



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 12-078

TO: Mayor and Members of Council

FROM: Cynthia Beach
Commissioner, Sustainability and Growth

RESOURCE STAFF: Grant C. Bain
Director, Planning and Development Department

DATE OF MEETING: February 21, 2012

SUBJECT: Renewable Energy Projects – Municipal Consultation and Review Process

EXECUTIVE SUMMARY:

The *Green Energy Act* was passed in 2009 and since then renewable energy projects are subject to a provincial-led approval process and are exempt from *Planning Act* approvals. Part of the Renewable Energy Approval (REA) process set up by the Province of Ontario includes consultation with affected municipalities. Developers of renewable energy projects must submit specific materials to the municipality within a certain timeframe, and consult with the municipality. This includes having the municipality complete the Municipal Consultation Form provided by the Province that the developer must then submit with their REA application.

This report provides background information about the *Green Energy Act* and the REA process, and provides a framework for how the City will review and comment on renewable energy projects. It fulfills part of the Council resolution passed on December 6, 2011 regarding proposed large-scale solar energy projects and the municipal review process.

RECOMMENDATION:

THAT Council direct staff to implement the municipal consultation and review process for renewable energy projects, as outlined in Report No. 12-078; and,

THAT Council direct staff to determine the costs incurred by the City for the review of renewable energy projects and the completion of Municipal Consultation Forms, and to bring forward an amendment to the City's Fees and Charges By-Law (By-Law No. 2005-10) so that these costs can be recovered from the developer.

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER Cynthia Beach, P.Eng., MCIP, RPP, Commissioner, Sustainability and Growth
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Lanie Hurdle, <i>Community Services</i>	√
Denis Leger, <i>Transportation, Properties & Emergency Services</i>	√
Jim Keech, <i>President and CEO, Utilities Kingston</i>	√

(N/R indicates consultation not required)

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OPTIONS/DISCUSSION:**Background**

The *Green Energy Act, 2009* (GEA) is Schedule 'A' to the *Green Energy and Green Economy Act, 2009* (Bill 150), which received Royal Assent on May 14, 2009. The Government of Ontario introduced the GEA as a means of fostering the growth of renewable energy projects that use cleaner sources of energy, to remove barriers to, and promote opportunities for, renewable energy projects, and to promote a green economy. The GEA is also intended to promote and encourage energy conservation.

A central component of the GEA is the introduction of a province-led approval process for renewable energy projects with consistent standards. As a result of the new approvals framework, most renewable energy projects are subject to the Renewable Energy Approval (REA) process created through *Ontario Regulation 359/09* of the *Environmental Protection Act*. The purpose of the REA process is to establish clear, consistent rules and standardized technical requirements across the province.

The GEA, along with the REA process, replaces legislation that previously governed the approval of renewable energy projects, including the *Planning Act*. Therefore, municipalities now have to play a different role in relation to renewable energy projects. The provincial renewable energy approval process is described below, and includes a description of the municipal consultation component of that process.

This report also responds to a portion of the following Council resolution that was passed on December 6, 2011:

WHEREAS the Corporation of the City of Kingston embraces novel ideas for conservation and management of resources and assets and is a place where history and innovation thrive, and
WHEREAS three companies are looking at our community to build solar panel arrays on rural land, and
WHEREAS the City of Kingston is a stakeholder and will be consulted on solar panel array applications which are made to the Ministry of the Environment before construction proceeds,
THEREFORE BE IT RESOLVED THAT Staff be requested to review the solar panel array application review process in consideration of agricultural policies and best practices, woodland impacts and tree compensation policies and that Staff make recommendations back to Council establishing a clear methodology to review such applications, at its earliest convenience; and
THAT the Rural Advisory Committee be requested to meet with affected residents and make recommendations back to Council on aspects of landscaping and setbacks at its earliest convenience; and

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THAT the Kingston Environmental Advisory Forum (KEAF) be requested to review environmental concerns and make recommendations back to the Environment, Infrastructure and Transportation Policies Committee at its earliest convenience.

CARRIED WITH AGREED TO AMENDMENTS

This report addresses the first of the three directions provided, which is the methodology for a municipal review process for renewable energy projects.

The second portion of the resolution directs the Rural Advisory Committee to meet with affected residents and make recommendations back to Council on aspects of landscaping and setbacks. It is understood that this consultation is tentatively scheduled to take place in late February.

The third and final portion of the resolution asks that KEAF review environmental concerns and make recommendations back to the EITP Committee.

The remainder of this report addresses the provincial renewable energy process and the proposed municipal consultation and review process for commenting on proposed renewable energy projects.

Provincial Renewable Energy Approval Process

The Provincial Renewable Energy Approval (REA) process applies to most renewable energy projects above a certain size. For example, a 10 MW solar energy project covering 75-100 acres would be required to go through the REA process.

A developer of a renewable energy project that is subject to the REA process must provide notice of public meetings, engage municipalities and stakeholders in the consultation process, prepare and submit reports and studies, and prepare the final REA application for the Ministry of Environment (MOE) to process and review. The REA process is summarized in Exhibit 'B' to this report, which is an excerpt from a document published by the Renewable Energy Facilitation Office (REFO) of the Ontario Ministry of Energy, entitled *Renewable Energy Development: A Guide for Municipalities*. A copy of the full document can be obtained on-line at http://www.energy.gov.on.ca/docs/en/ON9126_MEI_Guidance_Brochure9.pdf.

Renewable Energy Projects and Prime Agricultural Areas

Under the Feed-In-Tariff (FIT) Program operated by the Ontario Power Authority, renewable energy development is restricted on prime agricultural lands. The rules governing this have been outlined by the Ontario Power Authority on their website (<http://fit.powerauthority.on.ca>). The Ontario Power Authority was instructed by the Ministry of Energy in 2009 to restrict ground-mounted solar photovoltaic (PV) FIT projects (over 100 kW) on land zoned Agricultural. There are no restrictions on FIT projects located on land that has been zoned for non-agricultural use (such as land zoned Rural, Industrial, Residential or Commercial), regardless of soil classification. Evaluation of eligibility for the FIT program is based on the municipal zoning in effect on October 1, 2009.

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Ground-mounted solar PV projects are not permitted on land that is zoned Agricultural with only Class 1 and 2 soils (as determined by the Canada Land Inventory Soil Classification System). On land that is zoned Agricultural with Class 3 soils, only a certain number of projects are permitted in the province. For land that is zoned Agricultural, where there is a mix of soil classifications that include Class 1 and 2 mixed with 3 to 7 on the same parcel of land, studies can be conducted by the developer to demonstrate the project can be built in a manner that is consistent with the restrictions noted above. There are no restrictions for FIT projects on land zoned Agricultural with only Class 4 to 7 soils, and if the land is not zoned Agricultural, the soil classification is not examined.

Based on the information provided by the Ontario Power Authority, developers of renewable energy projects are required to review the zoning for the property that was in effect as of October 1, 2009 when determining what constitutes prime agricultural land. There is no requirement for the developer to review the Official Plan designations for the land or municipal agricultural studies. However, municipalities can provide comments regarding its agricultural land through the municipal consultation process, which is outlined below, and through the Council report that staff will prepare for each proposed renewable energy project.

Municipal Consultation and Review Process for Renewable Energy Projects

Developers are encouraged by the province to engage municipalities early and often in the development process. Developers must also meet mandatory notification requirements to ensure that municipalities are aware of their project plans. Developers must provide written notice of the project to the clerk of the municipality, and must provide the clerk with notice of the public meetings, a copy of the project description, the Municipal Consultation Form, and all supporting studies. The timeframe for the notification and submission of the above items is prescribed by the REA process (refer to Exhibit 'B').

Municipal Consultation Form

The Municipal Consultation Form (refer to Exhibit 'C') is a formal way for municipalities to ensure that municipal impacts and local community needs are taken into account by the developer. According to the REFO document *Renewable Energy Development: A Guide for Municipalities*, the municipal consultation is focused on physical and safety aspects and other technical issues that the developer should consider in the proposed project. The level of community support and other public concerns such as odour and impacts on views are assessed through the parallel public consultation process.

The Municipal Consultation Form provides an opportunity for the municipality to make comments with respect to the following:

- Infrastructure and servicing, including road access, traffic management, municipal service connections, and landscaping design;
- Emergency management procedures and safety protocols;
- Easements or restrictive covenants associated with the project location;

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- Potential construction issues, including rehabilitation of temporary disturbance areas and local infrastructure that could be damaged by construction, fire hydrants, waterworks, sewers, and gas and utility lines;
 - *Building Code Act* permits and licenses; and,
 - Any known issues with respect to significant natural features and water bodies, or identifying archaeological resources or cultural heritage resources.

The developer must submit the completed Municipal Consultation Form to the MOE in its application, along with an explanation of how it has considered municipal comments in its project design.

Where a municipality has raised concerns and the developer has not addressed these concerns in its project design, or should the municipality not complete the Municipal Consultation Form, the MOE may request further clarification from the developer regarding how the concern will be addressed or request a rationale as to how the concern was considered by the developer. The MOE may also contact the municipality directly in certain cases. Where a developer has not met the consultation requirements of the REA, the MOE has the authority to either return the application until the requirements are met, or issue conditions for approval.

Kingston's Review Process

City staff have developed a clear review process that will allow the municipality to provide comments in a timely and effective manner, and that will assist developers of renewable energy projects in moving their projects through the review process. The process is illustrated in Exhibit 'A' to this report and is outlined below. The process combines the requirements of the REA process, including timelines for the submission of documents before public meetings, and the components regularly used by the Planning and Development Department to undertake a technical circulation of material to receive comments from other internal departments and external agencies.

1. The developer provides written notice of the project and the initial public meeting to the City Clerk at least 30 days in advance of the meeting.
2. The City Clerk forwards this notice to the Director of Planning and Development or their delegate.
3. The developer provides the Municipal Consultation Form and Draft Project Description Report to the City Clerk at least 30 days before the initial public meeting.
4. The City Clerk submits all the information provided by the developer to the Director of Planning and Development or their delegate.
5. Planning and Development staff review the Draft Project Description Report and the Municipal Consultation Form, which will list the reports and studies required, and will make

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any necessary comments to the developer, noting that the project may be subject to the following:

- A *Building Code Act* permit;
 - Tree By-Law permit;
 - Site Alteration By-Law permit;
 - Consultation meeting with appropriate staff; and,
 - Applicable fees charged by the City and/or external agencies (e.g. CRCA).
6. The developer holds the initial public meeting. (Note: On-going consultation between the developer and the Planning and Development Department is expected before and after the initial public meeting.)
 7. The developer provides notice of the final public meeting, a copy of the draft reports and studies (except the Consultation Report) and a revised Municipal Consultation Form (if applicable) to the City Clerk at least 90 days in advance of the final public meeting.
 8. The City Clerk will receive the materials from the developer and will forward them to the Director of Planning and Development or their delegate.
 9. Planning and Development staff will review this information and circulate it to the applicable agencies and City departments for comment. (Note: The City will attempt to provide comments by the time the final public meeting is held, which allows approximately 90 days. To meet report deadlines, departments and agencies may only have 2-3 weeks to review the materials and provide comments.)
 10. The material is reviewed by the applicable internal departments and external agencies, which may include, but not be limited to:
 - Building and Licensing (building permits and licenses; geo-technical issues);
 - Legal Services (legal issues, restrictive covenants and easements, agreements);
 - Engineering (infrastructure, servicing, road access and traffic management, site alteration, noise impacts, storm water management, geo-technical issues);
 - Public Works – Forestry (tree removal, replanting and compensation);
 - Utilities Kingston (municipal service connections, sewer and water, issues with proposed gas and electrical lines);
 - Fire and Rescue (emergency management procedures and safety protocols);
 - Heritage (identification of archaeological resources or cultural heritage features);
 - Parks Development (landscape design); and,
 - Cataraqui Region Conservation Authority (natural heritage issues and natural hazards).
 11. Planning and Development staff will consolidate and review the comments received, complete the Municipal Consultation Form, and prepare a report to Council. Council will then direct staff to forward the form, amend the form, or defer and send the form back to staff.

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12. Once acceptable to Council, the City Clerk will be authorized to forward the completed Municipal Consultation Form and staff report to the MOE and the developer.
13. The developer will hold the final public meeting.
14. The City and the developer will execute any necessary agreements (e.g. a municipal access agreement for the location of utility infrastructure in the municipal right-of-way).

Other Municipal Approvals

Municipalities have relatively broad powers to ensure the health and safety of local communities, as long as they do not act to frustrate the purpose of any provincial act. However, limits on any specific municipal powers also apply to municipalities' broad powers. For instance, as renewable energy projects are exempt from most land use planning instruments under the *Planning Act*, including zoning by-laws, municipalities cannot use their broad powers to restrict the use of land for such projects.

However, municipalities continue to have by-law powers through the *Municipal Act, 2001* and the *Building Code Act, 1992* for matters such as noise, odour, vibration, site alteration, tree protection, property standards, and outdoor illumination.

A municipally-issued Building Permit will be required for some renewable energy projects, including towers that support a wind turbine generator having a rated output of more than 3 kW, a building that supports a wind turbine generator, or a building that supports a solar panel.

Municipal responsibilities to review Building Permit applications and issue Building Permits have not changed. The REA process is applicable legislation for the purpose of the *Building Code* (i.e. where applicable, an REA is required before a building permit may be issued).

In addition to a Building Permit, other municipal permits or agreements may be required for a renewable energy project. These can include tree permits, site alteration permits, permits allowing the use of municipal land (such as road access permits), as well as permits or agreements around emergency response, sewer and water, or solid waste services.

Renewable energy projects are subject to both the City's Tree By-Law (By-Law No. 2007-170) and Site Alteration By-Law (By-Law No. 2008-128). The Tree By-Law applies to certain species of trees, trees of a certain size, trees on municipal property, and trees located on lands designated as Environmental Protection Area or Open Space in the Official Plan. Developers would have to apply for a tree permit before removing any applicable trees, and as a condition of the removal, the City is able to ask for replacement trees or cash-in-lieu of replacement trees. Any cash received for replacement trees is placed in an account for tree planting on municipal lands.

A Site Alteration Permit would also be needed should a developer propose to place fill on a property, remove topsoil, or alter the grade of the land as part of the renewable energy project.

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As noted above, renewable energy projects are exempt from most land use planning instruments under the *Planning Act*, including zoning by-laws. However, there are a few exceptions to this exemption. For instance, site plan and other agreements existing prior to the GEA continue to apply to renewable energy projects until they are subject to a REA. In addition, renewable energy projects that propose the creation of new lots, or require land leases longer than 50 years, continue to be subject to the land division process under the *Planning Act*.

Municipal Fees for Service

Municipalities have the authority to recover incurred costs for certain activities under other legislation (e.g. the *Municipal Act, 2001*). For example, municipalities may still require fees for the use of municipal property. Section 391 of the *Municipal Act, 2001* permits the City to charge for services, including those services that are related to administration.

In order to recover the cost of staff time associated with the review of the proposals, conducting the technical circulation, and preparing comments and the report to Council, it is recommended that the City amend the Fees and Charges By-Law (By-Law No. 2005-10) by adding a fee for the completion of a Municipal Consultation Form for renewable energy projects.

Conclusions and Recommendations

Municipal involvement in renewable energy projects is important and required under the provincial REA process. Municipalities now have to comment and participate differently than when *Planning Act* approvals were required for such developments. In order to ensure that the municipality provides comprehensive and timely comments on proposed renewable energy projects, staff recommend that the process outlined in this report, and illustrated in Exhibit 'A', be implemented. The City Clerk would receive all materials from the developer, as per the requirements of the provincial REA process, and then forward the material to the Director of Planning and Development. The Planning and Development Department would then undertake to review the material and circulate it to other appropriate internal departments and external agencies (e.g. CRCA). Planning and Development staff would compile all of the comments from the technical circulation, complete the Municipal Consultation Form, and prepare a report to Council. Once Council has reviewed the report and Municipal Consultation Form, and concurs with the comments, they would direct the City Clerk to forward the form and report to the MOE and the developer.

Staff recommend that the City recover costs for the review of renewable energy projects and the completion of the Municipal Consultation Form through an amendment to the Fees and Charges By-Law (By-Law No. 2005-10). The fee applied to the individual renewable energy project would be a cost recovery amount based on the scale of the proposed project.

EXISTING POLICY/BY LAW:

N/A

NOTICE PROVISIONS:

N/A

ACCESSIBILITY CONSIDERATIONS:

This report is available in alternate formats upon request.

FINANCIAL CONSIDERATIONS:

Reviewing renewable energy proposals and completing the Municipal Consultation Form has cost implications related to staff time. A proposal to add the Municipal Consultation Form for renewable energy projects to the Fees and Charges By-Law is discussed above in the body of the report.

CONTACTS:

Grant C. Bain – Director, Planning and Development Dept. (613-546-4291, ext. 3252);
Cherie Mills – Manager, Policy Planning, Planning and Development Dept. (613-546-4291, ext. 3289);
Sonya Bolton – Senior Policy Planner, Planning and Development Dept. (613-546-4291, ext. 3237); and,

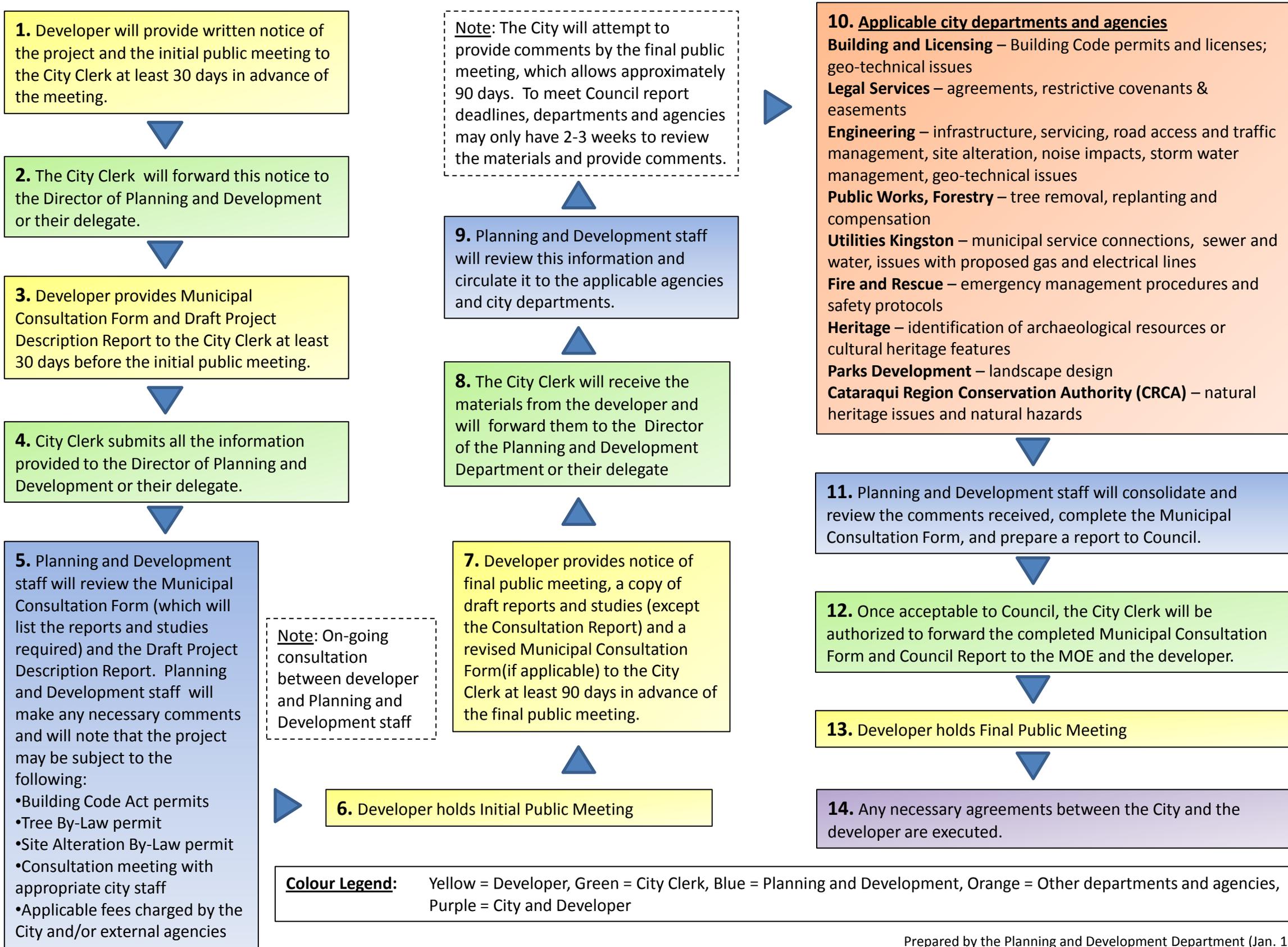
OTHER CITY OF KINGSTON STAFF CONSULTED:

John Bolognone, City Clerk;
Hal Linscott, Director of Legal Services & City Solicitor;
Mark McLaughlin, Senior Legal Counsel;
Damon Wells, Director of Public Works;
Terry Willing, Director of Building and Licensing;
Kim Brown, Manager of Infrastructure and Development, Engineering;
Jim Miller, Director, Utilities Engineering, Utilities Kingston;
Robb Kidd, Assistant Chief, Fire and Rescue;
Neal Unsworth, Manager, Parks Development; and,
Lana Foulds, Manager, Financial Planning.

EXHIBITS ATTACHED:

Exhibit 'A' – Chart: Municipal Consultation and Review Process for Renewable Energy Projects
Exhibit 'B' – Excerpts from *Renewable Energy Development: A Guide for Municipalities*
Exhibit 'C' – Municipal Consultation Form

City of Kingston's Municipal Consultation and Review Process for Renewable Energy Projects



Excerpts from *Renewable Energy Development: A Guide for Municipalities*, published by the Renewable Energy Facilitation Office (REFO) of the Ontario Ministry of Energy.

A copy of the full document can be obtained on-line at:
http://www.energy.gov.on.ca/docs/en/ON9126_MEI_Guidance_Brochure9.pdf

Feed-in-Tariff (FIT) Program

Ontario's Feed-in-Tariff (FIT) [administered by the Ontario Power Authority] encourages renewable energy generation from wind, solar, water and bioenergy by offering long term contracts for electricity produced from renewable sources. Most new renewable energy generation in Ontario built from 2010 onwards will have a FIT contract. However, the award of a FIT contract to a developer does not mean that the project is a "done deal". A FIT contract is a contract to purchase the power generated by the proposed project. A developer must also meet many other requirements before construction can begin on a renewable energy project, including:

- Environmental approval – for most wind, solar PV and bioenergy projects, this means a REA, and for hydro projects, it means a Class EA for Waterpower;
- Impact assessments;
- A building permit; and,
- Other necessary permits, which could include federal, provincial and municipal approvals.

Typically, once a FIT contract is received, the developer will begin designing the project to meet applicable requirements – most often, the environmental standards and consultation requirements set out in the REA regulation (*Ontario Regulation 359/09*).

The Planning Act Exemption

Since the passage of the GEA, renewable energy projects are subject to a provincial-led approval process and are exempt from much of the *Planning Act*.

The exemption from the *Planning Act* means that the following local planning instruments do not apply to or affect renewable energy projects:

- Official Plans;
- Demolition Control By-Laws;
- By-Laws or Orders passed under Part V of the Planning Act, including zoning, site plan, holding, and interim control by-laws; and,
- Development Permit System By-Laws.

Site plan and other agreements existing prior to the GEA continue to apply to renewable energy projects until they are subject to a REA. In addition, renewable energy projects that propose the creation of new lots, or require land leases longer than 50 years, continue to be subject to the land division process under the *Planning Act*.

Developing a Renewable Energy Project Under the Renewable Energy Approval From Start to Finish

- Step One** Pre-REA Planning
- a) Developer finds potential project location and creates initial project plan.
 - b) Developer is encouraged to contact local stakeholders, including municipalities, and discuss the planned project to get feedback on the proposal.
 - c) Developer finalizes location.
 - d) Developer applies for FIT contract.
 - e) If the project meets the necessary requirements, including available capacity, a FIT contract is offered.
 - f) Developer accepts FIT contract.
 - g) Developer finalizes grid connection plans with the applicable distributor/transmitter.
- Step Two** Developer provides copy of draft Project Description Report to MOE and obtains list of Aboriginal communities to be consulted throughout the REA process.
- Step Three** Developer initiates REA consultation process and provides notification of the project and of an initial public meeting to **municipal stakeholders**, Aboriginal communities and the general public at least 30 days in advance of initial public meeting. Developer begins Aboriginal consultation process. **Developer provides municipal consultation form and draft Project Description Report to the municipality at least 30 days before initial public meeting**, and draft Project Description Report online and in paper copies to the public and Aboriginal communities.
- Step Four** Developer initiates any other relevant approval processes (e.g. federal approvals, MNR Species at Risk work, etc.)
- Step Five** Developer holds first public meeting at least 30 days after providing notice.
- Step Six** Developer, taking feedback from initial meeting into account, begins refining project plans and doing studies to ensure that the project meets health, environmental and safety standards.
- Developer contacts the municipality (and others) to gather information about **a)** natural heritage features and water bodies near the project location and **b)** cultural heritage and archaeological records (developers are strongly encouraged to initiate this contact as early as possible in the development process, ideally at Step Two).

- Step Six (Continued)** Consultation with all stakeholders continues on an ongoing basis throughout the project design process.
- Step Seven** Wind project developers may publish a draft site plan by providing notification of the proposed turbine layout to **municipal stakeholders**, Aboriginal communities and the general public.
- Step Eight** Developer provides a copy of **all draft reports and studies** (except the Consultation Report) to the **municipality** at least 90 days in advance of the final public meeting.
- Step Nine** Developer provides copies of all draft reports, studies and MNR and MTC confirmation letters (except the Consultation Report) online and in paper copies for public review at least 60 days in advance of the final public meeting.
- Step Ten** Developer holds final public meeting and will, if necessary, revise its draft reports in preparation for making its application for the REA.
- Step Eleven** REA application is submitted and, if complete, accepted by the MOE.
- Step Twelve** MOE commences technical review and posts notice of the application on the EBR for additional comment for a period of 30 days. Within 10 days of the EBR notice, the developer must post all application materials on its website until MOE makes its decision. The developer must also publish notice of its application in a newspaper.
- Step Thirteen** MOE provides REA decision to developer – if approved, with any conditions that may apply. The applicant or a third party may appeal the REA decision to the Environmental Review Tribunal within 15 days of the issuance of the decision notice.
- Step Fifteen** Post-REA Approval
- a) Developer receives notice to proceed from OPA.
 - b) Developer obtains all other necessary regulatory and electrical approvals.
 - c) Developer obtains building permit from **municipality**.
 - d) Developer constructs project.
 - e) Project starts commercial operation.

Municipalities and the REA

Under the REA process, municipalities play a role as stakeholders via municipal and public consultation. While consultation includes a number of formal steps, the province expects the developer to understand that consultation, including municipal consultation,

can occur at any point in the process before the developer finalizes its application, through letters, phone calls, emails, meetings, and the like. Opportunities for comment are not limited to the municipal consultation form. All comments, and the developer's responses to these comments, must be documented and included in the developer's Consultation Report as part of the REA complete submission package.

The content and quality of municipal consultation will be assessed by the Environmental Assessments and Approvals Branch of the Ministry of the Environment (MOE). Applicants are required to address municipal considerations, as appropriate, during the planning process and prior to submitting the REA application. Where a municipality has raised concerns and the developer has not addressed these concerns in its project design, MOE may request further clarification from the developer regarding how the concern will be addressed or a rationale as to how the concern was considered by the developer. Where a developer has not met the consultation requirements of the REA, MOE has the authority to return the application until the requirements are met or issue conditions for approval.

Municipalities are encouraged to explore the possibility of entering into agreements with developers in order to clarify expectations and responsibilities around costs related to the renewable energy project. While an agreement of this nature is not required for the developer to receive REA approval, the developer may include details about such an agreement in its REA Consultation Report.

When hosting a renewable energy project, it may be to the advantage of both the developer and the municipality to explore the possibility of entering into some type of mutually beneficial agreement. Such an agreement could cover many aspects of the development process and provide clarity for both parties on municipal responsibilities (such as providing services) and developer obligations (such as payment for costs incurred by the municipality caused by hosting the renewable energy project).

Protection of Natural Heritage

Natural heritage features such as provincially significant wetlands, water bodies, and areas of natural and scientific interest are protected by a framework of requirements under the REA. The REA also contains additional protections that apply to projects that are located within the Niagara Escarpment Plan, Oak Ridges Moraine Conservation Plan and Greenbelt Plan areas.

Developers must identify significant natural heritage features near the project and ensure that the project conforms to the REA requirements for setbacks and mitigation around these features. As part of this process, developers are required to carry out a records review. As a result, municipalities can expect to be engaged by developers and consultants during the natural heritage assessment process.

Once the Ministry of Natural Resources confirms that a project meets the REA natural heritage requirements, it will issue a confirmation letter to the developer. This letter is a

key document for review by the public and the municipality, and forms part of the REA application.

In addition to the REA natural heritage requirements, the municipal consultation form solicits comments directly from the municipality about significant natural features that may be impacted by the project. The developer must demonstrate how it has taken municipal comments regarding significant natural features into account in the design of the project. The comments provided by the municipality regarding the project's impact on natural features will be considered as part of the REA review process.

Protection of Archaeological and Cultural Heritage Resources

The REA contains protection for archaeological and cultural heritage resources. This ensures that due consideration is given to the impacts that renewable energy projects may have on cultural heritage resources. The REA process requires developers to undertake an initial assessment through site assessment and records review, including municipal records, to determine if a project may impact cultural heritage resources. As a result, municipalities can expect to be engaged by developers and consultants during the cultural heritage assessment process:

- Municipalities must approve any proposed alterations to properties that have been designated by the municipality under Part IV or Part V of the Ontario Heritage Act, have a Notice of Intention to Designate placed on them, or are subject to a municipal easement agreement. This written authorization must be submitted by the developer as part of a complete application.
- Municipalities will be engaged in determining the archaeological potential of a subject property. Municipal Archaeological Management Plans will be relied on by developers to determine archaeological potential. It is advisable that municipalities have up-to-date Archaeological Management Plans in place.

Once the Ministry of Tourism and Culture confirms that a project meets the REA archaeological and cultural heritage requirements, it will issue a comment letter to the developer. This letter is a key document for review by the public and the municipality, and forms part of the REA application.

In addition, the municipal consultation form seeks comments from the municipality regarding archaeological and heritage resources that may be impacted by the project. The developer must demonstrate how it has taken municipal comments regarding heritage and archaeology into account in the design of the project. The comments provided by the municipality regarding the project's impact on cultural heritage and archaeological resources will be reviewed by MOE and considered as part of the REA review process.

REA Decision

Once the MOE has deemed a REA application complete, notice of the project will be posted on the Environmental Bill of Rights (EBR) Registry website (<http://www.ebr.gov.on.ca>) for a 30 day review and comment period. Additional comments or feedback can be provided at this time via the EBR Registry, and will be considered by the MOE along with the developer's Consultation Report.

Within 10 days of the EBR notice, the developer must post all application materials on its website until MOE makes its decision. The developer must also publish notice of its application in a newspaper.

MOE will make a decision on the REA application within 6 months of deeming the application to be complete. Notice of decisions will be posted on the EBR Registry, along with a summary of any conditions that may apply to the project.

REA Appeals

Under Section 142.1(1) of the *Environmental Protection Act*, anyone may, by written notice served on the Director and the Environmental Review Tribunal (ERT) within 15 days of the issuance of the REA decision, require a hearing in respect of that decision. In the written notice, the appellant must set out (a) a description of how engaging in the renewable energy project in accordance with the renewable energy approval will cause (i) serious harm to human health or (ii) serious and irreversible harm to plant life, animal life or the natural environment; (b) the portion of the renewable energy approval in respect of which the hearing is required; and (c) the relief sought. The ERT will have 6 months to render its decision on any REA appeal. Details of how to launch an appeal can be found in "A Guide to Appeals regarding Renewable Energy Approvals under Section 142.1 of the Environmental Protection Act" on the following website: <http://www.ert.gov.on.ca/english/guides/index.htm>.

PART A: TO BE COMPLETED BY THE APPLICANT BEFORE SUBMITTING TO MUNICIPALITY OR LOCAL AUTHORITY

Section 1 - Project Description

1.1 - Renewable Energy Project
Project Name <i>(Project identifier to be used as a reference in correspondence)</i>

Project Location					
Same as Applicant Physical Address? <input type="checkbox"/> Yes <input type="checkbox"/> No (If no, please provide site address information below)					
Civic Address- Street information <i>(includes street number, name, type and direction)</i>				Unit Identifier <i>(i.e. apartment number)</i>	
Survey Address <i>(Not required if Street Information is provided)</i>					
Lot and Conc.: used to indicate location within a subdivided township and consists of a lot number and a concession number. <div style="display: flex; justify-content: space-around;"> Lot Conc. </div>		Part and Reference: used to indicate location within unorganized territory, and consists of a part and a reference plan number indicating the location within that plan. Attach copy of the plan. <div style="display: flex; justify-content: space-around;"> Part Reference Plan </div>			
Location Information <i>(includes any additional information to clarify physical location)(e.g. municipality, ward/ township)</i>					
Geo Reference (e.g. southwest corner of property)					
Map Datum	Zone	Accuracy Estimate	Geo Referencing Method	UTM Easting	UTM Northing

Project Phasing <i>(outline construction, operation and decommissioning activities)</i>

1.2 - Environmental Context
Describe any negative environmental effects that may result from engaging in the project <i>(consider construction, operation and decommissioning activities.)</i>
Propose early avoidance/prevention/mitigation concepts and measures.

1.3 - Renewable Energy Generation Facility

Type of Facility / Operation *(select all that apply & complete all appropriate sections)*

<input type="checkbox"/> Wind Facility (Land Based) <input type="checkbox"/> Wind Facility (Off-Shore) <input type="checkbox"/> Biogas Facility (Anaerobic Digesters) <input type="checkbox"/> Biomass Facility (Thermal Treatment)	<input type="checkbox"/> Biofuel Facility <input type="checkbox"/> Solar Photo Voltaic Facility <input type="checkbox"/> Other Describe : <input type="checkbox"/> Class (if applicable) :
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Name Plate Capacity	Expected Generation	Service Area	Total Area of Site <i>(hectares)</i>

Provide a description of the facilities equipment or technology that will be used to convert the renewable energy source or any other energy source to electricity.

1.4 – Renewable Energy Generation Activities

Describe the activities that will be engaged in as part of the renewable energy project

Section 2 – Supporting Documents

2.1 – Requirement	Name of Draft documents distributed for consultation	Date available to Municipal or Local Authority Contact
DRAFT Project Description Report		
DRAFT Design and Operations Report		
DRAFT Construction Plan Report		
DRAFT Decommissioning Plan Report		
List of other Documents		

PART B: TO BE COMPLETED BY THE MUNICIPALITY OR LOCAL AUTHORITY

Section 4 - Municipal or Local Authority Contact Information (check the one that applies)

Local Municipality <i>(include each local municipality in which project location is situated)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No					
Name of Municipality	Address	Phone	Clerk's Name	Clerk's Phone/Fax	E-Mail Address
Upper Tier Municipality <i>(include each upper tier municipality in which project location is situated)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No					
Name of Municipality	Address	Phone	Clerk's name	Clerk's Phone/Fax	E-Mail Address
Local roads area <i>(include each local roads area in which project location is situated)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No					
Name of local roads board	Address	Phone	Secretary-treasurer's Name	Secretary-treasurer's Phone/Fax	E-Mail Address
Board Area <i>(include each board area in which project location is situated)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No					
Name of Local Service Board	Address	Phone	Secretary's name	Secretary's Phone/Fax	E-Mail Address

Section 5: Consultation Requirement

5.1 - Project Location
Provide comment on the project location with respect to infrastructure and servicing.
5.2 – Project Roads
Provide comment on the proposed project's plans respecting proposed road access.
Identify any issues and provide recommendations with respect to road access
Provide comment on any proposed Traffic Management Plans
Identify any issues and provide recommendations with respect to the proposed Traffic Management Plans

5.3 – Municipal or Local authority Service Connections
Provide comment on the proposed project plans related to the location of and type of municipal service connections, other than roads.
Identify any issues and provide recommendations with respect to the type of municipal service connections, other than roads.
5.4 – Facility Other
Identify any issues and recommendations with respect to the proposed landscaping design for the facility
Provide comment on the proposed project plans for emergency management procedures / safety protocols.
Identify any issues and recommendations with respect to the proposed emergency management procedures / safety protocols.
Identify any issues and recommendations with respect to any Easements or Restrictive Covenants associated with the Project Location
5.5 Project Construction
Identify any issues and recommendations with respect to the proposed rehabilitation of any temporary disturbance areas and any municipal or local authority infrastructure that could be damaged during construction.
Identify any issues and recommendations with respect to the proposed location of fire hydrants and connections to existing drainage, water works and sanitary sewers
Identify any issues and recommendations with respect to the proposed location of buried kiosks and above-grade utility vaults

Identify any issues and recommendations with respect to the proposed location of existing and proposed gas and electricity lines and connections
Provide comment on the proposed project plans with respect to Building Code permits and licenses.
Identify any issues and recommendations related to the identification of any significant natural features and water bodies within the municipality or territory.
Identify any issues and recommendations related to the identification any archaeological resource or heritage resource.