

# **Manitoba's Environmental Assessment and Licensing Regime under *The Environment Act***

## **EXECUTIVE SUMMARY**

Environmental assessment is the process by which the environmental implications of a proposed development are evaluated for consideration during approval and licensing decisions. Although commonly expressed as two separate terms, both assessment and licensing are considered to be part of the same continuous process in Manitoba as currently set out in *The Environment Act*.

Manitoba's environmental assessment regime evolved from statutory pollution control mechanisms that have been in place, in some form, since the late 19th century. With the enactment of *The Environment Act* (the "Act") in 1988, environmental assessment became a legislated requirement for certain types or classes of development. The Act has been amended several times since 1988, but its core provisions for environmental assessment and associated regulations have not changed. Reform is now appropriate to account for changing attitudes about the role of environmental assessment and ongoing technological advances.

In light of the Commission's statutory mandate to improve the law and administration of justice in Manitoba, the focus of this reform initiative is on changes to the legislation, regulations and policy framework for environmental assessment and licensing. The Recommendations set out in this Report are intended to result in a more contemporary, certain, transparent, and comprehensive framework for environmental assessment and licensing. The Report also aims to serve an educational purpose and fill some of the informational gaps that currently exist in available sources discussing Manitoba's legal framework.

Chapter 1 of this Report provides a brief introduction that discusses the Need for Reform and sets out the Commission's Reform Objectives. Chapter 2 of this Report provides background information on the development of Manitoba's current environmental assessment and licensing regime under *The Environment Act*. Chapter 3 sets out Manitoba's current environmental assessment and licensing process and briefly discusses the recent changes that have occurred to the federal environmental assessment process under the *Canadian Environmental Assessment Act, 2012*. Chapter 4 presents and discusses the Commission's recommendations for reform that aim to modernize and improve the transparency, certainty and scope of Manitoba's environmental assessment and licensing legislation. Chapter 5 is a summary of the Commission's recommendations for reform.

The Commission's recommendations focus on improving the public's access to information, creating more opportunities for public participation, and making the environmental assessment and licensing process more transparent. The recommendations also recognize a need to create more process certainty for all participants and to modernize the organization and language of the Act to ensure better compatibility with other jurisdictions in Canada. The Commission has also made recommendations that address problems identified with aspects of the current process such as appeals, post-licensing follow-up, and the need to expand the process to include a broader range of developments and environmental considerations.