Cree and Jamésien community, municipality, and locality has its own local administration, while the CNG and the EIJBRG are important regional governments with responsibilities for Category II and III lands. These institutions are intimately familiar with the Territory. They have uniquely-honed and established relations with their citizens and are sensitive to their citizens' respective needs and concerns.

Quick Tip n° 3

Proponents in the Territory should contact the appropriate local administration, the CNG, and the EIJBRG as an initial step when planning their projects, prior to holding public participatory activities in a given community.

These institutions can provide valuable commentary regarding projects in their own right, and are also in a position to provide important time-saving insights on who to include, when, and how best to engage with local citizens and key individuals in the communities (e.g. Cree Tallymen, Elders).

⁵ Other signatories included the Inuit, Hydro Québec, and the James Bay Energy and Development corporations.

⁶ To date, twenty-five amendments have been made to the JBNQA with the signing of complementary agreements.

⁷ The EIJBRG was created following the signing of the [Agreement on Governance in the Eeyou Istchee James Bay Territory between the Crees of Eeyou Istchee and the Gouvernement du Québec](#) in July 2012.

The environmental and social protection regime, the wildlife harvesting regime, Cree traplines

The JBNQA established a unique environmental and social protection regime per Section 22, as well as a specific hunting, fishing and trapping regime per Section 24. Per paragraph 22.2.4 of the JBNQA, the regime set out in Section 22 is subject to nine guiding principles that proponents should consider:⁸

- ✓ The protection of the hunting, fishing and trapping rights of Native people in the Territory, and their other rights on Category I lands, with respect to developmental activity affecting the Territory;
- ✓ The environmental and social protection regime with respect to minimizing the impacts on Native people by developmental activity affecting the Territory;
- ✓ The protection of Native people, societies, communities, economies, with respect to developmental activity affecting the Territory;
- ✓ The protection of wildlife resources, physical and biotic environment, and ecological systems in the Territory with respect to developmental activity affecting the Territory;
- ✓ The rights and guarantees of the Native people within Category II established by and in accordance with Section 24 until such land is developed;
- ✓ The involvement of the Cree people in the application of this regime;
- ✓ The rights and interests of non-Native people, whatever they may be;
- ✓ The right to develop by persons acting lawfully in the Territory;
- ✓ The minimizing of the negative environmental and social impacts of development on Native people and on Native communities by reasonable means with special reference to those measures proposed or recommended by the impact assessment and review procedure.

The Section 22 environmental and social protection regime also provides for a special status of involvement for the Cree people, when their rights may be affected, “...over and above that provided for in procedures involving the general public” through consultation or representative mechanisms.⁹ This is a core precept that should also be addressed by proponents when planning their projects and when seeking to engage with the Cree.

Section 24 of the JBNQA outlines the hunting, fishing and trapping regime and rights of the Cree:¹⁰

- ✓ The Cree have the right to harvest wildlife at all times of the year, anywhere in the Territory, without prior administrative authorization and with a minimum of control or regulations applied to them;
- ✓ The Cree have exclusive wildlife trapping rights throughout the entire Territory;
- ✓ Certain lands, such as Category I and II lands, and certain species are reserved for the exclusive use of the Cree (e.g. Whitefish, Sturgeon, Suckers, Burbot, Mooneye, Goldeye, all mustelids, Beaver, Lynx, Foxes; and, Black Bear north of the 50th parallel);
- ✓ In the event of scarcity of a harvestable species, priority must be afforded to the Cree in light of non-Native interests (e.g. sport hunting and fishing).

⁸ Federal, provincial, regional and local governments, as well as the Section 22 evaluating and review bodies (COMEY, COMEX and COFEX-South), must also consider the guiding principles in the context of their respective mandates.

⁹ See paragraph 22.2.2.c of the JBNQA.

¹⁰ See Section 24 of the JBNQA for the complete treatment of Cree wildlife harvesting rights. For the purposes of this document, which is specific for the Territory under Section 22, we focus on Cree wildlife harvesting rights. We recognize, however, that Section 24 applies to all Native beneficiaries to the JBNQA, including the Inuit and the Naskapi who reside outside of the area of application of Section 22.

The hunting, fishing and trapping regime also recognizes that the entire Territory is organized according to a traditional system of traplines upon which the Cree may exercise their harvesting rights (see the map on the following page).

Each trapline is under the supervision of a Cree Tallyman who is responsible, among other things, for the supervision of the activities related to wildlife harvesting thereon.

Proponents must thus expect that all projects in the JBT will occur on Cree traplines, and that their projects may well have an impact either on the trapline(s) or on the ability of the Cree to exercise their harvesting rights thereon. Proponents should also be mindful that certain species are reserved for the Cree, and that the Cree hold these species in high regard. They should thus make efforts to determine if their projects will affect the Crees' ongoing harvesting of these species.

An important note on Cree traplines

The entire JBT is organized per a traditional system of Cree family-based traplines. Certain Cree traplines extend beyond the northern, southern and eastern boundaries of the area of application of the Section 22 environmental and social protection regime.

The map on the following page illustrates the Cree traplines for each Cree community, as recognized by the Grand Council of the Crees (Eeyou Istchee) and the Cree Nation Government.

Note concerning the southern boundary of the area of application of the Section 22 environmental and social protection regime

Proponents whose projects are located in the southern margin of the zone described in paragraph 24.12.2 of the JBNQA should exercise vigilance regarding the application of the Section 22 environmental and social protection regime in the context of their projects. They should communicate with the appropriate jurisdictions in order to determine if their projects are subject to the said regime, or not.

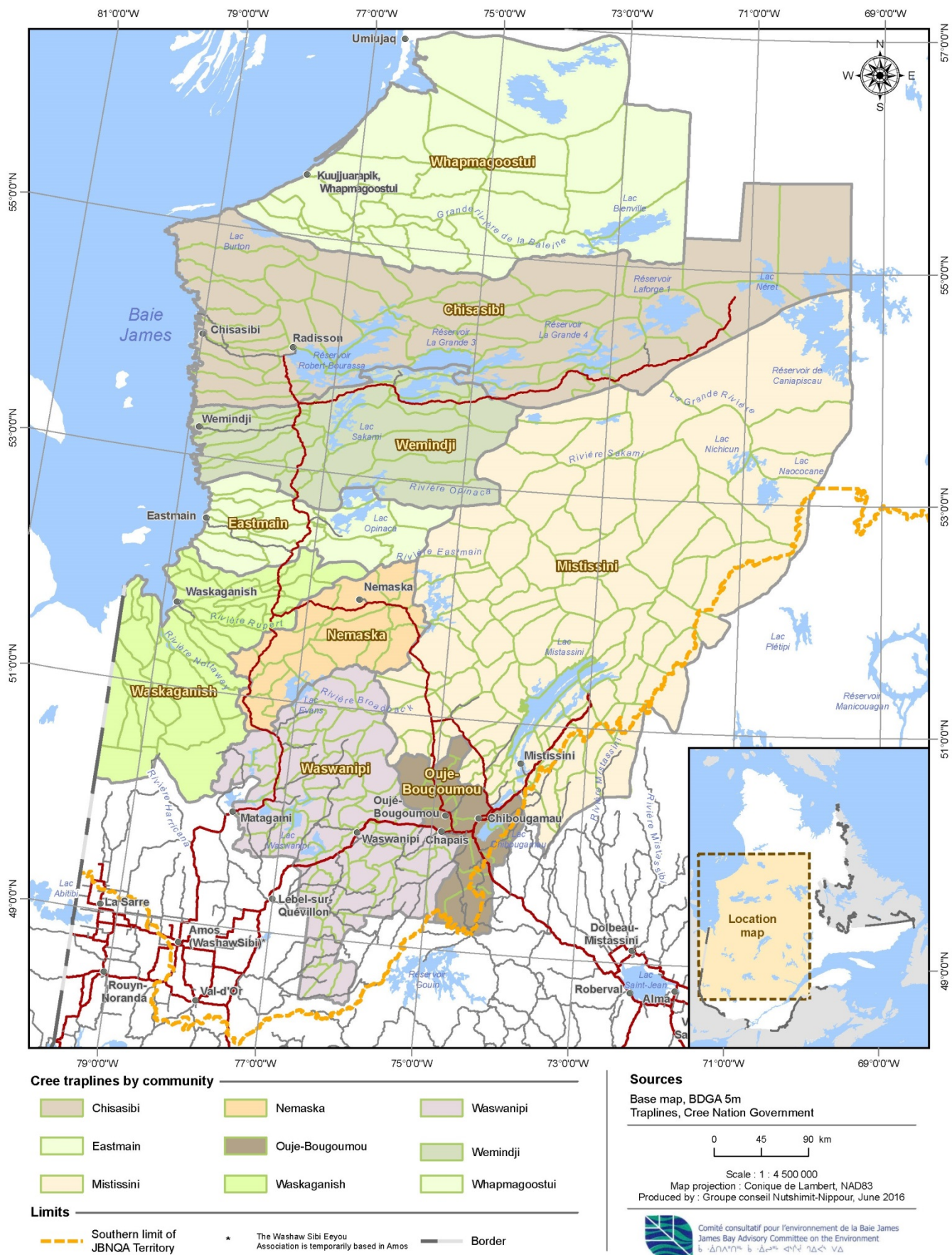
Quick Tip n° 4

All projects in the JBT will occur on one or more Cree traplines. As a matter of best-practice, proponents should always actively engage with the concerned Cree Tallyman (or Tallymen) throughout a project's life cycle.

Quick Tip n° 5

Proponents with projects on Cree traplines that extend beyond the area of application of Section 22 are encouraged to use this guide. This is so because the Cree use these traplines and that this guide was developed, in part, to facilitate Cree engagement and participation.

1.4 Map of Cree traplines by community



Evolution of the concept of social acceptability in the JBT

Natural resource projects have been one of the primary economic drivers in the region for decades. Given their long-standing experience with them, the increased number of projects in recent years, and the rise of new types of projects and technologies, the citizens of the Territory are increasingly keen – and in many cases *expect* – to engage with proponents. Now, more than ever, the public wants to be informed of what may affect them and, in turn, wants to have opportunities to express their concerns and opinions so that they may participate in reducing project impacts and also derive benefits.

As a concept, ‘social acceptability’ is also not new in the region. Its foundations stretch at least as far back as the signing of the JBNQA.

The regime set out in Section 22 – its guiding principles, the special status of involvement of the Cree, the required consideration of non-Native rights, and the environmental and social impact assessment and review (ESIA) procedure – are as important today as they were in 1975. The regime aptly provides a tested avenue for voicing and evaluating the social acceptability of projects.

Recent government initiatives on the concept highlight its importance as an aspect of project success, while also underscoring the need to engage with the public and to be open to modify project schedules or designs based on public insights.

Although the decision to hold public engagement activities is not a guarantee of gaining the social acceptability of a project on its own, the openness to engage with the public and to address public concerns are crucial for relationship-building which, in turn, can assist proponents in this regard.

In this sense, proponent-driven public participation activities are a recognized means (but not a guarantee) of improving a company’s chances of securing the public’s support, or acceptance, of a proposed project. On the other hand, without public support, proponents may face costly delays or even project refusals as a result of public dissatisfaction.

Quick Tip n° 6

Proponents should embrace the need to seek out the public’s opinions, support, or acceptance of their projects. They should view public engagement as a means to build trust which may lead to public support or acceptance.

Proponents should openly express the above elements to the public with whom they engage. It is important that the public understand why their opinions and support are being solicited.

Proponents must also realize that public support is not ensured even when participation activities are held.

Quick Tip n° 7

Proponents should be aware that Cree communities may request the signing of Impact Benefits Agreements (IBAs) based on their support for projects. IBAs are independent contracts between proponents and the communities.

IBAs do not replace the Section 22 ESIA procedure, nor do they have any influence on the Section 22 assessment and review bodies (more on the procedure to follow).

As a rule, proponents should pursue their engagement and participation activities whether IBAs are requested or not.

Note to the reader:

The ensuing section offers a description of the Section 22 ESIA procedure. The description of the ESIA procedure is provided as a process reference that may be of interest to all proponents, even those whose projects are not subjected to the procedure.

2. THE SECTION 22 ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT AND REVIEW PROCEDURE¹¹

The Section 22 environmental and social protection regime provides for a two-tiered environmental and social impact assessment and review procedure (ESIA) that is unique to the JBT.

The procedure is explicitly designed to account for the afore-mentioned Section 22 guiding principles when assessing and reviewing projects. In particular, it addresses the above-cited special status of involvement of the Cree which goes beyond that provided for in procedures involving the general public. Cree representation on the assessment and review bodies is also assured, at each step of the procedure.

The procedure is built around a set of authorities and bodies (composed of appointed representatives) which exercise different responsibilities in its application, as outlined in the table below.

Quick Tip n° 8

Projects may be subject to one or more ESIA procedures. In addition to complying with the Section 22 procedure:

- 1. Proponents are wholly responsible for complying with all other applicable procedures (e.g. the one per Section 23 of the JBNQA, the one per the Eeyou Marine Region Land Claims Agreement, the one for southern Québec, or the one per the CEA Act - 2012);*
- 2. Proponent-driven public participation activities are also usually required under other procedures;*
- 3. If multiple procedures apply for the same project, proponents should try to combine their participation activities in order to ease public involvement by avoiding duplication (may also ease logistic needs).*

Authority / Body	Affiliation / Composition	Responsibilities
Cree Regional Administrator <i>Decision-maker[†]</i>	Director – Department of the Environment and Remedial Works, Cree Nation Government	- Issue the <i>Directives</i> to proponents for their preparation of environmental and social impact statements (EISs); - After assessments, decide on the subjection or exemption of projects from reviews; - After reviews, decide on project authorization (or not) and issue conditions. [†] In light of a project's nature or location, one or more Administrators may have to make the above decisions for a given project.
Provincial Administrator <i>Decision-maker[†]</i>	Deputy Minister, Ministère de l'Environnement et de la Lutte contre les changements climatiques	
Federal Administrator <i>Decision-maker[†]</i>	President, Canadian Environmental Assessment Agency	
Environmental and Social Impact Evaluating Committee (COMEV) <i>Assessment body</i>	2 x Cree Nation Government 2 x Gouvernement du Québec 2 x Federal Government	- Assesses the <i>Preliminary Information</i> provided by proponents and recommends to the relevant Administrator if reviews are needed (or not); - May organize public information sessions and consultations for projects under assessment (discretionary); - If needed, provides recommendations on the contents of the EISs and on the scope of reviews to the Administrator.
Environmental and Social Impact Review Committee (COMEX) <i>Review body[*]</i>	2 x Cree Nation Government 3 x Gouvernement du Québec	- Review EISs provided by proponents; - Organize formal public information sessions and hearings for projects under review (discretionary); - Provide recommendations on project authorizations (or not), and on conditions and/or mitigations applicable to the project (as the case may be) to the relevant Administrator; - Assume an ongoing follow up on project authorizations and conditions. [*] In some cases, and if the parties agree, the review bodies may be combined to facilitate joint formal public information sessions and hearings, or for the joint review of a project.
Federal Review Panel - South (COFEX-South) <i>Review body[*]</i>	2 x Cree Nation Government 3 x Federal Government	

¹¹ The provisions of Section 22 of the JBNQA are included in Title II of Québec's *Environment Quality Act* (CQLR c. Q-2). The JBNQA takes precedence in the event of divergences.

The procedure also relies on three Schedules.

Schedule 1 – the ‘inclusion list’ – identifies projects that are automatically subject to assessment and review; and, thus require the preparation of an EIS. Schedule 2 – the ‘exclusion list’ – lists projects that are exempt from assessment and review (do not require an EIS). A project that does not appear on Schedules 1 or on Schedule 2 – commonly referred to as a ‘grey zone’ project – must go through an assessment in order to determine if a comprehensive review is required. The full texts of Schedules 1 and 2 are reproduced in [Section 5.1](#) on page 28.

Schedule 3 provides a brief description of the suggested contents of an EIS. It encourages proponents to include a section therein on information and questions submitted by the communities potentially-affected by the project. Proponents must note that the *Directives* issued by the Administrators set out what proponents must include in their EIS; they are typically much more complete and precise than what is summarily outlined in Schedule 3 (more on the *Directives* below).

Readers should note that the three Schedules may be revised with the mutual consent of the signatory parties to the JBNQA.

What is meant by the term ‘environmental and social impacts’?

‘Environmental and social impacts’ refer to the direct, indirect, residual or cumulative effects of a development project and its related activities on components of the biophysical and social environments (e.g. wetlands, wildlife, public health, social, cultural and local economy). Impacts may be positive and negative. They may be localized to the immediate project site and area of activities, or may extend beyond these confines and affect nearby communities or the project’s host region.

✓ **All projects, however minor, will have impacts. The role of ESIA is to set out how to maximize positive impacts while avoiding, minimizing, and mitigating the negative ones.**

Environmental and social impact assessments conducted by COMEV¹²

Proponents with projects that are not listed in either Schedule 1 or 2 of Section 22 of the JBNQA, commonly referred to as ‘grey zone’ projects must submit *Preliminary Information*¹³ on their projects to the Administrator who, in turn, mandates COMEV to assess the project and make recommendations on whether or not an EIS should be prepared by the proponent. COMEV also makes recommendations regarding the scope of the comprehensive review of the proponent’s EIS, and on the contents of the EIS. The Administrator decides if a review is required and issues the *Directive* for the review, which also outlines the required contents of the proponent’s EIS.

Proponents must provide the Administrator and COMEV with an overview of the public engagement and participation activities that they have or will undertake when subject to Section 22 assessments. Proponents must thus engage with the public on their own volition – even if their projects receive an exemption from more in-depth reviews following the assessments.

¹² Section 22 assessments are also commonly referred to as ‘evaluations.’ COMEV’s website provides additional information on its mandate and on projects undergoing assessments (<https://comev.ca/>).

¹³ See paragraph 22.5.11 of the JBNQA, and page 7 of the MELCC’s instructional document entitled ‘[Preliminary information on a project in a northern region](#)’ (revised in September 2016).

The goals of a Section 22 assessment

Proponents must submit information on their projects that is sufficiently clear to allow COMEV to assess the project and its potential impacts in order to:

- ✓ Determine if the anticipated impacts of a 'grey zone' project are not significant and if required mitigation measures are in place. If so, the project may proceed without an in-depth Section 22 review (i.e. Attestation of Exemption may be granted);
- ✓ For a 'grey zone' project, determine if a comprehensive Section 22 review is required due to perceived risks associated with the project's components, potential for significant impacts, need for specific mitigations, public interest.

Preliminary Information to be provided by proponents

- ✓ Purpose, justification, objectives, nature, and extent of the project;
- ✓ Location of the project and intention to study alternative sites where appropriate and/or the reasons other alternatives are not possible;
- ✓ Human and biophysical settings of the project's location, and its expected impacts;
- ✓ The work calendar and the subsequent stages of the project and of project-related developments.

Proponents are encouraged to include:

- ✓ **Public information and consultation activities undertaken or to be undertaken by the proponent in order to illustrate public perspectives on the project, anticipated impacts and associated mitigation measures.**

Step 1: Proponent submits Preliminary Information on proposed project to Administrator

Step 2: Administrator transmits Preliminary Information to COMEV

Step 3: COMEV assesses project and transmits its recommendation to Administrator
(i.e. proceed with review or not; and, if needed, recommendations on *Directive* for review)

Step 4: Administrator makes a decision, notifies the proponent and transmits the *Directive* for the review if needed

Step 5: Proponent conforms to the Administrator's decision
(i.e. proceeds with the project without review; or, prepares EIS for the review per the *Directive*)

Environmental and social impact reviews conducted by COMEX and COFEX-South

Depending on jurisdiction, COMEX or COFEX-South will review a project once the proponent files an EIS. Following the review, the applicable review body transmits its recommendations to the relevant regional, provincial or federal Administrator who then makes a final decision regarding the authorization of the project and the application of conditions as the case may be.

The goals of a Section 22 review

- ✓ Determine if the proposed project may proceed (or not);
- ✓ Determine under what conditions the project may occur, as well as any preventive, remedial, or mitigative measures to be implemented.

Conditions are generally fixed in the authorizations issued by the Administrator. They normally set out monitoring, closure, and public engagement obligations. In some cases, the conditions may require ongoing involvement of the Section 22 review bodies (COMEX and COFEX-South).

Directives on the content of EISs and expectations of the Section 22 review bodies in relation to public engagement

The Administrator's *Directives* – which are official documents – typically, obligate proponents to do the following and to report on it in their EISs:

- ✓ Establish communication / consultation plans and document the exchanges held with the Aboriginal and non-Aboriginal communities concerned.

The review bodies (COMEX and COFEX-South) also expect that proponents do the following on their own and report on it in their EISs:

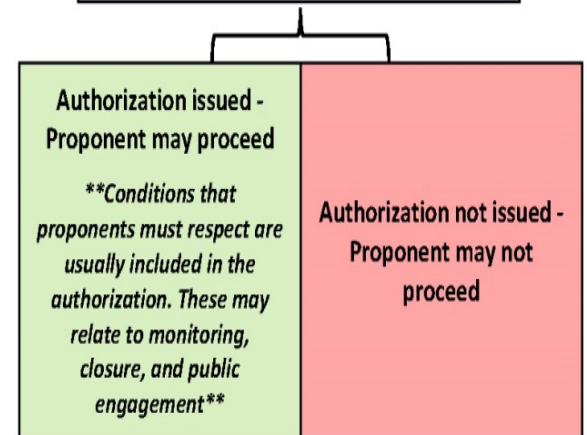
- ✓ Identify contacts at the community, political, association and individual level, and set up communication / consultation plans while specifying their purpose and the topics to be covered;
- ✓ Define and explain methodologies used for the communications or consultations to the target audiences as well as in the documents provided to the Administrator(s);
- ✓ Identify the translation requirements and the types of documents or materials that are the most appropriate for the targeted audiences (e.g. non-technical summaries);
- ✓ Set a schedule that affords target audiences sufficient time to analyze the project information so that they may provide their insights and comments thereon;
- ✓ Pay particular attention to Aboriginal knowledge and include this information in the assessment of the project's impacts;
- ✓ Verify the contents of the final report on the consultations with the people / groups consulted;
- ✓ Document the activities, meetings, and consultations and ensure that their results are featured in the EIS (especially in the sections that cover the project's design, anticipated impacts and mitigation measures).

Step 1: Proponent prepares EIS per the Directive and submits it to the Administrator

Step 2: Administrator transmits EIS to COMEX or COFEX-South

Step 3: Review body examines EIS and transmits recommendation to Administrator
(N.B.: proponent may be asked for additional information on the project at this step)

Step 4: Administrator makes a decision and notifies proponent



Proponents with projects that are subject to Section 22 reviews must indeed provide the Administrators and the review bodies with detailed information on the public engagement and participation activities that they have undertaken. Proponents must thus engage with the public – prior to the actual reviews of their EISs by the review bodies – in order to meet these needs for the reviews.

In sum, when reviewing project EISs, these bodies expect to get a sense of how these engagement activities helped in the development of the final design of the project, how well the public was made aware of the project, and of how public input was taken into account.

Public information sessions and hearings during Section 22 assessments and reviews

COMEV, COMEX and COFEX-South may setup public information sessions and hearings for projects under assessments and reviews at any step during the Section 22 ESIA procedure. Public hearings are common for certain projects subjected to reviews, when COMEX or COFEX-South study EISs, before making recommendations to the Administrators concerned.

These sessions and hearings are organized and held by the evaluating and review bodies. Although proponents may be requested by COMEV, COMEX or COFEX-South to participate in these sessions and hearings and to provide materials and documentation for them, these events do not replace the public engagement and participation initiatives that proponents should undertake on their own accord.

Public access to information during Section 22 assessments and reviews

COMEV, COMEX and COFEX-South maintain project registers on their websites that host a wealth of information on the projects that they assess and review.¹⁴ The MELCC also maintains a register which refers to the COMEV and COMEX websites. Proponents may be required to provide materials and documentation for these public access platforms. Proponents are also encouraged to proactively provide the public with easily-accessible forums for obtaining information on their projects on their own accord (e.g. via social media, local newspaper, local radio, local information office or centre).

Quick Tip n° 9

The Section 22 ESIA procedure has been in use for more than 40 years.

Despite this, proponents should expect that the public may not be altogether familiar with it.

Proponents should be prepared to inform the public of the procedure when their projects are subject to it.

2.1 Post-authorization conditions after Section 22 assessments and reviews

Proponents are normally required to continue collaborative monitoring and information-exchange activities with project-affected communities after Section 22 reviews. This is usually a common condition in project approvals and in this regard, proponents are generally instructed to setup post-review monitoring committees in order to respect the conditions of their project approvals. Such conditions are binding.

In the event that proponents are not bound by similar post-authorization conditions after assessments and reviews, they should nevertheless continue to engage with the affected communities and the public as a matter of best practice and respect. Proponents should be prepared to keep their channels of communication and engagement open until such time as all project-related activities have ceased.

¹⁴ COMEV's website is <https://comev.ca/>; COMEX's website is <https://comexqc.ca/>; and COFEX-South's project register hosted on the CEA Agency's [registry](#). All provide additional information on each body's mandate and on projects under review.

3. PUBLIC ENGAGEMENT AND PARTICIPATION OVER THE PROJECT LIFE CYCLE

(From planning of the initial concept through to closure and the cessation of activities)

Early public engagement and participation is important for relationship-building. Early engagement may also greatly assist proponents insofar as local knowledge can provide time and cost-effective insights on the local conditions, and on the social or biophysical environments. Early engagement can highlight the public's local sensitivities and concerns during the planning of the project's initial concept, before appreciable or costly works begin on the ground.

Proponents should recognize that public engagement and participation makes good business sense from project conception through to the cessation of activities. Public engagement and participation should occur for projects that are automatically exempt from the procedure and for those that are subject to the assessment and review procedure. Public engagement activities should indeed continue even after having undergone such assessments and reviews.

For proponents whose projects are automatically exempt from Section 22 assessments and reviews (for projects that appear on Schedule 2), public engagement activities should still be held as a matter of best-practice and as a means of relationship-building which can help design projects that are more suitably adapted to the local natural and human environments and foster public support.

This is all the more crucial if the project develops into a more substantial undertaking which may eventually be subject to an assessment or to a review in future years (e.g. a mineral exploration project that leads to the development of a mine complex). And, as outlined earlier, public engagement and participation is now an expectation of proponents when prepping documents for their projects' assessments and reviews. Indeed, the Section 22 assessment and review bodies now expect that proponent-driven engagement activities occur. It is expected that proponents document them, and that they are integrated in the *Preliminary Information* required for assessments and in the crafting of environmental and social impact statements (EISs) needed for reviews.¹⁵

In this sense, it is expected that proponents engage with the public well before their projects are submitted for Section 22 assessments and reviews.

⇒ The stylized diagram on the next page offers an illustration of the life cycle of a generic project along with examples of how proponents may benefit from engaging with the public at each step.

Different projects, different capacities – Public participation is a crucial investment

The JBACE is sensitive to the fact that no two projects are the same and that proponents have different capacities at their disposal.

For example, some larger companies may have appreciable budgets to undertake extensive public engagement campaigns and to use multiple approaches to engage and to consult with the public. Others may not.

On the other hand, the size of a project and a company's means to engage with the public are not necessarily linked to the level of concern that the public may have for it. Indeed, a small project proposed by a small company with limited capacity to organize public engagement activities, and with few anticipated impacts on the environment, can still raise significant and legitimate public concerns.

As a result, even for small projects, proponents must realize that the public can only express itself if it is given an opportunity to do so. They must also recognize that the lack of any public engagement and participation activities increases the risk of unexpected costs in the long run (e.g. costs stemming from opposition to a project or from litigation). Public engagement should be considered as an investment rather than a cost.

Once again, early and continued engagement is a matter of best-practice and respect that makes good business sense.

Quick Tip n° 10

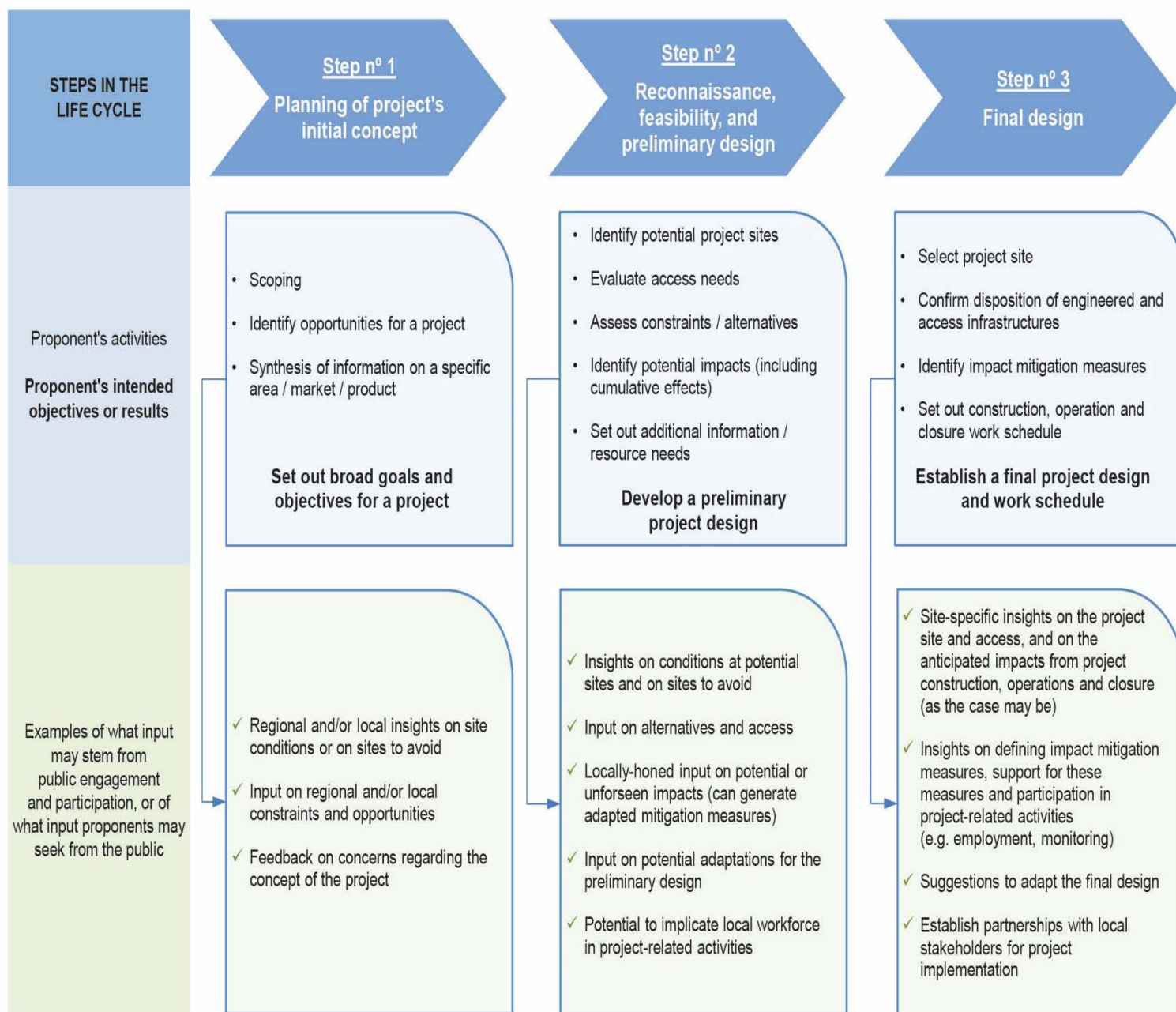
Proponents should keep in mind, that their public engagement and participation activities should be maintained over the course of their projects' life cycle.

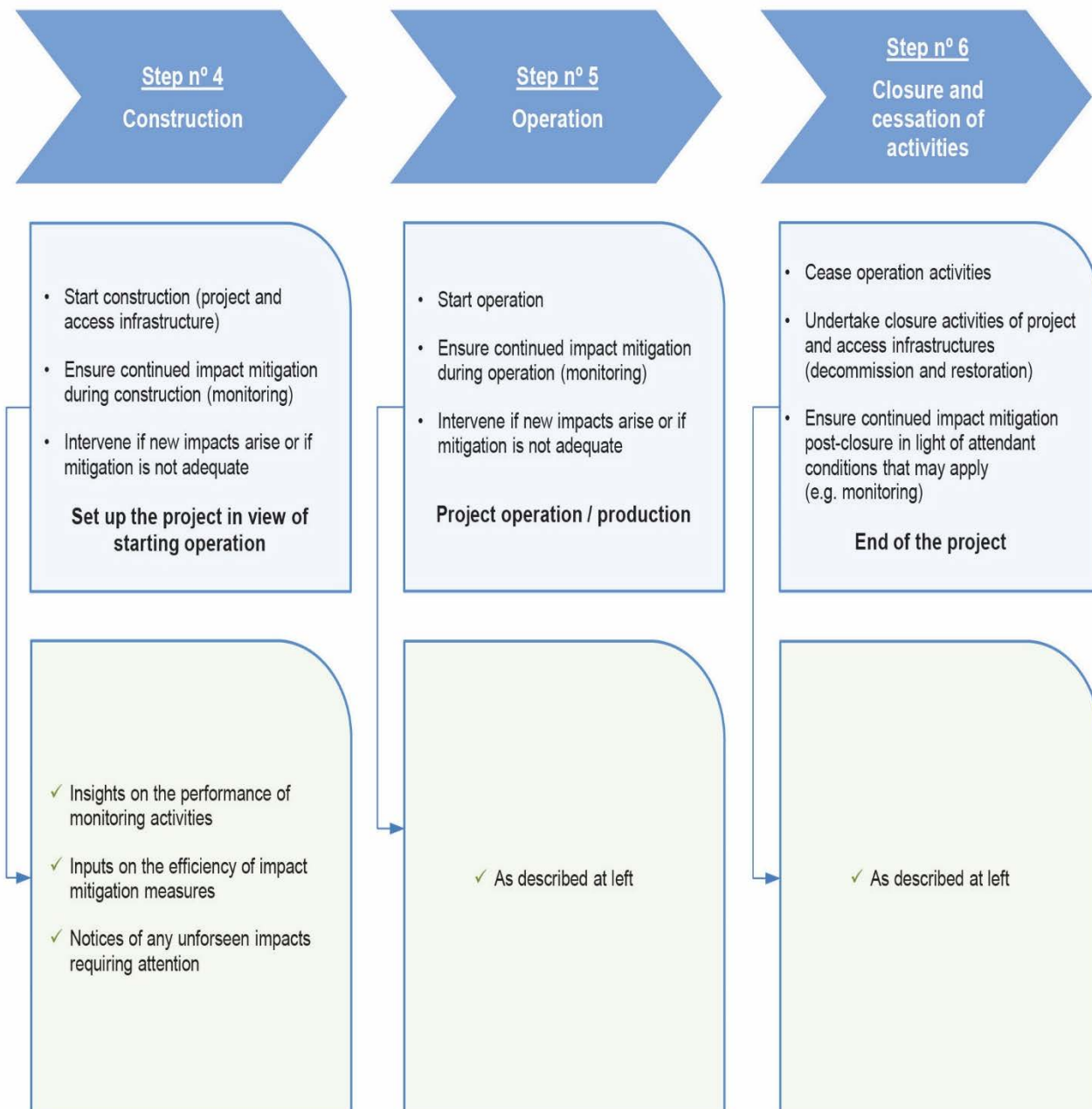
¹⁵ For example, the Section 22 provincial Environmental and Social Impact Review Committee (COMEX) published a document which outlines such expectations (see http://comexqc.ca/wp-content/uploads/Consultations-promoteurs-Attentes-du-COMEX_VF_EN_1.pdf).

The Project Life Cycle

****Stylized diagram intended for example purposes only****

Section 22 assessments and reviews may apply as early as Step nº 2, but may start at later steps in some cases. Conditions stemming from the Section 22 assessments and reviews may apply through to Step nº 6, and may continue to apply beyond Step nº 6 in some cases.





4. BEST-PRACTICES FOR PROPONENT-DRIVEN PUBLIC PARTICIPATION IN THE JBT

4.1 Solid foundations: Planning early to establish trusting relations

Even when proponents are not legally obligated to engage with the public, the establishment of good relations with the public and project-affected communities are a key factor that may lead to the public's support for their projects. As a rule, early public engagement is a matter of good business sense whether projects go through formal ESIA or not.

Thus, as a means of laying solid foundations from which the fulfillment of obligations and the establishment of trusting relations may be built, proponents should first draw up *Public engagement and participation plans*¹⁶ very early in their projects' life cycle (e.g. [Step n° 1 in the diagram](#) on page 18). These could be drafted jointly with or should at least be accepted by the targeted audiences as a matter of respect and as a means of ensuring that the proposed activities are realistic and that the steps forward are clear. To do so, a proponent should:

1. Become familiarized with the roles and mandates of the local and regional administrations, organizations and institutions operating in the JBT, and in the vicinity of their project. A comprehensive, but non-exhaustive list of these is provided in [Section 5.2](#);
2. Communicate the known details of the project, as well as those details that are unknown and will require public input and in-field visits or studies, to the local community administration(s) and to the regional government(s) that are responsible for the lands in and around the potential project site(s). Also send this information to the attention of key Cree and Jamésien organizations and stakeholders (e.g. the Cree Tallyman responsible for the trapline on which the project will be located, health boards, local associations, women's and youth interest groups). See [Section 5.2](#);
3. Request of these institutions their views on which public audiences, communities and other stakeholders should be targeted for engagement and participatory activities. Because projects will normally always affect local community members and local land users, proponents are strongly encouraged to ensure that the local community administrations and local organizations have an opportunity to express their views on such matters;
4. Propose a draft *Public engagement and participation plan* and seek its acceptance by the targeted audiences prior to holding any such activities, and before any exploratory in-field works commence. This draft should include descriptions of the said known and unknown details of the projects, of the proponent's intentions for seeking public insight, and of why such insight is important;
5. Redraft the *Public engagement and participation plan* based on the insights gained from the said audiences. And, confirm with them that the final version is acceptable. Ensure that sufficient time is allotted for this endeavour.

Quick Tip n° 11

Proponents are encouraged to use visual and geographic aids and plain-language summaries when communicating project details. To further ease comprehension, they should also be prepared to produce such information in the language requested by the local and regional community administration(s).

¹⁶ In some cases *Public engagement and participation plans* can be components of other project-related documents that proponents may (or must) produce on their own and that may use different titles (e.g. an 'Environmental Management Plan,' a 'Partnership Declaration,' a 'Framework for Community Involvement and Participation').

Once accepted, the final version of *Public engagement and participation plan* should:

- ✓ Set out which individuals, stakeholders, and communities will be invited to participate;
- ✓ Outline when, where, and how engagement and participation activities will be held;
- ✓ Outline the topics of discussion or exchange to the extent possible;
- ✓ Outline how to approach the exchange of confidential information (more on this in [Section 4.4](#)).

Evidently, proponents should keep their *Public engagement and participation plans* updated as their projects evolve over time or as changes are made to the elements listed above over time.

Quick Tip nº 12

Like proponents, the public, local and regional administrations, interest groups, and key individuals such as Cree Tallymen, have their own schedules and availabilities.

In some cases, these groups may already be solicited for input on multiple projects. In other cases, especially if the proponent's information is highly technical, extensive or complex, these audiences may need more time and specific expertise to understand it.

It is thus not reasonable to assume that these audiences are always able to meet the schedules and deadlines that are set unilaterally by project proponents.

The 'timing' of public engagement and participatory activities (and the schedule for receiving comments from the public and from local and regional administrations) should be mutually-agreed upon when finalizing Public engagement and participation plans.

Early public engagement on known and unknown project details

The JBACE is mindful that all project details may not be fully known in the earlier stages of their life cycles (e.g. [Steps nº 1 and nº 2 in the diagram](#) on page 18). Proponents are nevertheless encouraged to open a dialog with the public while clearly communicating what is still unclear or unknown.

As a minimum, proponents should provide preliminary descriptions of their projects including the proposed locations, and their alternatives, of their projects' components in the landscape. They should outline their intended work schedules and all associated activities and works (e.g. means of access, camps, equipment laydown areas, water requirements). Proponents are strongly encouraged to avoid situations where their projects are so far along that their designs and schedules are fixed and cannot be adapted on the basis of insights gained from the afore-mentioned administrations and stakeholders, as well as from the public. Proponents should thus avoid presenting projects that are a *fait accompli* and that cannot be improved or adapted based on public needs and local or regional concerns.

4.2 Standards for public participation activities: Openness, transparency, flexibility, reciprocity

Once a proponent has established an acceptable *Public engagement and participation plan*, they should follow through with it in a manner that accounts for several important best-practice standards:¹⁷

Openness Proponents should proceed with the implementation of their engagement and participation plans with open and pro-active attitudes. Given that their projects will inevitably produce impacts on the biophysical and human environments – be they positive or negative, and regardless of the size and nature of the projects – proponents should be prepared for ‘personal’ contact with the affected public, communities and stakeholders. Proponents should be sensitive to this and thus pro-actively seek out the opinions and insights from these parties in order to better their project designs and mitigation measures.

Transparency The public’s access to information on development, decisions or issues that may influence them is a basic right. It is not reasonable to expect the public to participate effectively without accessible information or with information that is not clear, and that is not provided in their customary language. Nor can the public be expected to provide meaningful commentary based on incomplete or inaccurate information. A lack of transparency can greatly affect the public’s trust in the project and in the credibility of the proponent.

Proponents must make efforts to provide the public with increasingly detailed project-related information, work schedules, environmental and faunal protective measures, employment metrics, applicable regulatory requirements, etc. as the development of the project progresses, in order to obtain meaningful and helpful public insights in their regard. Here, proponents must also ensure that the information they provide is understandable and sufficiently straight-forward in non-technical language.

Flexibility Overly rigid attitudes may jeopardize trusting relations. Proponents must be prepared to adapt the format and scheduling of engagement and participation activities, their project designs, their anticipated impact mitigation measures, and other aspects of their projects based on the insights provided by the targeted public audiences and stakeholders, as well as the relevant regional and local administrations. Proponents must also afford sufficient time for unforeseen issues to be discussed and revisited as required. A degree of flexibility must be built into project time frames and work schedules from the outset.

Reciprocity Proponents can benefit greatly from the experiences and rich insights that may be obtained from the inhabitants, communities and other stakeholders in the JBT. It is in the interest of proponents to seek out this information in a constructive manner given its value. It is also important that proponents act in kind.

Proponents should explain their interests in engaging with the public while also illustrating how that engagement may be or was used to better project designs and impact mitigation measures, for example. Reporting back and validating the information obtained and how it will be or was used should be an integral part of the implementation of the engagement plan as a matter of respect. In so doing, proponents may encourage greater turnouts at their participation activities and a richer more mutually-beneficial relationship with the public.

¹⁷ Adapted from ‘[Public Participation International Best Practice Principles](#),’ published by the International Association for Impact Assessment (IAIA) in August 2006, and from the ‘[Guide de bonnes pratiques afin de favoriser l’acceptabilité sociale des projets](#),’ authored by the Conseil Patronal de l’Environnement du Québec in 2012 (in French only). This guidance document uses ‘Reciprocity’ as opposed to IAIA’s term ‘Imputable.’

4.3 Seeking public insights: Informing people and giving them opportunities to express themselves

The inhabitants of the JBT are potential sources of valuable local and regional information that may, among other things, complement the proponents' understanding of social and environmental conditions, or that may improve project designs or associated mitigation measures. It is in the interest of proponents to seek out this local information in a constructive manner given its value.

To do so, proponents should provide opportunities for local citizens to express themselves that account for their availabilities, cultural timetables and customs. Target audiences should have access to information which they can understand. They should also benefit from reasonably sufficient timeframes to reflect on the project information provided by proponents, to ask questions and to formulate their thoughts before providing their insights, opinions, concerns, or support. Sufficient time is particularly important if the said information is of a technical or complex nature.

Depending on the complexity of the project or the issues and concerns that arise as a result of its proposal, what constitutes a 'reasonable' timeframe may vary. Proponents must plan for this in consequence. Proponents should establish these timeframes in advance and with input from the Territory's administrations and the targeted audiences. These elements should be clearly hashed out in the accepted version of the *Public engagement and participation plan*.

How to inform the public

Proponents should seriously consider the following best-practices when they intend to inform the public about their projects or about upcoming engagement activities:

- ✓ The establishment of different information contact points in the communities nearest the proposed project site(s) and in strategic locations in the JBT (e.g. set up offices in the communities, make information available at community centres);
- ✓ The use of multiple notification tools (e.g. via a website, social media and radio, local newspaper announcements);
- ✓ The hiring of liaison officers, ideally from the affected community(ies). This is a proven strategy in the context of lasting projects that may produce serious impacts or that may warrant a long term relationship with the affected community(ies);
- ✓ Project-information should be concise and provided in non-technical language;
- ✓ When technical terms are required, they should be defined in a manner that can be understood by the layperson;
- ✓ Geographic and visual aids should complement written text (e.g. maps, images, diagrams, scale models, computer simulations).

Quick Tip n° 13

The issues of 'who, where, when, and how best' to setup and schedule participatory activities such as project information sessions and consultation activities should be set out in the Public engagement and participation plan developed by the proponent with the assistance and insights from the local administrations, local associations and interest groups, regional administrations and the targeted audiences.

Proponents should consider the following examples:

Example n° 1

If proponents want to engage with Cree hunters and land users, they should be aware that 'Goose Break' (April, May or June) and the Moose hunting season in the fall are periods when the hunters and land users may be particularly busy, unavailable, or simply unreachable.

Example n° 2

It is quite possible that a community or set of stakeholders may already be solicited to engage with another proponent for another project.

In order to maximize participation during their scheduled engagement activities, proponents should take care to avoid scheduling them on the same dates in such instances.

Example n° 3

When proponents wish to engage and communicate with the Jamésien inhabitants of the JBT, they should be prepared to do so primarily in French. When they intend to engage with the Cree, they should be prepared to do so primarily in English or in Cree.

Example n° 4

Some people are reluctant to voice their opinions in group settings. Others may prefer to communicate via social media. Proponents should try to arrange the formats of their engagement activities as a function of the targeted audiences' preferences in order to maximize their participation.

How to gain insights from the public

Proponents should first ensure that the targeted audiences identified in their *Public engagement and participation plans* have been informed of their projects and understand the questions or topics of discussion and exchange, before they seek out the said audiences' comments thereon. Proponents should then reflect on the use of the following best-practices when they intend to get information from the public about their projects:

- ✓ The use of multiple forums for in-person oral exchanges (e.g. holding consultation events, setting up discussion forums, holding in-person interviews, setting up a telephone service);
- ✓ The establishment of multiple forums for obtaining the public's insights in writing (e.g. via the proponent's website or social media, by requesting written comments, via online or hard-copy surveys).

Quick Tip n° 14

As a rule, Cree Tallymen should always be informed and consulted.

But, it is also important that proponents seek out multiple perspectives in order to gain a clearer understanding of the conditions in and around their project sites, local needs and concerns. The JBACE thus strongly suggests that proponents should rely on the insights from a number of individuals representing different segments of a given community (gender, age, income, etc.).

Proponents should be sensitive to the fact that some people may be willing to exchange information by written correspondence, but that others may be reluctant to do so and prefer in-person consultations and interviews. Indeed, in-person discussions are a proven means of building relationships, while written correspondence is more a 'supporting' means of communication during the initial steps of a project's life cycle. The following table outlines some of the potential benefits and disadvantages of the three general formats for obtaining the public's insights. Proponents should be flexible and are encouraged to use several of them.

Formats for gaining public insights	Potential advantages	Potential disadvantages
In-person and on-site consultations and interviews	- Very personal approach and conducive for relationship-building (especially if they are conducted on an individual basis); - Exchanges may occur quickly and allow for timely adjustments to address topics or issues that may arise; - Allow immediate adjustments of possible misunderstandings, misinterpretations etc.	- Requires resource and logistical support; - If conducted in a group of community-wide setting, some participants may be reluctant or shy to express themselves such that only the most vocal participants may do so; - Exchanges may have to be recorded manually.
Verbal communication at a distance (e.g. telephone interviews, teleconferences, videoconferences, WebEx or Web2.0 approaches)	- Requires less resource support; - Exchanges may occur quickly; - Exchanges may be immediately recorded.	- Less personal approach and less conducive for relationship-building; - Requires some logistical support; - Public may be reluctant to participate (some may refrain altogether); - Oral communications from a distance may require clarifications and may pose challenges when maps and documents must be interpreted.
Written correspondence (e.g. surveys in the mail, questionnaires on a website or via E-Mail)	- Requires the least resource and logistical support; - Exchanges may be immediately recorded.	- Impersonal approach and not conducive for relationship-building especially during the initial steps of a project's life cycle; - Public may be reluctant to participate (some may refrain altogether); - Public may not fully understand the nature of the project, or of the information requested of them by the proponent, when solicited in writing; - Written surveys and questionnaires may limit an open dialogue; - Exchanges may occur slowly or not at all; - Correspondence may be accidentally ignored, lost, or sent to the wrong person or contact.

4.4 Respect and sensitivity: Local and traditional knowledge, confidentiality

Local and traditional knowledge

The inhabitants of the JBT – both Cree and Jamésien – are particularly sensitive to their environment and local issues, needs, and concerns. In the case of the Cree people, Aboriginal knowledge may provide additional valuable information that may subtend these issues. Local and traditional knowledge is thus important and valid. Indeed, proponents should be aware that the Section 22 assessment and review bodies view such local and traditional knowledge with as much emphasis and relevance as is afforded to western science. Proponents should thus act in kind in the context of their *Public engagement and participation plans*.

Quick Tip n° 15

As a rule, proponents should be keenly sensitive to the need to ensure that the records of their engagement and participation activities respect the local and traditional insights provided by participants.

Such insights are important and should be viewed on par with western science.

Any records made publicly-available should not prejudice confidential information.

Proponents should be prepared to communicate and to record the local and traditional knowledge that may be provided by Cree and Jamésien participants in a manner that respects their relevance and confidentiality (more on confidentiality below). Proponents should also be prepared to illustrate how this local and traditional knowledge was integrated into their projects plans (i.e. how it was ‘used’). If, for example, the project is subject to a Section 22 environmental and social impact assessment and review, how such knowledge was ‘used’ should be clearly illustrated in the project’s *Preliminary Information* or EIS as the case may be.

Confidentiality

In some cases, the targeted audiences may exchange information that is confidential. Proponents should be aware of this possibility and make arrangements before-hand to adequately collect, use, and protect this information:

- ✓ Proponents should determine, in collaboration with the targeted audiences, how best to ensure that any confidential information remains as such before drafting the final version of their *Public engagement and consultation plans*, and prior to holding any participatory activities;
- ✓ Depending on the outcome of this determination, proponents and the targeted audiences may opt to formalize a confidentiality agreement to that effect. Such agreements are encouraged insofar as they provide legal safeguards against the public disclosure of the confidential information;
- ✓ Proponents should allow for sufficient time in the planning of their projects to properly consider this issue along with the targeted audiences.

Agreements regarding the treatment of confidential information are not new. Several Aboriginal organizations have established research protocols that consider the issue, and a number of agreements (also referred to as ‘protocols’) have been signed for projects occurring in the JBT with the collaboration of the Cree people.

Although not specific to development projects that may occur in the JBT, the following research protocols offer guidance on how to deal with the exchange of confidential information with Aboriginal peoples (included in the list in [Section 5.3](#)):

- In 2014, the Assembly of First Nations Quebec-Labrador published the [‘First Nations in Quebec and Labrador’s Research Protocol 2014;’](#)
- In 2007, the Inuit Tappiriit Kanatami and the Nunavut Research Institute published [‘Negotiating Research Relationships with Inuit Communities: A Guide for Researchers.’](#)

The following materials may also provide proponents with additional insights in this regard (included in the list in [Section 5.3](#)):

- In 2014, the Canadian Institutes of Health Research, the Natural Sciences and Engineering Research Council of Canada, and the Social Sciences and Humanities Research Council of Canada, published the [*‘Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans’*](#);
- In 2004, the Cree Regional Authority (now the Cree Nation Government – ‘CNG’) collaborated with Environment Canada and consulted several communities in northern Québec to develop a model information sharing agreement or protocol entitled *‘Collection, Sharing, Use and Exchange of Wildlife Data Collected in Cree Communities of Northern Québec.’* Although not available online, proponents may request copies from the CNG.

4.5 Recording and validating: Documenting and accounting for public comments

Recording and documenting public comments

Because public input may play an important role in defining and planning out projects over the course of their life cycles, the JBACE suggests that proponents document the exchanges of information during their public engagement and participation activities.

Well-documented exchanges may be desirable for all parties – particularly when validated by the participants (more on this below):

- ✓ The records may serve as the supporting bases for the determinations made by proponents regarding the local conditions at project sites, project designs, potential impacts of their projects, etc.;
- ✓ The records may serve as the building blocks for the eventual expression of the public’s support for developments projects;
- ✓ If the projects require Section 22 assessments, the records may include some of the information required for the filing of the *Preliminary Information* needed for the assessments;
- ✓ If the projects require Section 22 reviews, the records may include some of the information required in the EISs needed for the reviews.

Quick Tip n° 16

Proponents should always keep records of their public participation activities.

Proponents should also always seek to validate the insights obtained, and to explain to participants how their participation influenced their project planning process, as a matter of respect and relationship-building.

Such initiatives may be particularly important for proponents whose projects may eventually be subject to formal Section 22 assessments and reviews, given that they will need to describe such initiatives in the materials required for the said assessments and reviews.

Proponents should make efforts to ensure that the records are neutral and accurate (e.g. when, where, who said what). Proponents should also clearly and thoroughly document how they will treat and internalize the information that was provided by the participants. In some cases, for example, this may or may not entail re-evaluating project designs, rehashing project schedules, providing additional information to the public, answering questions, tweaking preventive or impact mitigation measures, or providing other means of support or accommodation to affected groups or communities.

Validating and accounting for public comments

The goal of undertaking public engagement and participation activities over the course of a project’s life cycle is to improve the project in a way that meets the social and environmental needs and concerns in the receiving area. Record keeping, on its own, is thus insufficient. The JBACE strongly encourages proponents to validate their records with the participants that assisted them as a matter of respect and best-practice.

Such practices can improve projects by helping proponents to adapt them to local environments and concerns, and can help foster a trusting relationship over time between proponents and the inhabitants of the James Bay Territory.

As best practice, proponents need to provide feedback to the individuals and organizations that assisted them. Proponents should confirm that the information that was provided was accurately recorded, and should outline how the engagement process has had an influence on the project's design, operation, impact mitigation measures, and other applicable aspects.

This validation phase should be a component in the accepted version of the *Public engagement and participation plan*. As previously stated, sufficient time must be afforded to this validation exercise.

FINAL REMARKS

The JBACE developed this document to impress on proponents the value of engaging with the public when planning their projects in the James Bay Territory. It aims to assist proponents of all development sectors by outlining best-practices and helpful tips for organizing project-related public engagement and participatory activities in the unique context of the said Territory. It also illustrates the need to integrate the public's perspectives and knowledge into project designs while underscoring that such integration can lead to better projects that meet the needs of all parties.

Now, more than ever, the public wants to be informed of what may affect them and, in turn, wants to have opportunities to express their concerns and opinions so that they may have a say on, or collaborate in, reducing negative project impacts and maximizing positive impacts and outcomes.

5. RESOURCES AND REFERENCES

5.1 Schedules 1 and 2 of Section 22 of the JBNQA

A project that does not appear on Schedules 1 or on Schedule 2 – commonly referred to as a ‘grey zone’ project – must go through an assessment in order to determine if a comprehensive review is required. Readers should note that these schedules may be revised with the mutual consent of the signatory parties to the JBNQA.

Schedule 1 – Projects automatically subject to assessment and review	Schedule 2 – Projects automatically exempt from assessment and review
- All new major mining operations excluding explorations; - Siting and operation of major sand and gravel pits and of quarries; - <u>Energy Production:</u> a) Hydro-electric power plants and their associated works; b) Storage and water supply reservoirs; c) Transmission lines of ≥ 75 kV; d) Extraction and processing of energy yielding materials; e) Fossil-fuel fired power generating plants $> 3,000$ kW. - <u>Forestry and Agriculture:</u> a) Major access roads built for extraction of forest products; b) Pulp and paper mills or other forestry plants; c) In general, any significant change in land use substantially affecting > 25 miles² (> 64.7 km²); - <u>Community and Municipal Services:</u> a) New major sewage and waste water collection and disposal systems; b) Solid waste collection and disposal, including land fill and incineration; c) Proposals for parks, wilderness areas, ecological reserves or other such classifications; d) New outfitting facilities for > 30 persons, including networks of outpost camps; e) New communities or significant expansion of existing communities. - <u>Transportation:</u> a) Access roads to and near Native communities; b) Port and harbour facilities; c) Airports; d) Railroads; e) Road infrastructure for new development; f) Pipelines; g) Dredging operations for navigation improvements.	- Any development within the limits of non-Native communities not directly affecting the wildlife resources outside these limits; - Small hotels, motels, service stations and similar structures on provincial or lesser highways; - Structures intended for dwellings, wholesale and retail trade, garages, offices or handicrafts and car parks; - Fossil-fuel fired power generating systems $< 3,000$ kW; - Schools, banks, fire stations, immoveables intended for administrative, recreational, cultural, religious, sports and health purposes and telecommunications; - Construction, modification, restoration, relocation or repurposing of control and transformer stations of ≤ 75 kV and transport and electric power transmission lines of a voltage of ≤ 75 kV; - Construction and extension of a pipe main of < 30cm in diameter to a maximum length of 5 miles (8 km); - Preliminary investigation, research, experiments outside the plant, survey and technical survey works prior to any project, work or structure; - Forestry development when in government approved management plans (see 22.3.34); - Municipal streets and sidewalks built in accordance with municipal by-laws, and operation and maintenance of roads and highway structures; - Repairs and maintenance on existing municipal works; - Temporary hunting, trapping, harvesting camps, outfitting facilities for < 30 persons; - Small wood cuttings for personal and community use; - Borrow pits for highway maintenance purposes.

5.2 Contacts for further assist proponents (Not exhaustive)

Canadian Environmental Assessment Agency (CEA Agency)

(Regional office for Québec)
901-1550 d'Estimauville Avenue
Québec, Québec G1J 0C1
Tel.: (418) 649-6444 / Fax: (418) 649-6443
Website: www.canada.ca/en/environmental-assessment-agency.html

Canadian Nuclear Safety Commission

280 Slater Street, P.O. Box 1046, Station B
Ottawa, Ontario K1P 5S9
Tel.: (613) 995-5894 / Fax: (613) 995-5086
Website: <https://nuclearsafety.gc.ca/eng/>
Email: cnsn.info.ccsn@canada.ca

Cree Nation Government (Montreal office – Primary contact point)

700 de la Gauchetière West – Suite 1600
Montreal, Québec H3B 5M2
Tel.: (514) 861-5837 / Fax: (514) 861-0670
Website: www.cngov.ca
Email: cng@cngov.ca

Cree Nation Government (Nemaska office)

2 Lakeshore Road
Nemaska, Québec J0Y 3B0
Tel.: (819) 673-2600 / Fax: (819) 673-2606
Website: www.cngov.ca
Email: cng@cngov.ca

Eeyou Istchee James Bay Regional Government

110 Matagami Blvd. – P.O. Box 500
Matagami, Québec J0Y 2A0
Tel.: (819) 739-2030 / Fax: (819) 739-2713
Website: www.greibj-eijbrg.com
Email: gouvernement@greibj-eijbrg.ca

Eeyou Marine Region Impact Review Board

4, Chief Isaiah Salt Road, P.O. Box 580
Waskaganish, Québec J0M 1R0
Tel.: (819) 895-2202 / Fax: (819) 895-2474
Website: www.eeyoumarineregion.ca/impact-review-board

Eeyou Marine Region Planning Commission

4, Chief Isaiah Salt Road, P.O. Box 580
Waskaganish, Québec J0M 1R0
Tel.: (819) 895-2202 / Fax: (819) 895-2474
Website: www.eeyoumarineregion.ca/planning-commission

Eeyou Marine Region Wildlife Board

4, Chief Isaiah Salt Road, P.O. Box 580
Waskaganish, Québec J0M 1R0
Tel.: (819) 895-2202 / Fax: (819) 895-2474
Website: www.eeyoumarineregion.ca/wildlife-board

Environment and Climate Change Canada

(Regional office for Québec)
1550, avenue d'Estimauville
Québec, Québec G1J 0C3
Tel.: 1-800-668-6767 (Toll free)
Website: www.canada.ca/en/environment-climate-change
Email: ec.enviroinfo.ec@canada.ca

Environmental and Social Impact Evaluating Committee (COMEY)

(c/o the MELCC)
Marie-Guyart Building – 6th Floor, P.O. Box 83
675 René-Lévesque Blvd. East
Québec, Québec G1R 5V7
Tel.: (418) 521-3933 / Fax: (418) 644-8222
Website: <https://comev.ca/>

Environmental and Social Impact Review Committee (COMEX)

(c/o the MELCC)
Marie-Guyart Building – 6th Floor, P.O. Box 83
675 René-Lévesque Blvd. East
Québec, Québec G1R 5V7
Tel.: (418) 521-3933 / Fax: (418) 644-8222
Website: <https://comexqc.ca/>

Federal Review Panel South (COFEX-South) (c/o the CEA Agency)

901-1550 d'Estimauville Avenue
Québec, Québec G1J 0C1
Tel.: (418) 649-6444 / Fax: (418) 649-6443

Fisheries and Oceans Canada (Regional office for Québec)

Fisheries Protection Program
850, route de la Mer, C. P. 1000
Mont-Joli, Québec G5H 3Z4
Tel.: 1-877-722-4828 (Toll free) / Fax: (418) 775-0658
Website: www.dfo-mpo.gc.ca
Email: habitat-qc@dfo-mpo.gc.ca

Health Canada (Regional office for Québec)

Complex Guy-Favreau, East Tower – Room 218
200 René Lévesque Blvd. West
Montreal, Québec H2Z 1X4
Tel.: (450) 646-1353 / Fax: (514) 283-6739
Website: www.canada.ca/en/health-canada.html

James Bay Advisory Committee for the Environment

1080 Côte du Beaver Hall – Office 1420
Montreal, Québec H2Z 1S8
Tel.: (514) 286-4400 / Fax: (514) 284-0039
Website: www.ccebj-jbace.ca
Email: information@ccebj-jbace.ca

Ministère de l'Énergie et Ressources naturelles

(Regional office for the Nord-du-Québec region)
624, 3rd Street
Chibougamau, Québec G8P 1P1
Tel.: 1-844-282-8277
Website: www.mern.gouv.qc.ca
Email: droit.terre.publique@mern.gouv.qc.ca

Ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC) (General information)

Marie-Guyart Building – 29th Floor
675 René-Lévesque Blvd. East
Québec, Québec G1R 5V7
Tel.: (418) 521-3830 / Fax: (418) 646-5974
Website: www.environnement.gouv.qc.ca/

MELCC (Regional office for the Nord-du-Québec region)

180 Rideau Blvd. – 1st Floor
Rouyn-Noranda, Québec J9X 1N9
Tel.: (819) 763-3333 / Fax: (819) 763-3202
Website: www.environnement.gouv.qc.ca/
Email: abiti-bi-temiscamingue@mddelcc.gouv.qc.ca

MELCC (Northern service point for the Nord-du-Québec region)

101 Springer Street – P.O. Box 160
Chapais, Québec G0W 1H0
Tel.: (418) 745-2642

Ministère des Forêts, de la Faune et des Parcs

(Regional office for the Nord-du-Québec region)
 1121 Industrial Blvd. - P.O. Box 159
 Lebel-sur-Quévillon, Québec J0Y 1X0
 Tel.: (819) 755-4838 / Fax: (819) 755-3541
 Website: www.mffp.gouv.qc.ca
 Email: nord-du-Quebec@mffp.gouv.qc.ca

Ministère des Transports, de la Mobilité durable et de l'Électrification des transports

(Coordinating office for the Nord-du-Québec region)
 26 Monseigneur-Rhéaume East – 2nd Floor
 Rouyn-Noranda, Québec J9X 3J5
 Tel.: (819) 763-4080 / Fax: (819) 763-3057
 Website: www.transports.gouv.qc.ca
 Email: bcnq@transports.gouv.qc.ca

National Energy Board

517, 10th Avenue SW – Suite 210
 Calgary, Alberta T2R 0A8
 Tel.: (403) 292-4800 / Fax: (403) 292-5503
 Website: www.neb-one.gc.ca/index-eng.html

Natural Resources Canada (Montreal office)

505 De Maisonneuve Blvd. West – Suite 230
 Montreal, Québec H3A 3C2
 Tel.: (514) 283-2763 / Fax: 1-877-288-8803 (Toll free)
 Website: www.nrcan.gc.ca/home
 Email: infomontreal@neb-one.gc.ca

Transport Canada (General inquiries)

330 Sparks Street
 Ottawa, Ontario K1A 0N5
 Tel.: (613) 990-2309 / Fax: (613) 954-4731
 Website: www.tc.gc.ca/en/transport-canada.html

Cree community administrations***Websites only***

Cree Nation of Chisasibi	www.chisasibi.org
Cree Nation of Eastmain	www.eastmain.ca
Cree Nation of Mistissini	www.mistissini.ca
Cree Nation of Nemaska	www.nemaska.com
Oujé-Bougoumou Cree Nation	www.ouje.ca
Cree Nation of Washaw Sibi	www.washawsibi.ca
Waskaganish First Nation	www.waskaganish.ca
Cree First Nation of Waswanipi	www.waswanipi.com
Cree Nation of Wemindji	www.wemindji.ca
Whapmagoostui First Nation	www.whapmagoostuifn.com

Jamésien community administrations***Websites only***

Chapais	www.villedeschapais.com
Chibougamau	www.ville.chibougamau.qc.ca
Lebel-sur-Quévillon	www.lebel-sur-quevillon.com
Matagami	www.matagami.com
Radisson	www.localiteradisson.com
Valcanton	www.valcanton.ca
Villebois	www.villebois.qc.ca

Other Cree organizations / institutions

Cree Board of Health and Social Services of James Bay
 Cree Human Resources Development
 Cree Mineral Exploration Board
 Cree Nation Youth Council
 Cree Outfitting and Tourism Association
 Cree School Board
 Cree Trapper's Association
 Cree Women of Eeyou Istchee Association

Websites only

www.creehealth.org
www.chrd.ca
www.cmeb.org
www.creenationyouthcouncil.ca
www.creetourism.ca
www.cscree.qc.ca
www.creetrappers.ca
www.cweia.ca

Other Jamésien organizations / institutions

Administration régionale Baie-James
 Centre régional de santé et de services sociaux de la Baie-James
 Table jamésienne de concertation minière
 Tourisme Baie-James

Websites only

www.arbj.ca
www.crssbaiejames.gouv.qc.ca
www.tjcm.ca
www.tourismebaiejames.com

Other organizations stemming from the JBNQA and its Complementary Agreements***Websites only***

Cree-Québec Forestry Board	www.ccqf-cqfb.ca
Hunting, Fishing and Trapping Coordinating Committee (Section 24 of the JBNQA)	www.cccpp-hftcc.com
Kativik Environmental Advisory Committee (Section 23 of the JBNQA)	www.keac-ccek.ca

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United Nations, March 2008. *United Nations Declaration on the Rights of Indigenous Peoples*.
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1080, Côte du Beaver Hall
Bureau 1420
Montréal (Québec) H2Z 1S8

Téléphone : (514) 286-4400
Télécopieur : (514) 284-0039
Site web : www.ccebj-jbace.ca