

An Introduction to EIA, and Canada's Federal Impact Assessment Act

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on EIA and Indigenous Led EIA

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1. An Introduction to EIA

Environmental Impact Assessment

- Environmental Impact Assessment (EIA), Impact Assessment, Environmental Assessment
- An American Origin... Ontario had the first provincial EIA law, Canada was later.
- Process to identify impacts that may come from an action... ID options to eliminate, mitigate, or accept
- Systematic
- **Project-based**
- Many types of assessments within EIA



- Does not make a decision, it informs decision-makers
- Balance economic, environmental, and social objectives
- Mitigate negative impacts
- Not about stopping development, but making it better
- 14 assessment processes in Canada
- They can overlap



2. The Federal Impact Assessment Process

Federal Impact Assessment...

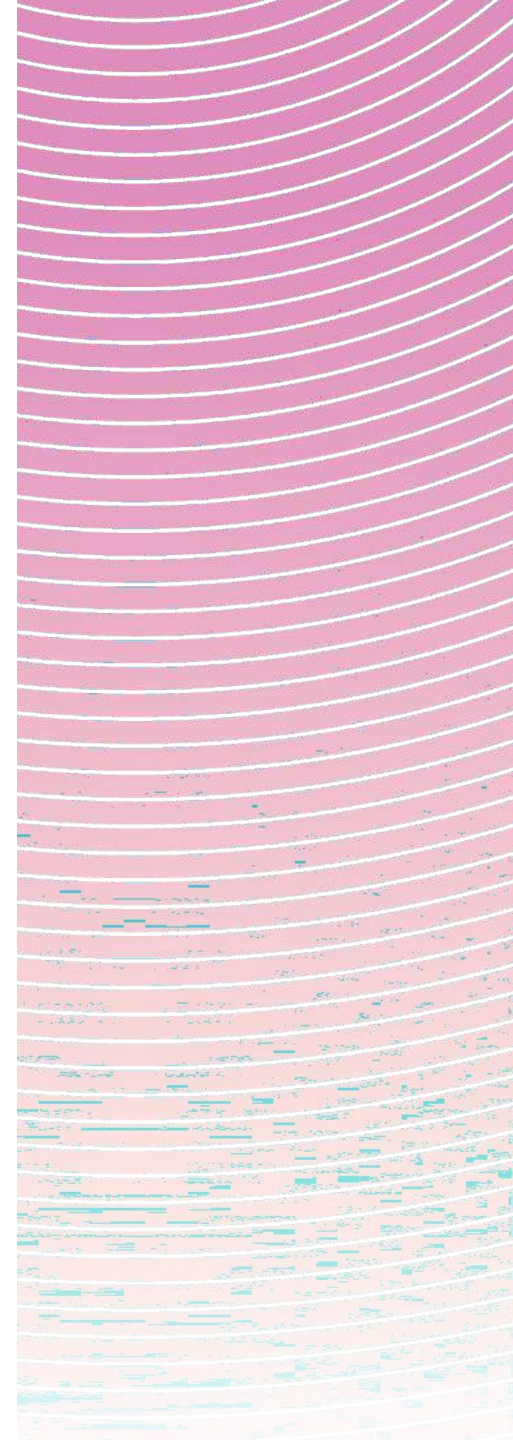
A planning and decision-making tool used to assess:

- positive and negative environmental, economic, health, and social effects of proposed projects
- impacts to Indigenous groups and rights of Indigenous peoples

The Impact Assessment Agency of Canada is responsible for conducting impact assessments under the *Impact Assessment Act*

Purpose

- To foster **sustainability**, ensure respect of the **rights of Indigenous peoples**
- To include environmental, social, health and economic factors
- To establish a **fair, predictable** and **efficient** impact assessment process
- To consider **positive** and **adverse effects**
- To include early, inclusive and meaningful **public engagement**
- To promote **partnerships with Indigenous peoples**
- To ensure **decisions** are based on **science, Indigenous knowledge** and other sources of **evidence**
- To assess **cumulative effects** within a region



Projects subject to the Act

EXAMPLES

- Designated projects are described in the *Physical Activities Regulations* (Project List)
 - Minister may designate any project not described in regulations, based on factors set in the legislation
 - Non-designated projects on federal lands and outside Canada.
- Renewable energy
 - Oil and gas
 - Linear and transportation-related
 - Marine and freshwater
 - Mining
 - Nuclear
 - Hazardous waste
 - Federal lands and protected areas



Types of Impact Assessment

Designated Projects

By the Agency

- leads the assessment and engagement process
- works collaboratively with other jurisdictions and federal expert departments to carry out the impact assessment

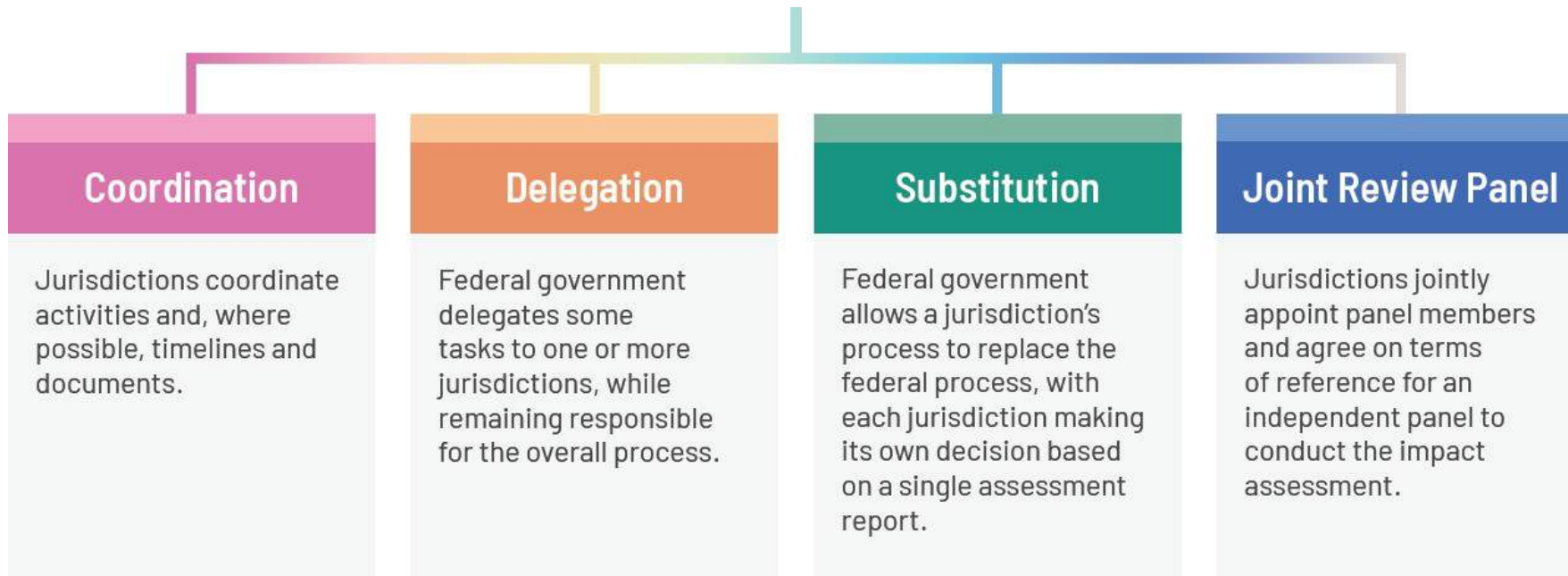
By a Review Panel

- leads the assessment and engagement process
- holds public hearings to allow the public, the proponent, Indigenous groups, federal authorities and all other interested participants to provide their views and ask questions about the information on the record

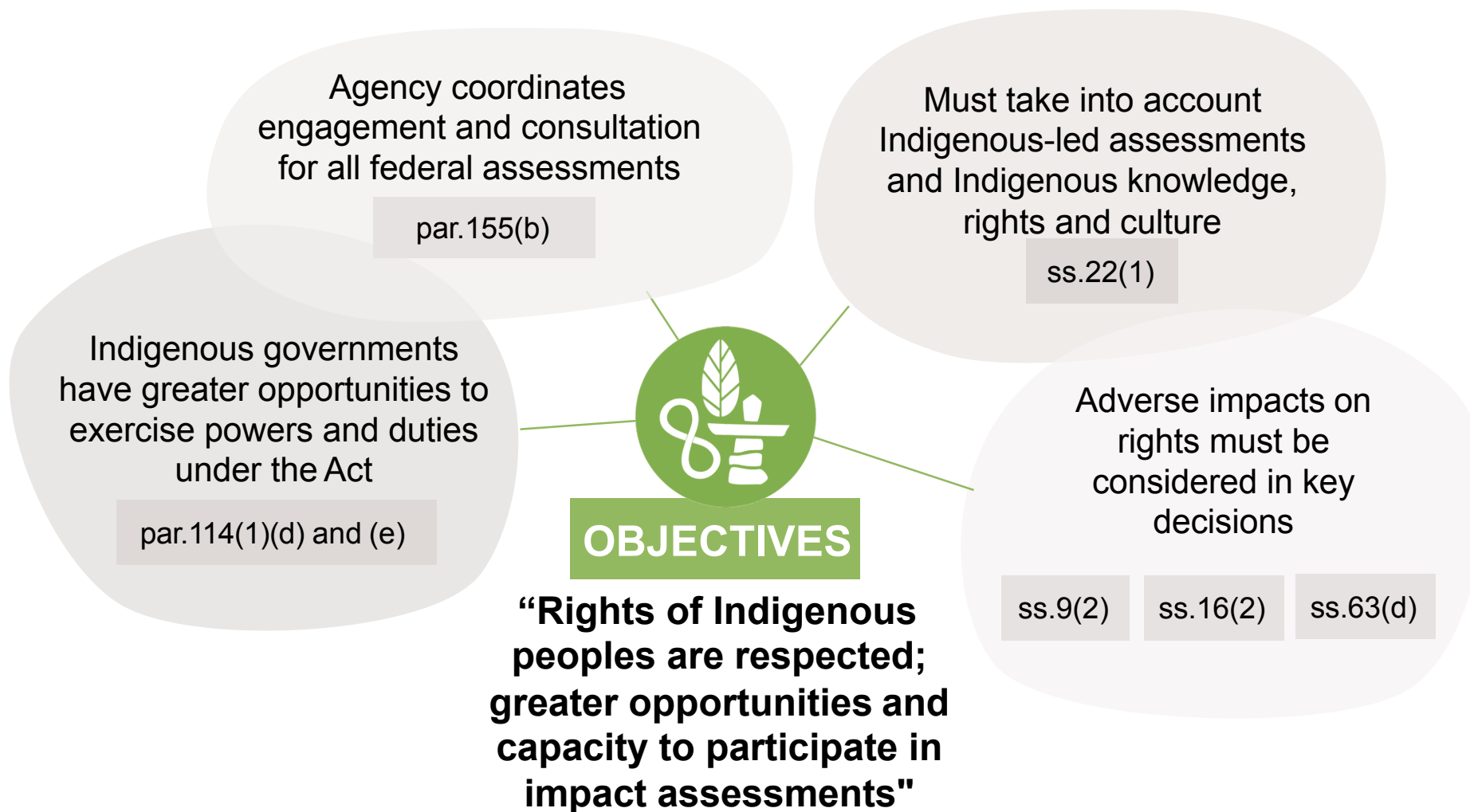
Cooperation with other Jurisdictions

“One project, one assessment”

To reduce duplication and increase efficiency and certainty



Participation of Indigenous Peoples



For the Agency, Indigenous participation has 3 objectives:

1. Fulfill the Crown's constitutional obligations to consult and accommodate, where appropriate, Indigenous peoples whose Aboriginal and Treaty rights may be adversely impacted by a proposed project.
2. Address statutory obligations under the *Act* to:
 - consult potentially impacted Indigenous groups;
 - consider potential effects on Indigenous peoples and any potential adverse impacts on the rights of Indigenous peoples;
 - consider Indigenous knowledge provided;
 - consider Indigenous culture; and
 - advance cooperation with Indigenous jurisdictions.
3. Advance reconciliation by increasing opportunities for collaborating or partnering with Indigenous peoples via a spectrum of engagement:
 - **Participation,**
 - **Collaboration**
 - **Partnership**

The Indigenous Engagement and Partnership Plan will outline the Indigenous participation.



Parties Involved in the Impact Assessment Process



Proponent



Indigenous groups



Public



Federal authorities



Other jurisdictions



Impact Assessment Agency



Minister



Governor in council



Life cycle regulators

Impact Assessment Process Overview



Phase 1: Planning

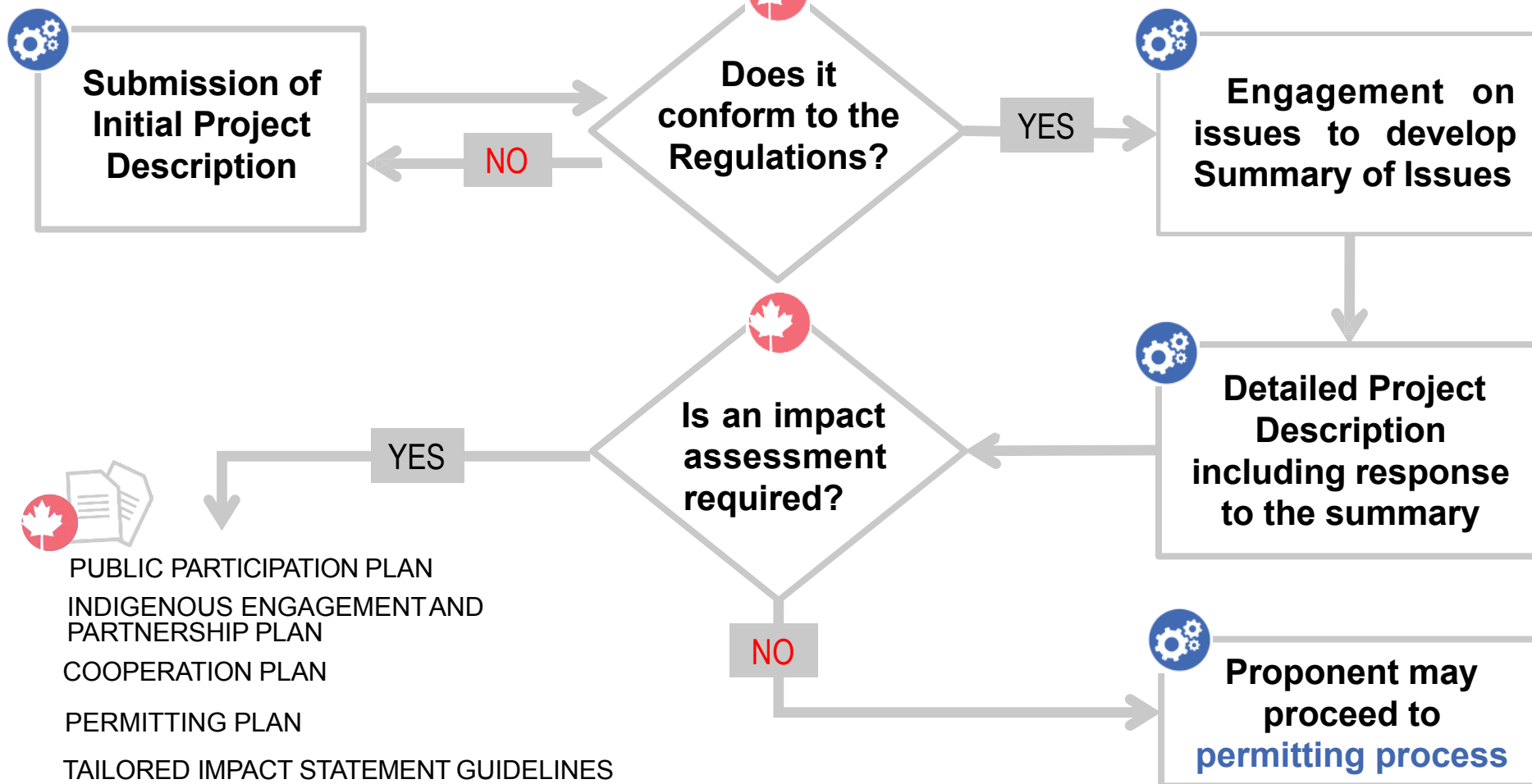
Timeframe: 180 days



PROPONENT



AGENCY



Phase 1: Planning

Key Steps and Timelines for the first 80 days

Agency posts Initial Project Description and engagement starts

20 - 30 DAYS (service standard)

DAY 1

Agency prepares Summary of Issues

10 DAYS

Proponent submits Detailed Project Description including response to summary of issues

30 DAYS

Agency determines if impact assessment is required

10 - 20 DAYS

DAY 80

Consultations and engagement continue

Key documents



INITIAL PROJECT DESCRIPTION



SUMMARY OF ISSUES



DETAILED PROJECT DESCRIPTION AND RESPONSE TO SUMMARY OF ISSUES

Phase 1: Planning

Key Steps and Timelines for remaining 100 days

Agency drafts Tailored Impact Statement Guidelines (TISG) and Plans

30 DAYS (service standard)

Agency engages on TISG and Plans

30 DAYS

Agency finalizes TISG and Plans

40 DAYS

Agency issues Notice of Commencement and posts final TISG & Plans

DAY 80

Consultations and engagement continue

DAY 180

Key documents



COOPERATION PLAN



INDIGENOUS ENGAGEMENT AND PARTNERSHIP PLAN



PERMITTING PLAN

PUBLIC PARTICIPATION PLAN



TAILORED
IMPACT
STATEMENT
GUIDELINES

Subsection 22(1): Factors to be Considered in an Impact Assessment

(a)	Changes to the environment or to health, social or economic conditions (including malfunctions, accidents and cumulative effects)
(b)	Mitigation measures
(c)	Impacts on any Indigenous group and on the rights of Indigenous peoples
(d)	The purpose and need for the project
(e)	Alternative means of carrying out the project
(f)	Alternatives to the designated project
(g)	Indigenous knowledge
(h)	Sustainability considerations
(i)	Environmental obligations and its climate change considerations
(j)	Any change to the project that may be caused by the environment
(k)	Follow-up program requirements



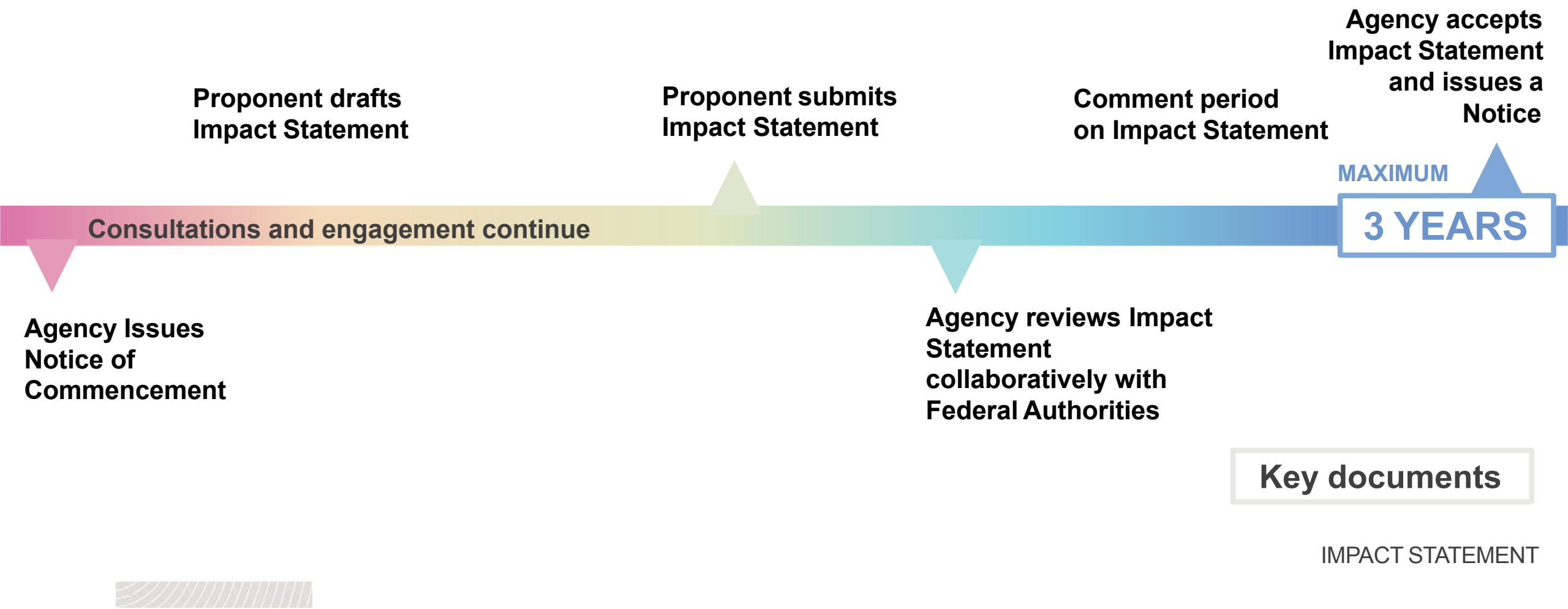
Subsection 22(1): Factors to be Considered in an Impact Assessment

(l)	Considerations related to Indigenous cultures
(m)	Community knowledge
(n)	Comments received from the public
(o)	Comments from another jurisdictions
(p)	Any relevant strategic or regional assessment
(q)	Any assessment conducted by or on behalf of an Indigenous governing body
(r)	Any study or plan that is conducted or prepared by a jurisdiction — or an Indigenous governing body — that is in respect of a region related to the designated project
(s)	A gender based analysis (intersection of sex and gender with other identity factors)
(t)	Any other matter relevant to the impact assessment that the Agency or the Minister requires to be taken into account



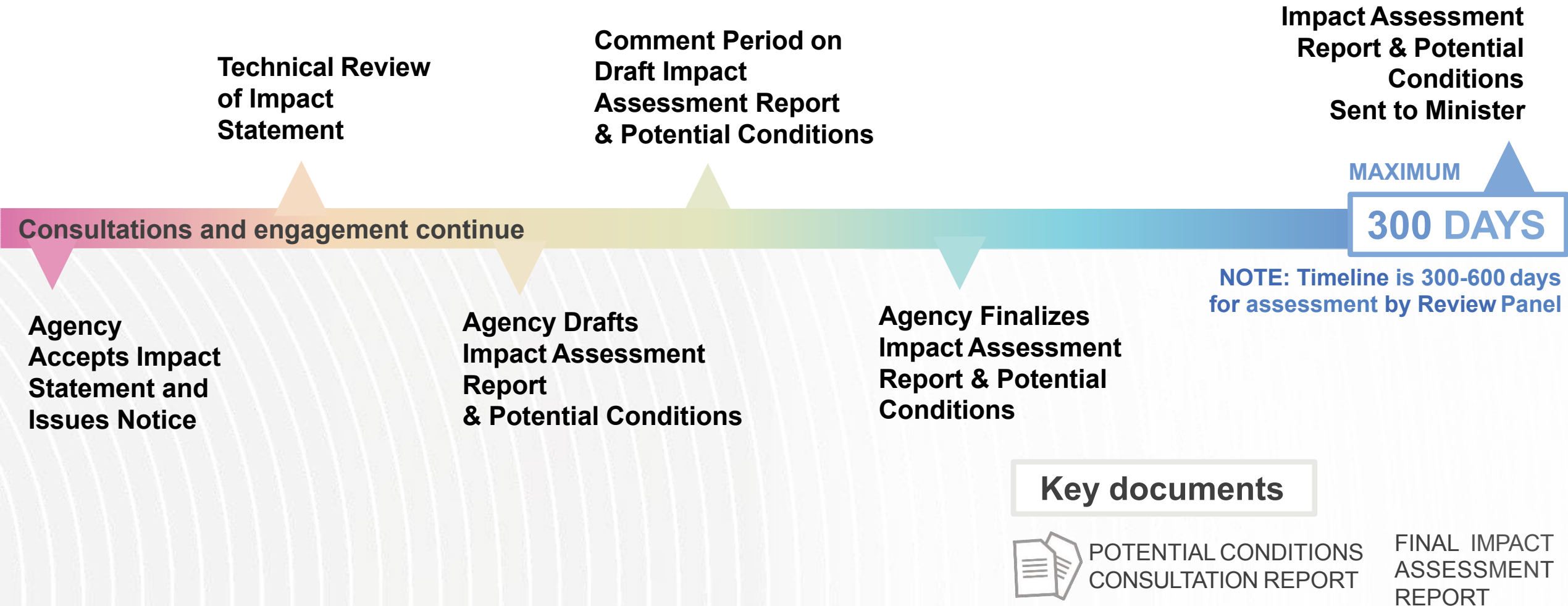
Phase 2: Impact Statement

Key Steps and Timelines



Phase 3: Impact Assessment

Key Steps and Timelines for Agency-led IAs



Phase 4: Decision-Making

Key Steps and Timelines

A

DECISION BY MINISTER MINISTERIAL DECISION

30 DAYS

Impact Assessment Report
posted on Registry site

Minister's Decision
Statement

ss. 60 (1)
s. 62
ss. 65 (3)

B

DECISION REFERRED TO GOVERNOR IN COUNCIL (GIC) for CONSIDERATION

90 DAYS

Impact Assessment Report
posted on Registry site

Notice of referral to the GIC
+ reasons for referral posted
on Registry

GIC's Public Interest
Determination

Minister's Decision
Statement



Decision Statement issued by the Minister to the proponent must include:

s. 65

ss. 68(1)

public interest determination

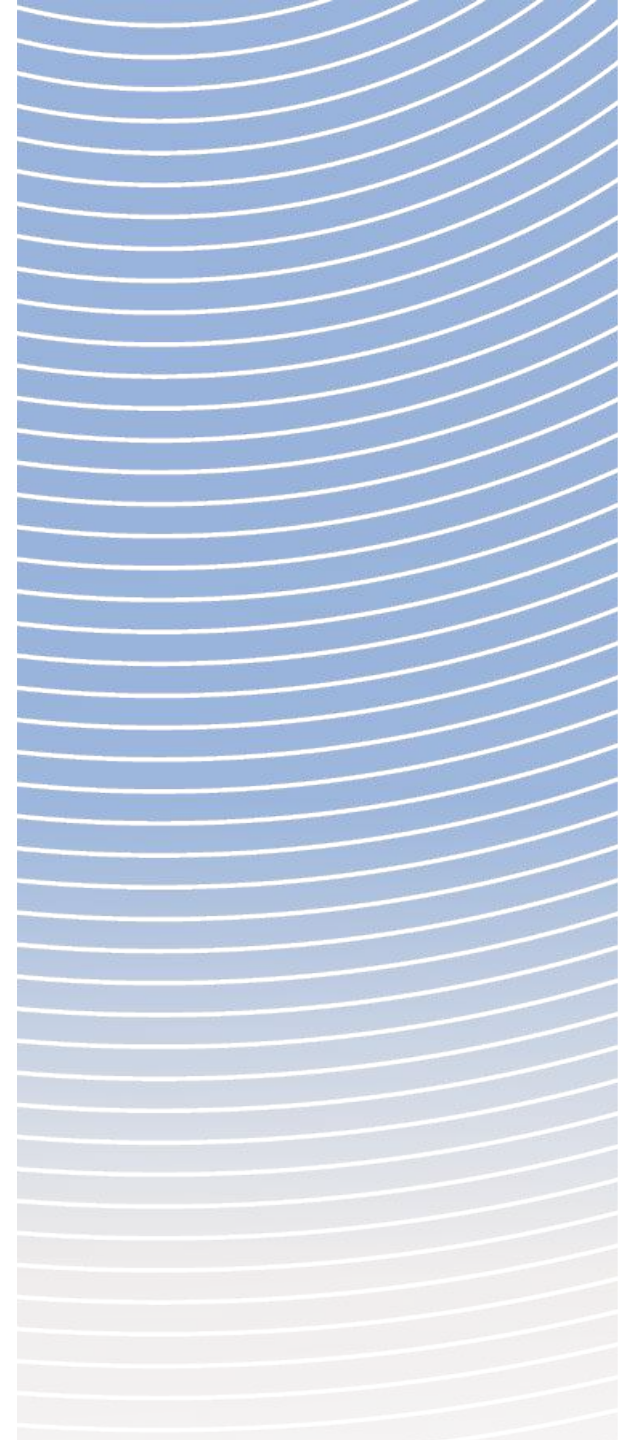
reasons for the determination

enforceable conditions

expiry date

description of the project

The Minister can amend decision statements



Phase 5: Post-decision

Key Steps and Timelines

Proponent

- Seeks regulatory approvals, as required
- Begins project within time limits identified in the Decision Statement
- Implements follow-up program
- Complies with conditions associated with Decision Statement

MINISTER ISSUES
DECISION STATEMENT

VARIABLE TIMELINE



Agency

- Posts follow-up documentation on Registry
- May establish monitoring committees
- Promotes, educates, monitors, and facilitates compliance



Regional and Strategic Assessments

Regional assessments conducted by a committee or the Agency with the opportunity for agreements with jurisdictions (s.92 and 93)

Both taken into account in impact assessments of designated projects (par. 22(1)(p))

Strategic assessments to help to align projects with government policy, plans and programs (s.95)

Objectives: better understanding of issues outside of the context of individual project assessments; inform IA and decision-making



Summary

Seen as a planning and decision-making tool

Participant engagement opportunities are available throughout the process

5 phases to the federal process:

1. **Planning:** Documents developed in the Planning Phase specify information requirements and engagement opportunities throughout the impact assessment process
2. **Impact Statement:** The proponent outlines and evaluates potential impacts of a designated project
3. **Impact Assessment:** The Agency outlines and evaluates potential impacts of a designated project
4. **Decision-making:** Public interest decisions made by the Minister or Governor in Council are based on information in the Impact Assessment Report and the public interest factors
5. **Post Decision:** Compliance is verified through a follow-up program and activities to promote, educate, monitor, and facilitate compliance with the *Impact Assessment Act* and Decision Statement



Phase 1: Objectives of products

Initial Project Description	High-level description of the proposed project
Summary of Issues	List of issues provided by the Agency following engagement and cooperation discussions
Response to the Summary of Issues	Notice prepared by the proponent outlining how they plan to address the issues described in the Summary of Issues
Detailed Project Description	Document containing updated information about the designated project and information about the possible environmental, social, health and economic effects of the project
Public Participation Plan	Document outlining how the public would be engaged throughout the impact assessment process
Indigenous Engagement and Partnership Plan	Document describing how Indigenous groups would be engaged throughout the impact assessment process
Impact Assessment Cooperation Plan	Document describing how the Agency will work with other jurisdictions throughout the impact assessment process
Permitting Plan	Document outlining the anticipated permits, licenses and authorizations required for the designated project
Tailored Impact Assessment Guidelines	Document outlining the information required in the proponent's Impact Statement
Notice of Commencement	Notice issued by the Agency before the end of the 180-day time limit that sets out the information and studies necessary to conduct the impact assessment

